HOUSE OF REPRESENTATIVES—*Monday, November 9, 1987*

The House met at 12 noon.

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

Strengthen our relationships, gracious God, with those about us, our families, friends, and colleagues.

May we realize more keenly that we are all born of Your creation, nurtured by Your spirit and we exist in one community. May we better understand how we relate to each other and how we can support and encourage each other in all the moments of life. And may Your love that binds us all together keep us always in Your grace. 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.

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 bill and a joint resolution of the House of the following titles:

H.R. 3295. An act for the relief of Nancy L. Brady; and

H.J. Res. 394. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1900. An act to amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such acts.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 423) "An act for the relief of Kil Joon Yu Callahan."

The message also announced that the Senate agrees to the amendments of the House to the concurrent resolution (S. Con. Res. 38) "Concurrent resolution to recognize the International Association of Fire Fighters and the National Fallen Fire Fighter Memorial in Colorado Springs, Colorado."

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

S.J. Res. 172. Joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week";

S.J. Res. 200. Joint resolution to designate the period commencing on November 8, 1987, and ending on November 14, 1987, as "National Food Bank Week", and

S. Con. Res. 31. Concurrent resolution commending the Czechoslovak human rights organization Charter 77, on the occasion of the tenth anniversary of its establishment, for its courageous contributions to the achievement of the aims of the Helsinki Final Act.

WE HAD BETTER BRING BACK A SENSE OF BALANCE

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

Mr. OBEY. Mr. Speaker, I have never used marijuana or any other drug in my life and I am happy that my kids have not. But I have to say that I am appalled by the piranha-like frenzy which has descended on this town in the case surrounding Judge Ginsburg.

It seems to me the important question about Judge Ginsburg was not whether he ever smoked pot in his life. It seems to me the most important question was: Did he have the qualifications? Did he have the concern for people? Did he have the humanity and expertise that we want to see in any person who serves on the Court of last resort?

What do we say about our sense of perspective? What is most damaging to society, a faculty lawyer smoking pot a few years ago in a private party or a corporate lawyer justifying a corporation's manufacture of faulty IUD's which sterilized 10,000 American women?

On our scale of justice and fairness, what is more damaging, a corporation executive's decision to smoke pot occasionally or a corporate executive's decision that puts 500 people out of work in order to improve the profit margin of a corporation by 5 percent?

It seems to me if we want government or business or society that really respond to human needs, we had better put those questions in perspective; we had better bring back a sense of balance.

IT IS IMPERATIVE THE SUMMIT REACH AGREEMENT ON SUBSTANTIAL DEFICIT REDUCTION

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

Mr. REGULA. Mr. Speaker, Business Week, November 9, points out that the current account deficit for August, if annualized, would increase from $147 billion to $164 billion. A large current account deficit will drive up our capital needs from overseas. This accelerates the buildup of a foreign debt. The United States in 1982 was a creditor nation with $135 billion; in 1987 we are a debtor nation with $400 billion, estimated to go to $700 billion by 1989.

We risk the fact that overseas investors will become uneasy and that they will cash their debt instruments.

What will this mean? It will drive up interest rates, destabilize our financial markets and make the funding of the debt dramatically rise in cost.

For all of these reasons I think it is imperative that the summit that is now working reach an agreement on deficit reduction, hopefully substantially more than the $23 billion.

It is vitally needed to restore confidence in this Nation's fiscal policies.

CATOOSA COUNTY, GA DOES ITS PART TOWARD DEFICIT REDUCTION

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

Mr. DARDEN. Mr. Speaker, I hold in my hand evidence of the American people's demand that the Federal budget be balanced. It is a check from the Catoosa County, GA, Commission on the Bicentennial of the U.S. Constitution—to be contributed to the Treasury for deficit reduction.

The amount is small—$17.87—in reality, the balance in the commission's accounts after this year's celebration of the Constitution's 200th anniversary. Symbolically, however, it represents much more—a demand by people in northwest Georgia that the Federal Government return to fiscal-responsibility.

I am forwarding this check to Treasury Secretary Baker. And I urge my colleagues to join me in a bipartisan pledge that this Government will follow the commonsense economic

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policy which American families follow every day—recognizing that we cannot live beyond our means for very long without devastating financial results.

"CAP," WE SALUTE YOU

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

Mr. LAGOMARSINO. Mr. Speaker, if "lifetime achievement" awards were given to Cabinet members, Caspar Weinberger would be the first recipient. His announcement last week that he will resign from the post he has held since 1981—longer than any previous Secretary of Defense save one—inspires mixed feelings for this Member. I hate to see him leave, but I don't know how in good conscience we could ask him to do more.

"Cap" Weinberger has been a fixture in California and on the world scene longer than most of us have been adults. From his graduation, magna cum laude, from Harvard in 1938; to his service in the infantry in World War II during which time he rose from a private to captain; to his years of service in the California Legislature during which time he was named "most effective legislator" by a poll of newspaper correspondents; through his service as chairman of the "Little Hoover Commission;" as California's director of finance under Governor Reagan; Chairman of the Federal Trade Commission; Director of the Office of Management and Budget; Secretary of Health, Education, and Welfare; and finally, Secretary of Defense; he has given unstintingly of himself in service to his Nation. And in between those jobs, he had a distinguished career in private business.

Too big to fit on any one plaque, I'm afraid. But then Cap was always bigger than life—in intellect, in achievement, and in service to his country. His departure leaves a large void to fill, but I know that he and his wife, Jane, have earned the plaudits and gratitude of an entire Nation. Because of him, and his achievements, we are able today to negotiate from strength in the effort to insure the peace he helped maintain. I can't think of a finer legacy from a finer gentleman. Cap, we salute you.

LESSONS TO BE LEARNED FROM CALIFORNIA'S RECENT EARTHQUAKE

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

Mr. BROWN of California. Mr. Speaker, I rise to call to the attention of the Members some important facts about the earthquake in Los Angeles on October 1, properly called the Whittier Narrows earthquake, and to indicate some of the lessons learned. At 6.1 on the Richter scale, it killed seven people, injured hundreds of others, and caused over $200 million in damages. Twenty buildings were condemned and more than 2,000 homes were damaged. The earthquake struck at 7:42 a.m.—had it occurred a little later, when more people were up and about, the injuries could have been much greater. The event should be looked upon as a scaled-down preview of the so-called big one, expected to be a thousand times stronger than this recent event. With a 50-50 chance of occurring in the next 30 to 50 years, the big earthquake is predicted to kill up to 14,000 people, seriously injure another 50,000, and cause tens of billions of dollars in property damage.

Having come so far in learning to live with damaging Earth tremors, we still have a long way to go and much to learn. This earthquake provides an opportunity to learn some important lessons. At my request, the Subcommittee on Science, Research and Technology of the Science, Space and Technology Committee will be holding hearings tomorrow at 1 p.m. in 2318 Rayburn to explore lessons to be learned from this most recent earthquake.

The first lesson, and the easiest to swallow, is that our hazard mitigation strategies, such as stiffer building codes and improved emergency preparedness procedures, can be successful. These hazard mitigation efforts were well in place when the earthquake struck and are credited for saving over 10,000 lives and preventing a great deal of property damage.

The second lesson is that although better prepared than all other regions, California is not ready for a major quake, that is, one greater than 8 on the Richter scale. Thousands of buildings still need to be retrofitted, and preparedness and response activities need constant refinement. Los Angeles alone has more than 7,000 year-old masonry buildings, only 1,000 of which have been reinforceed under a 1981 ordinance that required that all be strengthened or demolished by 1992. There is much work to be done, many buildings to be retrofitted. In addition, we can build safer new structures, both public and private, and we have learned where not to place them. Building our cities to survive earthquakes with minimal damage and minimal loss of life is one of our best defenses against catastrophe.

A third lesson is frightening and should be taken very seriously. Despite all the exciting and invaluable advances in our understanding of how the Earth's crustal plates keep in constant motion, and the enormous amount of seismic research conducted in California, it is not clear to seismologists whether or not the earthquake fell on a known fault. In addition, of the two distinct tectonic systems reshaping the Los Angeles basin—the San Andreas and the Transverse Range systems—scientists are still not sure which fault system was related to the quake. The location of the earthquake suggests that the responsible fault belongs to the San Andreas system, but the nature of the faulting suggests the Transverse Range system is responsible. Seismologists at the USGS have stated that they would not have anticipated a quake at that particular location. We can all appreciate that knowing where the earthquake will strike is more important than knowing exactly when it will strike. Certainly, establishments located in high-risk areas will take more precautionary measures than those located far from an active fault system.

Clearly, more research is needed. Earthquake prediction, which saves lives and allows for improved emergency response, is still in its infancy. It may be that the best defense that the Los Angeles basin has is additional time and resources for a stepped up research program. In addition, research that has been primarily focused on the San Andreas system should be extended to other areas.

A fourth lesson involves a consideration of how a large earthquake is likely to affect not only the economy of California, but that of the United States. We need to take a serious look at the insurance situation as well as the possibility of a plan for major Government backing in any future seismic disaster.

Although all homeowner insurance companies in Los Angeles are required to offer earthquake insurance, only about 15 percent of California homeowners have such coverage. Among the policies that do exist, the premiums and deductible amounts are high, while the maximum coverage is low. The rates do not match individual situations, such as proximity to a major fault zone or the structural integrity of the insured building. Also, public information about risk reduction is severely lacking. Insurance policies should not make it attractive to build over active faults, or in areas of high likelihood of ground failure. Insurance can and should be an important incentive for hazard mitigation and an instrument of economic recovery.

Insurance industry officials, with the encouragement of Federal officials, are preparing a plan for financial assistance from the Federal Government in the event of a large earthquake. The need for such a plan rests in the possibility of a financial collapse from a catastrophic earthquake. Given the possibility of $70 billion in damage claims after a magnitude 8 quake, the insurance industry should

have the promise of Federal assistance. Without a national earthquake or natural hazards insurance program, our ability to restore homes and businesses could be severely threatened.

The rewards for taking heed to these lessons and responding accordingly could be tremendous. The penalty for not doing so could be tremendously devastating.

SANDINISTAS ARE NOT COMPLYING WITH GUATEMALA ACCORDS

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

Mr. KYL. Mr. Speaker, last evening four of my colleagues and I returned from a trip to Nicaragua where we had journeyed to monitor compliance with the Guatemala peace accords, and in the words of Chaplain Ford this morning, to provide support and encouragement to our friends who are seeking freedom and peace in Nicaragua.

We had hoped to be optimistic because Comandante Daniel Ortega had in his November 5 speech to the people of Nicaragua announced that the Communist Sandinista government there had complied 100 percent with the steps to be taken to comply with the peace accords and that now it was up to all of the others.

Mr. Speaker, after having been there and after having spoken with the people of Nicaragua and seeing for ourselves what the conditions are, I would say that it is closer to 3 percent than 100 percent in terms of compliance with the peace accords.

We traveled to the interior of the country, to the mountains where there has been great activity, to the Matagalpa, we visited with the campesinos, with the labor union leaders, with the mothers of political prisoners, with opposition leaders. Everywhere we went there was fear, there was repression, and there was very little hope that in fact freedom would reign in Nicaragua. All of them agreed with the statement given to us by Bishop Bismarck Carballo who said that without aid from the United States of America, the Sandinistas would have never come to the bargaining table and without continued United States support for the Contras, the democratic resistance, there will be no pressure on the Sandinista government to open up even a little bit the windows of opportunity and freedom to the oppressed people of Nicaragua.

Mr. Speaker, I urge my colleagues to continue to monitor the situation there and to provide their support and encouragement for freedom for the people of Nicaragua.

□ 1215

TRIBUTE TO THE LATE JACK ENGLISH

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

Mr. DOWNEY of New York. Mr. Speaker, it is a sad occasion which brings me to the well of the House today. Over the weekend, Jack English, the former chairman of the Nassau County Democratic Party died after a long battle with cancer.

Jack was a good friend and advisor to me throughout my career. He was always an active player in Democratic politics in New York and on the national stage.

He was a close friend of Jack and Bobby Kennedy and he was instrumental in persuading Bobby Kennedy to run for the U.S. Senate from New York in 1964.

Jack worked tirelessly for the party and served on the Democratic National Committee from 1968 to 1972. In 1980, he acted as the deputy national chairman of the Carter-Mondale 1980 campaign.

I am saddened by this loss and I want to take this opportunity to extend my sympathy to his wife, Regina, and their children. The Democratic Party and the Nation have suffered a great loss. His career was a model of commitment to the public good and he inspired countless others in the same way. It is impossible to measure fully his influence on a generation of young public officials.

SOCIAL SECURITY MAY BE INCLUDED IN DEFICIT REDUCTION PACKAGE

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

Mr. CHANDLER. Mr. Speaker, you can't get from here to there by taking things off the table.

That's the point our colleague, the gentleman from California [Mr. BEILENSON] was making in yesterday's Washington Post. It took courage for him to call on the budget deficit negotiators to include Social Security in the mix of cuts. I commend him and agree.

This past year, many of us have been calling for meaningful, bipartisan efforts to reduce the deficit. Members on both sides of the aisle have been willing to risk their political fortunes for the greater good of the country.

Social Security is easily the most sensitive political issue we face. Yet, without adjusting scheduled cost-of-living-increases it will be much more difficult to reduce the deficit permanently. And it will be impossible to claim that the solution is fair.

In 1982, Democrats exploited the Social Security issue and defeated a score of Republican incumbents. Clearly, if members of my party are to embrace a package of deficit reductions that includes Social Security adjustments, Democrats must make it clear that Republicans will not again be accused of attacking the elderly.

For our part, Republicans must depoliticize the tax issue. In 1984, Walter Mondale urged a tax increase and with that albatross around his neck he went down to a humilitating defeat.

Yes, Social Security must be on the table. But so must taxes. In a national crisis we must all sacrifice. If we are really to reduce the deficit we must be fair.

The level of trust between Democrats and Republicans—between Congress and the White House—is very low. Congressman BEILENSON has gone a long way toward rebuilding that trust. Let us all support his effort and get behind the leaders working to craft a bipartisan deficit-reduction package. I am convinced the votes are here in Congress to approve such a measure, and the American people will support us if we act decisively.

CHARITY BEGINS AT HOME

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

Mr. TRAFICANT. Mr. Speaker, America's No. 1 export is jobs. We have lost 1.4 million manufacturing jobs in the last 7 years. They paid from $10 to $12 per hour, with full benefits. We have replaced some of them with jobs that average $3.50 to $5.59 an hour, with no benefits. The truth is that many of these jobs in this great "booming" economy have no benefits at all, they are part-time and it is awfully tough sometimes even to get them.

Wall Street is teetering and our taxpayers are still going to send more foreign aid overseas. We are still going to let them pay for the protection of the NATO countries.

Mr. Speaker, it is time that we let these foreign nations take care of themselves. How can Congress justify paying our neighbor's rent bill when our home may be foreclosed on? I think that is literally crazy.

Mr. Speaker, it is time that Congress started taking care of the interests of America and let these other countries start taking care of themselves.

A REACTION TO UNFAIR CANADIAN TRADE PRACTICES

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

Mr. SCHULZE. Mr. Speaker, I am deeply concerned about certain unfair Canadian trade practices which undermine the spirit of the recently initiated United States-Canada Free Trade Agreement. Verbally Canada supports reducing barriers to United States-Canada trade. In practice it excludes American companies from bidding on defense procurements when Canadian suppliers exist.

We, on the other hand, categorize Canadian companies as domestic producers on similar defense procurements.

In view of Canada's unfair treatment of our firms seeking Canadian defense contracts, I believe it may be time to change our policy. Perhaps we should emulate their discriminatory policies, and exclude their firms from bidding on U.S. defense contracts. Sadly, Canada's actions leave us with little choice.

CONFERENCE REPORT ON HOUSING AND COMMUNITY DEVELOPMENT ACT SEEN AS FAIR AND FISCALLY RESPONSIBLE

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

Mr. KOLTER. Mr. Speaker, I rise today to express my strong support for the conference report on the Housing and Community Development Act, which this House will consider today.

In June of this year, this body passed its version of the bill, H.R. 4, with bipartisan support. The other body passed its version, S. 825, also with bipartisan support.

A compromise was formulated, and now is being considered, at a time when calls for austerity measures are very loud. In response to this great concern, the conference committee has reported legislation that is both fair and fiscally responsible. I commend the members of the conference committee for a job well done.

In achieving this goal, the conferees drew important provisions from both of the original bills and have reported this compromise worthy of continued bipartisan support.

I urge all of my colleagues to express their concern for the economically disadvantaged beneficiaries of this authorization by supporting this conference report.

PRESIDENT URGED TO HOLD FAST ON SPENDING CUTS AND TAX POLICY

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

Mr. SOLOMON. President Ronald Reagan, they are about to do it to you again. These irresponsible, liberal, big spenders in this Congress are about to, according to newspaper articles, talk you into raising taxes with no guarantee that you are going to get any spending cuts at all.

In 1982, Mr. President, they did it to you then. They told you that if you would raise taxes $20 billion, they would cut spending $40 billion. Mr. President, you went along with them. You raised taxes $20 billion, and what do you think these liberal, big spending, irresponsible Congressmen did? They did not give you one nickel of spending cuts. The old saying, "What Congress gets, Congress spends" was never so true.

This time, Mr. President, make them give you the spending cuts in advance for 1 year. Then give them a tax increase the following year, with a 1-year limitation, and every successive year get the spending cuts 1 year in advance, then give them the tax increases, if necessary.

Mr. Speaker, I say to the President, "Don't be conned again, Mr. President. When it comes to spending money, you can't trust them."

FINAL REPORT ON THE PRESIDENT'S CHILD SAFETY PARTNERSHIP

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

Mr. LEWIS of Florida. Mr. Speaker, as the only House Member serving on the President's Child Safety Partnership, I was an active participant in last week's White House ceremony in which the partnership report was presented to President Reagan.

I'm proud to say the partnership's final report includes a recommendation to implement my proposal to establish statewide clearinghouses for missing and victimized children.

These centers would be modeled after the very successful one in Florida with the ultimate goals of improving cooperation and coordination between various agencies involved in the search for missing children and educating parents, individuals, and agencies in methods to protect children.

The partnership seeks involvement by private and public groups and individuals all over the country to implement its numerous proposals. These include recommendations for changes and worthwhile projects for the private sector, the child-serving community, parents and concerned citizens and government at all levels.

Mr. Speaker, we can all be encouraged by the renewed enthusiasm given to the plight of many troubled youth in this Nation.

There is no doubt that implementation of all of the partnership's recommendations would be a big step toward ensuring the safety and well-being of our children.

NEGOTIATIONS IN CENTRAL AMERICA HOLD OUT PROMISE

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

Mr. SLATTERY. Mr. Speaker, the Reagan administration has talked a great deal about United States security concerns regarding Central America in the past. But the time for the United States to do something about it is now.

As one who has advocated bilateral talks between the United States and Nicaragua in the past, I applaud this administration's decision to begin multilateral talks with the five Central American countries. I hope the administration will still pursue direct talks with Nicaragua to address United States security concerns in the region.

I urge the administration to waste no time in dealing directly with Nicaragua and our allies in the region to ensure a Soviet-free Central America.

The Sandinistas have agreed to negotiate on the Soviet presence in Nicaragua and the size of their military in the past. We should now seek to guarantee the removal of Soviet military aid and advisers, reduce the level of sophisticated weaponry and the size of the Sandinista Army. Let's get the Soviets out of Nicaragua and avoid another Cuba on the Isthmus of Central America.

Today, we have an historic opportunity to contribute constructively to the peace process. The Sandinistas have shown a willingness to pursue peace by agreeing to a negotiated cease-fire and appointing Cardinal Obando Y Bravo as intermediary. The United States should, in the spirit of peace, seek to compliment the process by dealing directly with Nicaragua and our allies in the region.

The time to deal is now. Let's get on with it.

□ 1225

LEGISLATION TO EXCLUDE ILLEGAL ALIENS FROM CENSUS COUNT

(Mr. PETRI asked and was given permission to address the House for 1 minutes.)

Mr. PETRI. Mr. Speaker, after the 1980 census, California gained an extra congressional seat and New York retained a seat due to illegal immigrant populations. Those seats should have gone to Georgia and Indiana.

There is something repugnant about allocating House seats on the basis of the number of persons who would be deported if our laws were being enforced.

If current procedures remain in place for the next census in 1990, the States most likely to lose representa-

tion in Congress unjustly are Connecticut, Pennsylvania, Michigan, Alabama, North Carolina, and Missouri.

Tomorrow, I intend to introduce legislation to correct this ridiculous situation. My bill will direct the Census Bureau to exclude illegal aliens from the count used for reapportionment of the House.

This is not an antiimmigrant bill. This is simply a bill designed to provide fair and equal representation for the legal residents of this country.

I invite my colleagues to join me as original cosponsors.

WITHDRAWAL OF NAME AS A NOMINEE FOR SUPREME COURT JUSTICE

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

Mr. GEKAS. Mr. Speaker, I am today notifying the President of the United States that I want my name withdrawn as a possibility for nomination to the Supreme Court.

I do so, because in the seventh grade one day with a colleague of mine, I played hooky for a full half a day. Later on I became increasingly guilty of overdue library books and have paid many fines in the local public library.

Moreover, traffic tickets have been part of my background, and I want the CONGRESSIONAL RECORD to reveal that in full.

I believe fully that these indiscretions of mine disqualify me from becoming a Supreme Court Justice, only because the Senate of the United States will be the final arbiter; but these indiscretions do not prevent me from running for President of the United States, because only the public, my constituents, will decide whether or not I can be successful on that venture.

FREE LABOR RALLY IN MANAGUA

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

Mr. DORNAN of California. Mr. Speaker, at about this time yesterday I was addressing a free labor rally in the Communist capital of Managua, Nicaragua.

The Turbas Divinas, the undivine mobs, that beat up the mothers and sisters and young wives of the 10,000-plus political prisoners, the Turbas Divinas were hiding around the corners, backing off, because you do not generally attack and beat up people in a Communist capital when five attorneys general from the United States, Florida, Kansas, our former colleague, Jim Mattox, and others, and a former ambassador, are following the parade in a car, or when two Members from California, the gentleman from California [Mr. DREIER] and myself, and the gentleman from Missouri [Mr. BUECHNER], with a little child on his shoulders, the gentleman from Arizona [Mr. KYL], who led the delegation, and the gentleman from Virginia [Mr. BATEMAN], with all of us marching in the front row of the parade, you do not attack and beat up the people.

I believe that parade was rather a tragic failure, because Australian journalists and BBC journalists, they have all said look, it is democratic. Democratization is working here.

Well, it is not working. It is a lie, and the blood of every young Nicaraguan freedom fighter who has died 10 miles from the Honduras border down to the Rio San Juan River, they were the ones who wore with their blood the Arias peace plan.

Let us hope that Arias on December 7 calls this what it is, another locking in of another Communist colony right here on American soil.

DEMOCRATS DESERVE FULL CREDIT FOR CONGRESSIONAL PAY RAISE

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

Mr. WELDON. Mr. Speaker, last week we heard a lot of rhetoric from the other side of the aisle attempting to distance Democratic Members from the negative portion of the Deficit Reduction Act which passed the House by 1 vote.

I find it somewhat amusing that the Democratic leadership is now telling us, all along they intended to have a separate vote on a congressional pay raise.

I was dismayed at an AP story carried Friday, November 6, nationally which included comments attributed to the majority whip that "the Republican version of the deficit reduction bill also included the raise."

This is absolutely incorrect. The Republican or Michel amendment to the bill was a perfecting amendment that dealt with specific portions of the Democratic bill; namely, taxes and spending.

The pay raise was contained in the original Democratic bill only. Members were informed during the debate by the gentleman from Pennsylvania [Mr. WALKER] that a vote for final passage of the Democratic bill with or without the Michel amendment would have been a vote for a congressional pay raise.

I am happy that all but one of my Republican colleagues and 41 Democratic Members joined me in opposing this hypocrisy.

Let us keep the record straight, and let the Democrats take full credit for voting for another back-door pay raise in a deficit reduction bill.

COMMUNIST SCHEDULING ADVICE FOR THE U.S. HOUSE

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

Mr. GINGRICH. Mr. Speaker, a Thursday Associated Press story suggested that the Speaker has conferred with Nicaragua's Communist dictatorship while developing the continuing resolution legislative strategy.

The Associated Press story said:

> House Speaker Jim Wright said he had spoken today with Nicaragua's Ambassador to the United States, Carlos Tunnerman, who told him there would be no objection to a further aid appropriation.

This story, if true, strikes at the dignity and integrity of the House proceedings. The Speaker should report to the House how often he and his staff have been consulting with Nicaraguan Communists in person and by telephone.

Later today in a special order I will outline the dangers of this behavior for the dignity and integrity of the House proceedings. I look forward to a report from the Speaker on this dangerous and inexcusable behavior.

MEMBERS SHOULD VISIT NICARAGUA

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

Mr. BUECHNER. Mr. Speaker, I would like to issue a challenge to the Members on both sides of the aisle; and that is, to do what many of us have done.

I did it for my first time this weekend, and that is, to visit Nicaragua. I do not want the Members to sit down with the leaders of the Government or the Contra leaders, but take some time to go visit the people that live in the cities that are either the objects of the resistance themselves by means of the fact that their family is in prison.

Who put them in prison? The Sandinistas put them in prison. Why are they in prison? They are charged with acts against the state.

I would like you to meet with mothers, daughters, sisters, brothers, and the children and parents of those people who are in prison; and I would like the Members to talk to them about what is important to them.

What is important is freedom. What is important is amnesty.

March with them. Show them that you have the same concern for freedom in Nicaragua as in South Africa, as in Selma, AL, and the fact that we were not attacked did not mean that secret police were not in the corners, did not believe the dogs were not

around the corners, did not believe that pictures were not being taken of the individuals for the files of the secret police.

If you know what a chilling effect is, it was there; but the most chilling effect we can do is not to understand that these people depend on our help. We should give it to them; join us.

U.S. SUGAR PROGRAM

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

Mr. STANGELAND. Mr. Speaker, as some of our colleagues prepare to introduce legislation this week, which would virtually decimate the U.S. Sugar Program, I would like to point out that most of the data on which they are basing this legislation is extremely faulty.

One of the most blatant claims is that the current program guarantees U.S. sugar producers an excessive profit and inflates domestic sweetener prices. The facts are that the average cost of producing and processing raw sugar is approximately 20.55 cents per pound.

With the loan rate for sugar at 18 cents and the cost of producing it close to 21 cents, the U.S. producer would most certainly rely on the market place for a profit—not the sugar program. Furthermore, in 1981 the average retail price for sugar in the United States was a little more than 40 cents per pound. In contrast, for the first 6 months of 1987, the average was lower—at 35 cents per pound.

Legislation intended to disassemble the current sugar program will harm and severely impact entire agricultural communities. It will also deprive the American consumer of a program which assures a steady supply of sugar at reasonable prices.

CONGRATULATIONS, GLENN HOPKINS

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

Mr. HUBBARD. Mr. Speaker, the name Hopkins is prominent in western Kentucky.

Hopkinsville, KY, is the second largest city in the congressional district I represent.

Hopkins County, KY, is north of Hopkinsville and is where Madisonville, the county seat of government, is located.

I'm pleased to commend and congratulate a friend of mine named Glenn Hopkins of Clinton, KY. Glenn Hopkins, a 79-year-old retired mortician and businessman, was the No. 1 recipient of votes last Tuesday in the Clinton City Council race. He received 237 votes.

Some of my colleagues in Congress may wonder why all the praise from me today for Glenn Hopkins. Well, Glenn Hopkins is the father of Congressman LARRY HOPKINS, the gentleman from Kentucky's Sixth Congressional District.

Glenn Hopkins is a Democrat and that's true of all the Hopkins in western Kentucky, including LARRY HOPKINS' uncle Stanley Hopkins, a former sheriff and county judge/executive of Hickman County, KY.

Yes, Congressman LARRY HOPKINS is a Republican, though years ago growing up in western Kentucky—attending Wingo High School and Murray State University—he was a Democrat.

So, my colleagues, remember that the success of Republican LARRY HOPKINS comes from a daddy, a mother, and a big western Kentucky family who are all Democrats.

And all the Hopkins and a lot of other Democrats in western Kentucky would vote for LARRY HOPKINS if he ever decides to seek a statewide office in Kentucky.

CONGRESSIONAL PAY RAISE DEMOCRATS' RESPONSIBILITY

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

Mr. WALKER. Mr. Speaker, is this any way to run the Government? A few months ago you and your party took control of this body and the other body.

Since that time we have not had one appropriation bill passed, despite the fact that we are in the new fiscal year. The budget was passed late.

We have taken upon ourselves to break the law constantly with regard to the Budget Act. We have consistently been late in meeting deadlines around here, and now we are moving toward fantasy.

I understand the leadership has now claimed that last week when we considered the pay raise in this body, that the Republicans had the same pay raise in their bill that the Democrats had in theirs.

That is just plain falsehood. There was no such proposal made by the Republicans in this body. The whole thing was the Democrats who brought the pay raise to the floor as a part of a debt-reduction bill.

It is fantasy to believe, to begin with, that we ought to have a pay raise as a part of a debt-reduction bill; but to try to lay the blame off on our side of the aisle is pure fantasy.

It is high time at least you take responsibility of governing that you so gladly informed the voters of a few months ago that you really wanted.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ANDREWS). The chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Thursday, November 5, 1987:

S. 442. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

CONFERENCE REPORT ON H.R. 1451, OLDER AMERICANS ACT AMENDMENTS OF 1987

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes:

CONFERENCE REPORT (H. REPT. 100-427)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes; having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the "Older Americans Act Amendments of 1987".

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TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

SEC. 101. OBJECTIVES.

Section 101 of the Older Americans Act of 1965 (42 U.S.C. 3001) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "United States and" and inserting "United States,", and

(B) by inserting ", and of Indian tribes" after "subdivisions",

(2) in paragraph (3) by striking "Suitable" and inserting "Obtaining and maintaining suitable",

(3) in paragraph (7) by striking "Pursuit of" and inserting "Participating in and contributing to", and

(4) in paragraph (10)—

(A) by striking "lives and" and inserting "lives,", and

(B) by inserting ", and protection against abuse, neglect, and exploitation" before the period at the end.

SEC. 102. ESTABLISHMENT OF ADMINISTRATION ON AGING.

Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended in the third and fourth sentences by striking "the Office of".

SEC. 103. DATA COLLECTION; REPORTS.

(a) COLLECTION REQUIRED.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (17) by striking "and" at the end,

(2) in paragraph (18) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(19) collect for each fiscal year, for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

"(A) with respect to each type of service provided with such funds—

"(i) the aggregate amount of such funds expended to provide such service;

"(ii) the number of individuals who received such service; and

"(iii) the number of units of such service provided;

"(B) the number of senior centers which received such funds; and

"(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a).".

(b) REPORTS.—The last sentence of section 207(a) of the Older Americans Act of 1965 (42 U.S.C. 3018(a)) is amended to read as follows: "Such annual reports shall include—

"(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

"(2) statistical data collected under section 202(a)(19);

"(3) an analysis of the information received under section 306(b)(2)(D) by the Commissioner; and

"(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment).".

(c) REPORT TO CONGRESS ON OMBUDSMAN PROGRAM.—Section 207 of the Older Americans Act of 1965 (42 U.S.C. 3018) is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than January 15 of each year, the Commissioner shall compile a report—

"(A) summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;

"(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

"(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

"(D) making recommendations regarding legislation and administrative actions to resolve such problems.

"(2) The Commissioner shall submit the report required by paragraph (1) to—

"(A) the Select Committee on Aging of the House of Representatives;

"(B) the Special Committee on Aging of the Senate;

"(C) the Committee on Education and Labor of the House of Representatives; and

"(D) the Committee on Labor and Human Resources of the Senate.

"(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(H)(i) available, to—

"(A) the Administrator of the Health Care Finance Administration;

"(B) the Office of the Inspector General of the Department of Health and Human Services;

"(C) the Office of Civil Rights of the Department of Health and Human Services;

"(D) the Administrator of the Veterans' Administration; and

"(E) the public agencies and private organizations designated under section 307(a)(12)(A).".

SEC. 104. VETERANS' PROGRAMS.

(a) CONSULTATION.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(1) in paragraph (13) by striking "and" at the end,

(2) in paragraph (14) by striking the period at the end and inserting ", and", and

(3) by adding at the end the following:

"(15) parts II and III of title 38, United States Code.".

(b) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE III.—Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)(2)) is amended by inserting ", the Veterans' Administration," after "Office of Community Services".

(c) AREA PLANS.—Section 306(a)(6)(F) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(F)) is amended by inserting "providers of veterans' health care (if appropriate)," after "elected officials,".

(d) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE IV.—Section 402(b) of the Older Americans Act of 1965 (42 U.S.C. 3030bb(b)) is amended by inserting "the Veterans' Administration," after "National Institutes of Health,".

SEC. 105. MENTAL HEALTH.

(a) FUNCTIONS OF COMMISSIONER.—Section 202(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(5)) is amended by inserting "(including mental health)" after "health".

(b) FEDERAL AGENCY CONSULTATION.—Section 203(b)(10) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(10)) is amended by inserting ", including block grants under title XIX of such Act" before the comma.

(c) ADMINISTRATION OF TITLE III.—Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)(2)), as amended by section 104(b), is amended by inserting "the Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(d) ADMINISTRATION OF TITLE IV.—Section 402(b) of the Older Americans Act of 1965 (42 U.S.C. 3030bb(b)), as amended by section 104(d), is amended by inserting "Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(e) EDUCATION AND TRAINING.—(1) Section 411(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)(1)) is amended by inserting "(including mental health)" after "health".

(2) The first sentence of section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended by inserting "(including mental health)" after "health".

(f) SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.—The second sentence of section 423(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(3)) is amended by inserting "mental health services;" after "in-home services;".

SEC. 106. OLDER INDIVIDUALS WITH DISABILITIES.

(a) PLANNING.—Section 202(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(1)) is amended—

(1) by striking "and" and inserting a comma, and

(2) by inserting after "Act" the following: ", with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities".

(b) AGENCY CONSULTATION.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)), as amended by section 104(a), is amended—

(1) in paragraph (14) by striking "and" at the end,

(2) in paragraph (15) by striking the period at the end and inserting a comma, and

(3) by adding after paragraph (15) the following:

"(16) the Rehabilitation Act of 1973, and

"(17) the Developmental Disabilities and Bill of Rights Act.".

(c) EVALUATION.—The second sentence of section 206(c) of the Older Americans Act of 1965 (42 U.S.C. 3017(c)) is amended by inserting "and older individuals with disabilities" before the period at the end.

SEC. 107. OLDER NATIVE AMERICANS.

(a) IMPROVED ADMINISTRATION FOR NATIVE AMERICAN PROGRAMS.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(c)(1) There is established in the Administration on Aging an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

"(2) The Office shall be headed by an Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Commissioner.

"(3) The Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall—

"(A)(i) evaluate the adequacy of outreach under title III and title VI for older Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Native Hawaiians; and

"(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

"(B) serve as the effective and visible advocate in behalf of older Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting older Native Americans;

"(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

"(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Native Hawaiians;

"(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under the Act relating to older Native Americans;

"(F) collect and disseminate information related to problems experienced by older Native Americans;

"(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older Native Americans; and

"(H) develop and provide technical assistance and training programs to grantees under title VI.".

(b) FEDERAL COUNCIL ON AGING.—The third sentence of section 204(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)(1)) is amended by inserting "Indian tribes" after "minorities".

(c) CONTRACTING AUTHORITY.—Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3020c) is amended by inserting after "State agency" the following: "(or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner)".

SEC. 108. FEDERAL COUNCIL ON AGING.

(a) MEMBERSHIP.—The fourth sentence of section 204(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)(1)) is amended by striking "two" and inserting "three".

(b) REAUTHORIZATION.—Section 204(g) of the Older Americans Act of 1965 (42 U.S.C. 3015(g)) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out the provisions of this section $210,000 for the fiscal year 1988, $221,000 for the fiscal year 1989, $232,000 for the fiscal year 1990, and $243,000 for the fiscal year 1991.".

SEC. 109. REGULATIONS.

Section 205(c) of the Older Americans Act of 1965 (42 U.S.C. 3016(c)) is amended by striking "1984" and inserting "1987".

SEC. 110. PUBLICATION OF GOALS.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) Not later than September 1 of each fiscal year, the Commissioner shall make available to the public, for the purpose of facilitating informed public comment, a statement of proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date on which such statement is made available.".

SEC. 111. ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES PROVIDED AT SENIOR CENTERS AND OTHER SITES.

(a) REPORT.—Not later than September 30, 1989, the Commissioner on Aging shall submit to the Congress a report—

(1) assessing the national unmet need for supportive services, nutrition services, and multipurpose senior centers by summmarizing in detail for each State the results of the most recent evaluation conducted by the State agency under the then current plan (including any revision thereof) submitted under section 307(a)(3)(A) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(3)(A)), and

(2) containing the recommendations of the Secretary with respect to the need for administrative action and legislation relating to satisfying the demand for supportive services provided at senior centers established under such title and at other sites.

(b) ISSUANCE OF REGULATIONS.—For purposes of obtaining adequate information to be included in the report required by subsection (a), the Commissioner on Aging shall issue, under the authority of section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), such regulations as may be necessary to ensure that the evaluations required to be summarized in such report include data that are objectively collected and statistically valid.

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

SEC. 121. PURPOSE.

Section 301(a) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)) is amended by inserting ", with Indian tribes, tribal organi-

zations, and Native Hawaiian organizations," after "agencies" the second place it appears.

SEC. 122. REAUTHORIZATION FOR STATE AND COMMUNITY PROGRAMS ON AGING.

(a) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)) is amended to read as follows:

"(a) There are authorized to be appropriated $379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, and $439,406,000 for the fiscal year 1991, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).".

(b) NUTRITION SERVICES.—Section 303(b) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)) is amended to read as follows:

"(b)(1) There are authorized to be appropriated $414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989, $457,262,000 for the fiscal year 1990, and $480,125,000 for the fiscal year 1991, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, and $91,892,000 for the fiscal year 1991, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).".

(c) SURPLUS COMMODITIES PROGRAM.—(1) Section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) is amended—

(A) by striking "fiscal year 1986 and during each fiscal year thereafter" and inserting "fiscal years 1986 through 1991", and

(B) by striking the second and third sentences.

(2) Subparagraph (A) of section 311(c)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(1)(A)) is amended to read as follows:

"(A) There are authorized to be appropriated $151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, and $201,000,000 for the fiscal year 1991, to carry out the provisions of this section (other than subsection (a)(1)).".

SEC. 123. ADMINISTRATIVE EXPENSES OF AREA AGENCIES ON AGING.

Section 304(d)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(A)) is amended by striking "8.5" and inserting "10".

SEC. 124. AREA AGENCIES ON AGING AS SEPARATE UNITS.

Section 305(c) of the Older Americans Act of 1965 (42 U.S.C. 3025(c)) is amended—

(1) in paragraph (2) by inserting "to function only" after "designated",

(2) in paragraph (3) by inserting "only" after "act", and

(3) in paragraph (4)—

(A) by inserting ", or any separate organizational unit within such agency," after "area" the first place it appears, and

(B) by striking "engage" and inserting "and will engage only".

SEC. 125. AREA PLANS.

Section 306(a)(6)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(A)) is amended by inserting ", and public hearings on," after "evaluations of".

SEC. 126. DAYCARE AND RESPITE SERVICES PROVIDED BY VOLUNTEERS.

Section 306(a)(6)(E) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(E)) is amended—

(1) by inserting "or adults, and respite for families," after "for children", and

(2) by inserting ", adults, and families" after "to children".

SEC. 127. COORDINATION OF CERTAIN PROGRAMS RELATING TO OLDER VICTIMS OF ALZHEIMER'S DISEASE.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (J) by striking "and" at the end,

(2) in subparagraph (K) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims.".

SEC. 128. PUBLIC HEARINGS.

Section 307(a)(8) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(8)) is amended by inserting ", and public hearings on," after "evaluations of".

SEC. 129. OMBUDSMAN OFFICE AND PROGRAM.

(a) TECHNICAL ASSISTANCE.—Section 301 of the Older Americans Act of 1965 (42 U.S.C. 3021) is amended by adding at the end the following:

"(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.".

(b) STUDY OF OMBUDSMAN PROGRAM.—(1) The Commissioner on Aging shall conduct a study concerning involvement in the ombudsman program established under section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) and its impact upon issues and problems affecting—

(A) residents of board and care facilities and other similar adult care homes who are older individuals (as defined in section 302(10) of such Act), including recommendations for expanding and improving ombudsman services in such facilities, and

(B) the effectiveness of recruiting, supervising, and retaining volunteer ombudsmen.

(2) The Commissioner shall prepare and submit a report to the Congress on the findings and recommendations of the study described in paragraph (1) not later than December 31, 1989.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)), as amended by section 122(a), is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following:

"(2) Subject to subsection (h), there are authorized to be appropriated $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out section 307(a)(12).".

(2) Section 308(b)(5) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)(5)) is amended—

(A) in subparagraph (A) by striking "subsection (a)" and inserting "subsection (a)(1)", and

(B) in subparagraph (B) by inserting "subsections (a)(1) and (b) of" after "under" the first place it appears.

(d) STATE PLANS.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide the following assurances, with respect to a long-term care ombudsman program:

"(A) The State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the 'Office') and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

"(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(iii) carry out such other activities as the Commissioner deems appropriate.

"(B) The State agency will establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order.

"(C) The State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis.

"(D) The State agency will establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or the individual's legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order.

"(E) In planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies.

"(F) The State agency will—

"(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

"(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

"(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts.

"(G) The State agency will—

"(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

"(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

"(H) The State agency will require the Office to—

"(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

"(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

"(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

"(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

"(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State deems appropriate;

"(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

"(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph.

"(I) The State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(J) The State will—

"(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

"(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office; and

"(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

"(iv) ensure that representatives of the Office shall have—

"(I) access to long-term care facilities and their residents; and

"(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records.

"(K) The State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (G)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints.".

(e) MINIMUM EXPENDITURE FOR OMBUDSMAN SERVICES.—Section 307(a)(21) of the Older Americans Act of 1965 (42 U.S.C. 3027 (a)(21)) is amended to read as follows:

"(21) The State plan shall provide that the State agency, from funds allotted under section 304(a) for part B and for paragraph (12) (relating to the State long-term care ombudsman) shall expend to carry out paragraph (12), for each fiscal year in which the allotment for part B for the State is not less than the allotment for fiscal year 1987 for part B for such State, an amount which is not less than the amount expended from funds received under this Act by such State in fiscal year 1987 to carry out paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. This paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 130. FLEXIBILITY OF SERVICES; LEGAL ASSISTANCE.

(a) AREA PLANS.—(1) Section 306(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)) is amended by inserting ", as required under section 307(a)(22)," after "adequate proportion".

(2) Section 306(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(b)(2)) is amended by adding at the end the following:

"(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

"(D) If the State agency waives the requirement described in clause (2) of subsection (a), the State agency shall provide to the Commissioner—

"(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

"(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and

"(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).".

(b) MINIMUM EXPENDITURE OF FUNDS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended by adding at the end the following:

"(22) The plan shall specify a minimum percentage of the funds received by each area agency for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency to provide each of the categories of services specified in section 306(a)(2).".

SEC. 131. DOCUMENTATION REGARDING MINORITY PARTICIPATION.

(a) AREA PLANS.—Section 306(a)(5)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)(A)) is amended—

(1) by inserting "(i)" after "(5)(A)", and

(2) in subparagraph (A)(i), as so redesignated—

(A) by striking "and" at the end, and

(B) by inserting after clause (i) the following:

"(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

"(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

"(II) attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and

"(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(I) identify the number of low-income minority older individuals in the planning and service area; and

"(II) describe the methods used to satisfy the service needs of such minority older individuals; and".

(b) STATE PLAN.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by section 130(c), is amended by adding at the end the following:

"(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State; and

"(B) describe the methods used to satisfy the service needs of such minority older individuals.".

SEC. 132. TARGETING OF SERVICES.

(a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)) is amended—

(A) by striking "the distribution of older individuals who have low incomes residing in such areas", and

(B) by inserting after "legal services," the following: "the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas,".

(2) Section 305(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)) is amended—

(A) in subparagraph (D) by striking "and" at the end,

(B) in subparagraph (E) by striking the period at the end and inserting "; and", and

(C) by inserting after subparagraph (E) the following:

"(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (1) by inserting after "residing in such area" the following: ", the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area,",

(2) in paragraph (5)(B) by inserting after "rural elderly," the following: "older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals),", and

(3) in paragraph (6)(A) by inserting before the semicolon at the end the following: "and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B)".

(c) STATE PLAN.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c) and 131(b), is amended—

(1) in paragraph (8) by inserting before the semicolon the following: ", including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals", and

(2) by adding at the end the following:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance.".

SEC. 133. COORDINATION RELATING TO MENTAL HEALTH SERVICES.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by section 127, is amended—

(1) in subparagraph (K) by striking "and", and

(2) in subparagraph (L) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations.".

SEC. 134. SERVICES TO OLDER NATIVE AMERICANS.

(a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)), as amended by section 132(a)(1), is amended by inserting "the distribution of older Indians residing in such areas," after "such areas," the second place it appears.

(2) Section 306(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(1)), as amended by section 132(b)(1), is amended by inserting ", and the number of older Indians residing in such area," before "and" the last place it appears in the parenthetical.

(b) AREA PLANS.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127 and 133, is amended—

(1) by striking "and" at the end of subparagraph (L),

(2) by striking the period at the end of subparagraph (M) and inserting "; and", and

(3) by adding at the end the following:

"(N) if there is a significant population of older Indians in the planning and service area of the area agency, the area agency shall conduct outreach activities to identify older Indians in such area and shall inform such older Indians of the availability of assistance under this Act.".

(c) EDUCATION AND TRAINING.—(1) Section 402 of the Act (42 U.S.C. 3030bb) is amended by adding at the end the following:

"(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.".

(2) Section 410(5) of the Older Americans Act of 1965 (42 U.S.C. 3030jj(5)) is amended by inserting "(including centers of gerontology to improve, enhance, and expand minority personnel and training programs)" after "gerontology".

(3) Section 411(a) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)) is amended by adding at the end the following:

"(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.".

(4) The matter in parentheses in the first sentence of section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(A) by striking "and" and inserting a comma, and

(B) by inserting "and minority populations" after "services".

(5) Section 423(a) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)) is amended by adding at the end the following:

"(4) The Commissioner shall ensure that grants and contracts under this section are equitably awarded to agencies, organizations, and institutions representing minorities.".

(6) Section 425(a) of the Older Americans Act of 1965 (42 U.S.C. 3035d(a)) is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.".

(d) TASK FORCE.—(1) The Commissioner on Aging shall establish a permanent interagency task force that is representative of departments and agencies of the Federal Government with an interest in older Indians and their welfare, and is designed to make recommendations with respect to facilitating the coordination of services and the improvement of services to older Indians.

(2) The task force shall be chaired by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and shall submit its findings and recommendations to the Commissioner at 6-month intervals beginning after the date of the enactment of this Act. Such findings and recommendations shall be included in the annual report required by section 207(a) of the Older Americans Act of 1965 to be submitted by the Commissioner.

(e) SPECIAL REPORT ON SERVICES FOR OLDER INDIANS.—(1) The Commissioner on Aging shall enter into a contract with a public agency or nonprofit private organization to conduct a thorough study of the availability and quality of services under the Older Americans Act of 1965 to older Indians. The study shall include—

(A) an analysis of how many Indians now participate in programs under titles III and VI of such Act as compared to how many older Indians are eligible to participate in such programs,

(B) a description of how grants under titles III and VI of such Act are made to Indian tribes and how services are made available to older Indians, and

(C) a determination of what services are currently provided through title VI of such Act to older Indians and how well the Administration on Aging assures that supportive services under title VI of such Act to Indians are commensurate with supportive services under title III of such Act with special consideration to information and referral services, legal services, transportation services, and the ombudsman services.

(2) Not later than December 31, 1988, the Commissioner on Aging shall prepare and submit to the Congress a report on the study required by this subsection, together with such recommendations, including recommendations for legislation, as the Commissioner considers to be appropriate.

SEC. 135. OUTREACH REGARDING TUITION-FREE POST-SECONDARY EDUCATION.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127, 133, and 134(b), is amended—

(1) in subparagraph (M) by striking "and" at the end,

(2) in subparagraph (N) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(O)(i) compile available information on institutions of higher education in the planning and service area regarding—

"(I) the courses of study offered to older individuals by such institutions; and

"(II) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, on a space available basis, or on another special basis;

and include in such compilation such related supplementary information as may be necessary; and

"(ii) based on the results of such compilation, make a summary of such information available to older individuals at multipurpose senior centers, congregate nutrition sites, and other appropriate places.".

SEC. 136. SERVICES TO INDIVIDUALS WITH DISABILITIES.

(a) DEFINITIONS.—(1) Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(8) The term 'disability' means (except when such term is used in the phrase 'severe disability', 'developmental disabilities', 'physical or mental disability', 'physical and mental disabilities', or 'physical disabilities') a disability attributable to mental or physical impairment, or a combination of

mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.

"(9) The term 'severe disability' means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—

"(A) is likely to continue indefinitely; and

"(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).".

(2) Section 302(11) of the Older Americans Act of 1965 (42 U.S.C. 3022(11)) is amended by inserting "(including mental health)" after "health".

(b) AREA PLANS.—Section 306(a)(5)(B) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)(B)), as amended by section 132(b)(2), is amended by inserting "and older individuals with severe disabilities," after "individuals)," the second place it appears.

(c) STATE PLANS.—(1) Section 307(a)(13)(I) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)(I)) is amended by inserting before the semicolon at the end the following: ", and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this Act".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), and 132(c), is amended by adding at the end the following:

"(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.".

(d) SUPPORTIVE SERVICES.—(1) Section 321(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(1)) is amended by inserting after "health" the following: "(including mental health)".

(2) Section 321(a)(4)(B) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(4)(B)) is amended by striking "suffering from physical disabilities" and inserting "who have physical disabilities".

SEC. 137. CONFIDENTIALITY OF INFORMATION RELATING TO LEGAL ASSISTANCE PROVIDED.

(a) AREA AGENCY ON AGING.—Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended by adding at the end the following:

"(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

(b) STATE AND STATE AGENCY.—Section 307 of the Older Americans Act of 1965 (42 U.S.C. 3027) is amended by adding at the end the following:

"(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

SEC. 138. COORDINATION OF COMMUNITY-BASED SERVICES

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), and 136(c)(3), is amended by adding at the end the following:

"(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

"(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

"(B) are patients in hospitals and are at risk of prolonged institutionalization; or

"(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.".

SEC. 139. PAYMENTS.

Section 309(c) of the Older Americans Act of 1965 (42 U.S.C. 3029(c)) is amended—

(1) by inserting "average annual" after "less than its", and

(2) by striking "preceding fiscal year" and inserting "period of 3 fiscal years preceding such year".

SEC. 140. IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended by adding at the end the following:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, and $28,941,000 for fiscal year 1991 for the purpose of making grants under part D of this title (relating to in-home services).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (6) by striking the period at the end and inserting "; and", and

(2) by adding at the end the following:

"(7) provide assurances that any amount received under part D will be expended in accordance with such part.".

(c) STATE PLANS.—(1) Section 307(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(10)) is amended by striking "including nutrition services," and inserting "nutrition services, or in-home services (as defined in section 342(1))".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), and 138 is amended by adding at the end the following:

"(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.".

(d) PROGRAM.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) is amended by adding at the end the following:

"PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 341. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

"(b) In carrying out the provisions of this part, each area agency shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

"DEFINITIONS

"SEC. 342. For purposes of this part—

"(1) the term 'in-home services' includes—

"(A) homemaker and home health aides;

"(B) visiting and telephone reassurance;

"(C) chore maintenance;

"(D) in-home respite care for families, and adult day care as a respite service for families; and

"(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under other programs, except that not more than $150 per client may be expended under this part for such modification; and

"(2) the term 'frail' means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"STATE CRITERIA

"SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

"(1) age;

"(2) greatest economic need;

"(3) noneconomic factors contributing to the frail condition; and

"(4) noneconomic and nonhealth factors contributing to the need for such services.

"MAINTENANCE OF EFFORT

"SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).".

SEC. 141. ASSISTANCE FOR SPECIAL NEEDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by section 140(a), is amended by adding at the end the following:

"(e) Subject to subsection (h), there are authorized to be appropriated $25,000,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991 to carry out part E (relating to special needs).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by section 140(b), is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (7) the following:

"(8) provide assurances that any amount received under part E will be expended in accordance with such part;".

(c) STATE PLANS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, and 140(c)(2), is amended by adding at the end the following:

"(28) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.".

(d) GRANTS FOR SPECIAL NEEDS.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021-3030g), as amended by section 140(d), is amended by adding at the end the following:

"PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 351. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

"(1) transportation associated with services provided under this title;

"(2) outreach regarding such services;

"(3) targeting such services to older individuals with greatest economic need or greatest social need;

"(4) services under the ombudsman program established under section 307(a)(12); and

"(5) any other service under this title—

"(A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and

"(B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.".

SEC. 142. STATE PLAN INFORMATION REGARDING SERVICES TO OLDER INDIVIDUALS RESIDING IN RURAL AREAS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), and 141(c), is amended by adding at the end the following:

"(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.".

SEC. 143. HEALTH EDUCATION AND PROMOTION FOR OLDER INDIVIDUALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by sections 140(a) and 141(a), is amended by adding at the end the following:

"(f) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 for the purpose of making grants under part F of this title (relating to periodic preventive health, health education, and promotion services).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by sections 140(b) and 141(b), is amended—

(1) in paragraph (7) by striking "and" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(9) provide assurances that any amount received under part F will be expended in accordance with such part.".

(c) PROGRAM.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), as amended by sections 140(d) and 141(d), is amended by adding at the end the following:

"PART F—PREVENTIVE HEALTH SERVICES

"PROGRAM AUTHORIZED

"SEC. 361. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for periodic preventive health services to be provided at senior centers or alternative sites as appropriate.

"(b) Preventive health services under this part may not include services eligible for reimbursement under Medicare.

"(c) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

"DISTRIBUTION TO AREA AGENCIES

"SEC. 362. The State agency shall give priority, in carrying out this part, to areas of the State—

"(1) which are medically underserved; and

"(2) in which there are a large number of older individuals who have the greatest economic need for such services.

"DEFINITIONS

"SEC. 363. For the purpose of this part and section 307 the term 'preventive health services' means—

"(1) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision and hearing screening;

"(2) group exercise programs;

"(3) home injury control services, including screening of high-risk home environments and educational programs on injury protection in the home environment;

"(4) nutritional counseling and educational services;

"(5) screening for the prevention of depression, coordination of community mental health services, educational activities, and referral to psychiatric and psychological services;

"(6) educational programs on the benefits and limitations of Medicare and various supplemental insurance coverage, including individual policy screening and health insurance-needs counseling; and

"(7) counseling regarding followup health services based on any of the services provided for above.".

SEC. 144. PREVENTION OF ABUSE OF OLDER INDIVIDUALS.

(a) DEFINITIONS.—Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by section 136(a), is amended by adding at the end the following:

"(15) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

"(16) The term 'elder abuse' means abuse of an older individual.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'exploitation' means the illegal or improper act or process of a caretaker using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(19) The term 'neglect' means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

"(20) The term 'physical harm' means bodily pain, injury, impairment, or disease.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by sections 140(a), 141(a), and 143(a), is amended by adding at the end the following:

"(g) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991, to carry out part G (relating to abuse, neglect, and exploitation of older individuals).".

(c) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by sections 140(b), 141(b), and 143(b), is amended—

(1) in paragraph (8) by striking "and" at the end,

(2) in paragraph (9) by striking the period at the end and inserting "; and", and

(3) by adding at end the following:

"(10) provide assurances that any amount received under part G will be expended in accordance with such part.".

(d) STATE PLAN.—(1) Section 307(a)(16) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(16)) is amended by striking "provide" the second place it appears and inserting ", if funds are not appropriated under section 303(g) for a fiscal year, provide that for such fiscal year".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), 141(c), and 142, is amended by adding at the end the following:

"(30) The plan shall provide assurances that if the State receives funds appropriated under section 303(g), the State agency and area agencies on aging will expend such funds to carry out part G.".

(e) ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), as amended by sections 140(d), 141(d), and 143(c), is amended by adding at the end the following:

"PART G—PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 371. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program with respect to the prevention of abuse, neglect, and exploitation of older individuals. The program shall—

"(1) be consistent with relevant State law and coordinated with State adult protective service activities and other State and local elder abuse prevention and protection;

"(2) provide for—

"(A) public education and outreach services to identify and prevent abuse, neglect, and exploitation of older individuals;

"(B) receipt of reports of such abuse, neglect, and exploitation;

"(C) active participation of older individuals participating in programs under this

Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and with the consent of the older individuals to be referred; and

"(D) the referral of complaints and other reports of abuse, neglect, or exploitation of older individuals to law enforcement agencies, public protective service agencies, licensing and certification agencies, ombudsman programs, or protection and advocacy system if appropriate;

"(3) not permit involuntary or coerced participation in such program by alleged victims, abusers, or their households; and

"(4) require that all information gathered in the course of receiving such a complaint or report, and making such a referral, shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system.".

SEC. 145. LIMITATION ON CERTAIN AUTHORITY TO MAKE APPROPRIATIONS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 2023), as amended by sections 140(a), 141(a), 143(a), and 144(b), is amended by adding at the end the following:

"(h) No funds may be appropriated under subsection (a)(2), (a)(3), (e), (f), or (g) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title IV (other than sections 427 and 428), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.".

SEC. 146. ASSISTIVE TECHNOLOGY INFORMATION.

(a) DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(8) The term 'assistive technology' means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

"(9) The term 'information and referral' includes information relating to assistive technology.".

(b) CLIENT ASSESSMENT THROUGH CASE MANAGEMENT.—Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended by adding at the end the following: "For purposes of paragraph (5), the term 'client assessment through case management' includes providing information relating to assistive technology .".

(c) MULTIDISCIPLINARY CENTERS OF GERONTOLOGY.—Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(7) if appropriate, provide information relating to assistive technology.".

PART C—DEMONSTRATION GRANTS

SEC. 151. DEMONSTRATION PROJECTS; PURPOSE.

Section 401(1) of the Older Americans Act of 1965 (42 U.S.C. 3030aa(1)) is amended by inserting before the semicolon the following: ", with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities".

SEC. 152. DEMONSTRATION PROJECTS.

Section 422 of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following:

"(2) The Commissioner may, after consultation with the State agency in the State involved, make grants to or enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing prototype health education and promotion programs for the use of State and area agencies on aging in implementing preventive health service programs.", and

(2) in subsection (b) by striking "this section" and inserting "subsection (a)(1)".

SEC. 153. VOLUNTEER OPPORTUNITIES.

Section 422(b) of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in paragraph (7) by striking "and" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include—

"(A) projects furnishing intergenerational services by older individuals addressing the needs of children, such as—

"(i) tutorial services in elementary and special schools;

"(ii) after school programs for latch key children;

"(iii) voluntary services for day care center programs; and

"(B) volunteer service credit projects operated in conjunction with ACTION, permitting elderly volunteers to earn credits for services furnished, which may later be redeemed for similar volunteer services.".

SEC. 154. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

Section 423(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(1)), as amended by section 134(c)(5), is amended by striking "may" and inserting "shall".

SEC. 155. OUTREACH TO SSI, MEDICAID, AND FOOD STAMP RECIPIENTS.

(a) OUTREACH AND APPLICATION ASSISTANCE FUNCTIONS OF ADMINISTRATION ON AGING.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)), as amended by section 103(a), is amended—

(1) in paragraph (18) by striking "and" at the end,

(2) in paragraph (19) by striking the period and inserting "; and", and

(3) by adding at the end the following:

"(20) obtain from—

"(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

"(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance under section 307(a)(31).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)), as amended by sections 122(a) and 129(c), is amended—

(1) in paragraph (1) by inserting "for purposes other than outreach activities and application assistance under section 307(a)(31)" before the period at the end, and

(2) by adding at the end the following:

"(3) Subject to subsection (h), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991 to carry out section 306(a)(6)(P). Amounts appropriated under this subsection shall remain available until expended.".

(c) ALLOTMENT, STATE MIMINUM.—(1)(A) The first sentence of section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(B) The last sentence of section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking "purpose of" and inserting "purposes of paragraph (3) and".

(2) Section 304(a) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)) is amended—

(A) by redesignating paragraph (3) as paragraph (4), and

(B) by inserting after paragraph (2) the following:

"(3) No State shall be allotted, from the amount appropriated pursuant to section 303(a)(3), less than $50,000 for any fiscal year.".

(d) ADMINISTRATIVE EXPENSES.—Subparagraphs (B) and (C) of section 304(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)) are each amended by inserting "(excluding any amount attributable to funds appropriated under section 303(a)(3))" after "amount".

(e) OUTREACH AND APPLICATION ASSISTANCE.—

(1) AREA PLANS.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127, 133, 134(b), and 135, is amended—

(A) in subparagraph (N) by striking "and" at the end,

(B) in subparagraph (O) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(P) with funds and information received under section 307(a)(31) from the State agency—

"(i) carry out activities to identify older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act), medical assistance under title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977;

"(ii) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits; and

"(iii) assist older individuals to apply for such assistance and such benefits;".

(2) STATE PLANS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), 141(c), 142, and 144(d), is amended—

(A) in paragraph (20)(A) by striking "section 306(a)(2)(A)" and inserting "sections 306(a)(2)(A) and 306(a)(6)(P)", and

(B) by adding at the end the following:

"(31) The plan shall provide that the State agency—

"(A) from funds allotted for fiscal year 1989 under section 304(a) for part B that are attributable to the amount appropriated under section 303(a)(3), will make funds available to eligible area agencies on aging to carry out section 306(a)(6)(P) and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

"(i) the number of older individuals with greatest economic need (as defined in section 302(20)) residing in their respective planning and service areas; and

"(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in section 306(a)(6)(P);

"(B) will require, as a condition of eligibility to receive funds under this paragraph, an area agency on aging to submit an application that—

"(i) describes the activities for which such funds are sought;

"(ii) provides for an evaluation of such activities by the area agency; and

"(iii) includes assurances that the area agency will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

"(C) will distribute to area agencies on aging—

"(i) the eligibility information received under section 202(a)(20) from the Administration; and

"(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act; and

"(D) will submit to the Commissioner a report on the evaluations required to be submitted under section 307(a)(31)(B).".

(f) REPORT.—Section 207 of the Older Americans Act of 1965 (42 U.S.C. 3018) is amended by adding at the end the following:

"(c) The Commissioner shall, as part of the annual report submitted under subsection (a), prepare and submit a report on the evaluations required to be submitted under section 307(a)(31)(D), together with such recommendations as the Commissioner deems appropriate. In carrying out this subsection, the Commissioner shall consider—

"(1) the number of older individuals reached through outreach activities supported under section 306(a)(6)(P);

"(2) the dollar amount of the assistance and benefits received by older individuals as a result of such activities;

"(3) the cost of such activities in terms of the number of individuals reached and the dollar amount described in paragraph (2); and

"(4) the effect of such activities on supportive services and nutrition services furnished under title III of this Act.".

(g) IMPLEMENTATION INFORMATION.—Not later than September 1, 1988, the Commissioner on Aging shall—

(1) analyze and compile information on successful and unsuccessful activities carried out to conduct outreach of the type described in section 306(a)(6)(P) of the Older Americans Act of 1965, as added by subsection (e), and

(2) distribute such information to the State agencies on aging for dissemination to interested area agencies on aging to assist such area agencies in designing outreach activities to be carried out under section 306(a)(6)(P) of such Act.

(h) EVALUTION GUIDELINES.—The Commissioner on Aging shall issue guidelines to be followed by State agencies on aging and area agencies on aging in conducting evaluations of outreach activities carried out under section 306(a)(6)(P), of the Older Americans Act of 1965, as added by subsection (e). Such guidelines shall be designed to ensure that such evaluations are based on uniform criteria that provide a basis for the valid comparison of such outreach activities conducted by the various area agencies.

SEC. 156. DEMONSTRATION GRANTS FOR INDIVIDUALS WITH DISABILITIES.

(a) TRAINING.—Section 411(c) of the Older Americans Act of 1965 (42 U.S.C. 3031(c)) is amended—

(1) by striking "custodial and skilled care for older individuals who suffer from" and inserting "services to individuals with disabilities and to individuals with", and

(2) by striking "other neurological and organic brain disorders of the Alzheimer's type" and inserting "and related disorders with neurological and organic brain dysfunction".

(b) MULTIDISCIPLINARY CENTERS.—Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended by inserting "disabilities (including severe disabilities)," before "income maintenance".

(c) DEMONSTRATION GRANTS.—Section 422(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(2)) is amended—

(1) in subparagraph (C) by striking "and" at the end,

(2) in subparagraph (D) by inserting "and" at the end, and

(3) by adding at the end the following:

"(E) the identification and provision of services to older individuals with severe disabilities;".

(d) LONG-TERM CARE SPECIAL PROJECTS.—Section 423(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(3)) is amended by inserting after "geriatric health maintenance organizations;" the following: "services to older individuals with severe disabilities residing in nursing homes;".

(e) ADDITIONAL SPECIAL PROJECTS.—(1) Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.) is amended by adding at the end the following:

"OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

"SEC. 427. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

"(b) The Commissioner on Aging shall prepare and submit to the Congress a report of the study and evaluation required by subsection (a). Such report shall contain such recommendations as the Commissioner on Aging deems appropriate.".

(2) Section 431(a) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)) is amended—

(A) by inserting "(other than section 427)" after "title",

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

"(2) Subject to subsection (b), there is authorized to be appropriated $1,000,000 for fiscal year 1989 to carry out the provisions of section 427. The funds appropriated pursuant to this paragraph shall remain available for expenditure for fiscal year 1990.".

SEC. 157. CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME.

(a) DEMONSTRATION PROJECTS AUTHORIZED.—Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.), as amended by section 156(e)(1), is amended by adding at the end the following:

"CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME

"SEC. 428. (a)(1) The Commissioner is authorized to make grants to not fewer than 6 nor more than 10 States to demonstrate and evaluate the effectiveness of consumer protection projects for services (other than medical services) provided to older individuals in the home that are furnished or assisted with public funds.

"(2) Grants made under this section shall be used to test different approaches to protecting older individuals with regard to services in the home. Such projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other community service agencies.

"(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of such activities.

"(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

"(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner deems appropriate. In carrying out this section, the Commissioner shall include in the report—

"(1) a description of the demonstration projects assisted under this section;

"(2) an evaluation of the effectiveness of each such project; and

"(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nationwide basis a consumer protection program for services in the home.

"(e) Consumer protection projects carried out under this section—

"(1) may include, but are not limited to, consumer education, the use of consumer hotlines, receipt and resolution of consumer complaints, and advocacy; and

"(2) may not address medical services.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a)(1) of the Older Americans Act of 1965 (42 U.S.C 3037(a)(1)), as amended by section 156(e)(2), is amended—

(1) by striking "section 427" in the parenthetical and inserting "sections 427 and 428", and

(2) by adding at the end the following:

"(3) Subject to subsection (b), there is authorized to be appropriated $2,000,000 for each of the fiscal years 1989 and 1990 to carry out the provisions of section 428.".

SEC. 158. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS.

Paragraph (1) of section 431(a) of the Older Americans Act of 1965 (42 U.S.C.

3037(a)(1)), as amended by sections 156(e)(2) and 157(b), is amended to read as follows:

"(1) There are authorized to be appropriated to carry out the provisions of this title (other than sections 427 and 428) $32,970,000 for the fiscal year 1988, $34,619,000 for the fiscal year 1989, $36,349,000 for the fiscal year 1990, and $38,167,000 for the fiscal year 1991."

SEC. 159. LIMITATION ON CERTAIN AUTHORITY TO MAKE APPROPRIATIONS.

Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037) is amended—

(1) by redesignating subsection (b) as subsection (c), and

(2) by inserting after subsection (a) the following:

"(b) No funds may be appropriated under paragraph (2) or (3) of subsection (a) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 427 and 428), title III (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.".

PART D—COMMUNITY SERVICE EMPLOYMENT

SEC. 161. ADMINISTRATIVE COSTS OF EMPLOYMENT PROJECTS.

Section 502(c)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056(c)(3)) is amended to read as follows:

"(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

"(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

"(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

"(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

"(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

"(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.".

SEC. 162. COMMUNITY SERVICE EMPLOYMENT SPECIAL NEEDS ASSURANCE.

(a) PROGRAM ASSURANCE.—Section 502(b)(1)(M) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)(M)) is amended to read as follows:

"(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;".

(b) RESERVATION OF FUNDS.—Section 506(a)(1)(A) of the Older Americans Act of 1965 (42 U.S.C 3056d(a)(1)(A)) is amended by inserting after the first sentence the following: "Beginning with the first fiscal year in which the amount appropriated to carry out this title exceeds the amount appropriated for fiscal year 1987 to carry out this title, the Secretary shall next reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.".

SEC. 163. INFORMATION ON AGE DISCRIMINATION PROHIBITIONS.

Section 503(b) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following:

"(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act of 1967.".

SEC. 164. DEFINITIONS.

(a) COMMUNITY SERVICES.—Section 507(3) of the Older Americans Act of 1965 (42 U.S.C. 3056e(3)) is amended by inserting "(particularly literacy tutoring)" after "educational services".

(b) PACIFIC ISLAND AND ASIAN AMERICANS.—Section 507 of the Older Americans Act of 1965 (42 U.S.C. 3056e) is amended—

(1) in paragraph (3) by striking "and" at the end,

(2) in paragraph (4) by striking the period at the end, and

(3) by adding at the end the following:

"(5) the term 'Pacific Island and Asian Americans' means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.".

SEC. 165. AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS.

Section 508(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056f(a)(1)) is amended to read as follows:

"(1) $386,715,000 for the fiscal year 1988, $406,051,000 for the fiscal year 1989, $426,353,000 for the fiscal year 1990, and $447,671,000 for the fiscal year 1991.".

SEC. 166. EMPLOYMENT ASSISTANCE AND OTHER PROGRAMS.

Title V of the Older Americans Act of 1965 (42 U.S.C. 3056-3056f) is amended by adding at the end the following:

"EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

"SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.".

PART E—NATIVE AMERICAN PROGRAMS

SEC. 171. NATIVE AMERICAN PROGRAMS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3057-3057g) is amended to read as follows:

"TITLE VI—GRANTS FOR NATIVE AMERICANS

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under title III.

"SENSE OF CONGRESS

"SEC. 602. It is the sense of the Congress that older Indians, older Alaskan Natives, and older Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

"PART A—INDIAN PROGRAM

"FINDINGS

"SEC. 611. (a) The Congress finds that the older Indians of the United States—

"(1) are a rapidly increasing population;

"(2) suffer from high unemployment;

"(3) live in poverty at a rate estimated to be as high as 61 percent;

"(4) have a life expectancy between 3 and 4 years less than the general population;

"(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

"(6) lack sufficient Indian area agencies on aging;

"(7) frequently live in substandard and over-crowded housing;

"(8) receive less than adequate health care;

"(9) are served under this title at a rate of less than 19 percent of the total national Indian elderly population living on Indian reservations; and

"(10) are served under title III at a rate of less than 1 percent of the total participants under that title.

"ELIGIBILITY

"SEC. 612. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

"(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

"(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

"(b) For the purposes of this part the terms 'Indian tribe' and 'tribal organization' have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

"SEC. 613. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older Indians.

"APPLICATIONS

"SEC. 614. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as

the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide for periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full or part-time staff positions wherever feasible;

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

"(9) contain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commission shall approve any application which complies with the provisions of subsection (a).

"(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission shall—

"(1) state objections in writing to the tribal organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

"(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

"(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 615. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PART B—NATIVE HAWAIIAN PROGRAM

"FINDINGS

"SEC. 621. The Congress finds the older Native Hawaiians—

"(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

"(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

"(3) are often unaware of social services and do not know how to go about seeking such assistance; and

"(4) live in poverty at a rate of 34 percent.

"ELIGIBILITY

"SEC. 622. A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if—

"(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

"(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

"GRANTS AUTHORIZED

"SEC. 623. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Native Hawaiians.

"APPLICATION

"SEC. 624. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide assurances that the organization will coordinate its activities with the State agency on aging;

"(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

"(5) provide for periodic evaluation of activities and projects carried out under the application;

"(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

"(7) provide for establishing and maintaining information and referral services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

"(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

"(10) provide satisfactory assurances that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

"(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

"(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

"(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

"(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

"(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

"DEFINITION

"SEC. 625. For the purpose of this part, the term 'Native Hawaiian' means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

"PART C—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior.

"PAYMENTS

"SEC. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such

installments and on such conditions, as the Commissioner may determine.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 633. (a) Subject to subsection (b), there are authorized to be appropriated to carry out this title (other than section 615)—

"(1) $13,400,000 for fiscal year 1988, of which $12,100,000 shall be available to carry out part A and $1,300,000 shall be available to carry out part B;

"(2) $16,265,000 for fiscal year 1989, of which $14,900,000 shall be available to carry out part A and $1,365,000 shall be available to carry out part B;

"(3) $19,133,000 for fiscal year 1990, of which $17,700,000 shall be available to carry out part A and $1,433,000 shall be available to carry out part B; and

"(4) $22,105,000 for fiscal year 1991, of which $20,600,000 shall be available to carry out part A and $1,505,000 shall be available to carry out part B.".

"(b)(1) If the amount appropriated under subsection (a) for a fiscal year does not exceed the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then the amount appropriated under subsection (a) for such fiscal year shall be available only to carry out part A.

"(2) If the amount appropriated under subsection (a) for a fiscal year exceeds the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then—

"(A) $250,000 of such excess shall be made available to carry out part B; and

"(B) one-half of the remaining amount of such excess shall be made available to carry out part B;

except that the aggregate amount made available to carry out part B may not exceed the amount required (without regard to this paragraph) by subsection (a) to be made available to carry out part B.".

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 181. REPEAL OF OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM.

Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058-3058d) is repealed.

SEC. 182. TECHNICAL AMENDMENTS.

(a) Section 102(1) of the Older Americans Act of 1965 (42 U.S.C. 3002(1)) is amended by striking "other than for purposes of title V" and inserting "except that for purposes of title V such term means the Secretary of Labor".

(b)(1) Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(A) in paragraph (3)—

(i) by striking "includes" and inserting "means any of the several States,", and

(ii) by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico", and

(B) by adding at the end the following:

"(8) The term 'Trust Territory of the Pacific Islands' includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

(2) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by sections 136(a) and 144(a), is amended—

(A) by striking paragraph (6), and

(B) by redesignating paragraphs (7) through (20) as paragraphs (6) through (19), respectively.

(3) Section 506(a)(4)(A) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(4)(A)) is amended by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico".

(4) Section 507 of the Older Americans Act of 1965 (42 U.S.C. 3056e), as amended by section 164(b), is amended—

(A) by striking paragraph (1), and

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(c) Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by striking "his functions" and inserting "the functions of the Commissioner".

(d) Section 204(d)(3) of the Older Americans Act of 1965 (42 U.S.C. 3015(d)(3)) is amended by inserting "to" after "Secretary,".

(e)(1) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by subsection (b)(2) and sections 136(a) and 144(a), is amended by adding at the end the following:

"(20) The term 'greatest economic need' means the need resulting from an income level at or below the poverty levels established by the Office of Management and Budget.

"(21) The term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.".

(2) Section 305(d) of the Older Americans Act of 1965 (42 U.S.C. 3025(d)) is amended—

(A) by striking "(d)(1)" and inserting "(d)", and

(B) by striking paragraph (2).

(3) Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended by striking the last sentence.

(f) Section 304(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)) is amended in the matter preceding subparagraph (A) by inserting a comma after "section 308(b)".

(g) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)) is amended by striking "legal services" and inserting "legal assistance".

(h) Section 305(a)(2)(C) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "in accordance with subsection (d)" before the semicolon at the end.

(i) Section 306(a)(6)(G) of the Act (42 U.S.C. 3026(a)(6)(G)), as amended by section 137(b), is amended by striking "and" at the end.

(j) Section 306(a)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)(B)) is amended by striking "other neurological and organic brain disorders of the Alzheimer's type" and inserting "related disorders with neurological and organic brain dysfunction".

(k) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) by striking "Each such plan shall—" and inserting "Each such plan shall comply with all of the following requirements:",

(2) in paragraph (1)—

(A) by inserting "The plan shall" after "(1)", and

(B) by striking the semicolon at the end and inserting a period,

(3) in paragraph (2)—

(A) by inserting "The plan shall" after "(2)", and

(B) by striking the semicolon at the end and inserting a period,

(4) in paragraph (3)—

(A) in subparagraph (A) by inserting "The plan shall" after "(3)(A)", and

(B) in subparagraph (B)—

(i) by inserting "The plan shall" after "(B)", and

(ii) by striking the semicolon at the end and inserting a period,

(5) in paragraph (4)—

(A) by inserting "The plan shall" after "(4)", and

(B) by striking the semicolon at the end and inserting a period,

(6) in paragraph (5)—

(A) by inserting "The plan shall" after "(5)", and

(B) by striking the semicolon at the end and inserting a period,

(7) in paragraph (6)—

(A) by inserting "The plan shall" after "(6)", and

(B) by striking the semicolon at the end and inserting a period,

(8) in paragraph (7)—

(A) by inserting "The plan shall" after "(7)", and

(B) by striking the semicolon at the end and inserting a period,

(9) in paragraph (8)—

(A) by inserting "The plan shall" after "(8)", and

(B) by striking the semicolon at the end and inserting a period,

(10) in paragraph (9)—

(A) by inserting "The plan shall" after "(9)", and

(B) by striking the semicolon at the end and inserting a period,

(11) in paragraph (10)—

(A) by inserting "The plan shall" after "(10)", and

(B) by striking the semicolon at the end and inserting a period,

(12) in paragraph (11)—

(A) by inserting "The plan shall" after "(11)", and

(B) by striking the semicolon at the end and inserting a period,

(13) in paragraph (13)—

(A) by inserting "The plan shall" after "(13)", and

(B) in subparagraph (I) by striking the semicolon at the end and inserting a period,

(14) in paragraph (14)—

(A) by inserting "The plan shall" after "(14)", and

(B) in subparagraph (E) by striking the semicolon at the end and inserting a period,

(15) in paragraph (15)—

(A) by inserting "The plan shall" after "(15)", and

(B) in subparagraph (D) by striking the semicolon and inserting a period,

(16) in paragraph (16)—

(A) by inserting "The plan shall" after "(16)", and

(B) in subparagraph (C) by striking the semicolon at the end and inserting a period,

(17) in paragraph (17)—

(A) by inserting "The plan shall" after "(17)", and

(B) by striking the semicolon at the end and inserting a period,

(18) in paragraph (18)—

(A) by inserting "The plan shall" after "(18)", and

(B) by striking the semicolon at the end and inserting a period,

(19) in paragraph (19)—

(A) by inserting "The plan shall" after "(19)", and

(B) by striking the semicolon at the end and inserting a period, and

(20) in paragraph (20)—

(A) by inserting "The plan shall" after "(20)", and

(B) in subparagraph (B)(ii) by striking "; and" at the end and inserting a period.

(l) Section 308(b) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)) is amended—

(1) by striking "(b)(1)(A)" and inserting "(b)(1)",

(2) in paragraph (1)—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" the second place it appears and inserting "(B)",

(3) in paragraph (2)—

(A) by striking "(2)(A)" and inserting "(2)",

(B) by striking "(i)" and inserting "(A)", and

(C) by striking "(ii)" the second place it appears and inserting "(B)",

(4) in paragraph (3)(C) by striking "he" and inserting "the Commissioner",

(5) in subparagraphs (A) and (B) of paragraph (5) by striking "appropriated" each place it appears and inserting "allotted", and

(6) in paragraph (5)(B) beginning with the dash strike out all through the period and insert: "not more than 30 percent of the funds allotted for any fiscal year.".

(m) Section 321(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(10)) is amended by inserting "for" after "advocate".

(n) Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended by striking "Association of Area Agencies on Aging" and inserting "National Association of Area Agencies on Aging".

(o) Section 422(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(1)) is amended by striking "Alzheimers' disease and other organic and neurological brain disorders of the Alzheimers' type" and inserting "Alzheimer's disease and related disorders with neurological and organic brain dysfunction".

(p) Section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(2)), as amended by subsection (b)(4), is amended by striking "the Bureau of Labor Statistics" and inserting "the Office of Management and Budget".

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

SEC. 191. INDEX AUTHORIZED.

The Secretary of Labor shall, through the Bureau of Labor Statistics, develop, from existing data sources, a reweighted index of consumer prices which reflects the expenditures for consumption by Americans 62 years of age and older. The Secretary shall furnish to the Congress the index within 180 days after the date of enactment of this Act. The Secretary shall include with the index furnished a report which explains the characteristics of the reweighted index, the research necessary to develop and measure accurately the rate of inflation affecting such Americans, and provides estimates of time and cost required for additional activities necessary to carry out the objectives of this section.

TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

SEC. 201. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) FINDINGS.—The Congress finds that—

(1) the number of individuals 55 years of age or older was approximately 51,400,000 in 1986, and will, by the year 2040, be approximately 101,700,000,

(2) more than 1 of every 6 persons 55 years of age or older will be hospitalized during the next year,

(3) persons 55 years of age or older have a higher average out-of-pocket medical cost burden than younger persons; approximately 17 percent of individuals age 55 to 64 experience out-of-pocket costs in excess of 20 percent of their family income and the average per capita out-of-pocket cost of persons 65 years of age or older is expected to equal 18.5 percent of income by 1991,

(4) there is a great need to ensure access and the quality of affordable health care to all older individuals,

(5) the need for a comprehensive and responsive long-term care delivery system is great,

(6) the availability and cost of suitable housing, together with suitable services needed for independent or semi-independent living, still cause concern to older individuals,

(7) the ability to lead an independent or semi-independent life is contingent, in many cases, upon the availability of a comprehensive and effective social service system for older individuals,

(8) the availability and access to opportunities for continued productivity and employment is of great importance to middle-aged and older individuals who want or need to work,

(9) the fulfillment, dignity, and satisfaction of retirees still depend on the continuing development of a consistent national retirement policy,

(10) there is a continuing need to maintain and preserve the national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes and effects of the aging process,

(11) false stereotypes about aging and the process of aging continue to be prevalent throughout the United States and policies should be nurtured to overcome such stereotypes, and

(12) the talents and experience of older individuals represent a valuable community resource which should be developed and more widely shared within the local community.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this section, and

(2) in developing programs for the aging pursuant to this section emphasis should be directed toward individual, private, and public initiatives and resources intended to enhance the economic security and self-sufficiency of elder Americans.

SEC. 202. AUTHORIZATION OF THE CONFERENCE.

(a) AUTHORITY TO CALL CONFERENCE.—The President may call a White House Conference on Aging in 1991 in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the essential contributions of older individuals to society,

(2) to identify the problems of the older individuals,

(3) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations,

(4) to examine the well-being of older individuals,

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of older individuals, and

(6) to review the status of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging.

SEC. 203. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(2) furnish all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on the aging, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference,

(3) prepare and make available for public comment a proposed agenda for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, assure that—

(1) the conferences under subsection (a)(2) will—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to assure broad participation of older individuals,

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days,

(3) the final agenda for the Conference under subsection (a)(3), taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2),

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference, and

(6) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

SEC. 204. CONFERENCE COMMITTEES.

(a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing the Conference.

(c) COMPOSITION OF COMMITTEES.—Each such committee shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) COMPENSATION.—Appointed members of any such committee (other than any officers of employees or the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

SEC. 205. REPORT OF THE CONFERENCE.

(a) PROPOSED REPORT.—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 60 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Secretary, not later than 180 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) FINAL REPORT.—The Secretary shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare a final report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(d) RECOMMENDATIONS OF SECRETARY.—The Secretary shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

SEC. 206. DEFINITIONS.

For the purposes of this title—

(1) the term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Act,

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act,

(3) the term "Secretary" means the Secretary of Health and Human Services,

(4) the term "Conference" means the White House Conference on Aging authorized in subsection (b), and

(5) the term "State" means any 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, or the Commonwealth of the Northern Mariana Islands.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1989, 1990, and 1991, to carry out this title. Sums appropriated under this paragraph shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this section shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of such 1-year period shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

SEC. 301. REQUIREMENT FOR CLINICAL TRIALS.

(a) IN GENERAL.—The Director of the National Institute on Aging shall provide for the conduct of clinical trials on the efficacy of the use of such promising therapeutic agents as have been or may be discovered and recommended for further scientific analysis by the National Institute on Aging and the Food and Drug Administration to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect adversely any research being conducted as of the date of the enactment of this Act.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

SEC. 401. PARTICIPATION OF OLDER PERSONS AND CHRONICALLY IMPAIRED DISABLED PERSONS IN CHILD CARE FOOD PROGRAM.

Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

"(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program.

"(2) For purposes of this subsection—

"(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

"(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

"(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

"(B) the term 'proprietary title XIX or title XX center' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 per cent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

"(3)(A) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.

"(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.".

TITLE V—NATIVE AMERICAN PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Native American Programs Act Amendments of 1987".

SEC. 502. REVIEW OF APPLICATIONS FOR ASSISTANCE.

The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended—

(1) in the first sentence of section 803(a) by inserting ", on a single year or multiyear basis," after "financial assistance",

(2) by redesignating sections 813 and 814 as sections 815 and 816, respectively,

(3) by redesignating sections 806 through 812, as sections 807 through 813, respectively, and

(4) by inserting after section 805 the following:

"PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

"SEC. 806. (a)(1) The Secretary shall establish a formal panel review process for purposes of—

"(A) evaluating applications for financial assistance under sections 803 and 805; and

"(B) determining the relative merits of the projects for which such assistance is requested.

"(2) To implement the process established under paragraph (1), the Secretary shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Native Hawaiians, and Alaskan Natives.

"(b) Each review panel appointed under subsection (a)(2) that reviews any application for financial assistance shall—

"(1) determine the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

"(c) Upon the request of the chairman of the Select Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Secretary shall transmit to the chairman written notice—

"(1) identifying such application;

"(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

"(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

"(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

"(A) approving the application with respect to which such notice is transmitted; and

"(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).".

SEC. 503. PROCEDURAL REQUIREMENTS.

(a) RULEMAKING.—The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended by inserting after section 813, as so redesignated by section 502, the following:

"ADDITIONAL REQUIREMENTS APPLICABLE TO RULEMAKING

"SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

"(b)(1) Subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any interpretative rule or general statement of policy—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

"(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

"(3) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

"(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—

"(1) is issued to carry out this title; or

"(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

"(d) Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

"(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

"(f) Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

(b) DEFINITION OF RULE.—Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c), as so redesignated by section 502, is amended—

(1) in paragraph (3) by striking "and" at the end thereof,

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following:

"(4) the term 'rule' has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and".

SEC. 504. INCLUSION OF OTHER NATIVE AMERICAN PACIFIC ISLANDERS.

(a) FINANCIAL ASSISTANCE.—Section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by inserting after the first sentence the following: "The Secretary is authorized, subject to the availability of funds appropriated under the authority of section 816(c), to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 802 of the Native American Programs Act of 1974 (42 U.S.C. 2991a) is amended by inserting ", other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives".

(2) Section 806(a)(2) of the Native American Programs Act, as added by section 502(4) of this Act, is amended by inserting "other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives,".

(3) Section 808 of the Native American Programs Act of 1974 (42 U.S.C. 2991f), as so redesignated by section 502, is amended by inserting "or Territory" after "State" each place it appears.

75/122-123 SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502 of this Act, is amended—

(1) in subsection (a) by striking "1979 through 1986" and inserting "1988, 1989, 1990, and 1991", and

(2) by adding at the end the following:

"(c)(1) Except as provided in paragraph (2), there are authorized to be appropriated $500,000 for each of the fiscal years 1988, 1989, 1990, and 1991 for the purpose of providing financial assistance to other Native American Pacific Islanders (including American Samoan Natives) under section 803(a).

"(2) No funds may be appropriated under paragraph (1) for a fiscal year unless the amount appropriated under subsection (a) for such fiscal year exceeds 105 percent of the amount appropriated under subsection (a) for the preceding fiscal year.".

SEC. 506. REVOLVING LOAN FUND FOR NATIVE HAWAIIANS.

(a) ESTABLISHMENT OF FUND AND AUTHORITY FOR GRANTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting after section 803 the following:

"LOAN FUND; DEMONSTRATION PROJECT

"SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Secretary shall award grants to one agency of the State of Hawaii, or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians, which shall use such grants to establish and carry out, in the State of Hawaii, a 5-year demonstration project involving the establishment of a revolving loan fund—

"(A) from which such agency or Native Hawaiian organization shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

"(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

"(2) The agreement under which a grant is awarded under paragraph (1) shall contain

provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant.

"(b)(1) The agency or organization to which a grant is awarded under subsection (a)(1) may make loans to a borrower under subsection (a)(1)(A) only if the agency or organization determines that—

"(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

"(B) there is a reasonable prospect that the borrower will repay the loan.

"(2) Loans made under subsection (a)(1)(A) shall be—

"(A) for a term that does not exceed 5 years; and

"(B) at a rate of interest that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made.

"(3) The agency or organization to which a grant is awarded under subsection (a)(1) may require any borrower of a loan made under subsection (a)(1)(A) to provide such collateral as the agency or organization determines to be necessary to secure the loan.

"(4) Prior to making loans under subsection (a)(1)(A), the agency or organization to which a grant is awarded under subsection (a)(1) shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Secretary. Such agency or organization shall provide to each applicant for a loan under subsection (a)(1)(A), at the time application for the loan is made, a written copy of such procedures and definitions.

"(5) The agency or organization to which a grant is awarded under subsection (a)(1) may not lend to itself any of the funds awarded under the grant.

"(6) No loan may be made from the revolving fund that is required to be established under subsection (a) after the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987.

"(c)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall provide the Secretary at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

"(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the agency or organization to which a grant is awarded under subsection (a)(1) shall notify the Secretary that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall include recommendations for future action to be taken by the agency or organization.

"(B) Upon receiving such notice, the Secretary shall instruct the agency or organization—

"(i) to continue with its collection activities;

"(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

"(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

"(C) The agency or organization shall carry out all instructions received under subparagraph (B) from the Secretary.

"(d)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall, out of funds available in the revolving loan fund established under such subsection—

"(A) pay expenses incurred by the agency or organization in administering the revolving loan fund; and

"(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

"(2) The Secretary shall provide to the agency or organization to which a grant is made under subsection (a)(1) such management and technical assistance as the agency or organization may request in order to carry out the provisions of this section.

"(e) Not later than 120 days after the date of enactment of the Native American Programs Act Amendments of 1987, the Secretary, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

"(1) in making loans under subsection (a)(1)(A); and

"(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.

The Secretary may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

"(f)(1) There is authorized to be appropriated for fiscal years 1988, 1989, and 1990 the aggregate amount $3,000,000 for all such fiscal years for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

"(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

"(3)(A) All monies that are in the revolving loan fund at the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987 and that are not otherwise needed (as determined by the Secretary) to carry out the provisions of this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(B) All monies deposited in the revolving loan fund after the close of such period pursuant to subsection (a)(1)(B) shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(g)(1) The Secretary, in consultation with the agency or organization to which a grant is awarded under subsection (a)(1), shall submit to the Congress—

"(A) an interim report not later than 2 years after the date of enactment of the Native American Programs Act Amendments of 1987; and

"(B) a final report not later than 4 years after the date of enactment of the Native American Programs Act Amendments of 1987;

regarding the administration of this section.

"(2) Each such report shall include the views and recommendations of the Secretary regarding—

"(A) the effectiveness of the demonstration project;

"(B) whether the demonstration project should be expanded to other groups eligible for assistance under this title; and

"(C) whether the duration of the demonstration project should be extended.

(b) CONFORMING AMENDMENTS.—Subsections (a) and (b) of section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502, are each amended by inserting "(other than section 803A)" after "title".

(c) TECHNICAL AMENDMENTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

(1) in section 802 by striking "Hawaiian Natives" and inserting "Native Hawaiians", and

(2) in the first sentence of section 803 by striking "Hawaiian Natives" and inserting "Native Hawaiians".

TITLE VI—HEALTH CARE SERVICES IN THE HOME

SEC. 601. SHORT TITLE.

This title may be cited as the "Health Care Services in the Home Act of 1987".

SEC. 602. ESTABLISHMENT OF GRANT PROGRAMS FOR DEMONSTRATION PROJECTS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"PART K—HEALTH CARE SERVICES IN THE HOME

"Subpart I—Grants for Demonstration Projects

"SEC. 395. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects—

"(1) to identify low-income individuals who can avoid institutionalization or prolonged hospitalization if skilled medical services or related health services (or both) are provided in the homes of the individuals;

"(2) to pay the costs of the provision of such services in the homes of such individuals; and

"(3) to coordinate the provision by public and private entities of such services, and other long-term care services, in the homes of such individuals.

"(b) REQUIREMENT WITH RESPECT TO AGE OF RECIPIENTS OF SERVICES.—The Secretary may not make a grant under subsection (a) to a State unless the State agrees to ensure that not less than 25 percent of individuals receiving services pursuant to subsection (a) are individuals who are not less than 65 years of age.

"(c) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—A State may not make payments from a grant under subsection (a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"SEC. 396. LIMITATION ON DURATION OF GRANT AND REQUIREMENT OF MATCHING FUNDS.

"(a) LIMITATION ON DURATION OF GRANT.—The period during which payments are made to a State from a grant under section 395(a) may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1)(A) For the first year of payments to a State from a grant under section 395(a), the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

"(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

"(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

"(2) The Secretary may not make a grant under section 395(a) to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

"(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c)) for each $75 of Federal funds provided in the grant;

"(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c)) for each $65 of such Federal funds; and

"(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c)) for each $55 of such Federal funds.

"(c) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 397. GENERAL PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 395(a) to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(b) DESCRIPTION OF INTENDED USE OF GRANT.—The Secretary may not make a grant under section 395(a) to a State unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

"(A) the number of individuals who will receive services pursuant to section 395(a) and the average costs of providing such services to each such individual; and

"(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

"(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 395(a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

"(1) contain the description of intended expenditures required in subsection (b);

"(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

"(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"(d) EVALUATIONS AND REPORT BY SECRETARY.—The Secretary shall—

"(1) provide for an evaluation of each demonstration project for which a grant is made under section 395(a); and

"(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"Subpart II—Grants for Demonstration Projects With Respect to Alzheimer's Disease

"SEC. 398. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall make not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects for planning, establishing, and operating programs—

"(1) to coordinate the development and operation by public and private organizations of diagnostic, treatment, care management, respite care, legal counseling, and education services provided within the State to individuals with Alzheimer's disease or related disorders and to the families and care providers of such individuals;

"(2) to provide home health care, personal care, day care, companion services, short-term care in health facilities, and other respite care to individuals with Alzheimer's disease or related disorders; and

"(3) to provide to health care providers, to individuals with Alzheimer's disease or related disorders, to the families of such individuals, to organizations established for such individuals and such families, and to the general public, information with respect to—

"(A) diagnostic services, treatment services, and related services available to such individuals and to the families of such individuals;

"(B) sources of assistance in obtaining such services, including assistance under entitlement programs; and

"(C) the legal rights of such individuals and such families.

"(b) REQUIREMENT WITH RESPECT TO CERTAIN EXPENDITURES.—The Secretary may not make a grant under subsection (a) to a State unless the State agrees to expend not less than 50 percent of the grant for the provision of services described in subsection (a)(2).

"(c) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—A State may not make payments from a grant under subsection (a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"SEC. 399. LIMITATION ON DURATION OF GRANT AND REQUIREMENT OF MATCHING FUNDS.

"(a) LIMITATION ON DURATION OF GRANT.—The period during which payments are made to a State from a grant under section 398(a) may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1)(A) For the first year of payments to a State from a grant under section 398(a), the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

"(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

"(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

"(2) The Secretary may not make a grant under section 398(a) to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

"(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c)) for each $75 of Federal funds provided in the grant;

"(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c)) for each $65 of such Federal funds; and

"(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c)) for each $55 of such Federal funds.

"(c) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 399A. GENERAL PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 398(a) to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(b) DESCRIPTION OF INTENDED USE OF GRANT.—The Secretary may not make a grant under section 398(a) to a State unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

"(A) the number of individuals who will receive services pursuant to section 398(a) and the average costs of providing such services to each such individual; and

"(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

"(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 398(a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

"(1) contain the description of intended expenditures required in subsection (b);

"(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

"(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"(d) EVALUATIONS AND REPORT BY SECRETARY.—The Secretary shall—

"(1) provide for an evaluation of each demonstration project for which a grant is made under section 398(a); and

"(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

TITLE VII—GENERAL PROVISIONS

SEC. 701. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act,

and approved for any fiscal year beginning before the date of the enactment of this Act.

(c) EFFECTIVE DATE OF SECTION 506—The amendments made by section 506 of this Act shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

And the Senate agree to the same.

From the Committee on Education and Labor, for the consideration of the House Bill and Senate amendment (except Titles III and VI), and modification committed to conference:

AUGUSTUS F. HAWKINS,
DALE E. KILDEE,
WILIAM D. FORD,
TOM SAWYER,
STEPHEN J. SOLARZ,
PETER J. VISCLOSKY,
JAMES M. JEFFORDS,
THOMAS J. TAUKE,
TOM COLEMAN,
FRED GRANDY,

From the Committee on Energy and Commerce, for the consideration of Titles III and VI of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
NORMAN F. LENT,
ED MADIGAN,

Managers on the Part of the House.

For all but the Native American programs:

EDWARD M. KENNEDY,
SPARK M. MATSUNAGA,
CLAIBORNE PELL,
THAD COCHRAN,
ORRIN G. HATCH,

For the Native American programs:

DANIEL K. INOUYE,
JOHN MELCHER,
DENNIS DECONCINI,
QUENTIN BURDICK,
THOMAS DASCHLE,
DANIEL J. EVANS,
FRANK H. MURKOWSKI,
JOHN MCCAIN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1451) to extend and improve the Older Americans Act of 1965 and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

OBJECTIVES

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds "functional limitations" as a factor to be considered in meeting the objective of assisting older people to obtain and maintain suitable housing.

Conference agreement.—The Senate recedes. The Conferees note that the phrase "special needs," which is already in the Act, is intended to include those with functional limitations.

DATA COLLECTION; REPORTS

Collection Required

House bill.—The House does not specify a date by which new data collection requirements must be in place.

Senate amendment.—The Senate amendment requires that data must be collected under the new provisions of the Act for fiscal years beginning after September 30, 1988.

Conference agreement.—The House recedes. The Conferees expect that data will be collected from every area agency each year, rather than on a sample basis.

Reports

House bill.—The House bill requires the Commissioner's annual report to include data collected pursuant to section 202(a)(19) and, as a separate requirement, to include an analysis of the information received concerning legal services under section 307(a)(15)(E).

Senate amendment.—The Senate amendment includes the requirement that the Commissioner's annual report include information on legal services collected pursuant to section 202(a)(19) in two provisions.

Conference agreement.—The Senate recedes. The Conferees note this section requires that the Commissioner's annual report include statistical data collected under section 202(a)(19), and that data collected under section 202(a)(19) is intended to include legal services. The duplicate citation is unnecessary.

DEMONSTRATION GRANTS

Purpose

House bill.—The House bill includes a parenthetical explanation that frail individuals are intended to include those with physical or mental impairment.

Senate amendment.—The Senate amendment references older individuals with disabilities as a separate group to receive special emphasis, rather than as a parenthetical reference to be included within the frail elderly.

Conference agreement.—The House recedes.

OLDER INDIVIDUALS WITH DISABILITIES

Consultation Function

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment requires the Commissioner to consult with national organizations representing the interests of individuals with severe disabilities for certain purposes.

Conference agreement.—The Senate recedes. The Conferees note that they anticipate that the Commissioner will consult with national organizations representing the interests of individuals with severe disabilities in order to provide improved technical assistance to State and area agencies in the provision of services to older individuals with disabilities.

Planning

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment requires that the Commissioner develop planning linkages with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Development Disabilities, in addition to the planning linkages already required under the Act.

Conference agreement.—The House recedes.

Agency Consultation

House bill.—House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds the Rehabilitation Act of 1973 and the Developmental Disabilities and Bill of Rights Act to the list of programs related to the Older Americans Act. Under this provision, the head of the agencies which administer these programs shall consult and cooperate with the Commissioner. The Senate amendment also requires that the Commissioner consult with the National Advisory Panel on Alzheimers' Disease.

Conference agreement.—The House recedes, with an amendment to delete the requirement regarding the Alzheimer's Advisory Panel. The Conferees note that they encourage the Commissioner to consult in the same manner with this panel, as with other groups and organizations in carrying out this section.

Evaluation

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds a specific reference to organizations representing individuals with disabilities to the provision which requires the Secretary to consult with certain organizations, whenever possible, in carrying out evaluations under this section.

Conference agreement.—The House recedes.

FEDERAL COUNCIL ON AGING

Membership

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment changes the number of members of Federal Council on Aging who must be el-

derly from a total of 6 to a clear majority of 9 out of 15.

Conference agreement.—The House recedes. The Conferees wish to specify that this change is not intended to be applied retroactively or to necessitate a change in the current members of the Council. This provision will apply only to new members appointed to the Council after the effective date of these amendments.

Reauthorization

House bill.—The House bill reauthorizes the Federal Council on Aging for fiscal years 1988, 1989, 1990 and 1991 at a level of such sums as may be necessary.

Senate amendment.—The Senate amendment reauthorizes the Federal Council on Aging at a level of $210,000 for 1988, $221,000 for 1989, $232,000 for 1990, $243,000 for 1991 and $255,000 for 1992.

Publication of Goals

House bill.—The House bill requires the Commissioner on Aging to publish yearly goals in the Federal Register for public comment.

Senate amendment.—The Senate amendment contains a similar provision.

Conference agreement.—The Conferees have modified the language in the bill to require that the Commissioner publish and disseminate goals to State and area agencies for comment, but eliminate the requirement that the publication vehicle be the Federal Register. The annual statement may be issued as an Information Memorandum or other appropriate communication vehicle, as determined by the Commissioner. The goals referenced in this section are intended to be relatively broad annual objectives of the Federal Administration on Aging which provide a statement of direction and priorities, rather than goals for each State or area agency or goals which would replace the statement of purpose of the Act.

ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES PROVIDED AT SENIOR CENTERS AND OTHER SITES

House bill.—The House bill includes a requirement that the Commissioner assess the unsatisfied demand for Title III supportive services provided at senior centers.

Senate amendment.—The Senate amendment does not have a comparable provision.

Conference agreement.—The Senate recedes, with an amendment to require the Commissioner to report and make recommendations to Congress on the need for supportive services provided at senior centers based on State plan information and data required to be reported by State and area agencies. The amendment also provides authority to the Commissioner to issue regulations to ensure the availability of data for carrying out the assessment, should the existing State plan requirements produce insufficient information. The Conferees expect the assessment to (1) include, to the fullest extent possible, a geographical and statistical analysis of the unsatisfied demand for supportive services nationally, particularly at multi-purpose senior centers funded under the Act and similar sites supported by other funding sources, and (2) contain specific recommendations on ways in which this unmet need can be filled.

STUDY OF PROSPECTIVE PAYMENT SYSTEM

House bill.—The House bill includes a requirement that the Secretary of Health and Human Services, together with the Commissioner on Aging and other, undertake a study to determine the impact of Medicare's diagnostic related group prospective payment system on community-based programs such as the Older Americans Act and to determine the amount of savings incurred in the Medicare program and how these savings might be used to meet the community care needs of recently discharged Medicare patients.

Senate amendment.—The Senate amendment does not have a comparable provision.

Conference agreement.—The House recedes. The Conferees reaffirm their concern about the impact of the prospective payment system on the demand for services provided by the Older Americans Act and intend to pursue this issue.

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

PURPOSE

House bill.—The House bill adds Indian tribes and tribal organizations to the list of agencies and organizations which are intended by the Act to work with State and area agencies to develop and implement comprehensive and coordinated service systems for older individuals.

Senate amendment.—The Senate amendment contains language similar to the House bill, but also includes Hawaiian Native organizations in the list.

Conference agreement.—The House recedes.

ADMINISTRATION OF STATE GRANTS; CONSULTATION

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment adds a new provision which lists agencies within the Department of Health and Human Services, including the National Institute on Aging, the Health Care Financing Administration, and the Social Security Administration, from whom the Commissioner may request technical assistance.

Conference agreement.—The Senate recedes. The intent in deleting this reference is not to lessen the obligation of these agencies to provide technical assistance to the Administration on Aging; indeed, the Conferees believe it is incumbent upon each agency to be as responsive as possible to such requests.

REAUTHORIZATION FOR STATE AND COMMUNITY PROGRAMS ON AGING

Supportive Services and Senior Centers

House bill.—The House bill authorizes $379,575,000 for fiscal year 1988, $398,554,000 for fiscal year 1989, $418,481,000 for fiscal year 1990, and $439,406,000 for fiscal year 1991 to fund supportive services and senior centers.

Senate amendment.—The Senate amendment authorizes $379,575,000 for fiscal year 1988, $398,554,000 for fiscal year 1989, $418,481,000 for fiscal year 1990, $439,406,000 for fiscal year 1991, and $461,376,000 for fiscal year 1992 to fund supportive services and senior centers.

Conference agreement.—The Senate recedes.

Nutrition Services; Congregate Meals

House bill.—The House bill authorizes appropriations for congregate meal services through 1991.

Senate amendment.—The Senate amendment authorizes the same level of appropriations as the House bill through 1991, and, in addition, authorizes $504,131,000 for fiscal year 1992.

Conference agreement.—The Senate recedes.

Nutrition Services; Home-Delivered meals

House bill.—The House bill authorizes appropriations for home-delivered meals programs through 1991.

Senate amendment.—The Senate amendment authorizes the same level of appropriations as the House bill through 1991, and, in addition, authorizes the same level of appropriations as the House bill through 1991, and, in addition, authorizes $96,487,000 for fiscal year 1992.

Conference agreement.—The Senate recedes.

Nutrition Services; Surplus Commodities

House bill.—The House bill authorizes appropriations for surplus commodities programs through 1991.

Senate amendment.—The Senate amendment authorizes the same level of appropriations as the House bill through 1991, and, in addition, authorizes $221,100,000 for fiscal year 1992.

Conference agreement.—The Senate recedes.

Separate Units

House Bill.—The House bill requires that an area agency have as its only function to operate as such, and provides that an area agency located within an umbrella organization be identified as a separate organizational unit within the organization.

Senate amendment.—The Senate amendment contains a comparable provision.

Conference agreement.—The Conferees wish to indicate that local officials may continue to include the area agency within an umbrella agency, such as a city or county human services department, council of government, regional planning commission or regional planning district, as long as the area agency remains an identifiable unit. Further, the area agency unit that is housed in such a multi-purpose agency may absorb its equitable share of expenses incurred by the operation of the aging program as allowable under an indirect cost allocation plan, provided that the relevant federal agency has not explicitly rejected the indirect cost allocation plan.

TUITION-FREE POST-SECONDARY EDUCATION

House bill.—The House bill requires area agencies to conduct a survey and disseminate information regarding the availability of tuition-free post-secondary education in their area.

Senate amendment.—The Senate amendment does not include a comparable provision.

Conference agreement.—The Senate recedes, with an amendment to require area agencies to gather information from existing sources, supplement it where necessary, and make it available through senior centers, congregate nutrition sites, and other appropriate places.

OMBUDSMAN OFFICE AND PROGRAM

Study of Ombudsman Program

House bill.—The House bill requires the Commissioner to submit a report to Congress by December 31, 1988 on the findings and recommendations of a study on the long-term care ombudsman program, its impact on issues and problems affecting residents of board and care facilities and other similar adult care homes, and the effectiveness of recruiting, supervising and retaining volunteer ombudsmen.

Senate amendment.—The Senate contains the same substantive provisions as the House bill, but requires the report to be submitted by December 31, 1989.

Conference agreement.—The House recedes.

Authorization of Appropriations for the Ombudsman Program

House bill.—The House bill authorizes $20,000,000 for fiscal year 1988 and such sums as may be necessary for fiscal years 1989 through 1991. The House bill also requires that appropriations for provisions of the current Act and the certain new authorizations receive at least 105 percent of the amount appropriated for the previous fiscal year before appropriations for this authorization may be made.

Senate amendment.—The Senate amendment authorizes $20,000,000 for fiscal year 1988 and such sums as may be necessary for fiscal year 1989 through 1992. The Senate bill does not contain a comparable provision which triggers appropriations for this authorization.

Conference agreement.—The Senate recedes with an amendment to modify the provision regarding appropriations for other parts of the Act.

Description of Complaints

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment modifies the description of the duties of the ombudsmen to resolve complaints by elaborating upon the nature of the complaints which are to be investigated to include complaints "relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies which may adversely affect the health, safety, welfare, or rights of such residents."

Conference agreement.—The House recedes.

Toll-Free Hotline

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment requires each State agency to establish a toll-free hot line to facilitate the communication of complaints to the long-term care ombudsman.

Conference agreement.—The Senate recedes.

Ombudsman Liability

House bill.—The House bill requires the State agency to ensure that no representative of the Ombudsman office will be liable under State law for good faith performance of official duties.

Senate amendment.—The Senate amendment requires the State to ensure that no representative of the Ombudsman office will be liable under State law for good faith performance of official duties.

Conference agreement.—The House recedes.

Willful Interference and Retaliation Protection

House bill.—The House bill requires the State agency to ensure that willful interference with the performance of the duties of ombudsmen is unlawful, and that retaliation or reprisals against residents or employees who complain to or cooperate with ombudsmen are prohibited.

Senate amendment.—The Senate amendment requires the State to ensure that willful interference with the performance of the duties of ombudsmen is unlawful, and that retaliation or reprisals against residents or employees who complain to or cooperate with ombudsmen are prohibited.

Conference agreement.—The House recedes.

Ombudsman—Maintenance of Effort and Effective Dates

House bill.—The House bill requires, if a State's allotment for part III-B is at least equal to its allotment for fiscal year 1987, that the State expend at least the amount spent to carry out the ombudsman program in fiscal year 1987.

Senate amendment.—The Senate amendment requires, if the amount appropriated for part III-B is less than or equal to the amount appropriated in fiscal year 1987, that the provisions in section 307 relating to the ombudsman program as in effect prior to the enactment of these amendments shall be carried out; if the amount appropriated is greater than the amount in fiscal year 1987, then the new ombudsman provisions shall be carried out. The Senate amendment also requires that amounts appropriated and available under part B of this title for ombudsman services may not be used to supplant State or local funds.

Conference agreement.—The Senate recedes, with an amendment which requires (1) that States are required, at a minimum, to spend the same total amount as they spent on ombudsman services from Federal sources as they spent in fiscal year 1987, and that they may use funds from a new appropriation for these services or from part B to meet this minimum requirement, and (2) that all funds appropriated pursuant to the new authorization of funds for ombudsman programs must be expended for this purpose. The Conferees note that all of the substantive amendments shall go into effect regardless of the appropriations level.

FLEXIBILITY OF SERVICES; LEGAL ASSISTANCE

Adequate Proportion

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment repeals the requirement that area agencies expend an adequate proportion of their title III-B funds on in-home services and access services. The Senate amendment requires that area agencies provide assurances that adequate services associated with access to services are provided in their planning and service delivery area.

Conference agreement.—The Senate recedes with an amendment that provides that each State shall set a minimum proportion of title III-B funds to be expended by each area agency for each type of service (access, in-home, and legal services). If an area agency expends at least the minimum percentage set by the State, the area agency will have fulfilled the requirement to spend an adequate proportion of funds on such services. The minimum percentage is intended to be a floor, not a ceiling. Area agencies on aging are encouraged to devote additional funds to each of these service areas to meet local needs. The Conferees make no changes in the current language in the Act regarding waivers in section 306(b)(1), but note that, with respect to legal services being furnished in the area, the Conferees expect State and area agencies to consider services being provided by the Legal Services Corporation, the private bar or groups within the private bar furnishing services to older individuals on a pro bono and established reduced fee basis in that planning and service area.

Legal Services

House bill.—The House bill (1) defines "adequate proportion" of title III-B funds to be expended for legal assistance as an amount that is sufficient to meet the relative need for legal assistance in relation to the need for other services under part B, is equal to at least some funds, and is not less than the agency expended for legal assistance for fiscal year 1986; (2) requires the State agency to establish a minimum percentage of part B funds which each area agency must spend on legal services; and (3) requires the State agency to afford individuals or providers of legal assistance a hearing if a waiver is granted and the request for a hearing is timely.

Senate amendment.—The Senate amendment (1) requires the State agency to establish a minimum percentage of part B funds which each area agency must spend on legal services; (2) requires each area agency to spend an adequate proportion of part B funds on legal services, defined as the minimum percentage established by the State agency; (3) provides for a waiver of the adequate proportion requirement if the area agency has demonstrated that the legal assistance services being furnished are sufficient to meet the need for such services, taking into account other legal services being provided in the community; and (4) requires the State agency, prior to granting such a waiver, to provide a 30 day notice period during which individuals or providers may request a hearing, and to offer the opportunity for a hearing to any individuals or providers who make such a request.

Conference agreement.—The House recedes, with an amendment to delete the separate waiver provision for legal services. The waiver provision of section 306(b)(1) of existing law will apply, as noted above. The Conferees also note that they do not intend to require the State agency to hold a separate hearing for each individual or provider who requests such a hearing, but that a single hearing at which each individual or provider may testify is sufficient to meet the intent of this section. Furthermore, the hearing may be conducted as part of other hearings being held by the State agency.

Documentation Regarding Minority Participation

House bill.—The House bill requires area agencies to help assure that providers serve low-income minority individuals in not less than the proportion of low-income minority older individuals in the population of the area.

Senate amendment.—The Senate amendment requires area agencies to attempt to provide services to low-income minority individuals at least in the same proportion as the population of low-income minority older individuals bears to the population of older individuals in the area.

Conference agreement.—The House recedes, with an amendment to delete the duplicate word "will" in paragraph II of this section.

SSI/Medicaid/Food Stamp Outreach

House bill.—The House bill authorizes a $25 million one-time outreach effort under Title III to locate low-income elderly individuals who are eligible but not receiving SSI, Medicaid or Food Stamps and to assist them in obtaining such benefits.

Senate amendment.—The Senate amendment provides $3 million in fiscal year 1988 and such sums thereafter under Title IV to fund demonstration programs to test whether the Older Americans Act system can effectively reach and assist eligible individuals who are not currently receiving SSI, Medicaid and Food Stamps to begin receiving such benefits.

Conference agreement.—The House recedes with an amendment to (1) require the

Commissioner to compile descriptions of successful outreach programs of this type during fiscal year 1988, (2) authorizes $10 million for each of fiscal years 1989 and 1990 for distribution to States, with a minimum of $50,000 for each State, (3) establishes a grant process from the State to area agencies for funding to target specific areas within a State, and (4) requires the Commissioner to report to the Congress on the success or failure of these grant programs by March 30, 1991. The Conferees wish to note their intention that funds do not have to be distributed to every area agency in a State. Further, the Conferees wish to note that the Commissioner and State and area agenices should notify the agencies who will be required to process new applicants of new outreach efforts that may affect their workload.

Advocacy/Appropriation Restriction

House bill.—The House amends sections 305(a)(1)(D), 306(a)(6)(D), and section 303 of the Act detailing specific activities which are and are not permissible activities within the scope of the advocacy function of the State and area agencies on aging.

Senate amendment.—The Senate amendment does not contain comparable provisions.

Conference agreement.—The House recedes. The Conferees believe that new statutory language is unnecessary, and wish to call attention to the fact that provisions of law cannot be superceded by rule or executive order.

State Plan Public Hearings

House bill.—The House bill requires periodic public hearings as part of the already required evaluations of activities carried out under State plans.

Senate amendment.—The Senate amendment does not include a comparable provision.

Conference agreement.—The Senate recedes.

OLDER NATIVE AMERICANS

Improved Administation for Native American Programs

House bill.—The House bill creates within the Administration on Aging an Office for Tribal Programs to be headed by an Associate Commissioner on Indian Aging, with responsibility for programs operated under title VI for Indians and for chairing the interagency task force related to older Indians.

Senate amendment.—The Senate amendment creates within the Administration on Aging an Office for Native American Programs to be headed by an Associate Commissioner on Native American Aging, with responsibility for programs operated under title VI for Native Americans, including Native Hawaiians, and for chairing the interagency task force related to older Indians.

Conference agreements.—The Conferees agree to an amendment which creates an Office for American Indian, Alaskan Native and Hawaiian Native Programs to be headed by an Associate Commissioner on American Indian, Alaskan Native and Hawaiian Native Aging, who will be responsible for programs operated under title VI and for chairing the interagency task force related to older Indians.

Contracting Authority

House bill.—The House bill gives authority to the Associate Commissioner on Indian Aging to approve agreements between a recipient of a grant or contract under title III and a profitmaking organization to carry out the provisions of the Act.

Senate amendment.—The Senate amendments gives the Commissioner, subject to the recommendation of the Associate Commissioner on Native American Aging, the authority to approve agreements between a recipient of a grant or contract under title VI and a profitmaking organization to carry out the provisions of the Act.

Conference agreements.—The House recedes, with a conforming amendment to modify the title of the Associate Commissioner.

Education and Training

House bill.—The House bill requires the Commissioner to enter into a grant or contract to provide in-service training opportunities and courses of instruction on aging to Indian tribes through non-profit Indian aging organizations.

Senate amendment.—The Senate amendment allows such grants or contracts to be made with public organizations as well as nonprofit organizations.

Conference agreements.—The House recedes.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER INDIANS

Reservation of Funds

House bill.—The House bill reserves funding for a national grant or contract with national Indian aging organizations with the ability to provide employment services to older Indians if the amount appropriated for title V exceeds $327,600,000.

Senate amendment.—The Senate amendment reserves funding for national grants or contracts with public or non-profit Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American organizations, but only in a fiscal year in which the amount available under title V exceeds the amount appropriated for fiscal year 1987.

Conference agreement.—The House recedes, with an amendment to require that any Pacific Island and Asian American organization receiving such a grant or contract must be a Pacific Island and Asian American aging organization with the ability to provide employment services to older Pacific Island and Asian Americans, and to add a definition of Pacific Island and Asian American. Should new funding be available in one year and be cut back in subsequent years (even if the amount available drops below the fiscal year 1987 level), such cutbacks are to be taken on an equitable basis by all grantees and contractors, and not solely or principally by the new Indian or Pacific Island and Asian American grantees. The term Pacific Island and Asian American is intended to conform to the definition promulgated by the Office of Management and Budget.

Special Report on Services for Older Indians

House bill.—The House bill requires that the special report on services for older Indians be submitted within 180 days of enactment of this Act.

Senate amendment.—The Senate amendment requires the special report on services for older Indians to be submitted not later than December 31, 1988.

Conference agreement.—The House recedes.

SERVICES TO INDIVIDUALS WITH DISABILITIES

Definition of Disability and Severe Disability

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment adds a definition of disability and severe disability to the Act.

Conference agreement.—The House recedes with an amendment to delete the references to specific medical conditions under the definition of disability, to delete paragraph C of the definition of severe disability, and to clarify that this definition is not intended to affect the meaning of certain other terms used in the Act.

Organization

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment requires the State to provide assurances that the State agency will consult with State and area agencies with responsibility for individuals with disabilities.

Conference agreement.—The Senate recedes.

Area Plan Requirement

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment includes a reference to elderly with severe disabilities in the list of groups which should be given special emphasis in outreach efforts.

Conference agreement.—The House recedes.

Mental Health

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds a reference to mental health services to the requirement that the State agency evaluate the need for services in the State plan.

Conference agreement.—The Senate recedes.

Meals Programs—Disabled residing with Elderly Person

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment allows individuals with disabilities who reside with and accompany older individuals who are eligible for nutrition services to also receive such services.

Conference agreement.—The House recedes, with an amendment to clarify that the disabled individual must be members of the same household as the eligible older individual. The Conferees do not intend that individuals living together in an institutional setting would be eligible under the terms of this provision.

State Plan Requirement

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment requires the State plan to include assurances that the State will coordinate activities on behalf of older disabled individuals with State agencies with primary responsibility for individuals with disabilities, and to coordinate planning with the State developmental disabilities planning council.

Conference agreement.—The House recedes with an amendment which eliminates the reference to the coordination of activities with the State developmental disabilities planning council, as this is being dealt with on other legislation.

Supportive Services Mental Health Reference

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment adds a reference to the inclusion of mental health under the term "health" in the list of supportive services which may be provided under title III.

Conference agreement.—The House recedes.

Reference to Disabled

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment changes a reference to "individuals suffering from physical disabilities" so that it will read "individuals who have physical disabilities."

Conference agreement.—The House recedes.

Coordination

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment requires the Commissioner to encourage area agencies to enter into agreements with other organizations furnishing mental health services to ensure a coordinated approach to meeting the needs of older individuals.

Conference agreement.—The Senate recedes.

IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

Authorization for In-Home Services for Frail Elderly

House bill.—The House bill authorizes appropriations for this part through 1991.

Senate amendment.—The Senate amendment authorizes appropriations for this part through 1992.

Conference agreement.—The Senate recedes.

In-Home Services to Frail Older Individuals

House bill—The House bill creates a new part D to Title III, authorizing funds for non-medical in-home services for frail older persons.

Senate amendment.—The Senate amendment contains a similar provision, with the following modification: (1) the inclusion of a provision in the State plan regarding consultation and coordination, (2) the inclusion of a reference to the individual's environment and function support needs in the description of the program authorized, (3) the addition of personal emergency response to the definition of "in-home service", (4) the addition of minor remodeling of homes to the definition of "in-home service," (5) the deletion of a reference to in-home supportive services related to Alzheimer's, and (6) modification of the reference to victims of Alzheimer's disease and related disorders in several places.

Conference agreement.—The House recedes with respect to the State plan provision, the deletion of a duplicate reference to in-home supportive services related to Alzheimer's within the definition of in-home services, and the modification of the references to Alzheimer's disease and related disorders. The Senate recedes with respect to the inclusion of personal emergency services. The House recedes with an amendment to the provision of minor remodeling of homes, so that the term "remodeling" is changed to "modifications" and a cap of $150 total per client is added.

ASSISTANCE FOR SPECIAL NEEDS

House bill.—The House bill authorizes $25 million for a new Part E in Title III to provide grants to States to assist them in meeting special needs of older individuals. The program is authorized through 1991, and cannot receive funding unless certain other programs under the Act receive appropriations of at least 105 percent of their previous year appropriation.

Senate amendment.—The Senate amendment does not include a comparable provision.

Conference agreement.—The Senate recedes on the differences, with an amendment to modify the trigger provision.

PREVENTION OF ABUSE OF OLDER INDIVIDUALS

1992 Authorization and Trigger

House bill.—The House bill includes an authorization for a program to prevent abuse of older individuals. The program is authorized through 1991, and cannot receive funding unless certain other programs under the Act receive appropriations of at least 105 percent of their previous year appropriation.

Senate amendment.—The Senate amendment includes the same substantive program authorization. It authorizes the program through 1992 and does not include any requirement that other programs under the Act receive appropriations before this program receives an appropriation.

Conference agreement.—The Senate recedes on the differences, with an amendment to modify the trigger provision. The Conferees recognize that the laws of some States give authority over elder abuse prevention and protection to agencies outside of the aging network. The Conferees intend that the requirements of this section be carried out strictly within the confines of pertinent State laws. Area agencies on aging are expected to use these funds to complement and supplement, not duplicate, existing elder abuse prevention and protection programs.

HEALTH EDUCATION AND PROMOTION FOR OLDER AMERICANS

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment includes a new authorization for the provision of health promotion and education services to older individuals in, primarily, congregate settings.

Conference agreement.—The House recedes, with an amendment to delete the fiscal year 1992 authorization and apply the appropriations trigger to this part.

ASSISTIVE TECHNOLOGY SERVICES

Functions of the Commissioner

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds a clarifying phrase which indicates that supportive services include assistive technology services.

Conference agreement.—The Senate recedes.

General Rule

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds a definition of assistive technology services and indicates that the term "supportive services" includes assistive technology services.

Conference agreement.—The House recedes with an amendment to clarify the definition of assistive technology, to delete the Senate definition of supportive services as including assistive technology services, but to include within the permissible services of information and referral and client assessment through case management the provision of information on assistive technology.

PART C—DEMONSTRATION GRANTS

MULTIDISCIPLINARY CENTERS

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment changes "may" to "shall," thus requiring the Commissioner to fund multidisciplinary centers on gerontology.

Conference agreement.—The Senate recedes.

DEMONSTRATION GRANTS FOR INDIVIDUALS WITH DISABILITIES

Training

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment modifies a reference to "custodial and skilled care for older individuals who suffer from Alzheimer's disease" so that the Act will read "services to individuals with disabilities and to individuals with Alzheimer's disease". It further modifies the reference to disorders related to Alzheimer's disease to read "related disorders with neurological and organic brain dysfunction."

Conference agreement.—The House recedes.

Multidisciplinary Centers

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds disabilities (including severe disabilities) to the areas of special emphasis for multidisciplinary centers which may be funded by the Commissioner. It also adds assistive technology services to the list of activities carried out, where appropriate, by multidisciplinary centers.

Conference agreement.—The House recedes.

Special Project

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment authorizes the Commissioner to make grants to develop and provide training programs to service providers under title III of this Act and nursing home care providers to meet the special service needs of older individuals with disabilities.

Conference agreement.—The Senate recedes.

Demonstration Grants

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds four provisions to the list of projects to which the Commissioner shall give special consideration when funding demonstration projects. These include: (1) the addition of those who have severe disabilities to a provision providing for the location of those who are in need of mental health services; (2) the identification and provision of services to elderly individuals with severe disabilities; (3) the provision of rehabilitation services, and communication aids and devices to assist older individuals with severe disabilities, and (4) the use of assistive technology to better address the needs of older individuals.

Conference agreement.—The Senate recedes on the addition of the reference to severe disabilities within the mental health project, on the project for the provision of rehabilitation services and communication

aids and devices to assist older individuals with severe disabilities, and on the assistive technology project. The House recedes with respect to the project on the identification and provision of services to elderly individuals with severe disabilities.

Long-term Care Special Projects

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment adds a reference to services to older individuals with severe disabilities residing in nursing homes to the list of services which may be provided under long-term care special project grants.

Conference agreement.—The House recedes.

VOLUNTEER OPPORTUNITIES

Intergenerational Volunteer Programs

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment allows the Commissioner to fund projects furnishing intergenerational services by older individuals addressing the needs of children.

Conference agreement.—The House recedes.

Volunteer Service Credits

House bill.—The House bill establishes a grant program to not more than 5 States to operate a volunteer service credit demonstration program.

Senate amendment.—The Senate amendment adds to the list of projects to which Commissioner may fund volunteer service credit projects operated in conjunction with ACTION.

Conference agreement.—The House recedes. The Conferees note that the Senate intends to conduct a hearing with the objective of obtaining additional information to guide future deliberations on this matter.

STUDY OF TRANSPORTATION SERVICES

House bill.—The House bill requires the Commissioner to study the extent to which transportation services were funded under the Act in fiscal year 1988 and the relative importance of such services to the individuals who received them.

Senate amendment.—The Senate amendment does not include a comparable provision.

Conference agreement.—The House recedes. The Conferees note that the new data collection provisions of this bill will provide substantial additional information on the provision of transportation services. Further, the Conferees note that they expect the annual report of the Commissioner to analyze and compile information on transportation expenditures and services in such a way as to reflect regional variations.

OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment authorizes $2 million for demonstration projects which demonstrate and evaluate cooperative projects between State long-term care ombudsman programs and State protection and advocacy systems.

Conference agreement.—The House recedes with an amendment authorizing the demonstration for FY 1989 and reducing the authorized amount to $1 million. Examples of the types of joint projects which may be funded are structured evaluations of the need for additional mental health services, planned programming for nursing home residents to encourage them to take part in their habilitation plan, and the development of programs to prepare individuals to live in nursing homes.

HOME CARE DEMONSTRATION PROJECTS

House bill.—The House bill requires the Commissioner to conduct pilot projects in at least 6 States to determine the most effective methods to assist older individuals who are consumers of home care, and to conduct a study to determine the desirability and feasibility of providing similar assistance to older individuals with respect to obtaining medical and supportive services in hospitals, physicians offices, long term care facilities, and other facilities.

Senate bill.—The Senate authorizes the Commissioner to make grants to at least 6 States and not more than 10 States to demonstrate and evaluate the effectiveness of a home care quality assurance program for in-home care services furnished under this Act.

Conference agreement.—The House recedes with an amendment to permit demonstration projects to include any non-medical in-home services funded with public monies, and to clarify the activities and methods which may be tested. The House recedes with regard to the study on assistance in hospitals, physicians offices, long term care facilities and other facilities.

AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

House bill.—The House bill authorizes $32,970,000 for fiscal year 1988; $34,619,000 for fiscal year 1989; $36,349,000 for fiscal year 1990; $38,167,000 for fiscal year 1991.

Senate amendment.—The Senate amendment contains the same authorizations as the House bill through fiscal year 1991, and additionally authorizes $40,075,000 for fiscal year 1992.

Conference agreement.—The Senate recedes.

PART D—COMMUNITY SERVICE EMPLOYMENT

INFORMATION ON AGE DISCRIMINATION PROHIBITIONS

House bill.—The House bill does not include a similar provision.

Senate amendment.—The Senate amendment includes a requirement that the Secretary of Labor distribute to Title V grantee for distribution to program enrollees, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies, information which is designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act.

Conference agreement.—The House recedes.

AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

House bill.—The House bill authorizes for Title V of the Older Americans Act, $386,715,000 for fiscal year 1988; $406,051,000 for fiscal year 1989; $426,353,000 for fiscal year 1990; and $447,671,000 for fiscal year 1991.

Senate amendment.—The Senate amendment contains the same authorizations as the House bill for fiscal year 1988 through fiscal year 1991, and also includes an authorization of $470,005,000 for fiscal year 1992.

Conference agreement.—The Senate recedes.

EMPLOYMENT ASSISTANCE AND OTHER PROGRAMS

House bill.—The House bill includes a provision to disregard as income or resources any funds which are received by individuals under the Community Service Employment Program for the purpose of determining eligibility to participate in any housing program for which federal funds may be available.

Senate amendment.—The Senate amendment includes a provision to disregard as income any funds which are received by individuals under the Community Service Employment Program for the purpose of determining eligibility to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.

Conference agreement.—The House recedes. The conferees which to clarify that the term "determining eligibility" includes the determination of the level of subsidy for which an individual qualifies.

PART E—NATIVE AMERICAN PROGRAMS

GRANTS FOR NATIVE AMERICANS

House bill.—The House bill does not include comparable provisions with regard to referring Native Americans or including a separate part for programs for native Hawaiians. The House bill authorizes $12,100,000 for fiscal year 1988; $14,900,000 for fiscal year 1989; $17,700,000 for fiscal year 1990; and $20,600,000 for fiscal year 1991 for Title VI.

Senate amendment.—The Senate amendment modifies the title of Title VI of the Older Americans Act to reference Native Americans rather than Indians, includes Native Hawaiians in the purposes of the Title, and creates a new subpart under the Title to provide grants for programs to serve older Native Hawaiians. The Senate amendment authorizes $13,000,000 for fiscal year 1988; $15,600,000 for fiscal year 1989; $18,720,000 for fiscal year 1990; $22,464,000 for fiscal year 1991; and $26,956,800 for fiscal year 1992 for Title VI. Under the Senate bill, not more than 10 percent of the funding for this title may be used for grants to serve Native Hawaiians, and requires that the appropriation for any year must be at least 110 percent of the appropriation for 1987 before funding can be provided for the Native Hawaiian program.

Conference agreement.—The House recedes with an amendment (1) to delete the authorization for 1992, (2) to move the findings on each population to the relevant part, (3) to modify the authorization of appropriations and to specify a particular amount for each part, (4) to require that part B receive funding only if the appropriation for Title VI exceeds the fiscal year 1987 appropriation, and (5) to require that part B receive the first $250,000 of any appropriation exceeding the fiscal year 1987 appropriation and half of any increase above the first $250,000 up to the authorized amount for the part.

TITLE VII

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

House bill.—The House bill repeals Title VII.

Senate amendment.—The Senate amendment authorizes such sums as may be necessary for Title VII through 1992.

Conference agreement.—The Senate recedes with an amendment to Title IV which authorizes grants to design and develop prototype health prevention and education programs which may be utilized by State and

area agencies on aging which offer preventive health services. The placement of this provision in section (a) is not intended to indicate priority over the items listed in section (b).

REMEDIES FOR STATES' FAILURE TO QUALIFY BASED ON PLANNING REQUIREMENTS

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment modifies the language in the Act which applies the remedies of section 307(d) of the Act to a situation where a State fails to meet the State plan requirements set forth in section 307.

Conference agreement.—The Senate recedes.

TRANSFER AUTHORITY

House bill.—The House bill sets a maximum amount which may be transferred among subparts under title III of 25 percent in fiscal year 1988, 26 percent in fiscal year 1989, 27 percent in fiscal year 1990, and 28 percent in fiscal year 1991.

Senate amendment.—The Senate amendment sets a maximum amount which may be transferred among subparts under title III of 30 percent for any fiscal year.

Conference agreement.—The House recedes, with an amendment which limits the transfer authority to programs funds by title III-B and title III-C. The Conferees note the lack of informaiton detailing why transfers between title III-B, title III-C(1) and title III-C(2) are being made, and request that such information be included as part of the Commissioner's annual report under section 207.

TECHNICAL CHANGE

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment adds the word "for" in section 321(a)(10) to correct grammer of the sentence.

Conference agreement.—The House recedes.

APPROPRIATIONS TRIGGER

House bill.—The House bill requires that each Older Americans Act program which received an appropriation in fiscal year 1987, each year receive at least 105 percent of their previous year's appropriation before new authorizations (except In-home Services for Frail Elderly) can receive an appropriation.

Senate amendment.—The Senate amendment does not include comparable provisions.

Conference agreement.—The Senate recedes with an amendment which requires that the total appropriation for programs funded in fiscal year 1987 increase by at least 5 percent over the previous year before new authorizations (except In-home Services for Frail Elderly) can receive an appropriation. This restriction would apply through fiscal year 1990.

ADDITIONAL CONCERNS

The Conferees are aware of the critical importance of Title V workers to nutrition programs carried out under Title III and the disruption that can occur should a title V worker move to another position. The Conferees are also aware of the efforts of title V sponsors to place participants in unsubsidized jobs. Coordination among the various programs established by the Older Americans Act has always been encouraged by the Congress. The Confereees urge the sponsors of both programs to work together to minimize any adverse impact to the maximum extent possible.

ESTABLISHMENT OF POVERTY GUIDELINES

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment corrects a technical error which references the Bureau of Labor Statistics as the agency which establishes the proverty guidelines, so that the Office of Management and Budget is properly referenced.

Conference agreement.—The House recedes.

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

House bill.—The House bill does not include a comparable provision

Senate amendment.—The Senate amendment includes a requirement that the Secretary of Labor develop from existing data sources a reweighted index of consumer prices which reflects the expenditures for consumption by retired Americans aged 62 and over.

Conference agreement.—The House recedes. The Conferees note that this is a one-time report, not an on-going expectation, which is intended for use by Congress in considering the advisability of continuing such an index. The Conferees expect the Department's analysis to include a retrospective examination of how the index would have compared to other indices of consumer prices over the past 10 years

TITLE III—ALZHEIMER'S DISEASE RESEARCH

House bill.—The House bill does not include a comparable provision

Senate amendment.—The Senate amendment includes a $2 million authorization in fiscal years 1988, 1989, and 1990 for the National Institute on Aging to conduct clinical trials on therapeutic agents to treat Alzheimer's disease, to retard the progression of symptoms of the disease or to improve the functioning of individuals with the disease.

Conference agreement.—The House recedes with an amendment to authorize the program only for fiscal year 1988 and to delete the reference to tetrahydroaminoacridine in the bill. The Conferees wish to emphasize that they do not intend to override sound scientific judgment in the decision to conduct or continue clinical trials on drugs such as tetrahydroaminoacridine, but simply wish to ensure that funds are available for such trials if they are warranted. The Conferees also wish to note that they intend that this authorization continue in the normal reauthorization of the National Institutes of Health scheduled for next year.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

House bill.—The House bill includes a provision which permits adult day care centers to receive reimbursement for meals or supplements served to persons 60 years of age or older or to chronically imparied disabled persons or to persons with Alzheimer's disease or similar brain disorders.

Senate amendment.—The Senate amendment includes the same provision regarding adult day care centers as the House bill, but also requires the Secretary of Agriculture to issue guidelines which assure that reimbursement under this subsection does not duplicate reimbursement under part C of title III of the Older Americans Act of 1965 for the same meal served.

Conference agreement.—The House recedes. This amendment would extend eligibility for Child Care Food Program meal and commodity benefits to public or private nonprofit adult day care centers or proprietary Title XIX or Title XX centers, licensed or approved to provide adult day care. The Conferees note that, as defined by the National Council on Aging, in association with the National Institute on Adult Daycare, 'adult day care' is a community-based group program designed to meet the needs of functionally impaired adults through an individual plan of care. It is a structured, comprehensive program that provides a variety of health, social, and related support services in a protective setting during any part of a day, but less than 24 hour care. Individuals who participate in adult day care attend on a planned basis during specified hours. Adult day care assists its participants to remain in the community, enabling families and other care givers to continue caring for an imparied individual at home.

Adult day care centers determined to be eligible under this amendment may participate in the Child Care Food Program and receive cash or commodity assistance under the nutrition programs of the Older Americans Act. They could not, however, receive benefits or reimbursements from both programs for the same meal served.

TITLE V—NATIVE AMERICAN PROGRAMS ACT

TRANSMITTAL OF INFORMATION TO CONGRESS

House bill—The House bill provides that certain information related to the review of applications be made available to the Congress upon the request of the Speaker of the Hosue of Representatives and the President Pro Tempore of the Senate.

Senate amendment.—The Senate amendment provides that this information be made available to the Congress upon the request of the Chairman of the Select Committee on Indian Affairs and the Chairman of the Committee on Education and Labor.

Conference agreement.—The House recedes.

ADDITIONAL REQUIREMENTS FOR RULEMAKING

House bill.—The House bill contains an exception to the rulemaking requirements when good cause can be demonstrated.

Senate amendment.—The Senate amendment includes by reference the "good cause" exception contained in the Administrative Procedure Act.

Conference agreement.—The Senate recedes with a clarifying amendment that the rulemaking requirement applies exclusively to this title.

TRANSMITTAL OF FINAL RULES TO CONGRESS

House bill.—The House bill requires the Secretary to transmit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate all final rules or general statements of policy published for public comment for the purpose of carrying out provisions of the Act.

Senate amendment.—The Senate amendment provides that such final rules or statements of general policy be transmitted to the Chairman of the Select Committee on Indian Affairs and the Chairman of the Committee on Education and Labor.

Conference agreement.—The House recedes.

INCLUSION OF NATIVE AMERICAN PACIFIC ISLANDERS

House bill.—The House bill does not contain a comparable provision.

Senate amendment.—The Senate amendment provides that Native American Pacific

Islanders (including American Samoan Natives) are eligible for services under the Act.

Conference agreement.—The House recedes with an amendment which requires that the total appropriation for programs funded in fiscal year 1987 increase by at least 5 percent over the previous year before new authorizations can receive an appropriation. Additionally, the amendment includes a definition of "Native American Pacific Islanders (including Samoan Natives)". The conferees want to emphasize that Native American Pacific Islanders (including Samoan Natives) includes trust territories and American possessions, but does not include the Hawaiian Islands.

LOAN FUND DEMONSTRATION PROJECT

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment authorizes $3 million for a demonstration project establishing a revolving loan fund to assist Native Hawaiians for economic development purposes.

Conference agreement.—The House recedes with an amendment to make minor changes clarifying the operation of the loan fund including terms and conditions of loans.

AUTHORIZATION OF APPROPRIATIONS

House bill.—The House bill provides that the Act is authorized for fiscal year 1988 through fiscal year 1991 for "such sums as may be necessary."

Senate amendment.—The Senate amendment provides that the Act is authorized for fiscal year 1987 through fiscal year 1991 for "such sums as may be necessary."

Conference agreement.—The Senate recedes.

TITLE VI—HEALTH CARE SERVICES IN THE HOME

House bill.—The House bill does not include a comparable provision.

Senate amendment.—The Senate amendment amends the Public Health Service Act to authorize $100 million for each of fiscal years 1988, 1989, and 1990 for allotments to States for Home health services provided or managed by physicians, nurses and social workers. Persons eligible are those who reside at home and who may be at risk of institutionalization, or persons who are hospitalized or are in a skilled nursing home or intermediate care facility and who could return home with home health services.

Conference agreement.—The House recedes with an amendment to authorize a three-year matching, demonstration grant program under Title III of the Public Health Service Act. The program consists of two parts, each of which would authorize $5 million in each of the fiscal years 1988, 1989, and 1990.

In Part A, the Conferees seek ways to expand health care services in the home for individuals who might otherwise require lengthy hospital stays or institutionalization. Part A would fund grants for projects to identify the need for, to finance and to coordinate the provision of skilled medical services or related health services in the homes of individuals. The bill requires the use of skilled medical care and the conferees note that such care should be managed care with a team of health care professionals acting as gatekeepers in the delivery of appropriate care based on each individual's need. The Conferees emphasize that they do not intend grant funds to be used to pay for currently financed public or private health care services. The Conferees stress that demonstration projects should be designed to reach low-income individuals who lack adequate access to these services and should be based on their ability to pay.

In Part B, the Conferees seek ways to alleviate the devastating psychological, social and financial effects of Alzheimer's disease by authorizing grants to develop a range of innovative services to benefit people with the disease as well as their families and care givers. These services include the coordination of care of public and private organizations; home, personal and day care; and other supportive services.

The Conferees also recognize that grantees, in their application, shall estimate the number of people they expect to serve and the anticipated costs of such services. The Conferees recognize that such estimates may not reflect actual costs, however, they should be based on the best evidence available on the costs of providing such care.

From the Committee on Education and Labor, for the consideration of the House bill and Senate amendment (except Titles III and VI), and modifications committed to conference:

AUGUSTUS F. HAWKINS,
DALE E. KILDEE,
WILLIAM D. FORD,
TOM SAWYER,
STEPHEN J. SOLARZ,
PETER J. VISCLOSKY,
JAMES M. JEFFORDS,
THOMAS J. TAUKE,
TOM COLEMAN,
FRED GRANDY,

From the Committee on Energy and Commerce, for the consideration of Titles III and VI of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
NORMAN F. LENT,
ED MADIGAN,

Managers on the Part of the House.

For all but the Native American programs:

EDWARD M. KENNEDY,
SPARK M. MATSUNAGA,
CLAIBORNE PELL,
THAD COCHRAN,
ORRIN G. HATCH,

For the Native American programs:

DANIEL K. INOUYE,
JOHN MELCHER,
DENNIS DECONCINI,
QUENTIN BURDICK,
THOMAS DASCHLE,
DANIEL J. EVANS,
FRANK H. MURKOWSKI,
JOHN MCCAIN,

Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO SIT TODAY DURING 5-MINUTE RULE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that the Committee on Small Business be authorized to meet today during the 5-minute rule in order to consider H.R. 1807, the Small Business Act, to amend the Capital Ownership Development Program.

The request has been cleared with the ranking minority member, the gentleman from Pennsylvania [Mr. MCDADE].

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

There was no objection.

POINT OF PERSONAL PRIVILEGE—RESULTS OF IRRESPONSIBLE JOURNALISM

Mr. DANNEMEYER. Mr. Speaker, I rise to a point of personal privilege.

The SPEAKER pro tempore. The Chair has examined the materials presented by the gentleman from California [Mr. DANNEMEYER]; and pursuant to the gentleman's request, the Chair recognizes the gentleman from California for 1 hour.

Mr. DANNEMEYER. Mr. Speaker, I apologize to the Members for taking this time in the form of a point of personal privilege.

I have never done this before in my 9 years in the House, but I believe on this occasion, it is appropriate for me to take this time to explain to the Members what can happen to any of the Members as a result of irresponsible journalistic practices in this country.

□ 1240

The reason that I rise to the point of personal privilege is the result of a publication in the New York Times on Friday, November 6, on an AP wire story that appeared on November 5, 1987, and an article that appeared in the Santa Ana Register, a paper published in my home county in California, last Friday.

By way of contrast, a little later on during the course of this hour of personal privilege, I will read an article from the Washington Post last Friday which treats the issue in the way that I think fairness would indicate that it should be treated.

I do not choose to repeat the specific language that appeared in the article in the New York Times, but needless to say, it causes this Member to be held in disrepute. It holds me up to ridicule and I resent that, for obvious reasons, as any of us would who serve in this body.

By way of a little background, I think I can share with my colleagues how this whole matter developed, at least as I understand it at this time.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield for 1 second?

Mr. DANNEMEYER. I yield to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I apologize for breaking the gentleman's rhythm, but the gentleman is so close in the prolog that I want to say something for my distinguished colleague from California.

This is a very rare process when someone takes a point of personal privilege, but I was shown the articles this morning that the gentleman is going to refer to and they are so vi-

cious and so totally a distortion of the truth that I hope every one of our colleagues and anybody else who follows the electronic or written record in this Chamber will understand what the gentleman is doing.

I just want to say two things about my colleague. The gentleman has been a leader in this House on the major public health issue of our lifetime, certainly this century if you look at it. Within the next 2 years more people will die of AIDS than all of the combat deaths in Vietnam and World War II. It is a frightening issue. The gentleman has been courageously up front.

I watched the gentleman participate in a 4-hour "Nightline" ABC show with Ted Koppel and the gentleman's demeanor was excellent in the face of jeering and some cat calling from—I do not know, some segment of the live audience there. The gentleman handled it with courtesy and with decency.

But there is one thing that I want every one of my colleagues to hear again. I have said this on the House floor, but probably only 10 percent know it. The gentleman in the well, WILLIAM DANNEMEYER, alone and quietly purified the blood supply of the United States of America on September 9, 1985, when he got Health and Human Services for the first time to implement the stringent discipline under which our blood supply is disciplined at this moment. If this had been done earlier, 30,000 to 50,000 people in the San Francisco area would not be getting notices now to come in for a free blood test where hundreds of them after they go through the two testing processes, the Elisha test and then the confirming Western Block test, will find out that they are going to die, or to put it in the words of our fellow Californian, Paul Gann, "have been murdered." It is just going to take a few agonizing months or years before they lose their fragile hold on life. They will have been murdered by this negligent pollution of the blood supply.

The gentleman from California, BILL DANNEMEYER, did this for this Nation quietly, and I do not even know that it has ever been reported in the press, so the gentleman has every right to get up and defend his honor now and I am going to sit here and listen to everything the gentleman has to say, because Members should protect one another when the press is writing stories that are 180 degrees a distortion of the truth.

I am glad the gentleman is taking this point of personal privilege.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for his comments.

The issue that I am talking about this afternoon relates to something that began in the State of California, representing roughly 10 percent of the country. It also involves us here in Washington, DC, as well.

Back in March 1985, the State legislature under the leadership of Assemblyman Art Agnos, a Democrat from San Francisco, got the State legislature to adopt a bill called "AB 403." AB 403 is one of the most ridiculous distortions that any State legislature could have adopted in developing a needed public health response to the problem called AIDS. This act of the State legislature in California, my home State, in effect insulated anyone with the virus for AIDS from any accountability to the public health care system at all. How it did this is quite simple. Because of that act, if a doctor in California finds a patient in his practice that has a curable communicable venereal disease, such as syphilis or gonorrhea, that doctor is required by law to report the existence of that patient to the public health authorities by name, address, and telephone number, and contact tracing takes place.

If on the other hand a doctor in California encounters a patient with a noncurable communicable venereal disease, such as the virus for AIDS, if that doctor would report that patient by name, address, and telephone number, to the public health authorities, the doctor would commit a crime. When people hear that, they cannot believe it. They ask, "How in the world could anyone in a State legislature ever do that?"

Well, that is the essence of what my comments are all about today, attempting to change that law.

A group of physicians in California, called California Physicians for Logical AIDS Response, organized itself earlier this year. Its reason for being in business is to do one simple thing, to get the State legislature in California to amend that law by abolishing it, and in so doing require that those with the virus for AIDS be reportable to public health authorities, no better no worse than any other person with a communicable disease.

The legislature in California this year, was asked to modify that law, AB 403, to accomplish the purpose of reportability. The State Senate, to its credit, on a bare minimum vote of 21 votes, approved that measure, but it is now lying in the State assembly where it is gathering dust at the bottom of the barrel.

The Democrats, I might add, control both Houses of the State legislature in Sacramento, CA.

An initiative may be pursued in California to change State law when the legislature does not act.

A meeting took place in Sacramento on September 8, 1987, just about 2 months ago. I was present at that meeting. There were eight other people present at that meeting. The purpose of the meeting was to discuss the language of the initiative that was filed last Monday in Sacramento, which will put this issue on the ballot in November 1988.

Now the story gets interesting, because someone at that meeting is alleged to have made some statement to someone about my conduct at that meeting that resulted in the publication in the New York Times that I have described earlier. In my judgment, what was described in the New York Times as to my conduct at that meeting was just out of whole cloth, totally false.

There is a newspaper published in northern California, on a weekly basis, in San Francisco, called the Bay Area Reporter. On October 8 last month this newspaper published an article written by a J. Newquist under the title "Making Hay From AIDS; Republicans Plan a Scare Campaign; Memo Reveals Strategy for 1988."

This article in the newspaper, that is, the Bay Area Reporter, made reference to a memorandum that allegedly came from a person working in San Francisco by the name of Charles Rund. Now, the problem with the article and the problem with the memorandum is basically this: After the publication of this article in the Bay Area Reporter, some other reporter called Mr. Rund who allegedly wrote it and Mr. Rund said he never wrote it. It is a totally false memorandum. He had nothing to do with it and no one in his staff had anything to do with it.

Mr. Rund did say that his office prepared a memorandum which was circulated to certain officials in the Republican Party in California that talked about targeting certain Members in the 1988 election, which is all part of the strategy of political campaigning, and the memorandum that Mr. Rund admittedly prepared had nothing whatsoever to do with the issue of AIDS at all. It did not mention my name in anyway at all.

So what has happened is this. Someone obtained this memorandum produced by this public relations person in San Francisco, Mr. Rund, who admittedly works the Republican side of the aisle in following political campaigns, and after receiving it from some unknown source they attached to it the memorandum dealing with the issue about AIDS, claiming that it was produced by Rund, and involving this Member from California. This was the essence of what appeared in the Bay Area Reporter on October 8, 1987.

Now, Mr. Rund denied that he ever wrote the memorandum that made reference to me or made reference to AIDS, but in the story that appeared in the Bay Area Reporter, this statement appears:

The internal memos were provided by an aide on the State level, who is gay, but has not come out to his employer. He said he

could not tolerate the exploitation of people with AIDS for the sake of the ballot box.

This is the response that the publisher for the Bay Area Reporter responded when he, that publisher, was asked where he got this information.

So we have the situation at this time essentially as follows: Mr. Rund in San Francisco prepares a memorandum mentioning 53 Democrats—or 53 Members of Congress, ostensibly Democrats, but there were two Republicans on the list as well, and he suggested certain strategies that could be utilized to defeat them in the 1988 election. The memorandum that Mr. Rund prepared had nothing to do with the issue of AIDS and had nothing to do with this Member from southern California.

Someone received this memorandum from Mr. Rund, apparently this anonymous aide working in Sacramento, and added to it the reference to the issue of AIDS and mentioned my name, this Member from southern California, in a very derogatory manner, claiming it was produced by Rund.

Now, the memorandum itself stated—this is the memorandum that Mr. Rund did not write—but that memorandum said that something took place in a meeting in Sacramento 2 weeks before it was written. Now, the memo was dated September 17. Two weeks before would have been September 3. The problem with that date is that my family and I were on a 2-week vacation in San Diego during that period of time, so we could not very well have been in Sacramento for that meeting; but the writer of the memorandum could have been confused about his facts in another way, because I was in Sacramento on September 8 talking about this issue with the other eight people in the room, with Senator Doolittle of the State senate in California in Sacramento; so I can only assume that the writer of the memorandum that is anonymous made reference to that meeting.

I challenge any member of the news media to talk to any of the other eight people at that meeting, which took place on September 8, and ask them very simply if the conduct that I exhibited in that meeting comes anywhere close to what was published in the New York Times of last Friday. I think if they will bother to do that, they will find out there was nothing in that meeting that comes close to describing my conduct. I challenge them to do that.

So what we really are looking at here is this. An anonymous person in Sacramento, CA, writes a fictitious memo, attaches it to a memo that Mr. Rund wrote and together this was mailed to a Democratic Member of the House of Representatives.

Now, the gentleman from Michigan [Mr. WOLPE] sent out a "Dear Colleague" letter on November 5, 1987, to all the Members of the House of Representatives, who I assume were mentioned by name in this memorandum, some 53. It says, this is the gentleman from Michigan [Mr. WOLPE] writing on November 5:

> I wanted to share with you a very troubling memorandum that recently crossed my desk, a confidential note authored by Charles Rund, President Reagan's deputy campaign manager for polling in 1984. It lays out the elements of a Republican plan to attack a select group of Democratic congressional incumbents in 1988 as being soft on AIDS. A second memo, also written by Rund and sent to the same circulation list appears to suggest that you and I are likely targets of this incredulous attack.

The problem with that statement from the gentleman from Michigan [Mr. WOLPE] is that Mr. Rund never wrote the memorandum. It was by a fictitious source, a person who I will describe as a coward because that person chooses not to identify himself by name so as to be able to defend himself in the claims of certain statements that I made in that meeting in Sacramento on September 8, 1987.

□ 1255

But such is the way of cowards. They do not choose to identify themselves so that they will have the privilege of defending what they claim somebody else did. They bask behind the masquerade of a nonentity so as to spread their venom and yet have no accountability to anyone for what they have said.

At this point it gets a little interesting because the Democrat Member of Congress of the House of Representatives, I assume it is the gentleman from Michigan [Mr. WOLPE] but I am not certain about that point, when he made or mailed this dear colleague letter to the Members on that list, some 53 I assume, also released it to the press.

Now, how the press treated it varies. The New York Times published the libelous material about my conduct in toto. Now, get this. What survived the editorial scrutiny of that newspaper in New York City; an anonymous person in Sacramento, CA, creates out of thin air a fictitious document attacking this Member of Congress by libeling me concerning my conduct, of holding me up to ridicule, and that document finds its way through the editorial process of the New York Times and ends up in an article on Friday, November 6, 1987.

The Associated Press wire service also received this communication from a Democrat Member of Congress and published it across its wire service.

A reporter working for the Santa Ana Register in Santa Ana, CA, in my home county in southern California, also published this same erroneous matter in detail.

These articles by the way, AP, New York Times, and the Santa Ana Register, made reference to the fact that Mr. Rund claimed he never wrote the material relating to this Member, but notwithstanding the fact that Mr. Rund did not claim authorship of it, those three publications published the libelous material about me anyway.

I question the judgment of the editorial persons working on those three publications. They have in effect permitted an anonymous source in Sacramento, CA, to have achieved an amazing result of libelous material being printed in those publications relating to a Member of Congress.

By way of contrast, I want to share with my colleagues how the Washington Post treated this issue, because I think it puts it in perspective and fairly gives it the attention. it deserves. This was written by Eric Pianin in the paper last Friday, November 6, 1987:

> A House Democrat yesterday distributed copies of a memo allegedly written by a Republican consultant asserting that the GOP could exploit the AIDS issue in the 1988 congressional campaign, that the man alleged to be the memo's author said it was a fabrication.
>
> Representative HOWARD WOLPE, Democrat-Michigan, said he obtained the memo and an accompanying list of 53 targeted House Members. He circulated it among those allegedly targeted for defeat. The alleged memo concludes that if properly exploited, the issue of acquired immune deficiency syndrome could help us to gain ground in 1988 and also help us hang on where some of our people are in trouble.
>
> In a dear colleague letter, WOLPE said the memo had been written by Charles Rund, a San Fancisco based political consultant and deputy pollster for Reagan's 1984 reelection campaign. Rund, contacted last night, said the memo is all a fabrication, it is just not true. I just think it is reprehensible the Democrats would distribute the document, Rund said. That is not a memo written by me or associated with me.
>
> Rund acknowleged that he prepared the list of targeted House Members including House Majority Leader THOMAS S. FOLEY, Democrat-Washington, but he described it as an internal list of potentially hot races that he and his employees at Charleton Research Company will attempt to become involved in, but he said it had nothing to do with AIDS.

That to me is how a responsible journalist would treat this whole story. It is not responsible journalism to make reference to the fact that a fictitious document libels a Member of Congress and then go on to print the libelous material.

That is the reason I am taking this personal privilege today.

These people working in the media should be brought to the bar of justice in the court system for their irresponsible behavior. That will take place in due course. But I am taking this privileged time this afternoon for the purpose of laying out to my colleagues just what we are witnessing.

As my colleague from California, Mr. DORNAN, mentioned at the beginning of this privileged special 1 hour, this Member from California is serving on the Subcommittee on Health and Environment, and has been a leader in the effort in this country to have our public health officials develop a public health response to the AIDS epidemic and not treat it as a civil rights issue, and for good cause. Let me share with my colleagues something that came to the subcommittee's attention by way of a hearing from Dr. Salzburg just about 3 weeks ago. He and his colleagues worked up a projection on what we Americans are likely to observe in terms of the spreading of the virus for AIDS in America unless we change the current course we are pursuing.

The persons who prepare this projection are Allen Salzburg, M.D., Ph.D., chief medical service, Miles City, MT; Richard H. Runser, M.D., Miles City, MT; Stanley L. Dolins, Ph.D., senior projects manager, NRC, Washington, DC; and what this computer printout says in summary is as follows: If we continue the current course which this Nation is following, nonreportability, not testing the people of this Nation for the virus for AIDS, that by 1995 we can expect 5 million sick and dying, 14 million carriers and a yearly cost of $50 billion.

If we continue that same course of not reporting those with the virus, not testing, not having a policy of intervention, by the year 2005 we will have 25 million sick and dying, 40 million carriers and a yearly cost of $120 billion.

If on the other hand we at this time adopt some rational policy options of reportability for those with the virus, of testing the people in America for those with the virus, and a policy of intervention which means if we encounter a person in our society with the virus who is deliberately engaging in conduct that results in transferring that virus to other humans, we as a people have the courage to say to that individual that you have forfeited the right to move about as a free citizen in our society. That is what is meant by intervention. If we follow this policy of reportability and testing and intervention and counseling, by the year 1995 we can cut those sick and dying from 5 million to 2.2 million; we can reduce the number of carriers from 14 million to 3.3 million, and we can reduce the yearly costs from $50 billion to $25 billion.

By the year 2005 if we adopt this policy of reportability, of testing, and counseling and intervention, we can reduce the sick and dying from 25 million to 4.4 million; the carriers from 40 million to 1.8 million; and the yearly costs from $120 billion to $20 billion.

Those are the choices that our public health officials should be urging that our State public health departments pursue, that the U.S. Public Health Service itself pursue, but frankly our public health leadership in this country, Dr. Koop, the Surgeon General of the United States, Dr. Bowen, head of the HHS, Dr. Wyndom, Assistant Secretary of Health in charge of the Public Health Service in HHS, and Dr. Mason at CDC in Atlanta, GA, these members of the public health establishment in America, have been tragically at fault in that they have not been urging that we pursue the policy options of reportability, of testing, and counseling and intervention.

□ 1305

That is why this has become a major political issue in America. When those to whom we have delegated the responsibility are deficient in what they should be doing; we politicians, we elected officials, we are the ones who have to bring them to task for their failure.

What happens in this country when any of us in this process urge that our public health officials pursue a policy of treating this issue as a public health issue rather than a civil rights issue? I have been pursuing this since August 1985. I have introduced a series of bills in this, the 100th Congress. H.R. 2272 and H.R. 2273 are the main bills in this Congress dealing with reportability and testing.

The tragedy of the matter is that you could say I must be doing something right because our opponents in this debate, those who want to treat this as a civil rights issue, must believe that somehow I am becoming modestly effective in the statements that I have been making around the country on this issue because in this instance, and this is the real reason for this point of personal privilege, this anonymous person in Sacramento, CA has set for their agenda to discredit my credibility.

Now that is an old game in politics; if you do not want to deal with the merits of the message, attack the messenger. We all know that in politics. To be honest, each of us engage in that ourselves once in awhile when we cannot argue on the merits of a clause; we have a tendency to attack and discourage the messenger.

I understand what is going on. They seek to discredit my credibility and that is part of the political dialog. But if this anonymous person in Sacramento, CA believes that he is going to get away with this conduct, he has another guess coming because fairness says that any time you attack somebody and accuse them of certain conduct, you should have at least the courage to come forward by identification and say who you are and where you got your information.

To my Democratic friends in the House, there is a certain measure of truth in what the memo said with respect to a Republican plan to attack a select group of congressional incumbents in 1988 as being soft on AIDS. And the reason I say that is not because of the fundamental philosophy that I am sure any Member of the House has, but at this juncture in the history, the fact of the matter is that the essential thrust, politically speaking, of those in this Chamber who want to continue to treat this as a civil rights issue, at this late date in the epidemic, comes from my friends on the Democratic side. And those who want to treat it as a public health issue comes from my friends on the Republican side.

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

Mr. DANNEMEYER. Not yet. I may yield if I have any time but not quite yet.

And the reason I say that is because on October 15, this Member from California offered an amendment to a bill, H.R. 162, the High Risk Occupational Disease Notification and Prevention Act, that would have directed the Department of Labor to adopt guidelines to protect health care workers in America when they take care of AIDS patients. And you might ask, "Well, who would be opposed to that? Why shouldn't that be a rational thing to do?" Well, a lot of Democrats serving the House did not think that it was a very good idea because the rollcall vote of 219 to 198 approving that amendment is as follows: there were 54 Democrats voting for it, 192 against it and 10 not voting; there were 165 Republicans voting for it, 6 voting against it for a total of 219 to 198.

When 192 Democrats serving this House out of a total of some 263 vote against the Department of Labor adopting guidelines to protect health care workers when they deal with AIDS patients, it is not unreasonable to conclude that just maybe that substantial majority of Democrats in the House are looking at this as a civil rights issue rather than a public health issue.

Again on another vote that took place some 5 days later, October 20, 1987, this Member from California offered a motion to instruct conferees as a part of H.R. 3058, Labor-HHS appropriations bill.

This motion to instruct conferees in effect said none of the funds to be used in this appropriation bill can directly or indirectly promote homosexuality or to produce pornographic literature.

Some of my colleagues may recall on that day when I had some of this trash pornographic material on the floor that was produced by the Gay Men's Health Crisis in New York City

and that organization had received some $674,000 over the last 2 years from CDC, Federal money in Atlanta, GA. So there was good cause for that amendment.

The amendment carried, the motion to instruct conferees carried handsomely, 368 to 47. Among the 47 Members voting against it were 46 Democrats and 1 Republican.

I am sad to say that of those 46 Democrats voting against it, 16 of 46 were from my home State of California.

Forty-seven Members of the House of Representatives voted, in effect, to use taxpayers' money to promote homosexuality directly or indirectly or to permit taxpayers' money to be used for the production and dissemination of pornographic literature; 47, 46 Democrats and 1 Republican.

Another bill now pending in the House is H.R. 709. It will amend, if adopted, the Civil Rights Act of 1964 so as to require that sexual preference is an enforceable Federal civil right.

That bill has 66 coauthors, 63 Democrats and 3 Republicans.

Now to my friends on the Democratic side, let me say that today if the measure is brought up, and I think it will be, this Member from California will offer an amendment to a measure which will be offered to H.R. 1326, the Public Health Service Infant Mortality Amendments Act of 1987. This amendment will require that any female who visits a community and migrant health center would be offered the opportunity to be tested for the virus for AIDS.

And I would suggest that all of us in this House, Democrat or Republican, can demonstrate to the American public that we want to treat this as a public health issue, not as a civil rights issue. And any Member of the body, Democrat or Republican, by their vote today, can indicate how they stand with respect to that issue.

I have covered the points that I think need to be covered in this and I will be happy to yield to my friend from Arkansas, Mr. BERYL ANTHONY.

Mr. ANTHONY. I thank my friend from California for yielding.

Mr. Speaker, I would like to discuss some additional followup as a result of the contents of the memo.

I happen to represent the Democrats in our campaign committee as the gentleman well knows.

Mr. DANNEMEYER. Sure.

Mr. ANTHONY. At the same time I have deep respect for my colleague. We were elected, took the oath of office on the same day in 1979.

What disturbs me is that if we take such a volatile emotional issue and if we in fact do try to politicize it into 1988's elections, my fear is this, that we could distort the proper response.

I happen to be a very strong supporter and I have cosponsored many bills that have been introduced. I do not know how I voted personally one way or the other on the particular amendments that the gentleman had offered. But I can say this to my friend from California, even though I may have voted against one of his amendments I do not believe he could take the well and accuse me that I am soft on AIDS because that is not correct. It may say that we have a different approach to how we would solve the problem.

I happen to be a big supporter of as much research as possible so that we can find a cure for this terrible and dreaded disease.

I happen to serve on the Health Subcommittee.

Mr. DANNEMEYER. I will reclaim my time for a moment just to say to my colleague that he is recorded as having voted "no" among the 198 on October 15, 1987.

Mr. ANTHONY. Well, my response to the gentleman would be that he could not stand in the well and look me in the eye and say merely by the fact that I voted against one of his amendments that I am soft on AIDS because that is not correct. It could say that we have a different approach to it. No more have I at any time when I have briefed the Members that were targeted have I ever mentioned the gentleman's name nor have I even claimed that there was authenticity to that particular report.

At all times in talking to the Washington Post reporter, in talking to the New York Times reporter I was very clear to say we are not making an allegation that there is any truth and veracity to this memo. But we are saying if it is true, it is a blight on the political process. Therefore we have to be prepared for it.

How have we been prepared for it? I have briefed those 53 potentially targeted Members.

We have hired outside consultants. They have done focus groups. We have polling data.

We have told these Members that the best defense is a good offense.

So if it is politicized, then they will have to deal with it in their own way. I have dealt with it in my own way. I have sent out into my district educational mailings because I find that there has been a failure of leadership from this administration to adequately and properly educate the public.

But my point being this, and I say this in all deference to the gentleman because I consider him to be a friend albeit we do not vote alike. Our voting records are probably biased diametrically as diametrically as one can be, but the gentleman and I have been friends over the 9 years that we have been here; please do not take the position that if I vote against the gentleman later today or later this year that I care any less than the gentleman does about stopping this dreaded disease. And I ask the gentleman, let us keep it in the political health arena, let us not put it in the political arena and let us all work together to find a cure and a proper response and let us stamp out this dreaded plague that is out there. Young families, divorcees, young singles—I happen to have a 23-year-old daughter and a 20-year-old daughter—they are probably the greatest at-risk generation. I am less at risk because I have gone through those wild and wicked days of my youth. But do you think I do not think about it for my children? I think about it every single day I say to the Congressman DANNEMEYER. I think about it every day. I want to work with the gentleman. What I am asking the gentleman to do and the reason I asked him to yield to me is this: Let us work together in a bipartisan way to solve the problem of AIDS and let us not stand in the well and recount people who voted against a particular amendment for him and try to make the allusion that therefore they do not care about this issue. That is just not the proper way to do it.

Mr. DANNEMEYER. The gentleman knows that I am not saying that. What I am saying is that we all serve in an elective body. This rollcall to which I have made reference was number 358 in the 100th Congress. More important than what any of us say in debate on the floor, in our home districts, is how we vote. It speaks louder than anything we say. And if any of us vote in such a way so as to protect or avoid protecting in this instance health care workers who should, in my judgment, be advised as to how they could protect themselves in dealing with AIDS patients, any of us who vote against that I think should be prepared to defend in their home district why they happened to vote that way, because let us not kid ourselves about what is going on in this country. As a part of the sexual revolution which has been about 20 years now, there has been tremendous strides made in terms of the leadership of the homosexual movement in America to change the basic culture of our society. Their goal, politically, is to achieve the sense of an amendment to H.R. 709, to amend the Civil Rights Act of 1964 to make sexual preference an enforceable Federal civil right. There is no secret in America today that this political movement has essentially brought itself into the Democratic tent nationally and certainly in my State of California and the Democrats have welcomed them with open arms.

□ 1320

You are assisting them in achieving their objective of changing the culture of our society so that we will accent

and equate homosexuality on a par with the heterosexual lifestyle. That is their objective.

Let me make this observation. What two men or two women or a man and a woman do in the privacy of their domicile is none of my business and it is none of the Government's business, but when they come out of the privacy of that domicile and they come to we who are elected Members of the Congress of the United States and they talk to each of us, in this instance 66 of us, into becoming co-authors of legislation to change the basic fundamental rules of the Judeo-Christian civilization in terms of how we express human sexuality, they have got my attention, I say to the gentleman from Arkansas [Mr. ANTHONY], and they should have the attention of every single Member of Congress, because the issue for America today in this AIDS epidemic is hopefully to stop the ravaging of this epidemic, to find a cure or a vaccine to stop the loss of these lives. That is what we should be doing.

But let us not kid ourselves. Whenever any of us talk about proposed public health responses, we are immediately impacting on the group that contributes nationally over 73 percent of the AIDS cases, male homosexuals, and whether we like it or not, at that point we are talking about homosexuality.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield for a comment?

Mr. DANNEMEYER. I am happy to yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Speaker, again I think what disturbs me is to take one piece of legislation, one particular vote, and try to paint somebody in a corner and say, "That's the way you stand on it." If that is going to be your position, then when the Republicans in this body vote against the budget that will be presented later this year—and I have noticed consistently that they are voting uniformly against it—contained in that budget is money for research, vital research that the Federal Government will do. If that side of the aisle will let sequestration go into effect, then there will be a tremendous cut in vital funds for the public sector to do vital research. When that occurs, I want the gentleman to take the well and defend their actions, to say, "That's right, research should have been cut out because research is not a proper response to it. What we ought to do is have new intervention, and what we ought to do is tests. What we shouldn't do is research."

As we all know, research is probably the most vital part of solving this problem.

Mr. DANNEMEYER. I disagree with that.

Mr. ANTHONY. Mr. Speaker, I say to the gentleman that he should do a little soul-searching when we start voting on the amount of money that is going to be going into our approach from a Federal Government standpoint. I happen to believe that research is vital and necessary to find a cure, to find vaccines like those we have for so many of our other diseases.

That is the only point I am going to make. I want to thank the gentleman for his kindness in yielding on his own personal point of privilege. The gentleman did not have to yield, and I thank him for it.

Mr. Speaker, let me close by saying this: If the gentleman does politicize it, make sure it is a fair and across-the-board politicization of it. We will be there to make sure all sides are equally represented in the debate in 1988.

Mr. Speaker, I thank the gentleman for yielding.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for his comments, and let me make a response on two points. First, I would respond on the matter of spending for AIDS research.

Most Republicans in the House are going to vote against that continuing resolution which contains the matter the gentleman referred to, and it is not because we are opposed to any particular item in that bill. Our main reason for voting against the continuing resolution is because it is the only vehicle we have for expressing our disgust at the violation of the legislative process whereby, up or down in one vote, we are probably going to be asked to support or disavow a spending measure containing some $600 billion.

The way this process is supposed to work is that 13 individual appropriation bills will be considered by Congress and go separately to the President of the United States so that he can then veto or sign any of those individual appropriation bills. That is the way it is supposed to work. But if you want to deny to this President, who is of another persuasion then that of the leadership of the Democratic Party in the House, the ability to exercise a veto, how do you do it? You lump all these things into one continuing resolution, and then you say to this President, "Mr. President, do you have the courage to veto a continuing resolution which contains $600 billion and stop all these payments going out to people across America and take the responsibility and the heat for that?"

That is what you are saying to him. What we should do is to have the process work of having these 13 appropriation bills come through the Congress and be considered by the President separately.

The other point the gentleman from Arkansas raised in relation to this matter relates to the politicization of this issue. Let us not kid ourselves, we Americans have delegated a tremendous amount of authority to public health officials around this country for the sake of protecting all of us from communicable diseases. The power of county health officials across America to deal with communicable disease, and protect us from communicable diseases, is absolutely awesome. We have 58 diseases on the list of reportable diseases in California, and my State is no different, I suspect, than any other State in the Union. The technical language in the law gives to a county health officer the ability to quarantine any of us when we have one of those communicable diseases.

AIDS itself has been on that list of reportable diseases since March 1983, but the political debate in America is around the fact that those with the virus are not on the list of reportable diseases except in eight States of the Union, and those States have less than 10 percent of the cases. In other words, the failure of our public health authorities to adopt a policy of making those with the virus reportable to public health officials, like any other communicable disease, is the essence of the political debate in America today.

The issue is reportability. It is a routine step that historically has been used to control communicable disease, and the tragedy of it is that we are not pursuing reportability for those with the virus in America today. That is why we are discussing this issue in the well of the House today, very candidly, because people across America are asking the question: Why are our public health officials not pursuing a routine step to control this communicable disease?

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, let me ask the gentleman a direct question. Why are our public health officials not following regular procedure? What is the gentleman's analysis?

Mr. DANNEMEYER. It is an illustration of the political clout of the male homosexual community in America that in effect has intimidated our public health officials. They have, by virtue of their dominance in certain States of the Union such as New York and California, literally stood the public health care system of America on its head in order to prevent the utilization and the pursuit of normal practices that have historically been used to control communicable diseases.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield further for another question?

Mr. DANNEMEYER. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I know the answer to this question. I will just ask it rhetorically.

There is no Haitian lobby, although they have removed that now because it was unfair to begin with. There is no Haitian lobby, there is no hemophiliac lobby, there is no lobby of people who have received the disease through contaminated blood transfusions, there is no lobby of heroin drug-IV, dirty needle users lying in alleys around America, there is no other lobby of any high risk group that has lobbied the public health officials or elected people in legislatures across the country or this body, are there? Is it only this one lobby, male homosexuals?

Mr. DANNEMEYER. One person remarked about a year ago in writing that if 73 percent of the AIDS cases in America were found in persons with gray eyes, as opposed to male homosexuals, our public health authorities would have quarantined the lot of those people 2 years ago.

Mr. DORNAN of California. I agree with that. Let me say something on this House floor so that I can agree with my good friend, the gentleman from Arkansas [Mr. ANTHONY], and everybody else on that side of the aisle or on this side who does not want this issue to be politicized.

The doctor that I respect the most on this issue in the world—and I am not going to identify him by name so that he has to waste hours of his precious time responding to charges or inquiries from the lobby the gentleman just mentioned or anybody else in the country or in the world—but the doctor I respect the most on this—and I have recently visited the National Institutes of Health and the Centers for Disease Control, so obviously it is going to be from one of those two places—said this in his excellent judgment—now, listen to this—that we are not going to find the cure that my good friend, the gentleman from Arkansas [Mr. ANTHONY], was suggesting we are all hoping for. His opinion is that we are not going to find a cure.

I was stunned, and I said to him, "What does that mean?"

He said, "What will happen is it will become like diabetes," that we will have drugs developed like AZT, only perfected more, that people who have the AIDS virus will take for the rest of their lives to keep the AIDS virus locked in themselves and keep it from exploding out and turning them into a dying person.

So we now have, he thinks, 1.5 to 2 million infected people, it will go up to 10 million, and every one of them may someday develop the disease, we do not know. Of those people that have already been tested for having the symptoms, they will all die. It is now 100 percent back to 1979, 1980, and 1981, and that is not even reflected in the documents they sent us. The 8-year-old warhorses that look like they are holding the line, they just ran an intensified investigation and found that about four of them are already 6 feet under the ground and have been there for years, and the other four have disappeared, meaning they are probably dead. So it is 100 percent fatal.

It also attacks directly the brain. It just is not a breakdown of the immune system. There may be 10 million people by 1991, and everyone of those 10 million may get it, we still do not know yet. Right now it looks like certainly 30 percent, so there is 3 million.

The only thing we are really medically thinking we can develop is some sort of medicine that will be taken regularly by injection or orally that will hold down the breakout potential, as diabetics must take medicines for the rest of their lives or epileptics have to take some medicine.

So we are facing a major public health problem, and it has already been politicized. that is the problem. It has been politicized by taking a sexual proclivity and trying to elevate it to the standard of women's rights, black rights, Hispanic rights, or any other minority rights.

Mr. Speaker, let me quote something that doctor Louis Pasteur said: "The germ is nothing. The environment is everything."

□ 1330

There are sorts of terrifying viruses around this world, including some in Atlanta that are borne in the air, as was Legionnaire's disease, the first breakthrough find in a new virus in over a quarter of a century.

If the germ is nothing, and there are other horrible viruses out there that have not been discovered yet, the French scientist, Louis Pasteur, said, "Then what is it that has spread AIDS in the United States, the virus itself marching all over?"

No, here is the rough sentence.

This virus has been incubated by sodomy, principally in this country. That is what has spread it; and as long as any Member in this Chamber or anywhere else treats this public health issue as a political subject to be lobbied on by certain groups in this country, then it is going to be politicized and tear us apart.

Let us work together with public health as our main focus giving no special privilege to any group, starting with the ridiculous abuse of the English language, taking an adjective which started 15 years ago as a public-relations ploy for male homosexuals to tell this country that their lifestyles, all the way down to the high schools, it is happier, more cheerful, more gay than any other lifestyle.

It is sadly right now what is happening to them, and let us start by banning that word from this House floor. It is not a gay movement, but a sad movement of homosexuals who are being crushed by a health plague that will have nothing to do with homosexuals.

It will be universal throughout the whole population of the United States, and is something we better approach with cold medical science and logic.

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

Mr. DANNEMEYER. Mr. Speaker, I yield to the gentleman from Arkansas [Mr. ANTHONY].

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

We should not let anybody in our office that wants to lobby us on this issue, so I have got to tell the public service sector that the gentleman from California [Mr. DANNEMEYER] that is trying to help with this bill that they cannot come into my office and give me their viewpoint, or let the AMA come into my office and give me their viewpoint. They have been in my office, and said, "Congressman, vote for research, give money to the medical profession. Let the scientists look in their little microscopes, find the cure, find the vaccines."

I hope you are telling me to let those people come in and work with us on it. That is what the Democrats stand for, to try to find a cure to it.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

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

Mr. DORNAN of California. I thank the gentleman for yielding.

The top doctor said we are not going to find a cure, only find medicine to hold it down. Of course, we want the medical people to come in and lobby us. Do not let male homosexual groups tell the Democratic Party at your convention in Atlanta that they should be given special treatment as far as testing, any other approach to this disease, that we will not extend to communizers, people who are carrying around syphilis, chlamydia, none of which is fatal. They have a VD, they lobby on it. Do not let it be associated with syphilis.

It is syphilis exactly only it is always fatal and that is why we are tearing ourselves apart, just starting to politically.

Let us be lobbied by even the homosexual groups but do not let them tell us to give them special privilege, call them gays and act like they are not crying at all their celebrations because this plague is cutting through them first, and all the rest of us, including our subteens as they grow into the biggest high-risk group in the country.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

I would like to point out to the gentleman from Arkansas, the possibility of finding a vaccine or cure for AIDS between now and the year 2000 is very remote. Surgeon General Koop has alluded to that; Dr. Bowen has stated that very clearly many times, that the possibility of a cure or vaccine between now and the year 2000 is virtually not in the cards.

Second, if we are going to deal with this pandemic, as the gentleman in the well said so eloquently earlier today, we are going to have to get on with a massive testing program. Dr. Salzburg, to whom he alluded a moment ago, has projected through his computer model that 5 million people are going to be dead or dying by the year 1995 and 14 million people are going to be carrying this dread disease by 1995 if we do not get on with a testing program, and that is testing almost everybody in this country from age 6 to 65, and if we do not do it, we are going to have these figures staring us in the face in a short period of time, and the cost economically is going to be astronomical.

We have deficit problems now, but nothing compared to what we will face if we do not deal with this pandemic, so I say to the gentleman from Arkansas, waiting on a vaccine, some kind of a cure is something we do not have the luxury of time to do.

We have to get on with the testing, and I congratulate the gentleman from California for taking this precious time to come down and explain this to the American people.

This is vital. If we do not start testing by 1990, we will face the problems like last night on the "60 Minutes" show. In Uganda an entire generation will be wiped out by the turn of the century, because they have no way to deal with it.

Mr. DANNEMEYER. The gentleman from Arkansas [Mr. ANTHONY] could exhibit good faith on behalf of the Democratic Congressional Campaign Committee if the gentleman would correct something in the letter of the gentleman from Michigan [Mr. WOLPE] to the 53 Members of the House, mentioned in the memorandum, which made reference to the alleged author, Charles Rund, as being the source of this intelligence about this Member from California.

I think the fair thing, if the gentleman wants to exhibit good faith, is to send out another letter and say that Mr. Rund denies having written this memorandum in which I am mentioned.

We do not know who wrote it, but we should advise you that if you want to make any additional use of it, you should be aware of the fact that an anonymous source prepared it, and is seeking to create the impression that Rund wrote it and is accountable for it, and that is not the case.

I wanted to straighten that out.

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

Mr. DANNEMEYER. I yield to the gentleman from Arkansas.

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

Let the record be very clear that the Congressional Campaign Committee on the Democratic side at no time has alleged that he in truth in fact was the author of this report, and no letters went out over my signature stating that, or no interviews that I conducted.

Mr. DANNEMEYER. Mr. Speaker, reclaiming my time, there is a letter dated November 5, 1987, in which the gentleman from Michigan [Mr. WOLPE] says:

> I wanted to share with you a very troubling memorandum that recently crossed my desk. A "confidential note," authored by Charles Rund, President Reagan's deputy campaign manager for polling in 1984, lays out the elements of a Republican plan to attack * * *.

Mr. ANTHONY. Mr. Speaker, I have no control over that Member, just like I have no control over that man.

I hope the gentleman from Michigan [Mr. WOLPE] is watching.

I am telling the gentleman from California [Mr. DANNEMEYER] that as chairman of the Democratic Congressional Campaign Committee, I did not do that. The gentleman cannot find one letter that I have written or one interview that I have given where I did not explicitly say I do not know if it is true, but I always said if it is true, then it should not be politicized.

When it comes to testing, I am willing to sit down and talk about testing and am in support of a bipartisan effort.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Such rollcall votes, if postponed, will be taken today at the conclusion of legislative business.

ENCOURAGING USE OF PROGRAM CROP ACREAGE TO CREATE GAME AND WILDLIFE HABITAT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2752) to encourage the use of program crop acreage for the purpose of creating game and wildlife habitats, feeding areas, and sanctuaries by protecting farm program crop base acreage and program payment yields, as amended.

The Clerk read as follows:

H.R. 2752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective for the 1988, 1989, and 1990 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end of title V the following new section:

"Sec. 510. (a) Notwithstanding any other provision of this Act, the Secretary shall establish a program, as provided in this section, to encourage the use of program crop acreage for the purpose of creating game and wildlife habitat, game and wildlife feeding or forage areas, or wildlife sanctuaries.

"(b)(1) On written notice given the Secretary, the owner or operator of a farm for which a program crop acreage base has been established for a crop year shall be allowed to use a portion or all of such program crop acreage base to create game or wildlife habitat, game and wildlife feeding or forage areas, or wildlife sanctuaries.

"(2) Acreage within the base so used shall—

"(A) be counted toward satisfaction of any acreage reduction requirement under an acreage limitation program (and be considered to be devoted to conservation uses under such program) in effect for any crop year for any program crop for which a crop acreage base has been established for the farm;

"(B) to the extent acreage so used exceeds any requirement for the farm under one or more acreage limitation programs in effect for any crop year, be considered to be devoted to conservation uses under any paid diversion program in effect for that crop year under the program applicable to the program crop that was most recently planted on such acreage prior to its use under this section; and

"(c) to the extent acreage so used exceeds any requirement for the farm under one or more acreage limitation programs in effect for any crop year, plus the number of acres on the farm eligible for a paid diversion program for that year as described in paragraph (2), be considered as having been planted to the program crop that was most recently planted on such acreage prior to its use under this section, for the purpose of preserving the farm acreage base and the program crop base acreage of the farm.

"(c) The owner or operator of a farm who has used acreage within a program crop acreage base for the farm as provided in this section shall be allowed to resume program crop production on such acreage in accordance with any applicable commodity program requirements following written notice of such intention by the owner or operator to the Secretary at least one hundred and twenty days in advance.

"(d) The Secretary, by regulation, shall ensure, insofar as practicable, that (1) the program under this section does not result in any increased production of commercial agricultural commodities for harvest on any farm on which the owner or operator thereof has used acreage within a program crop acreage base for the farm as provided in this

section, and (2) such use does not in any respect increase the total amount of commodity program loans or payments to producers on a farm above the level to which the producers would otherwise be entitled.".

The SPEAKER pro tempore. Is a second demanded?

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

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

There was no objection.

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

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

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

Mr. Speaker, I move to suspend the rules and pass H.R. 2752, as amended, a bill to encourage farm owners and operators to use their program crop acreage for the purpose of creating game and wildlife habitat, feeding areas, and sanctuaries.

H.R. 2752 was introduced by our colleague, Mr. MARLENEE, on June 23, 1987. The bill directs the Secretary of Agriculture to establish a program to encourage producers of wheat, feed grains, upland cotton, and rice to devote some or all of their cropland to wildlife purposes. Under this program, a farm owner or operator would provide written notice to the Secretary that he or she desires to convert a portion of their program crop acreage to game or wildlife habitat, feeding areas, or sanctuaries. Lands so converted would first be counted toward satisfaction of any acreage reduction program in effect that year for the particular crop affected. If the acreage set-aside for wildlife exceeds the acreage reduction requirements, then it can also be counted toward any paid diversion program in effect. Finally, once the amount of cropland idled to satisfy these acreage limitation programs has been satisfied, H.R. 2752 would permit additional acres idled for wildlife to be considered as having been planted to the appropriate program crop. In this way, H.R. 2752 would not penalize farmers for converting added acres to wildlife habitat by preserving the farm's program crop base acreage. It is the base acreage which is used to determine how many acres of cropland on the farm will be eligible for program benefits in succeeding crop years.

H.R. 2752 would also permit farm owners or operators to resume program crop production on lands previously converted to wildlife use, by simply providing the Secretary with written notice at least 120 days in advance.

In 1987, nearly 53 million acres of program crop acreage has been idled by acreage programs and paid diversion. Although these lands must be devoted to conservation purposes as a part of these acreage limitation programs, their benefit to wildlife has been limited in the past. In fact, in instances where these lands are set-aside and then mowed or otherwise disturbed annually, damage to wildlife can occur. H.R. 2752 would permit farmers to use their ilded cropland for a broader range of conservation purposes than they can at present.

Under provisions of the Food Security Act of 1985, the Secretary of Agriculture already has the authority to devote lands that are taken out of crop production to wildlife food plots or wildlife habitat in accordance with standards set in consultation with wildlife agencies. However, this authority has not been utilized. H.R. 2752 would direct the Secretary to establish such a program. In addition, H.R. 2752 would permit farm owners and operators the added alternative of converting program crop acreage to wildlife purposes, without penalty, even if this land would not have to be idled according to program requirements.

In developing the program authorized by H.R. 2752, the Secretary is encouraged to exercise broad flexibility in identifying the types of forage or feed crops that may be established on these lands. However, the Secretary shall ensure that such crops are not harvested for commercial use or grazed by domestic farm animals. In drafting regulations to implement this program, the Secretary has been directed to consult with officials of appropriate State and Federal fish and wildlife agencies. Similar consultation with State wildlife agency officials is to occur at the local level to ensure that farmers have the benefit of professional wildlife advice in implementing the program.

In addition, the Secretary is strongly encouraged to promote the use of multiyear set-aside contracts for program acreage devoted to wildlife habitat, feeding areas, or sanctuaries under H.R. 2752. Authority for multiyear set-asides was given to the Secretary in accordance with section 1010 of the Food Security Act of 1985. Under this provision of the law, such areas are to be devoted to vegetative cover capable of maintaining itself through the contract period. Multiyear set-asides which provide vegetative cover for several years afford considerably more benefit to wildlife than areas that are annually mowed or otherwise disturbed.

The program authorized by H.R. 2752 is intended to allow program crop acreage that might otherwise be idled or planted to program crops to be converted to use for the benefit of wildlife. It is not intended to increase farm program costs nor the total amount of farm program payments to which the owner or operator of a farm would otherwise be entitled.

Mr. Speaker, I join my colleague, Mr. MARLENEE, and the other cosponsors of H.R. 2752 to urge its immediate passage by the House.

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

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

Mr. Speaker, the bill under consideration, H.R. 2752, was introduced in June by Mr. LINDSAY THOMAS, of Georgia, and myself, along with 10 other cosponsors. The legislation will simply provide farmers some added flexibility in planning their long-term operations, and at the same time will encourage better conservation practices and stimulate and enhance wildlife populations. This legislation will not result in any cost to the Government, and may in fact result in some small savings over the next several years. America's farm and ranch operators have established a record of good stewardship of our natural resources. But in some instances, our own government farm programs work at cross purposes by requiring that a farmer must plant a given percentage of his acreage to a given commodity each year, or else lose part or all of his eligibility to participate in price support activities. Obviously, a farm with established program eligibility has a much higher value per acre than one which does not have already established eligibility. Thus, present law would penalize a farmer who does not plant the proper program crop on all of the allowable acreage on his farm in any given year.

This legislation simply removes that potential penalty in an effort to encourage farm operators to devote a portion of their operation to wildlife habitat and feeding areas on at least a semipermanent basis.

Mr. Speaker, I think this bill makes an important contribution to our efforts to make wise use of our many natural resources. It is a sensible, timely effort, and I urge my colleagues to give this measure their full support. As I indicated earlier, there is no cost associated with the passage and implementation of this provision, and there is language in the bill which expressly prohibits any increased expenditures due to an election by the producer to convert acreage for wildlife habitat and feeding.

Mr. THOMAS of Georgia. Mr. Speaker, it is with great pleasure that I join my colleague from Montana in support of a bill he conceived, which will encourage farmers to place crop acreage into noncrop use. This bill will allow farmers to put cropland into approved wildlife usage, such as feeding or forage

areas. They would not lose their crop base, which is used to determine Government benefits.

Such a plan will enable farmers to idle land, but leaves the door open should the farmer decide to return the acreage to production in subsequent years. By doing so, we will enhance wildlife habitat, while at the same time remove land from production at no expense to the Government.

Last year, the 1985 farm bill cost the Government nearly $26 billion. Of that figure, $13.1 billion went to farmers in payments for diversion, deficiency, disaster, and marketing loans. As of March 31, 1987, the Government was holding surplus commodities worth $14.7 billion.

Clearly there is a need for incentives to farmers to reduce the country's enormous production which has resulted in these Government outlays. The legislation proposed today will result in the diversion into noncorp use of land that previously had contributed to the huge stocks of surplus currently being held by the Government.

By no means will this incentive for crop reduction be a panacea for our farm crisis. It is but one step. But is does reflect the kind of innovative thinking that can, in time, revitalize our farm programs and give the American farmer a chance to revitalize American agriculture.

I am hopeful that the House will carefully review this proposal and join Mr. MARLENEE and myself in support of this cost-saving measure.

Mr. SCHULZE. Mr. Speaker, I rise in support of this bill, which allows farmers to convert a portion of their cropland for the purpose of planting shrubs, trees, and other cover to provide a habitat for game animals and wildlife. Such wildlife areas will count toward acreage-reduction or crop set-aside requirements. Furthermore, base acreage for the particular crop on the farm would not be reduced for failure to replant on the area converted to feeding or habitat.

Additionally, this measure builds on the notion that, by limiting production or removing excess supplies from the market, the Government can hold down the cost of price-support and direct-payment programs.

H.R. 2752 is to be lauded as a creative and imaginative approach toward addressing the problems of underutilized acreage. I strongly urge passage of this bill.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2752, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. SOLOMON. 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. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

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PARLIAMENTARY INQUIRIES

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, according to the colloquy with the leadership on both sides last Thursday, if we were to request the yeas and nays then the votes would be postponed until the end of the day. Is that what is happening?

The SPEAKER pro tempore. That is correct.

Mr. SOLOMON. Mr. Speaker, My parliamentary inquiry was that I first asked for the yeas and nays, and according to the agreement between the majority and the minority the Speaker was supposed to then put the vote over until the end of the day.

The SPEAKER pro tempore. When the gentleman put the request, the Chair asked if a sufficient number had risen to order the yeas and nays. A sufficient number did not rise.

Then the gentleman objected to the vote for lack of a quorum and the Chair has ruled that at the close of business today when the Chair puts the question de novo if the gentleman desires he might again object to the vote on this bill at the appropriate time in today's proceedings. At this time the vote will be postponed on this matter until later today, pursuant to the announcement made earlier today by the Chair.

Mr. SOLOMON. Mr. Speaker, A further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. How many Members are required to stand for a recorded vote?

The SPEAKER pro tempore. One-fifth of those present, for the yeas and nays, and the Chair did not count a sufficient number standing.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, how many Members were in the Chamber at that point?

The SPEAKER pro tempore. The Chair observed only two Members who stood at that time.

Mr. WALKER. Well, Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, there were three of us standing. I stood, the gentleman from Minnesota [Mr. FRENZEL] and the gentleman from New York [Mr. SOLOMON] were standing. That means there would have to have been 15 Members in the Chamber at that time. This gentleman could count only 12. Did the Chair have a larger count than that?

The SPEAKER pro tempore. Well, the Chair has ruled that a sufficient number did not rise at the moment the gentleman requested the yeas and nays.

Mr. WALKER. Well, Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, if there are 3 Members standing and only 12 Members in the Chamber, is that not a sufficient number to get the yeas and nays?

The SPEAKER pro tempore. It is the prerogative of the Chair to make the count, not a Member.

The gentleman's rights have been preserved. There will be a vote de novo on this matter.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2752, the bill previously considered.

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

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The Chair will take the parliamentary inquiry.

Mr. MARLENEE. Mr. Speaker, we have two Members who wish to speak on the bill and we need a unanimous-consent request that their remarks appear in the RECORD at the close of the debate. At what point do we request that unanimous consent?

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] has made that request. Those remarks can be put in the RECORD, without objection.

DESIGNATING THE KERN RIVER AS A NATIONAL WILD AND SCENIC RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 247) to designate the Kern River as a national wild and scenic river.

The Clerk read as follows:

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) (A) NORTH FORK KERN RIVER, CALIFORNIA. The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled 'Kern River Wild and Scenic River—Proposed' and dated June 1987; to be administered by the Secretary of Agriculture; except that portion of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portion of the river segment designated by this paragraph which is within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portion need not be published in the Federal Register. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segment.

"(B) SOUTH FORK KERN RIVER, CALIFORNIA.—The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness is in the Sequoia National Forest, as generally depicted on a map entitled 'Kern River Wild and Scenic River—Proposed' and dated June 1987; to be administered by the Secretary of Agriculture.

"(C) Nothing in this Act shall affect the continued operation and maintenance of the existing diversion project, owned by Southern California Edison on the North Fork of the Kern River, including reconstruction or replacement of facilities to the same extent as existed on the date of enactment of this paragraph.

"(D) For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $100,000, to the Secretary of Agriculture for development and land acquisition.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 247, the Senate bill now being considered.

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

There was no objection.

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

Mr. Speaker, S. 247 contains language to designate segments of both the north fork and south fork of the Kern River in California as components of the National Wild and Scenic River System. This language is nearly identical to language proposed by our colleague, CHIP PASHAYAN, in the bill H.R. 4350 which passed the House last Congress. The Senate, with the support of both California Senators, passed S. 247 on October 1, 1987.

The North Fork Kern River contains the longest stretch of free-flowing river mileage in the Sierra Nevada Mountains. The North Fork Kern was recommended for inclusion in the Wild and Scenic River System by the Forest Service after it was determined to possess outstandingly remarkable visual, geological, cultural, historical, vegetation, wildlife, recreation, and fisheries value.

The North Fork Kern River flows almost due south and has a 10,000-foot drop in elevation from the headwaters on the slopes of Mount Whitney to Isabella Reservoir, 83 river miles away. The changes in altitude are accompanied by a wide diversity of vegetation zones ideal for a wide range of wildlife.

The North Fork Kern River is a glaciated canyon and may be the longest such valley in the Nation. The upper river is free-flowing for over 61 miles, and has numerous waterfalls and natural lakes. The Big and Little Kern Lakes, formed by natural landslides, have been used by scientists to study the natural stages in the life of a lake. The upper 47 miles of the North Fork Kern lie within Sequoia National Park and the Golden Trout Wilderness Area, and are currently managed as a wilderness resource. The lower river, from Johnsondale Bridge downstream to the Tulare-Kern County line, is about 17 miles and is heavily used at the present time as a recreational river. This portion of the river has easy access and is only about 3½ hours by auto from the populous Los Angeles Basin. The area has almost 250,000 visitors annually.

The South Fork Kern River is totally free-flowing and descends through steep gorges with large granite outcroppings and domes interspersed with open meadows. Numerous waterfalls and rapids are located in the gorges. The river alternately passes through from perpendicular-walled gorges to flat pinyon-juniper-sagebrush meadows. The area has dramatic diversity in vegetation and riparian habitat. Several rare species and a premium trout fishery exist in the upper reaches of the river. Also, numerous historic and prehistoric sites are within the corridor. Thirteen miles of the Pacific Crest Trail parallel the South Fork Kern River.

Mr. Speaker, this bill would designate two outstanding rivers to be wild and scenic and I urge my colleagues to join me in support of this legislation.

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

Mr. Speaker, I rise in strong support of S. 247, to designate segments of the north and south forks of the Kern River in California as components of the National Wild and Scenic Rivers System.

Under the provisions of S. 247, approximately 78.5 miles of the north fork of the Kern River from its headwaters in the Sequoia National Park to the Tulare-Kern County line would be designated as wild and scenic. The bill would also designate as wild and scenic about 72.5 miles of the south fork of the Kern form its headwaters in the Inyo National Forest to the southern boundary of the Dome Land Wilderness in the Sequoia National Forest.

The National Park Service would manage the portion of the river within the Sequoia National Park and the Forest Service would be responsible for management of the remainder of the river which flows almost entirely through National Forest land, including the Golden Trout and South Sierra Wilderness Areas. The bill also clarifies that the designation can in a way affect the continued operation and maintenance of the existing Southern California Edison diversion project on the lower north fork of the river.

Mr. Speaker, there is no question that these river segments meet the criteria of the Wild and Scenic Rivers Act for designation as wild and scenic. The Kern River is known for containing the longest stretch of free-flowing river mileage in the Sierra Nevada Mountains. It has also been determined by the Forest Service to possess outstandingly remarkable scenic, geologic, cultural, historic, vegetative, wildlife, fish, and recreation values. After extensive studies by the Sequoia National Forest, the Forest Service has recommended wild and scenic designation for nearly the entire north and south forks of the Kern River.

The segments of the Kern River to be designated under S. 247 are known for their outstanding beauty due in part to the wide diversity of vegetation, numerous waterfalls and natural lakes, steep gorges, and open meadows. The river corridor provides important habitat for the bald eagle, peregrine falcon, wolverine, and golden trout. Several historic and prehistoric sites are located along the south fork of the river which is also paralleled for 13 miles by the Pacific Crest Trail.

The lower stretch of the north fork is heavily used as a recreational resource due to its easy access and close proximity to the populous Los Angeles Basin. In fact, many of my constituents have participated in recreational activities on the river including rafting, camping, hiking, and fishing.

Since there is extensive development of this segment of the river and several private inholdings, some concern was expressed regarding its proposed designation as wild and scenic. However, I believe it is important to note that current uses of the land in the river corridor would be allowed to continue, including grazing, tourist activity, and so forth. With regard to the mining claims in the area, provisions in the Wild and Scenic Rivers Act provide conditions for mining development in river corridors. Furthermore, the Forest Service has indicated that wild and scenic designation of this river segment would not significantly affect current management other than the possible acquisition of scenic easements. Provisions in the Wild and Scenic Rivers Act provide that no fee title acquisition of private lands by condemnation would be allowed along this segment since over 50 percent of the land in the river corridor is already federally owned.

Mr. Speaker, I want to commend my colleagues from California, Mr. PASHAYAN in whose district the proposed wild and scenic river lies, and Mr. THOMAS, who represents several landowners along the river, for working with other interested Members and the subcommittee chairman to resolve the conflicts concerning designation of the lower stretch of the north fork. I certainly appreciate their efforts as well as those of the subcommittee chairman, Mr. VENTO, to address the Member's concerns through appropriate report language and floor debate. Should problems arise in the future on this stretch of the river following its designation as wild and scenic, I would certainly be willing to work with Representative THOMAS again to resolve any conflicts.

Mr. Speaker, the Kern River deserves the permanent protection which S. 247 will provide. Designation of the Kern through congressional passage of this legislation will provide southern California with its first wild and scenic river. Therefore, I urge all of my colleagues to approve S. 247.

Mr. VENTO. Mr. Speaker, I do want to commend the gentleman from California [Mr. LAGOMARSINO] for his work on this national wild and scenic river and the other measures that our subcommittee has passed this year. We really have done a remarkable job in terms of trying to come together, in terms of the Merced River and the Kings River and now, the Kern River, the north and south fork of the Kern. The Kern is certainly a spectacular river. This is a very, very significant action; it represents an important step and addition to the Wild and Scenic River System.

I certainly concur in the remarks made by the gentleman concerning the limitation of the law regarding these measures, with regard to ownership and with regard to utilization. It obviously is a magnificent and important resource and one I hope we can move forward with and see this measure enacted into law.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 247.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RAILROAD UNEMPLOYMENT INSURANCE AND RETIREMENT IMPROVEMENT ACT OF 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2167) to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under that act, to increase the maximum daily benefit provided under that act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2167

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Unemployment Insurance and Retirement Improvement Act of 1987".

SEC. 2. REFERENCES TO RAILROAD UNEMPLOYMENT INSURANCE ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Railroad Unemployment Insurance Act.

SEC. 3. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. References to Railroad Unemployment Insurance Act.
Sec. 3. Table of contents.

TITLE I—FINANCING PROVISIONS

Sec. 101. Amendments relating to definition of "compensation".
Sec. 102. Contribution adjustments.
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TITLE II—BENEFIT AND OTHER ADJUSTMENTS

Sec. 201. Waiting period for benefits and benefit increases.
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Sec. 203. Increase in maximum permitted subsidiary remuneration.

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Sec. 301. Additional lump sum payment in certain cases.
Sec. 302. Deletion of last person service as a disqualification.
Sec. 303. Earnings of disability annuitants.
Sec. 304. Allowance of credit for military service.

TITLE I—FINANCING PROVISIONS

SEC. 101. AMENDMENTS RELATING TO DEFINITION OF "COMPENSATION".

(a) IN GENERAL.—Section 1(i) is amended—

(1) by inserting "(1) IN GENERAL.—" after "(i)";

(2) by striking out ": *Provided, however,* That in computing" and all that follows through "1983, shall be recognized." and inserting in lieu thereof ", except that in computing the compensation paid to any employee, no part of any month's compensation in excess of the monthly compensation base (as defined in subdivision (2)) for any month shall be recognized."; and

(3) by adding at the end thereof the following new subdivision:

"(2) MONTHLY COMPENSATION BASE.—

"(A) IN GENERAL.—For purposes of subdivision (1), the term 'monthly compensation base' means the amount—

"(i) of $400 for calendar months before January 1, 1984;

"(ii) of $600 for calendar months after December 31, 1983 and before January 1, 1988; and

"(iii) computed under subparagraph (B) for months after December 31, 1987.

"(B) COMPUTATION.—

"(i) IN GENERAL.—The amount of the monthly compensation base for each calendar year beginning after December 31, 1987, is the greater of—

"(I) $600; or

"(II) the amount, as rounded under clause (iii) if applicable, computed under the formula:

$$B=600\left(1+\frac{A-37{,}800}{56{,}700}\right)$$

"(ii) MEANING OF SYMBOLS.—For the purposes of the formula in clause (i)—

"(I) 'B' is the dollar amount of the monthly compensation base; and

"(II) 'A' is the amount of the applicable base with respect to tier 1 taxes, for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1986.

"(iii) ROUNDING RULE.—If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such rounding being upward in the event the amount computed is equidistant between two multiples of $5.".

(b) CONFORMING AMENDMENT WITH RESPECT TO SUBSIDIARY REMUNERATION RULE.—Section 1(k) is amended by striking out "$1,500" and inserting in lieu thereof "an amount that is equal to 5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act".

(c) CONFORMING AMENDMENT WITH RESPECT TO LIMITATION ON TAKING ACCOUNT OF MONEY REMUNERATION.—Section 2(c) is amended by striking out "not in excess of $775 in any month shall be taken into ac-

count:" and inserting in lieu thereof "shall be taken into account that is not in excess of $775 in any month before 1988 and, in any month in a base year after 1987, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600:".

(d) CONFORMING AMENDMENTS WITH RESPECT TO REQUIRED COMPENSATION AMOUNT.—Section 4(a-2)(i)(A) is amended—

(1) by striking out "$1,500" and inserting in lieu thereof "$3,000"; and

(2) by striking out the semicolon at the end and inserting in lieu thereof "and before 1988 or, if any part of such compensation is paid in a calendar year after 1987, not less than an amount that is equal to 5 times the monthly compensation base for months in such calendar year, as computed under section 1(i) of this Act;".

(e) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—Section 12 is amended by adding at the end the following new subsection:

"(r) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—

"(1) COMPENSATION BASE.—On or before December 1, 1987, and on or before December 1 of each year thereafter, the Board shall compute—

"(A) in accordance with section 1(i), the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

"(B) the amounts described in section 1(k), section 2(c), section 3, and section 4(a-2)(i)(A) that are related to changes in the monthly compensation base.

"(2) MAXIMUM DAILY BENEFIT RATE.—On or before June 1, 1988, and on or before June 1 of each year thereafter, the Board shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

"(3) NOTICE IN FEDERAL REGISTER AND TO EMPLOYERS.—Not later than 10 days after each computation made under this paragraph, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 102. CONTRIBUTION ADJUSTMENTS.

(a)(1) EMPLOYER CONTRIBUTIONS AND EXPERIENCE RATING.—Section 8 is amended by striking out "(a) Every employer" and all that follows through the end of subsection (a) and inserting in lieu thereof the following:

"(a) EMPLOYER CONTRIBUTION.—

"(1) IN GENERAL.—

"(A) GENERAL RULE.—

"(i) CONTRIBUTION RATE GENERALLY.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C), or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i).

"(ii) MULTIPLE EMPLOYER LIMITATION.— If compensation is paid to an employee by more than one employer in any calendar month—

"(I) the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of such monthly compensation base; and

"(II) each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all such employers to such employee.

In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

"(B) TRANSITIONAL RULE.—

"(i) 1ST AND 2D CALENDAR YEARS.—Except as provided in clause (vi), with respect to compensation paid in calendar years 1988 and 1989, the contribution rate shall be 8 percent.

"(ii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar year 1990, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R = \frac{2A+B.}{3}$$

"(iii) 4TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1991, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R = \frac{2A+2C.}{3}$$

"(iv) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A' is the contribution rate determined under clause (i);

"(III) 'B' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1990; and

"(IV) 'C' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1991.

"(v) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), if more than the maximum contribution limit computed under paragraph (20) shall not be reduced to that limit; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period beginning on January 1, 1989, and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

(vi) SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS.—With respect to each of calendar years 1988 and 1989, the contribution of an employer which on the date of the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987 is a publicly funded and publicly operated carrier providing rail commuter service shall be equal to the amount of benefits attributable such carrier, plus an amount equal to 0.65 percent of the total compensation paid by that employer in that year on which that employer's contribution would be based under clause (i) if such employer's contribution were determined under that clause.

"(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in a calendar year that begins after December 31, 1991, the contribution rate for each employer shall be determined as follows:

"(i) STEP 1.—Compute the employer's benefit ratio as of the preceding June 30 to 4 decimal points in accordance with paragraph (2).

"(ii) STEP 2.—Subtract the employer's reserve ratio as of the preceding June 30 as computed to 4 decimal points in accordance with paragraph (4).

"(iii) STEP 3.—Subtract the pooled credit ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (12).

"(iv) STEP 4.—Multiply by 100 the total arrived at under the steps set forth in clauses (i) through (iii) so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under such steps is 0 or less than 0, the percentage rate as so computed shall be 0.

"(v) STEP 5.—Add 0.65 to the percentage rate arrived at under clause (iv), representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

"(vi) STEP 6.—Add the surcharge rate for the calendar year, if any, as computed under paragraph (14).

"(vii) STEP 7.—Add the pooled charge ratio for the calendar year, if any, as computed to 4 decimal points under paragraph (13) and multiplied by 100.

"(viii) STEP 8.—Reduce the percentage rate computed in accordance with the preceding steps to the maximum contribution limit computed under paragraph (20), if such rate is higher than such limit. The rate computed in accordance with the preceding steps, after any reduction under this clause, is the contribution rate.

"(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after December 31, 1988, shall be determined as follows:

"(i) 1ST CALENDAR YEAR.—With respect to compensation paid in calendar months before the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the 3 calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined—

"(I) by dividing the aggregate contributions paid by all employers under this subsection in those 3 calendar years by the aggregate compensation with respect to which such contributions were paid; and

"(II) by multiplying the resulting ratio as computed to 4 decimal points by 100.

"(ii) 2D CALENDAR YEAR.—With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R = \frac{2(A2)+B.}{3}$$

"(iii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R = \frac{A3+2C}{3}$$

"(iv) SUBSEQUENT CALENDAR YEARS.—With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

"(v) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A1' is the contribution rate determined under clause (i) for such employer's first full calendar year;

"(III) 'A2' is the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year;

"(IV) 'A3' is the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been such employer's first full calendar year;

"(V) 'B' is the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and

"(VI) 'C' is the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year.

"(vi) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), shall not be reduced under clause (viii) of that subparagraph; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter that begins after the date on which the employer first commenced paying compensation subject to this Act and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

"(2) BENEFIT RATIO.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under paragraph (15) during the 12 calendar quarters ending on such June 30 by the employer's 3-year compensation base as of such June 30 as computed under paragraph (3).

"(3) 3-YEAR COMPENSATION BASE.—An employer's 3-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

"(4) RESERVE RATIO.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed under paragraph (6), by that employer's 1-year compensation base as of such June 30, as computed under paragraph (5). The employer's reserve ratio may be either a positive or a negative figure, depending upon whether the employer's reserve balance is a positive or negative figure.

"(5) 1-YEAR COMPENSATION BASE.—An employer's 1-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 4 calendar quarters ending on such June 30.

"(6) RESERVE BALANCE.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed under paragraph (7), from the employer's net cumulative contribution balance as of such June 30, computed under paragraph (8). An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

"(7) CUMULATIVE BENEFIT BALANCE.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding—

"(A) the net amount of the benefits charged to the employer under paragraph (15) on or after January 1, 1989; and

"(B) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed under paragraph (9).

"(8) NET CUMULATIVE CONTRIBUTION BALANCE.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

"(A) STEP 1.—Compute the sum of

"(i) all contributions paid by the employer pursuant to this subsection;

"(ii) that portion of the tax imposed under section 3321(a) of the Internal Revenue Code of 1986 that is attributable to the surtax rate under section 106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987; and

"(iii) any taxes paid by the employer pursuant to section 3321(a) of the Internal Revenue Code of 1986 (after the outstanding balance of loans made under section 10(d) before October 1, 1985, plus interest, have been paid);

on or after January 1, 1989.

"(B) STEP 2.—Subtract an amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i).

"(C) STEP 3.—Add an amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under paragraph (1)(C)(iii).

"(9) UNALLOCATED CHARGE.—An employer's unallocated charge as of any given June 30 is the amount that as of such June 30 bears the same ratio to the system unallocated charge balance, computed under paragraph (10), as the employer's 1-year compensation base, computed under paragraph (5), bears to the system compensation base computed under paragraph (11).

"(10) SYSTEM UNALLOCATED CHARGE BALANCE.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

"(A) STEP 1.—Compute the aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d), during the 4 calendar quarters ending on that June 30.

"(B) STEP 2.—Add the aggregate amount of any additions to the system unallocated charge balance specified in paragraphs (15) and (16), during that period.

"(C) STEP 3.—Add the aggregate amount of any other expenditures by the account during that period not chargeable to any individual employer under paragraph (15) or to the fund under section 11.

"(D) STEP 4.—Subtract the aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii), during that period.

"(E) STEP 5.—Subtract the aggregate amount of all transfers to the account, pursuant to section 11(d), during that period.

"(F) STEP 6.—Subtract the aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances.

"(G) STEP 7.—Subtract the net cumulative contribution balance of each employer whose balance has been cancelled pursuant to paragraph (16), during that period, calculated as of the date of such cancellation.

"(11) SYSTEM COMPENSATION BASE.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the 1-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with paragraph (5), as of such June 30.

"(12) POOLED CREDIT RATIO.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

"(A) STEP 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1990, as computed in accordance with paragraph (11).

"(B) STEP 2.—If there is such an excess amount, divide that excess amount by the system compensation base as of the June 30 preceding the calendar year. The result is the pooled credit ratio for the calendar year.

"(13) POOLED CHARGE RATIO.—The pooled charge ratio, if any, for a calendar year shall be determined as follows:

"(A) STEP 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 under paragraph (1)(C) was greater than the maximum contribution limit computed under paragraph (20), multiply the employ-

er's 1-year compensation base as of the preceding June 30, as computed in accordance with paragraph (5), by the difference between—

"(i) the percentage rate determined under subparagraph (B), (C), or (D) of paragraph (1) before the reduction to the maximum contribution limit; and

"(ii) the maximum contribution limit.

"(B) STEP 2.—Add the amounts arrived at under step 1 so as to obtain an aggregate amount for all such employers.

"(C) STEP 3.—For each employer whose contribution rate as computed through step 3 under paragraph (1)(C) was less than 0, the percentage rate by which such employer's rate was raised in order to bring that rate to 0 shall be multiplied by that employer's 1-year compensation base as of the preceding June 30. Subtract the total of the amounts computed under the preceding sentence for all employers from the amount arrived at in step 2.

"(D) STEP 4.—Divide the aggregate amount arrived at under step 3 by the system compensation base as of the preceding June 30 as computed under paragraph (11) minus the one-year compensation base of those employers whose rates computed through step 6 of paragraph (1)(C) exceeded the maximum contribution rate computed under paragraph (20). The result is the pooled charge ratio for the calendar year.

"(14) SURCHARGE RATE.—The surcharge rate for a calendar year, if any, shall be determined as follows:

"(A) STEP 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. There will be a surcharge rate for the calendar year only if that balance is less than the greater of $100,000,000 or of the amount that bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1990, as computed in accordance with paragraph (11).

"(B) STEP 2.—(i) If the balance to the credit of the account is less than the greater of the amounts referred to in the 2nd sentence of step 1 but is equal to or more than the greater of $50,000,000 or of the amount that bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1990, then the surcharge rate for the calendar year shall be 1.5 percent.

"(ii) If the balance to the credit of the account is less than the greater of the amounts referred to in the clause (i), but greater than or equal to zero, then the surcharge rate for the calendar year shall be 2.5 percent.

"(iii) If the balance to the credit of the account is less than zero, the surcharge rate for the calendar year shall be 3.5 percent.

"(15) CHARGEABLE BENEFITS.—

"(A) IN GENERAL.—Beginning January 1, 1989, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance.

"(B) ADJUSTMENTS.—A sum equal to each amount realized in recovery for overpayment, erroneous payment, or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

"(C) MULTIPLE EMPLOYERS.—

"(i) IN GENERAL.—All benefits paid to an employee who had more than 1 base-year employer shall be charged to the cumulative benefit balances of the employee's base year employers—

"(I) in reverse chronological order of the employee's employment with each such employer in the base year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by that employer to the employee in the base year; and

"(II) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employee by all such employers in the base year.

"(ii) SPECIAL RULE FOR EMPLOYER WITH CANCELLED BALANCES.—All benefits chargeable under this subparagraph to an employer for which the Board has cancelled balances under paragraph (16) shall be added to the system unallocated charge balance.

"(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective on the date of the Board's determination, transfer the employer's net cumulative contribution balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance and cancel all other accumulations of the employer.

"(17) INDIVIDUAL EMPLOYER RECORD.—

"(A) IN GENERAL.—As of January 1, 1989, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer.

"(B) DEFINITION.—As used in this paragraph, the term 'individual employer record' means a record of an individual employer's benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

"(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow 2 or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

"(19) MERGERS, CONSOLIDATIONS, OR OTHER CHANGES IN EMPLOYER IDENTITY.—

"(A) WITH OTHER EMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the 2 employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to paragraph (18) or if the Board otherwise determines, pursuant to regulations prescribed by the Board, that such joint treatment is desirable.

"(B) WITH NONEMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another entity that is not an employer, the employer's individual employer record shall attach to the combined entity.

"(C) SALE OF ASSETS.—In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among 2 or more employers or entities, the cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the Board by regulation shall prescribe.

"(D) REINCORPORATION.—The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

"(E) ABANDONMENT.—If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.

"(20) MAXIMUM CONTRIBUTION LIMIT.—The maximum contribution limit with respect to a calendar year is 12 percent, unless a 3.5 percent surcharge under paragraph (14) is in effect with respect to that calendar year. If such a surcharge is in effect the maximum contribution limit with respect to that calendar year is 12.5 percent.

"(21) SPECIAL RULES FOR CERTAIN COMPUTATIONS UNDER PARAGRAPH (1)(C).—(A) Any computation that is to be made under paragraph (1)(C) on the basis of a 12-quarter period ending on a given June 30 shall be made on the basis of a period—

"(i) beginning on the later of—

"(I) January 1, 1989;

"(II) the first day of the first calendar quarter that begins after the date on which the employer first began to pay compensation subject to this Act; or

"(III) July 1 of the third calendar year preceding that June 30; and

"(ii) ending on that June 30.

"(B) The amount computed under subparagraph (A) shall be increased to an amount that bears the same ratio to the amount so computed as 12 bears to the number of calendar quarters on which the computation is based.".

(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Subsection (b) of section 8 is amended to read as follows:

"(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative as is not in excess of the monthly compensation base computed in accordance with sec-

tion 1(i), at a rate which shall be determined under subsection (a) in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.".

(c) EXTENSION OF REMEDIES.—Section 8(h) is amended by adding at the end the following: "The remedies available under the first sentence of this subsection for an employer or employee representative who contests the amount of contributions payable by him shall also apply with respect to a contention that the contribution rate determined by the Board under subsection (a) or (b) to be applicable to such employer or employee representative is inaccurate or otherwise improper.".

(d) BOARD PROCLAMATION OF BALANCE.—Section 8 is amended—

(1) by redesignating subsections (c) through (h) as subsections (f) through (k), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) BOARD PROCLAMATION OF BALANCE.—

"(1) IN GENERAL.—Not later than October 15, 1989, and October 15 of each year thereafter the Board shall proclaim—

"(A) the balance to the credit of the account as of the preceding June 30 for purposes of paragraphs (12) and (14) of subsection (a);

"(B) the balance of any advances to the account under section 10(d) after September 30, 1985, that has not been repaid with interest as provided in such section as of September 30 of that year;

"(C) the system compensation base as of that June 30 as computed in accordance with paragraph (11) of that subsection;

"(D) the system unallocated charge balance as of that June 30, as computed in accordance with paragraph (10) of that subsection; and

"(E) the pooled credit ratio, the pooled charge ratio, and the surcharge rate, if any, as determined under paragraph (12), (13), or (14) of that subsection and applicable in the following calendar year.

"(2) PUBLICATION OF NOTICE.—As soon as is practicable after such proclamation, the Board shall publish notice in the Federal Register of the amounts so determined and proclaimed.

"(d) NOTIFICATIONS BY BOARD.—(1) Not later than the last day of any calendar quarter that begins after March 31, 1989, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accordance with paragraphs (7) and (8) of subsection (a) as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30.

"(2) Not later than October 15, 1989, and October 15 of each year thereafter, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with paragraphs (2), (3), (4), (5), (6), and (9) of subsection (a), and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under paragraphs (1) (B), (C), or (D) of that subsection.

"(e) INFORMATION TO VERIFY ACCURACY TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such information available. The amounts so paid to the Board shall be credited to and deposited in the fund.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 103. ADMINISTRATIVE EXPENSES.

(a) CHANGE IN PERCENTAGE TO BE DEPOSITED IN FUND.—Section 8(i), as so redesignated by section 102(d), is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(b) CONFORMING AMENDMENTS.—(1) Section 10(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(2) Section 11(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid in months beginning after September 30, 1987.

SEC. 104. NOTIFICATION TO EMPLOYER.

(a) IN CONNECTION WITH CLAIM.—Section 5(b) is amended by adding at the end thereof the following: "When a claim for benefits is filed with the Board, the Board shall provide notice of such claim to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.".

(b) IN CONNECTION WITH ADMINISTRATIVE REVIEW.—Section 5(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting at the end of the first paragraph the following: "In any such case the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.";

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by inserting after the second paragraph the following:

"(3) Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination with respect thereto or in a determination after a hearing pursuant to paragraph (1), and who contends that the determination is erroneous for a reason or reasons other than a reason that is reviewable under paragraph (4), may appeal to the Board for review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits including if feasible adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board thereof together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.";

(5) by inserting "(4)" at the beginning of the third paragraph;

(6) by inserting "(5)" at the beginning of the fourth paragraph;

(7) by striking out "two" in the first sentence of the fourth paragraph and inserting in lieu thereof "three";

(8) by inserting before the final paragraph the following:

"(6) For purposes of this subsection and subsections (d) and (f), any base-year employer of the claimant is a properly interested party."; and

(9) by inserting "(7)" at the beginning of the final paragraph.

(c) IN CONNECTION WITH JUDICIAL REVIEW.—Section 5(f) is amended—

(1) by inserting after "member," in the first sentence "or any base-year employer of the claimant,"; and

(2) by inserting after the second sentence the following: "A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.".

(d) CONFORMING AMENDMENTS WITH RESPECT TO LIMITATION ON ADMINISTRATIVE DISCLOSURE.—Section 12(d) is amended—

(1) by striking out "and" where it appears before "(iii)"; and

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 5 of this Act.".

(e) CONFORMING AMENDMENT WITH RESPECT TO COURT PROCEEDINGS LIMITATION.—Section 12(n) is amended by striking out "court" in the proviso to the second paragraph.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 105. ANNUAL REPORT.

On or before July 1 of 1988, and of each calendar year thereafter, the Railroad Retirement Board shall submit to the Congress a report on the financial status of the railroad unemployment insurance system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including any adjustment the Railroad Retirement Board recommends regarding the rates of employer contributions.

SEC. 106. AMENDMENTS RELATING TO RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) IN GENERAL.—Chapter 23A of the Internal Revenue Code of 1986 (relating to railroad unemployment repayment tax) is amended to read as follows:

"CHAPTER 23A. RAILROAD UNEMPLOYMENT REPAYMENT TAX

"Sec. 3321. Imposition of tax.

"Sec. 3322. Definitions.

"SEC. 3321. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

"(b) TAX ON EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

"(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

"(c) TERMINATION IF LOANS TO RAILROAD UNEMPLOYMENT FUND REPAID.—The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

"(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(2) no unpaid interest on such transfers.

"SEC. 3322. DEFINITIONS.

"(a) RAIL EMPLOYER.—For purposes of this chapter, the term 'rail employer' means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

"(b) RAIL WAGES.—For purposes of this chapter, the term 'rail wages' means, with respect to any calendar month, so much of the remuneration paid during such month which is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act.

"(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term 'employee representative' has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

"(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of section 3307 and 3308 shall apply."

"(b) CONTINUATION OF SURTAX RATE THROUGH 1989.—

"(1) IN GENERAL.—In the case of any calendar month beginning before January 1, 1990—

(A) there shall be substituted for "4 percent" in subsections (a) and (b) of section 3321 of the Internal Revenue Code of 1986 the percentage equal to the sum of—

(i) 4 percent, plus

(ii) the surtax rate (if any) for such calendar month, and

(B) subsection (c) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

(2) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

(B) zero for any other calendar month.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6157 of such Code (relating to quarterly payment of railroad unemployment repayment tax) is hereby repealed.

(2) Paragraph (2) of section 6201(b) of such Code (relating to amount not to be assessed) is amended by striking out "or tax imposed by section 3321".

(3) Section 6317 of such Code (relating to payments of Federal unemployment tax for calendar quarter) is amended—

(A) by striking out "or tax imposed by section 3321", and

(B) by striking out "and 23A, as the case may be,".

(4) Subsection (e) of section 6513 of such Code (relating to payments of Federal unemployment tax) is amended by striking out the last sentence.

(5) Subsection (i) of section 6601 of such Code (relating to exception as to Federal unemployment tax) is amended by striking out "or 3321".

(6) Subparagraph (A) of section 232(a)(2) of the Railroad Retirement Revenue Act of 1983 is amended by striking out "is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954" and inserting in lieu thereof "is not attributable to the surtax rate under section 106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1987".

(7) Subparagraph (B) of section 232(a)(2) of such Act is amended by striking out "section 3321(c)(1)(B) of such Code" and inserting in lieu thereof "section 106(b) of such Act".

(d) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (b), shall apply to remuneration paid after December 31, 1988.

SEC. 107. GAO STUDY OF FRAUD AND PAYMENT ERRORS.

The Comptroller General shall study the frequency of fraud and payment errors in the railroad unemployment compensation program. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to Congress the results of such study. Such report shall include—

(1) estimates of rates and amounts of annual losses due to fraud and overpayment;

(2) comparisons of such rates with the rates of losses in other Federal programs which experience such losses;

(3) recommendations for legislative measures that could be taken to reduce the losses in the railroad unemployment compensation program arising from fraud and payment errors; and

(4) such other matters relating to such fraud and payment errors as the Comptroller General determines are appropriate.

TITLE II—BENEFIT AND OTHER ADJUSTMENTS

SEC. 201. WAITING PERIOD FOR BENEFITS AND BENEFIT INCREASES.

(a) IN GENERAL.—Section 2(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "four during any registration period:" in the first sentence and inserting in lieu thereof "nine during the first registration period within a benefit year in which the employee has more than four days of unemployment and for each day of unemployment in excess of four during any other registration period in the same benefit year:";

(3) in the second sentence, by striking out "excluding four days of sickness in any registration period" and inserting in lieu thereof "excluding nine days of sickness in the first registration period during a benefit year and four days of sickness in any other registration period in the same benefit year";

(4) by inserting "(2)" at the beginning of the second paragraph;

(5) by striking out "and" after "shall not exceed $24 per day of such unemployment or sickness" in the second paragraph and inserting in lieu thereof a comma;

(6) by inserting "but before July 1, 1987," after "June 30, 1976," in the second paragraph;

(7) by striking out the period at the end of the first sentence of the second paragraph and inserting in lieu thereof ", that for registration periods beginning after June 30, 1987, but before July 1, 1988, such amount shall not exceed $30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1988, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection.";

(8) by inserting after the second paragraph the following new paragraph:

"(3)(A) The maximum daily benefit rate which the Board is required to compute under section 12(r)(2) shall be the amount computed pursuant to the following formula, but shall be not less than $30:

$$BR = 25\left(1 + \frac{A - 600}{900}\right)$$

"(B) For purposes of such formula—

"(i) 'BR' represents the maximum daily benefit rate; and

"(ii) 'A' represents the amount obtained by dividing the amount of the 'applicable base' with respect to tier 1 taxes as determined under section 3231(e)(2) of the Internal Revenue Code of 1986 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest multiple of $100.

"(C) If the maximum daily benefit rate computed under such formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding being upward in the event the amount computed is equidistant between two multiples of $1."; and

(9) by inserting "(4)" at the beginning of the last paragraph.

(b) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendments made by paragraphs (2) and (3) of subsection (a) shall apply with respect to registration periods beginning after June 30, 1987.

SEC. 202. QUALIFYING CONDITION.

(a) IN GENERAL.—Section 3 is amended to read as follows:

"QUALIFYING CONDITION

"SEC. 3. An employee is a qualified employee for the purposes of this Act if the Board finds that—

"(1) such employee will have had compensation with respect to each of not less than 6 months in the base year; and

"(2) such employee's compensation (excluding earnings in any month in excess of the monthly compensation base provided in section 1(i)) in the base year will not have been less than an amount equal to 5 times the monthly compensation base as provided in section 1(i) with respect to the base year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to base years after 1985, except that an employee who as of the date of the enactment of this Act had received benefits on the basis of compensation and service in base year 1986 shall not be affected by this amendment until the end of the benefit year based on such compensation and service.

SEC. 203. INCREASE IN MAXIMUM PERMITTED SUBSIDIARY REMUNERATION.

(a) IN GENERAL.—The second paragraph of section 1(k) is amended by striking out "$10" and inserting "$15" in lieu thereof.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1987.

TITLE III—RETIREMENT ACT AMENDMENTS

SEC. 301. ADDITIONAL LUMP SUM PAYMENT IN CERTAIN CASES.

Section 6 of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subsection:

"(e)(1) Every individual who will have completed ten years of service at the time of his retirement or death, who will have received compensation in the nature of separation or severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 3(i)(4) of this Act except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 2(a)(1) of this Act begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 2(a)(1) begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1), or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

"(2) The lump sum provided under subdivision (1) of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 3(i)(4) of this Act if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986.".

SEC. 302. DELETION OF LAST PERSON SERVICE AS A DISQUALIFICATION.

(a) IN GENERAL.—Section 2(e) of the Railroad Retirement Act of 1974 is amended—

(1)(A) in subdivision (1), by striking out "any person, whether or not"; and

(B) by striking out "(but with the" and all that follows through "political subdivision of a State";

(2) in subdivision (2), by striking out "and of the person, or persons, by whom he was last employed"; and

(3) in subdivision (3), by striking out "or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue".

(b) DEDUCTION FOR WORK.—Section 2(f) of such Act is amended by adding at the end thereof the following new subdivision:

"(6)(A) Except as provided in subparagraph (B)—

"(i) that portion of the annuity for any month of an individual as is computed under section 3(b) and as adjusted under section 3(g), plus any supplemental amount for such month under section 3(e), and that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d), shall each be subject to a deduction of $1 for each $2 of compensation received by such individual from compensated service rendered in such month to the last person, or persons, by whom such individual was employed before the date on which the annuity of such individual under subsection (a)(1) began to accrue; and

"(ii) that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d) shall be subject to a deduction of $1 for each $2 of compensation received by such spouse from compensated service rendered in such month to the last person, or persons, by whom such spouse was employed before the date on which the annuity of such spouse under subsection (c)(1) began to accrue.

"(B) Any deductions imposed by this subdivision for any month shall not exceed 50 percent of the annuity amount for such month to which such deductions apply.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to annuities payable under the Railroad Retirement Act of 1974 for months beginning after the date of enactment of this Act.

SEC. 303. EARNINGS OF DISABILITY ANNUITANTS.

(a) IN GENERAL.—Section 2(e)(4) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "$200 in earnings" and inserting in lieu thereof "$400 in earnings (after deduction of disability related work expenses)";

(2) by striking out "$2,400" each place it appears and inserting in lieu thereof "$4,800 (after deduction of disability related work expenses)";

(3) by striking out "$200" each place it appears and inserting in lieu thereof "$400"; and

(4) by striking out "$100" and inserting in lieu thereof "$200".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months in calendar years beginning after December 31, 1986.

SEC. 304. ALLOWANCE OF CREDIT FOR MILITARY SERVICE.

(a) IN GENERAL.—Section 1(g)(2) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following:

"For purposes of section 3(i)(2) of this Act, the period beginning on June 15, 1948, and ending on December 15, 1950, shall be deemed to be a war service period with respect to any individual who without intervening employment not covered by this Act rendered service as an employee to an employer under this Act in the year such individual was released from active military service or in the year immediately following such year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to annuities accruing in months after the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

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

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

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

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

Mr. Speaker, the House is now considering H.R. 2167. This bill is consensus legislation. It is the product of an agreement negotiated between rail labor and rail management. It also has bipartisan support. It was reported out of our subcommittee and our full committee unanimously. These unanimous votes reflect the broad support which this bill enjoys.

At this time I would like to thank my colleagues, Mr. SLATTERY, Mr. FLORIO, and Mr. COATS, for their hard work in bringing this legislation to the House. I would also like to thank Mr. ROSTENKOWSKI, chairman of the Committee on Ways and Means, for the prompt action his committee took on this important bill.

Mr. Speaker, there are serious problems with the current Railroad Unemployment Insurance System that necessitate this legislation. The Railroad Unemployment Insurance System borrows from the railroad retirement account when it does not have sufficient funds to pay benefits. Because of the serious recession and resulting high rail unemployment that occurred in the early 1980's, large amounts were borrowed from the retirement account. The RUI fund is now in debt to the retirement fund for more than

$600 million. With the loss of more than 20 percent of all railroad jobs just in the recession of 1981 to 1983, the contribution base for both of those funds has shrunk significantly. At the same time, unemployment and sickness benefits haven't been raised in more than a decade.

This consensus legislation, however, addresses these problems. The bill is based on an agreement between rail labor and rail management, as reflected in the recommendation of the Railroad Unemployment Compensation Committee in 1984, and subsequent modifications agreed to in August 1986. Both labor and management realize that the problems with the Railroad Unemployment Insurance System are enormous and must be addressed.

This legislation addresses those problems. First, this bill will, for the first time, make each rail carrier directly accountable to the Railroad Unemployment Insurance System. It imposes an "experience rating" contribution system for rail employers under which an employer's tax rates would be proportional to layoffs. Thus rail carriers will contribute to the system based on their individual employment histories. The result will be that those who lean most heavily on the system will contribute more of their fair share to support it.

Second, the bill also improves certain benefit provisions of the current RUI System. For example, the bill will provide unemployed rail workers with a more reasonably daily benefit. Benefits will be raised from $25 to $30 per day. Moreover, the daily benefit rate will be indexed to reflect two-thirds of the growth in average national wages. At the same time, the bill provides more stringent eligibility requirements, such as a 9-day waiting period for benefits during the initial registration period and more stringent earning and work requirements during the base year.

Finally, the bill includes several amendments to the Railroad Retirement Act, including the elimination of the archaic "last person service" rule.

Mr. Speaker, I urge the House to pass this important legislation.

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

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

Mr. LENT. Mr. Speaker, for many years the Railroad Unemployment Insurance System has been faced with severe financial problems. Today the House is considering legislation which will make a substantial contribution toward placing the unemployment system in a solid financial condition.

Mr. Speaker, I would like to commend my esteemed colleagues on both the Committee on Energy and Commerce, particularly the gentleman from Ohio [Mr. THOMAS A. LUKEN], the chairman of the Subcommittee on Transportation; the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce; the gentleman from Kansas [Mr. SLATTERY], and others for their work on this legislation, and to those on the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], the gentleman from New York [Mr. DOWNEY], and the gentleman from Colorado [Mr. BROWN] for their work. Particularly I would like to comment on the efforts and persistence of my colleague from Indiana [Mr. COATS].

Early during the 99th Congress, he recognized the severity of the problems that the unemployment system faced. He has worked long and hard to ensure that those problems will be adequately addressed.

One of the pressing issues that Congressman COATS has brought to our attention is that rail unemployment benefits are shamefully low. RUI daily benefits are lower than those paid in many States. H.R. 2167 includes a Coats amendment that will increase rail unemployment benefits.

H.R. 2167 will not only benefit unemployed railroad workers but will also benefit railroad retirees. The RUI System has a long history of borrowing from the railroad retirement account in order to pay RUI benefits. In fact, the RUI System presently owes the retirement account over $700 million.

H.R. 2167 will benefit railroad retirees by providing the account greater stability by:

First, requiring full repayment plus interest of the RUI account debt to the retirement account, and

Second, placing the RUI account on sound financial footing so that it is less likely to incur new debts.

Although H.R. 2167 retains an independent Rail Unemployment System—it is a step in the direction toward establishing a financially sound Railroad Unemployment and Retirement Systems.

I support this legislation, and I urge my colleagues to do likewise.

Mr. THOMAS A. LUKEN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York [Mr. DOWNEY], a member of the Committee on Ways and Means and the chairman of the Subcommittee on Public Assistance and Unemployment Compensation.

Mr. DOWNEY of New York. Mr. Speaker, the need for reform of the Railroad Unemployment Compensation Program is clear: The benefits are out-of-date; the tax structure is deficient; and the program owes the railroad retirement program $750 million.

H.R. 2167 solves each of these problems.

On the tax side, it makes a number of improvements. First, it would set the basic Railroad Unemployment Insurance tax rate at 8 percent in 1988 and 1989. In 1990, a 3-year phase-in of an experience-rating tax system would begin. This would make each employer's tax rate proportional to the amount its laid-off employees receive in benefits. By 1992, each employer would pay an experience-rated tax plus an administrative tax. Each of these taxes would apply to a $600 per month taxable wage base, which would increase each year by two-thirds of the increase in national average wages.

In addition to the experience rates, a new surcharge rate would be created. The surcharges would be inversely proportional to net assets in the railroad unemployment insurance account. If net assets fall below $100 million, but are above $50 million, the surcharge would be 1.5 percent. If net assets are negative, the surcharge would be 3.5 percent. This mechanism would help to avoid future borrowing from the Railroad Retirement Program.

One of the most important provisions of this bill is the proposal to retire the debt owed to the pension fund. To do that, the current debt repayment tax would be changed to a constant 4.0 percent beginning in 1989 and would remain in effect until the $750 million debt is repaid. Under current projections, the debt plus interest owed to the Railroad Retirement Program will be repaid in 1996.

The repayment of the $750 million debt is long overdue, but some have argued we should wait still longer. They ask us to wait for next year's railroad industry collective bargaining process to tell us what to do; or to wait for a commission on railroad retirement to tell us what to do. We know what to do already. We are not going to learn anything new about this debt in the next 2 years. It is time to repay it.

The bill also would allow public commuter railroads to participate in the Railroad Unemployment Compensation Program on a "reimburseable basis" in 1988 and 1989. This means that public commuter railroads would reimburse the Railroad Retirement Board for the benefits paid to their laid off employees. In 1990, they would phase into experience rating with the other railroads.

In the recent past, public commuter railroads have paid railroad unemployment taxes that were about four times the amount of benefits paid to their laid-off workers. Public commuter railroads receive large taxpayer subsidies. When a public commuter railroad pays excess unemployment taxes, taxpayers

end up subsidizing private railroads. The bill would correct this problem in 1988 and 1989 until experience rating phases in beginning in 1990. After 1989, the tax rates applied in public commuter railroads will be more in proportion to the benefits paid to their laid-off workers.

This bill is a common sense reform of Railroad Unemployment Compensation. Congress should pass it now and the President should sign it as soon as it reaches his desk.

Mr. LENT. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana [Mr. COATS] a member of the Committee on Energy and Commerce.

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

Mr. Speaker, I believe H.R. 2167, the Railroad Unemployment and Retirement Improvement Act of 1987, is a step in the right direction toward addressing the financial problems of the railroad unemployment system. I therefore, commend my colleagues on the Energy and Commerce Committee, Messrs. LENT, LUKEN, SLATTERY, and WHITTAKER, as well as my colleagues on the Ways and Means Committee, Messrs. ROSTENKOWSKI, DOWNEY, BROWN, and GRADISON for their hard work which has resulted in this thoughtful legislation.

The financial problems of the railroad unemployment insurance system are nothing new. The future of the system is crucial to the approximately 30,000 unemployed rail workers who are currently receiving benefits. The railroad unemployment system has borrowed from the railroad retirement system in 20 of the last 25 years in order to pay unemployment benefits. Therefore, the financial health of the RUI system has a direct impact on the financial security of rail retirees.

A number of us have worked throughout the last Congress, as well as this Congress, to ensure that the problems of the RUI system would be addressed in a manner that is fair to unemployed rail workers, railroad retirees, rail carriers, and the American taxpayer. Congress cannot afford to delay addressing those problems any longer. Nor can it allow RUI benefits to remain lower than those paid by many of the State unemployment systems.

Although H.R. 2167 retains the independent nature of the RUI system, it makes important changes to that system.

First, it requires rail carriers to pay unemployment taxes based on their unemployment experience, instead of the flat tax they currently pay. This will encourage rail carriers to attempt to keep their unemployment rates low.

Second, the bill provides for a surcharge which will be triggered when funds in the unemployment account fall below designated levels. Providing a mechanism to raise additional funds should end the practice of borrowing from the railroad retirement fund, thereby contributing to the solvency of the retirement fund, as well as the unemployment system.

Finally, the bill includes an amendment that I offered last Congress, during consideration of similar legislation. That amendment was adopted and will increase the maximum daily benefit afforded unemployed rail workers from its current unrealistically low level of $25 to $30.

H.R. 2167 will help address the financial problems of the RUI account and unemployed rail workers. I urge my colleagues to vote "yes" on H.R. 2167.

□ 1410

Mr. THOMAS A. LUKEN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey [Mr. FLORIO], the author of the legislation and principal toiler in the field of railroad legislation.

Mr. FLORIO. Mr. Speaker, I thank the gentleman for his comments as well as for the time, and I offer my congratulations to him and the gentleman from New York [Mr. LENT], the gentleman from Kansas [Mr. WHITTAKER], and all those members responsible for helping to produce this excellent piece of legislation.

Mr. Speaker, this bill, which is based on a labor-management agreement, would provide a long needed increase in unemployment insurance benefits for unemployed railroad workers. Under the legislation, benefits would increase from $25 a day to $30 a day. The bill also provides for future automatic increases in the benefit rate based on an indexing formula.

This legislation would help ensure the solvency of the railroad unemployment insurance system. As amended by the Ways and Means Committee, it also helps improve the solvency of the railroad retirement system by maintaining the repayment tax paid by railroads until the existing debt of the unemployment insurance system to the retirement system is paid off. It will also help reduce the unemployment insurance costs of those employers with stable employment, such as commuter railroads, by replacing the current flat rate contribution system with experience rating.

Indeed, as a result of an amendment by the Ways and Means Committee, the legislation expedites the transition of commuter railroads into the fairer experience rating system by providing authority for commuter railroads to cover their unemployment and sickness costs on a cost reimbursable basis for 1988 and 1989. In 1990, commuter railroads would participate fully in the experience rating system. The transition provision is fair to both commuter and other railroads and will result in a savings of several million dollars to commuter railroads, such as New Jersey Transit.

The bill before the House is based on an agreement reached last year by railroad labor and management raising benefits to $30 a day. This additional increase, from the $27 originally agreed on, was prompted by the strong and vigorous concern of Congressman COATS, which I shared, that benefits should be raised to provide unemployed rail workers with additional assistance. This bill reflects that understanding and I urge support for the bill.

Mr. LENT. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise to rain on this picnic. All of the speakers so far have indicated that this is a great consensus and a wonderful thing for America. I believe it is tokenism.

In my judgement, it provides insufficient progress on a problem that Congress has known about for many years. Certainly when I first joined the Ways and Means Committee there were attempts to try to rationalize railroad unemployment by putting it into the standard national unemployment program. Committees of both Houses have wrestled with this problem ever since. None have been equal to the task.

I do not think there is anyone who looks at this problem from outside who does not say, yes, we should have one national unemployment compensation program and railroad employees and other kinds of employees should be in that program. A railroad employee is just as unemployed as a person who works for any other kind of employer. The table of benefits within each State ought not to distinguish between railroad and other employees.

In addition to making insufficient progress towards rationalizing a railroad unemployment program, this bill provides for a number of expensive new provisions which give us a negative effect on the budget in the first 2 years.

In fiscal 1988 it provides $14 million of new, additional spending, and in fiscal 1989, $15 million of new, additional spending. Not until the third year of the triennium is a plus achieved. In fiscal year 1990, the bill will deliver, according to CBO, $34 million positively. This bill creates unbudgeted expense.

At this time, when we are searching so assiduously, for amounts that we can reduce from the budget baseline, we should not simply give away $14 million or $15 million.

I do not criticize the committee for having done it. Even after the increases in this bill, the benefits are not generous. Nevertheless, this is not the

right time for more expenses, unless, of course, Congress wants to integrate railroad unemployment into the national program.

This House is being asked to act on the basis of recommendations of a commission created in 1976 which did not get around to reporting until 1984. We are now acting on those recommendations. This is, of course, what happens when we have two committees, Ways and Means and Energy and Commerce, who are each responsible for a different corner of the problem. The committees should have gotten together a long time ago and created a single unemployment compensation program, and railroads should have been a part of that overall program.

Because the committee labored mightily, I do not encourage others to cast their votes against this bill. As I said, H.R. 2167 is an improvement. Because it is an insufficient improvement to a problem that has been known and acknowledged for more than a decade, I cannot vote for it.

The committees could have done more. And they should have done more. My vote against this bill means I do not give them a passing grade.

Mr. THOMAS A. LUKEN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of H.R. 2167, the Railroad Unemployment Insurance and Retirement Improvement Act.

This bill is based upon an agreement between rail labor and rail management, as reflected in the consensus recommendation of the rail unemployment compensation committee in 1984, and subsequent modifications agreed to in August 1986. I will not review all of the provisions of the bill, but I would like to point out that this bill will make several major improvements in the R.U.I. system: the daily unemployment and sickness benefit rate will be increased from $25 to $30, contributions by employers will be based upon a new experience rating system. And the bill provides a surcharge which will be triggered when the funds in the R.U.I. account are not sufficient to pay unemployment benefits. Presently, when the funds in the R.U.I. account are not sufficient to pay unemployment benefits, the R.U.I. system borrows from the rail retirement system. The R.U.I. does not have a good track record of repaying those loans, and the R.U.I. currently is in debt to the rail retirement fund for over $800 million. This new mechanism will contribute to the future financial solvency of both funds.

In addition, Mr. Speaker, I am particularly pleased that this legislation includes a provision which I developed after hearing from several railroad retirees in northeast Kansas. These retirees left railroad service and received severance payments upon which they paid railroad retirement taxes, but they did not receive any retirement credit for those tax payments because they were no longer employed by the railroads.

This problem arose as a result of the Solvency Act of 1983, which annualized the tax base used for railroad retirement purposes. The act also allowed deeming of months of service for benefit purposes to conform to the annualized wage bases. However, months of service could not be deemed for benefit purposes for any months in which the individual was neither in an employment relation to an employer nor an employee representative. As a result, individuals receiving severance payments could be subject to significant retirement tax liabilities while receiving credit for only 1 month of service.

Because of the recent change in the law and the large number of recent severance payments in the railroad industry, many employees accepting severance have been forced to make as much as a full year's contribution to the retirement fund, while receiving as little as 1 month's credit for service. Section 301 of this legislation would correct this inequity by providing for a lump sum benefit equal to the employee's contribution to the retirement fund made from compensation for which the employee did not receive service credit. This provision would apply only to employees with at least 10 years of service and who are retiring. No additional months of service would be credited to such employees.

Mr. Speaker, this is needed legislation and I urge my colleagues to support it.

Mr. Speaker, I appreciate the work of the gentleman from Ohio [Mr. THOMAS A. LUKEN] and all of the others who have played a role in bringing this legislation to this point.

Mr. LENT. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, after many long years of work, I am pleased to see that H.R. 2167, the Railroad Unemployment Insurance and Retirement Improvement Act, includes language amending the current "last person service" provisions contained in the law governing railroad retirement.

In 1983 I was contacted by Terry Bluett, director of personnel at York Hospital, concerning one of their employees, Marlyn Dellinger. Mr. Dellinger had been laid off by the railroad after 22 years of service, couldn't find a job within the railroad industry, and took a low-paying job as a housekeeper at York Hospital. When Mr. Dellinger became eligible for his railroad retirement pension, he was informed he would have to quit his job at York Hospital in order to begin receiving benefits. He could work for any other employer, earn up to $410 a month in benefits and still receive his pension, but he could not work for York Hospital.

York Hospital considered him a valuable employee and wanted to help him stay at the hospital, even though he was 60 years of age. Mr. Dellinger was loyal to York Hospital, which had treated his invalid wife about 26 times, and wanted to stay. Unfortunately, Mr. Dellinger had to quit his position.

At that time, I began working with my colleague from Maryland, the Honorable BEVERLY BYRON, to address this issue. She also had constituents who were adversely affected by this provision in the law. We introduced legislation and were successful in attaching language to an appropriations bill calling for a study of the so-called last person service provision. When the study was finally completed, we amended our bill to reflect the findings of the study. It is good to note that the bill reported by the committee contains a provision that is almost identical to our final legislative effort addressing this issue.

Mr. Speaker, it would be hard to find a rule comparable to the current last person service provision in any other retirement program. Certainly it is fair to rule that an individual must stop working at his current job or within an industry, such as the railroad industry, in order to begin drawing a pension. It is unduly harsh to force him to quit a job unrelated to the job from which he will be drawing a pension. It is also illogical when the same individual can go out and find a job similar to the one he was forced to quit and still draw benefits. Unfortunately, many of the individuals who must quit low-paying, sometimes part-time jobs in order to receive a pension are unable to find another job because of their age—and many of them need additional income in order to survive.

Mr. Speaker, a lot of years have passed since Congresswoman BYRON and I took up the battle to amend the last person service rule. However, York Hospital, to this day, intends to welcome Mr. Dellinger back with open arms if this legislation is enacted. For the sake of Mr. Dellinger and others like him throughout the country, I hope we can finally eliminate this unfair provision in the law.

Mr. THOMAS A. LUKEN. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Maryland [Mrs. BRYON].

Mrs. BYRON. Mr. Speaker, I thank the gentleman for yielding time to me. Let me say I would like to speak in favor of the provisions of H.R. 2167 which would delete the last person service rule from the Railroad Retirement Act.

Under current law, a railroad worker and his or her spouse, must cease

working for his or her present employer in order to receive railroad retirement benefits. The gentleman from Pennsylvania [Mr. GOODLING] talked about a constituent of his from York, PA. I would like to talk about an elderly lady from western Maryland who worked for the railroad on a full-time basis and for a dress shop on a part-time basis. She became eligible for her railroad annuity but was required to leave her job at the dress shop in order to receive the annuity. She was informed that once she retired, she could find employment with some other dress shop, but not for the same dress shop she worked for immediately preceding retirement.

Obviously, this provision has outlived any useful purpose for which it was originally intended. At present, it only serves to create an unnecessary hardship for those railroad retirees who wish to continue working at jobs that they have held over the years.

I, along with my colleagues Mr. GOODLING, Mr. DAUB, and Mr. RAHALL, introduced H.R. 1148 earlier this session. As a matter of fact, Mr. GOODLING and I have been working on this problem for a number of years now. H.R. 1148, based on legislation we introduced during the 99th Congress, would have amended the Railroad Retirement Act by deleting the last person service rule.

I was very happy to learn that a provision similar to our legislation was incorporated into this bill, H.R. 2167, now under consideration.

Under this bill, those rail retirees and their spouses wishing to retain nonrailroad jobs that they have held over the years could still receive railroad benefits. His or her benefits, however, would be reduced $1 for each $2 of compensation received in last person service. These work deductions could not serve to reduce the monthly tier 2 and supplemental annuity of the retired rail employee or the spouse below 50 percent of the amount they would have received if they had not worked in last person service.

I would like to thank both committees, especially the gentleman from Ohio, for their work on this legislation, and for their concern regarding the inequities of the last person service rule.

□ 1425

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

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS] for a colloquy.

Mr. ANDREWS. Mr. Speaker, I would like to engage in a colloquy with the distinguished gentleman from Ohio [Mr. THOMAS A. LUKEN], the chairman of the Subcommittee on Transportation.

Mr. Speaker, as you know, I have introduced H.R. 3495, the Railroad Retirement Divorce Spouses Equity Act, because currently, unlike Social Security and military retirement, the divorced spouses of railroad workers cannot collect a retirement benefit unless the ex-husband is retired. Thus, there exists the situation where a divorced woman of retirement age cannot receive any retirement benefits because her ex-husband refuses to retire, or he is younger than his ex-wife and has not yet retired.

This situation contrasts sharply with the "pension equity" provisions of the Social Security and military retirement reforms of 1984, which sealed these types of retirement gaps for divorced spouses. Congress intended to put an end to such inequities, and the only reason that railroad retirement was not likewise amended in 1984 was simple oversight. Thus, there now exists a group of women, although admittedly few in number, who are being penalized simply because their ex-husbands are railroad workers.

H.R. 3495 would solve this problem by clarifying that the divorced spouses of railroad workers would be eligible for retirement benefits beginning at age 62, regardless of whether or not the ex-husband is retired, this bringing railroad retirement into line with Social Security and military retirement in this respect.

The CBO has estimated that this correction would cost around one-half million dollars, a truly small price to pay to correct such an obvious injustice.

Mr. Speaker, the Budget Reconciliation Act recently passed by the House included, in section 9033, the establishment of a Commission on Railroad Retirement Reform. Furthermore, Mr. Speaker, it has been agreed upon that during the House-Senate conference on H.R. 2167 an effort will be made to include, in the final report, a recommendation that the Commission specifically study this problem of divorced spouses of railroad workers.

Mr. THOMAS A. LUKEN. Mr. Speaker, if the gentleman will yield, I thank the gentleman for an excellent statement, and should we be appointed conferees we will make every effort to include such language in the conference report on the reconciliation bill.

Mr. ROSTENKOWSKI. Mr. Speaker, today, the House will vote on a major reform of the Railroad Unemployment Compensation Program. The bill contains not only a reformed railroad unemployment tax structure, but also a debt repayment tax that would repay the current debt plus interest owed by the program to the railroad retirement account. The bill also provides modest benefit improvements, which are fully financed by the tax changes. In fact, over the next 5 years the bill would reduce the budget deficit by $110 million.

During the early 1980's, the Railroad Unemployment Compensation Program borrowed substantial sums from the Railroad Retirement Program. Today, this debt stands at $750 million. Congress responded to this problem by creating the Railroad Unemployment Compensation Committee under the Railroad Retirement Solvency Act of 1983. The committee was to recommend changes to the program in 1984.

The bill before the House today would make many of the changes recommended by the Railroad Unemployment Compensation Committee in 1984. These include modest benefit improvements, a new experience-rated tax system, and a debt repayment tax.

The estimated cost of this bill for fiscal year 1988 through 1990 is $60 million. However, over the same time period the bill would collect $65 million in additional revenue. In other words, it would reduce the deficit over this 3-year period by $5 million. Over a 5-year period, the bill would reduce the deficit by $110 million.

This is a fiscally responsible bill. It not only pays for itself, but it begins to repay a debt that is long overdue.

I will ask the acting chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Mr. DOWNEY of New York, to explain the legislation in more detail.

Mr. Speaker, this bill is a landmark reform of the Railroad Unemployment Compensation Program. The bill should be enthusiastically passed by the Congress and signed by the President.

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

The SPEAKER pro tempore (Mr. BRUCE). The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill H.R. 2167, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter therein on the bill, H.R. 2167

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

There was no objection.

SWAN FALLS WATER RIGHTS AGREEMENT

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 519) to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000, as amended.

The Clerk read as follows:

H.R. 519

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

SECTION 1. FERC ORDER.

(a) ISSUANCE OF ORDER.—Notwithstanding the petition filed by the Idaho Power Company on November 26, 1984, with the Federal Energy Regulatory Commission for a declaratory order concerning an Agreement dated October 25, 1984 (Exhibit A, Petition of Idaho Power Company for Declaratory Order, FERC Docket No. EL-85-38-000), relative to the projects of such company specifically referenced in the petition, the Federal Energy regulatory Commission is authorized and directed, in lieu of the petition request, to issue an order under the Federal Power Act providing that such Agreement shall not be considered by the Commission, in any subsequent proceeding before the Commission during the remaining term of the licenses applicable to such projects, to be either—

(1) inconsistent with the terms and conditions of such licenses concerning the retention of project property; or

(2) imprudent for purposes of section 205 of the Federal Power Act.

The order, subject to the requirements of section 3(a)(2), shall be issued within 90 calendar days after enactment of this Act and shall take effect on the date provided in section 3.

(b) CONSIDERATION OF OTHER MATTERS.—Notwithstanding the issuance of an order pursuant to this section, except for the specific terms and conditions referred to in subsection (a)(1) and the specific provisions of the Federal Power Act referred to in subsection (a)(2), the Commission may, at any time, consider, in accordance with existing and applicable law, whether the settlement agreement and the licensee are in full compliance with—

(1) any terms and conditions of the license (including those relating to the protection, mitigation, and enhancement of fish and wildlife), and

(2) any other applicable provision of Federal environmental law (including section 10 of the Federal Power Act).

(c) OFFERS OF SETTLEMENT.—In issuing an order pursuant to this section, the Commission shall accept and adopt as part of the order the Offers of Settlement pending before the Commission on enactment of this Act between the licensee, the State of Idaho, the Secretary of the Interior, the National Marine Fisheries Service and others.

SEC. 2. SAVINGS PROVISION.

(a) FISH AND WILDLIFE AGREEMENTS AND STIPULATIONS.—Nothing in section 1 or in any order issued by the Commission pursuant to section 1 shall be construed as affecting any stipulation or other agreement entered into by the State of Idaho or the Idaho Power Company prior to the date of enactment of this Act relating to any fish and wildlife matters affected by any such project.

(b) FERC AUTHORITY.— Nothing in section 1 shall be construed to modify, change, expand, or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act or other applicable law relating to fish and wildlife.

(c) WATER.—Nothing in this Act shall be construed as (1) affecting the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource; (2) altering or establishing the respective rights of States, the United States, Indian tribes or any person with respect to any water or water-related right; or (3) altering, amending, repealing, interpreting, modifying, or be in conflict with, the Treaty rights or other rights of any Indian tribe.

SEC. 3. STUDY.

(a) JOINT AGREEMENT TO CONDUCT STUDY.—

(1) The Federal and licensee parties to the Offers of Settlement and the settlement agreement referred to in section 1 shall immediately after enactment of this Act enter into good faith negotiations for a joint agreement to conduct and adequately finance detailed evaluations and studies (and issue a report thereon) concerning the timeing, quantity, and quality of instream flows and related matters to protect, enhance, and mitigate fish and wildlife resources, including an anadromous fish and related habitat of the Snake River and the Deer Flat National Wildlife Refuge. Such agreement shall be filed with the Federal Energy Regulatory Commission and shall be considered thereafter as part of the order issued pursuant to section 1. Such negotiations shall be completed and a joint agreement entered into by all such parties and filed with the Commission not later than 60 calendar days after the order is issued under section 1.

(2) If a joint agreement is not entered and filed within the 60-day period referred to in paragraph (1), the Commission shall within 60 calendar days after the expiration of such period issue an order under this paragraph requiring that the evaluations and studies referred to in paragraph (1) be undertaken and the duties and responsibilities of such parties to conduct and finance them. The Commission may for good cause extend the time for issuance of the order under this paragraph an additional period of not more than 45 calendar days. The Commission in issuing an order under this subsection, may take into consideration such information as the parties may stipulate and file with the Commission resulting from such negotiations. The Commission is not required, notwithstanding any provision of law, to afford the parties any other opportunity to make oral or written presentations to the Commission regarding such order. In any judicial review of the order issued under section 1, the order (or the adequacy thereof) issued under this paragraph shall not be a basis for that review or for a stay of the effective date of the order issued under section 1.

(3) The order referred to in section 1 shall be effective and final when the joint agreement referred to in paragraph (1) is filed by all the parties with the Commission, or not later than 60 calendar days after such order is issued under section 1, whichever comes first. The order referred to in paragraph (2) shall be effective and final when issued. When effective, each order issued and joint agreement adopted shall be enforced by the Commission under the Federal Power Act and the licensee shall pay its assigned share at the times and in the manner directed by the Commission.

(4) The evaluations and studies and the report thereof required by this subsection shall be made available by the Federal parties to the public and the Commission and shall be considered by the Commission in accordance with existing and applicable law.

(5) Any final order issued pursuant to this Act shall be subject to judicial review in the same manner as final orders under the Federal Power Act are subject to judicial review under that Act.

(b) PARTICIPATION BY GOVERNOR.—At any time prior to the effective date of the order issued under section 1(a) of this Act, the Governor of the State of Idaho shall have the option to participate in good faith in the negotiations required by section 3 of this act. In exercising such option, the Governor shall agree to carry out the State's responsibilities under the agreement or any order issued by the Commission under subsection (a).

(c) FUNDING FOR FEDERAL SHARE OF STUDIES.—The Secretary of the Interior and the National Oceanic and Atmospheric Administration shall, subject to applicable appropriation Acts, utilize such funds as may be available for carrying out the evaluations and studies required by this Act to be conducted by the parties referred to in subsection (a) and such agencies are authorized and directed to seek further appropriations as may be necessary. All such funds shall be available until expended. The Federal share of the costs of carrying out the evaluations and studies shall be determined pursuant to the joint agreement under subsection (a) (or the Commission order under subsection (a)(2), if applicable). The Federal agencies shall provide for consultation with the affected Indian tribes and other interested public or private persons during the conduct of any study conducted pursuant to this act.

SEC. 4. PROVIDING INFORMATION TO CONGRESS.

The Federal Energy Regulatory Commission, the Secretary of the Interior, and the Administrator of the National Oceanic and Atmospheric Administration shall keep the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate fully and currently informed of the status of all actions taken or required by this Act and of any delays (and the reasons therefor) in implementing all such actions.

The SPEAKER pro tempore. Is a second demanded?

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

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

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

Mr. Speaker, this is the Swan Falls bill. It is a bipartisan, noncontroversial measure that lets the State of Idaho proceed with a statewide settlement of water rights in the Snake River. It does this by specifying that when the Idaho Power Co. joins in this settlement it will not let it be found imprudent or in violation of its hydro license on the Swan Falls Dam.

I want to especially commend the gentleman from Idaho [Mr. STALLINGS], who has been vigorous in his effort to move the Committee on Energy and Commerce and the House of Representatives to take up this matter. It has been a top priority with him.

We also appreciate the efforts of the gentleman from Idaho [Mr. CRAIG], another member of the Idaho delegation, and also the fact that we have had bipartisan cooperation on this at every stage.

Passage of this measure is critical to the farmers in the State of Idaho and all the others who depend on the Snake River resources. The committee amended this bill to give solid environmental protection to the fish and wildlife in the Snake River habitat. The bill in its present form is now supported by the Audubon Society, the Friends of the Earth, the Indian tribes with water interests there, the Federal Fish and Wildlife Agencies, the Governor of Idaho, and the Idaho Power Co.

Mr. Speaker, I finally want to commend the chairman of our committee, the gentleman from Michigan [Mr. DINGELL], who has worked hard to gain the environmental protections in the bill and the wide support it now enjoys.

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

Mr. Speaker, I rise in support of H.R. 519, legislation concerning certain hydroelectric projects licensed to the Idaho Power Co.

This bill was approved by unanimous voice vote of both the Subcommittee on Energy and Power and the full Committee on Energy and Commerce. It is similar to legislation passed by the Congress last year, but which was not signed by the President because it was attached to appliance standards legislation the administration then objected to.

The purposes of the legislation are narrow and affect only certain hydroelectric facilities on the Snake River in Idaho. Under H.R. 519 the Federal Energy Regulatory Commission would be required to issue an order, pursuant to the Federal Power Act, providing that a water rights settlement entered into in 1984 by the State of Idaho and the Idaho Power Co. shall not be considered to be inconsistent with the terms and conditions of the licenses relating to the retention of project properties.

H.R. 519 would also direct the licensee and interested agencies to negotiate an agreement to protect fish and wildlife resources located in and around the Snake River. Of particular concern is maintaining adequate river flows for the Deer Flat National Wildlife Refuge.

I am not aware of any opposition to this bill, and I urge its speedy enactment by this House.

Mr. SHARP. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho [Mr. STALLINGS] who, along with his colleague, the gentleman from Idaho [Mr. CRAIG], is the chief sponsor of the bill.

Mr. STALLINGS. I thank the gentleman for yielding time to me.

Mr. Speaker, it is with great pride that I rise to speak in strong support of H.R. 519, the Swan Falls Water Rights Agreement, a bill which I introduced earlier this year.

After many months of negotiations and hard work, a compromise has been reached on legislation to approve this important agreement. This bill represents a landmark day for citizens of Idaho and may finally resolve one of the State's most important natural resource management issues.

The legislation before the House today directs the Federal Energy Regulatory Commission to issue an order approving the Swan Falls Agreement. This is an important bill which only affects the State of Idaho. The legislation resolves a long-standing dispute concerning existing and future uses of the Snake River.

Before I discuss the bill and its importance to the people of Idaho, I want to emphasize to my colleagues the broad, bipartisan support this legislation enjoys. This bill has the support of the State congressional delegation, the Governor of Idaho, and Idaho Power Co.

A look back will illustrate the importance of this vital issue. After many years of heated controversy and public debate, the Swan Falls Agreement between the State of Idaho and Idaho Power Co. was reached on October 25, 1984.

The intent of the agreement was to legally settle the water rights issue in the Snake River Basin and to define the utility's water rights for hydropower production.

The agreement already has been ratified by the Idaho State Legislature. Several State agencies also have taken the necessary steps to implement it. However, the final step requires Federal approval.

Until the Federal Government takes action, thousands of water rights permits and applications pending before the Idaho Water Resources Department are still tied up.

A petition to settle the issue has been pending at FERC since 1984. The Commission's failure to take action on the agreement has left Idaho water-users in a state of uncertainty and has forced the State to continue its moratorium on processing water rights applications.

It is important to also point out that this legislation does not disturb any existing legal protections for fish and wildlife, and has several provisions which should enhance such protection.

The Swan Falls Agreement and legislation are the result of a dedicated effort from many Idahoans. Special recognition and thanks to Idaho Gov. Cecil Andrus, former Gov. John Evans, Attorney General Jim Jones, Idaho Power Co. officials, and many others who have played an important role in this process.

I would like to express my personal appreciation and thanks to the distinguished chairman of the House Energy and Commerce Committee, Mr. DINGELL. Without the chairman's strong support and personal commitment to work out an acceptable compromise, it would have been difficult to produce a legislative solution.

I also want to take this opportunity to express my special thanks to two of my colleagues, Congressman SHARP, the subcommittee chairman, and Congressman WYDEN, for their help and support. It has been a pleasure working with them on this bill.

As a cosponsor of the bill, Congressman CRAIG also played an important role in this matter, and his efforts are appreciated.

Several congressional and State staff members devoted a great deal of time and effort working with us to resolve this issue. They provided needed guidance and direction during our discussions, and deserve special thanks.

This important agreement is in the public interest and will serve as a sound management plan for the Snake River, which is truly the lifeblood of Idaho's economy and quality of life.

Irrigation, energy production, fish and wildlife, recreation, and other uses all benefit from effective stewardship of Idaho's Snake River.

The Swan Falls Agreement also will help shape the future of our resource-based economy and provide an important roadmap to preserving our unique way of life.

House approval today will complete the final chapter of a long and difficult struggle that has confronted Idaho for many years. I can think of no issue of greater importance to Idaho citizens than the future management of our water resources. I urge my colleagues to support passage of this important legislation.

Mr. Speaker, I include the letter from the Governor of Idaho to me, as follows:

OFFICE OF THE GOVERNOR,
Boise, ID, November 9, 1987.

Hon. RICHARD STALLINGS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE STALLINGS: I fully support your effort to push ahead with legislation to implement the Swan Falls agreement in Idaho.

I have great confidence in the judgment of you and your colleagues. The resolution of this issue has been devoid of partisan political concerns and the best interests of Idaho have always been placed ahead of any other consideration. Knowing that, I am confident that if there are deemed to be de-

ficiencies in the committee report of the legislation, those concerns can be addressed when the legislation receives Senate consideration.

This issue has been widely debated and the ramifications broadly aired. Now the time has come to act, and act favorably.

Your leadership on this issue, which is of tremendous importance to Idaho, is very much appreciated.

With best regards.

Sincerely,

CECIL D. ANDRUS,
Governor.

Mr. LENT. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I thank my colleague, the ranking minority member on the subcommittee, the gentleman from New York [Mr. LENT] for yielding time to me.

I would also like to thank Chairman SHARP and certainly my colleague, the gentleman from Idaho [Mr. STALLINGS].

Mr. Speaker, I rise today to voice my support for H.R. 519, a bill known as the Swan Falls Water Rights Agreement. Enactment of this bill will resolve major issues concerning existing and future uses of resources on the Snake River. This bill will also result in the dismissal of pending litigation between the Idaho Power Co. and thousands of individual defendants. At the same time, Mr. Speaker, I wish to voice my concern that the committee report has not been printed and thus, fully reviewed. As you know, the report will be the principal interpretive tool when courts or administrative agencies are called on to understand the intent of the bill. Without the committee report, you can understand my concern that there may be discrepancies between the report and the bill.

My main concern is whether the report is consistent with negotiations that led to amendment of the original bill. These negotiations, between the State of Idaho, private interests, environmental groups, and Federal agencies, assisted is amending the bill in a manner satisfactory to everyone. It was the understanding of all parties involved that the amended bill would remain neutral regarding FERC's jurisdiction over water rights issues. The agreement was that no one was to obtain an advantage through this legislation regarding FERC jurisdiction.

Mr. Speaker, the State of Idaho greatly needs this legislation. We have come a long ways with the bill, and now is not the time to stall that effort. This issue has been of considerable importance in southern Idaho for quite some time and it is necessary that we proceed with the bill.

While passage of H.R. 519 is important to Idaho and all the parties involved, it is also important to understand that this legislature effort does not result in an implied or specificity legislated Federal Reserve water right. The adjudication of water in the Snake River must remain a right of the State of Idaho and not the Federal Government.

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

Mr. Speaker, on behalf of the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] I include for the RECORD several letters addressed to the chairman as follows:

NATIONAL AUDUBON SOCIETY,
Washington, DC, March 6, 1987.

Hon. JOHN D. DINGELL,
Chairman, House Energy and Commerce Committee, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN DINGELL: On behalf of the National Audubon Society, I am writing to thank you for your continuing interest in the implementation of the Electric Consumers Protection Act of 1986 (ECPA). We were pleased to be associated with and supportive of your tremendously successful efforts last year to amend the Federal Power Act in such a way as to provide much strengthened protection for fish, wildlife and other nondevelopmental uses of waterways.

I would also like to thank you for the concern you have shown with regard to the proposed Swan Falls agreement and the legislation currently pending in Congress with regard to that agreement.

On one level, we are troubled that any legislation along these lines should be enacted by the Congress. The precedent of Congress dictating the specifics of a Federal Energy Regulatory Commission (FERC) order is troubling. In this case, it appears that various representatives from Idaho are truly upset with the long delays they have experienced at FERC; congressional action would certainly expedite FERC action. But the Idaho situation is not the only case where there have been long delays at FERC and we are concerned that congressional intervention in this case will invite others to seek similar remedies.

On another level, we are concerned that the proposed agreement relating to Swan Falls will result in a minimum flow which would have serious impacts on the Deer Flat National Wildlife Refuge. Earlier, we provided information concerning the possible impacts of the agreement on the refuge to your staff. It is critically important that provision must be made to ensure that fish and wildlife resources will not be adversely harmed by the agreement or by any action of Congress embracing the agreement. Your letter of February 9, 1987 to FERC Chairman Hesse is most welcome and the response you receive should provide at least some of the information needed to determine how best to protect fish and wildlife resources on the river.

We recently participated in a meeting with other conservation groups and representatives from the state of Idaho and Idaho Power Company. It was a productive exchange of ideas and information. While the meeting itself did not result in a resolution to the problem, representatives from the state and the company did agree to carefully consider our concerns and, if possible, suggest a solution that may be acceptable from the conservation standpoint. We are waiting to hear their recommendation and we are hopeful that the response will be acceptable.

We strongly encourage you to continue your probe for additional information from FERC. We see no compelling reason to force this legislation through the Congress in a hasty manner. The possible impacts of the bill, as we still understand them, are too great to proceed without more knowledge and a better understanding of the capability of the federal agencies (FWS and NMFS) to protect the natural resources entrusted to them. Your action is both timely and welcome.

Sincerely,

CHARLENE DOUGHERTY,
Director of Legislation.

IDAHO POWER CO.
Boise, ID, July 16, 1987.

Re Swan Falls Legislation, H.R. 519 and S. 214.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR CHAIRMAN DINGELL: Your letter of June 29, 1987, to Under Secretary Calio and Director Dunkle invited comments from Idaho Power Company, among others, on the matters discussed in your letter. On behalf of Idaho Power Company, I submit the following comments:

1. THE OFFERS OF SETTLEMENT

One of the actions required of the State of Idaho by the Swan Falls Settlement Agreement was a complete adjudication of the Snake River. Legislation was enacted to require this adjudication, and the adjudication was commenced by the State of Idaho on June 17, 1987. A copy of the Petition is enclosed for your information. The adjudication will include the Deer Flat National Wildlife Refuge.

The Offers of Settlement referred to in your letter were entered into on the basis that the Idaho Power Company's request for a declaratory order from FERC was not the proper vehicle, and FERC was not the proper forum, for resolution of minimum flow rights issues associated with the refuge or with other federal reservations and programs. The adjudication was recognized as the proper place for resolution of those issues. The Officers of Settlement reflected the desire of the parties to make it clear that the FERC declaratory order would not adversely affect the ability of the parties to protect their interests in proper forums and proceedings. The Offers of Settlement were not intended to affect, much less resolve, any fish and wildlife issues.

2. NATIONAL MARINE FISHERIES SERVICES RESPONSE OF JUNE 17, 1987

The NMFS response postulates a depletion of the Snake River greater than that estimated by the State of Idaho and Idaho Power Company. The response demonstrates a lack of understanding of the basis of the Settlement Agreement and the potential depletions of the Snake River.

The Settlement Agreement establishes a minimum average daily flow of 3900 cfs during the summer and 5600 cfs in the winter at the Murphy U.S.G.S. gaging station. The NMFS response is based on an average monthly flow analysis, and compares monthly average flows with the daily average flow stated in the Settlement Agreement. Average monthly flows are higher than minimum average daily flows, and the minimum average daily flow was selected for the minimum flow control mechanism because it is more restrictive than average monthly flows, and thus more protective of

instream values, including power production. The minimum flows are intended to be the worst case that can happen. Therefore, in all but the critical period, the flow conditions will be better than minimum.

Further, irrigation depletions are planned by farmers to occur on an on-going basis. The investment in land, equipment and time necessary to carry on a successful farming operation do not permit farming only in some years and not in others.

The NMFS response assumes greater depletions in good water year than in critical water years. This has not happened to date in irrigated farming in Idaho, or elsewhere in the west, and simply cannot happen, for the reason noted above. Agricultural development would not expand in the better years, with the risk that it would have to contract in the poorer years. Therefore, if agricultural development does occur, the depletions resulting from that development will be approximately the same every year.

Additionally, most agricultural expansion which would deplete flows at the Murphy gage will come by pumping from the Snake River Plain Aquifer. Stopping pumping in a dry year will not immediately result in increased river flows, due to the effect of the aquifer. Therefore, the State of Idaho has no choice but to restrict further agricultural development to that amount which would potentially reduce flows to the minimums in a critical year. Therefore, the "substantially greater flow depletions" suggested by NMFS simply have no factual or realistic basis.

In 1987, 170,000 acres of irrigated land served by Idaho Power Company have gone out of production, presumably under the federal set-aside programs. This exceeds Company and State of Idaho estimates of total new agricultural production which might occur if the entire 450 cfs were to be developed. Policies outside the Settlement Agreement have the potential for impacts on the Snake River which far exceed the effects of the Settlement Agreement.

3. IMPACTS ON ANADROMOUS FISH RESOURCES

The NMFS response suggests that the State of Idaho is incorrect in contending that the Settlement Agreement will not significantly impact fish habitat or flow releases under the Columbia River Basin Fish and Wildlife Program. NMFS asserts that "IPC reservoirs will lose 434,000 acre feet under the Swan Falls Agreement," (Page 4) and that those reservoirs are important to the Water Budget.

NMFS uses the State total potential agricultural depletion figure which was apparently arrived at by multiplying the daily loss of 1192 acre feet resulting from a 600 cfs depletion by 365 days. The NMFS analysis is inaccurate in two respects.

As pointed out in Idaho Power Company's responses to the FERC questions, 150 cfs of existing flow at the Murphy gage was reserved for domestic, commercial, municipal and industrial uses. Depletion of this reserved water will not take place for many years. A realistic analysis of potential depletion is limited to the 450 cfs which might be taken by new agricultural uses. [The Company's analysis indicates that it will be at least 30 years before even that amount is depleted.] 894 acre feet per day X 365 days results in a maximum potential depletion of 326,000 acre feet, spread over the entire twelve months.

However, the basic flaw in the NMFS approach is a confusion of "depletion" with "storage". The only storage on the Idaho Power Company system which is subject to Company control within the terms of its licenses is 1,000,000 acre feet at Brownlee Reservoir. [American Falls Reservoir is controlled by the United States Bureau of Reclamation. The Company power plant at American Falls Dam generates using USBR releases.]

Brownlee Reservoir is partially evacuated every year for flood control purposes as required by the U.S. Army Corps of Engineers. It is then refilled and remains full until drawn down if required for summer generation. Obviously, while the reservoir is drawn down for flood control or generation requirements, and when the reservoir is full, no "storage" is taking place.

The Water Budget requests usually occur in May and June. The impact on Company operations is realized in June. Therefore, the total potential new depletion for that month would only be 27,000 acre feet annually at the end of 30 years or more. Comparing potential annual depletion under the Settlement Agreement with the 450,000 acre feet in the 1987 Water Budget is an equation of apples and oranges. Water Budget needs relate to river flows and storage water availability during the spring and early summer. Potential depletion of river flows in other months is not material to Water Budget discussions, and certainly cannot be equated to "storage" as NMFS has done.

Reductions of river flows to levels permitted by the Settlement Agreement will have little or no impact on Water Budget operations.

INTERPRETATION OF SECTION 1 OF H.R. 519 AND S. 214

Your statements in your letter concerning the intent of section 1 of the bill, found at page 3 and carrying over to the top of page 4, are accurate. The language in the bill relates to utilization or retention of project property, including water rights. Possible FERC concerns over fish and wildlife and other environmental matters are not premised on the property retention articles of the various licenses and would not be affected by the bill. The disclaimer in Section 2 was intended to make that clear.

INTERPRETATION OF SECTION 2

The Offers of Settlement were to be preserved by the bill as drafted, in order to prevent any arguments that the FERC order entered pursuant to the bill foreclosed consideration of fish and wildlife issues in other proceedings, or affected other existing agreements on those matters. If FERC does not agree with that interpretation, then the bill should indeed be amended.

Thank you for giving Idaho Power Company the opportunity to make these comments. If you need any further information, please let us know.

Sincerely,

LOGAN E. LANHAM,
Senior Vice President.

OFFICE OF THE GOVERNOR,
Boise, July 24, 1987.

Re H.R. 519 (Swan Falls Legislation): Idaho's Comments on Issues Raised by FERC and NMFS.

Hon. JOHN D. DINGELL,
Chair, House Committee on Energy and Commerce, Washington, DC.

DEAR REPRESENTATIVE DINGELL: This letter contains Idaho's requested comments on issues in the above-referenced matter that were raised recently by the National Marine Fisheries Service ("NMFS") and by the Federal Energy Regulatory Commission ("FERC"), and that were referenced and discussed in your June 29, 1987 letter to the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. I welcome the opportunity to help clarify Idaho's understanding of H.R. 519 and the Swan Falls Settlement Agreement (the "Agreement") and Offers of Settlement pending before FERC in Docket No. EL-85-38-000 (Idaho Power Company Petition for Declaratory Order Amending Licenses). The bill and petition are of paramount importance to Idaho, and we urge prompt and favorable consideration by Congress and FERC respectively.

As I understand your letter of June 29, a document filed in the FERC proceeding by NMFS on June 17, 1987 and correspondence to you from FERC dated June 15, 1987 have raised certain concerns about the potential effect of H.R. 519 and the FERC Order on fish and wildlife. Upon review of these documents, it is my conclusion that any confusion arises principally from NMFS's fundamental misunderstanding of the facts underlying the Agreement.

In its June 17 filing with FERC, NMFS makes two primary assertions that demonstrate its misunderstanding, specifically that:

(i) depletions of Snake River flow will exceed legal minimums at Murphy Gauge, producing adverse consequences for anadromous and resident fish; and

(ii) depletions permitted under the Agreement will preclude Idaho from contributing to the Water Budget under the Columbia River Basin Fish and Wildlife Program, which is designed to help flush anadromous fish to the ocean during May and June downstream migration.

NMFS's arguments are based on faulty analysis. Following a description of the Agreement, I will discuss NMFS's claims individually and conclude my comments with brief remarks about H.R. 519 and possible amendments.

I. THE AGREEMENT

The Agreement contains three principal components that together provide for judicious management of the Snake River system:

(i) The legal minimum flow at Murphy Gauge is increased from 3,300 c.f.s. (daily average) to 3,900 c.f.s. during the high demand months of April 1 to October 31, and to 5,600 c.f.s. during the remaining low demand months. The Idaho Water Resource Board has included this provision in the State Water Plan, which the Idaho Legislature has ratified.

(ii) New water rights above Swan Falls may be approved only if in the public interest. Idaho Code Section 42-203B, C and D; Water Resources Rules and Regulations, Rule 5.3 (codification of Agreement provision).

(iii) Water rights down to and including the Salmon River Drainage, including tributaries, federal reserved rights, and ground water, will be adjudicated in an action recently filed in Twin Falls County District Court ("Snake River Adjudication"). Idaho Code Section 42-1406A (codification of Agreement provision).

The minimum flow provisions and the public interest review of new water uses are the cornerstones of the Agreement and ensure reasonable protection for fish and wildlife. A clear understanding of their history, operation and effect is crucial for responsible Congressional action.

1. Brief History of Swan Falls Controversy.—The Swan Falls controversy has deep

roots. Upstream farmers first moved to protect their water rights against downstream hydropower uses in 1928 when they successfully offered an amendment to the Idaho Constitution empowering the state to regulate and control the latter's water rights. Thereafter, many, but not all, hydropower licenses were subordinated to future consumptive uses upstream.

There was plenty of water for all, and peace reigned until the 1950's when Idaho Power Company ("IPCo") applied for licenses on its proposed project at Hell's Canyon, a site simultaneously sought for development by the federal government. Fearing that federal ownership could preempt future upstream use, the state agreed to grant IPCo a license if IPCo would subordinate its water right to upstream uses. The deal was struck, with the accompanying "understanding" that other IPCo properties were also subordinated. Although Idaho and IPCo conducted business in accord with this "understanding," there was no written agreement.

Through 1973, summer peak demand to IPCo's electricity increased ninefold with development of irrigated farmland by electrical pumping directly from the Snake River and its underlying acquifer. IPCo's dilemma was obvious: demand for power was up but water for hydrogeneration was in shorter supply. Not surprisingly, a ratepayer a few years later complained to the Idaho Utilities Commission that IPCo had overstated its ratebase because if had failed to protect its water rights against consumptive agricultural uses. The Swan Falls case was born in 1978 when IPCo sued the state to clarify the subordination question at Swan Falls Dam.

The Idaho Supreme Court's ruling on a pretrial motion for summary judgment in the Swan Falls case placed nearly all upstream water rights in doubt. The Court found that Swan Falls had a pre-1928 water right, and that neither the state water license nor the federal power license contained a subordination clause. Furthermore, the Court ruled that the Hell's Canyon subordination agreement in the court that the Hell's Canyon subordination agreement in the 1950's did not subordinate Swan Falls by implication. Thus, it appeared many upstream water rights might not be worth the paper on which they were written.

Not wishing to press forward toward what promised to be a long and expensive trial, the parties moved their dispute into the political arena. A solution was not forthcoming, however. During legislative sessions in 1983 and 1984, upstreamers battled for superiority of water rights, and IPCo for just compensation if subordination was imposed. At loggerheads in the legislature and still wishing to avoid a trial, the parties embarked on negotiations that produced the Agreement in October, 1984.

2. The Minimum Flow Compromise.—During negotiations, IPCo expressed willingness to subordinate its rights to all existing uses. Hence, the remaining questions were how much water was available for future use and whether upstream uses or IPCo had superior rights. Employing a "worst case" analysis utilizing available historical flow data, the parties agreed that in a critical water year, assuming demand as projected for 1985, the lowest actual daily minimum flow expected at Murphy Gauge would still exceed the legal minimum (then 3,300 c.f.s.) by 1,200 c.f.s. Thus, if IPCo won the Swan Falls lawsuit, it could only hope to win an unsubordinated right that would produce about 4,500 c.f.s. during low flow periods. If Idaho won, however, the minimum flow of 3,300 c.f.s. is all IPCo could expect.

In settlement, the parties split the difference of 1,200 c.f.s. and agreed to increase the average minimum flow by 600 c.f.s. to 3,900 c.f.s., to which IPCo would have an unsubordinate right. The remaining 600 c.f.s. was reserved for future use. This new 3,900 c.f.s. daily minimum flow would apply during the peak demand season of April through October. Concomitant with the minimum flow agreement, Idaho promised to establish the statutory framework necessary to enable it to deliver the 3,900 c.f.s.

3. Minimum Flow in Relation to Fish and Future Depletion.—As already explained, 600 c.f.s. is available for future development under the Agreement. One hundred fifty of the 600 c.f.s. are dedicated to domestic, commercial, municipal and industrial ("DCMI") uses, leaving 450 c.f.s. for future upstream consumptive uses. It is highly unlikely that either category will be fully utilized within the next 20 years.

a. DCMI uses.—Parties to the Agreement recognized that DCMI uses were critical to development of the economy and protection of the health and welfare of Idaho citizens. Each c.f.s. used for such purposes delivers primary and secondary benefits, and much, if not most, of DCMI water is returned to the system. Even though 150 c.f.s. seems like a modest block of water, it is more than all DCMI uses above Swan Falls to date. Population growth will be insufficient to consume 150 c.f.s. anytime soon.

b. Other consumptive demands.—As with DCMI uses, growth in agricultural demand for water above Swan Falls over the next 20 years is expected to be limited. Studies available to us suggest development of only about 147,000 acres of farmland during that time. This estimate is difficult to make because development will depend in large part on factors outside of Idaho's control, such as energy (power, oil) prices, trade policies and farm commodity prices. Moreover, the Agreement provides that future water rights will be approved only in the public interest. Thus, no approval will occur unless prospects for positive returns are evident. Nevertheless, assuming arguendo full development of the 147,000 acres, which would occur primarily by pumping from the underlying aquifer, our flow models suggest demand would draw down daily summer flows at Murphy Gauge by only about 100-150 c.f.s. This still leaves a "development reserve" of 300-350 c.f.s. over the next 20 years and beyond.

In summary, the Agreement provides for an average daily minimum flow at Murphy Gauge during peak demand summer months of 3,900 c.f.s., which is 600 c.f.s. higher than the current legal minimum. The lowest actual minimum flow is expected at 4,500 c.f.s. If demand absorbed the full 600 c.f.s. available for development and reduced flows to the 3,900 c.f.s. minimum, the stage change in Snake River at Murphy Gauge would fall less than three inches. A similar fall could be expeced in the vicinity of the Deer Flat National Wildlife Refuge. Also please note that the 3,900 c.f.s. average daily minimum flow under the Agreement would produce a minumum stage three inches higher than the current minimum of 3,300 c.f.s. As I have pointed out, however, demand sufficient to absorb the 150 c.f.s. available for DCMI uses and the 450 c.f.s. available for agriculture and other uses is not expected to occur in the foreseeable future.

From the description above, you can see why Idaho is satisfied that the Agreement would help preserve rather than compromise fish and wildlife habitats. Based on this explanation and background, I will address individually each of NMFS's assertions.

II. NMFS'S ASSERTIONS

1. Depletions Will Exceed Idaho's Productions.—NMFS asserts at page two of its June 17 filing with FERC that depletions will be six to twenty times greater than Idaho predicts. This claim is based on a faulty analysis of the facts. NMFS's arithmetic is inaccurate because it compares average daily minimum flows with average monthly flows. NMFS cites a survey of flows from 1976-85 that is expressed in monthly averages. NMFS then compares these averages to the Agreement's average daily minimum of 3,900 c.f.s. to derive estimated depletions of about 3,500-12,700 c.f.s. These depletions, NMFS argues, are six to twenty times greater than the 600 c.f.s. maximum depletions contemplated by the Agreement. NMFS's arithmetic is faculty because comparisons between monthly averages and daily average minimums are meaningless. Monthly averages represent the average flow for the month. Average daily flows may range significantly above or below the monthly average. At Murphy Gauge, monthly averages are much higher than the lowest average daily flows for that month. The Agreement utilizes average daily flows rather than monthly averages because they more accurately describe stream flows during critical water years. NMFS's conclusions are simply invalid.

2. Depletions Will Adversely Impact Anadromous Fish.—At pages three through five of its June 17 filing with FERC, NMFS argues that minimum flows under the Agreement will adversely impact downstream anadromous fish migrations. It claims the Agreement will limit Idaho's capacity to contribute to the Columbia River Basin Fish and Wildlife Water Budget, which was established by the Northwest Power Planning Council to, among other things, provide for sufficient flows for downstream migration of anadromous fish during April through June. As a matter of policy, NMFS's argument injects an irrelevant consideration into the Swan Falls debate. The Agreement is designed to begin settlement of all Snake River water rights down to and including the Salmon River Drainage. Only after these rights are determined can Idaho begin to manage the Snake River System with consideration of the Water Budget and other demands. It is simply improper and counterproductive for NMFS to expect FERC or Congress to treat Water Budget considerations as functional equivalents of water rights to be settled by the Agreement. The Agreement simply does not contemplate such treatment.

As a factual matter, NMFS's assertion ignores the practicalities of management of water storage in the Snake River System. Storage management is divided between IPCo, the Corps of Engineers, Bonneville Power Administration ("BPA") and the U.S. Bureau of Reclamation, each having its own purposes in mind. Thus, Idaho's capacity to allocate water to the Water Budget is less dependent on availability of water than on coordination of management. If management was coordinated, water could be available. Contrast Idaho's situation with the mid-Columbia River where Water Budget allocations are accomplished with less pain

because one entity (BPA) controls the dams. The consequence of Idaho's tangle of management is that Water Budget allocations of necessity depend significantly on streamflows. On that score, the Agreement improves flows for downstream migration because it increases the daily minimum flow to 3,900 c.f.s. from 3,300 c.f.s., which was the minimum when the Water Budget was established. Moreover, the lowest minimum flows in the Snake River occur after the Water Budget demands in April through June because irrigation demands are heavier during summer months.

NMFS further confuses the Water Budget issue by assuming agricultural depletions will vary correspondingly with the availability of water in any given year and concludes that depletions would exceed projections ". . . severalfold in average and above average water years." This assumption ignores the practicalities of agricultural economics that preclude such wide fluctuations in water demand. Because of arrangements with financial institutions, farmers must plan development years in advance. They do not enjoy the flexibility to expand in a good water year and contract when it is dry. Indeed, such ad hoc expansion and contraction has never happened in Idaho nor, to my knowledge, in any other western state on a significant scale. Furthermore, future upstream water rights will be approved under the Agreement only if in the public interest, which would likely preclude issuance of such high risk water rights.

Allow me to also point out that Idaho's State Water Plan addresses the need to increase our Water Budget contributions, and we are considering new reservoir projects and management techniques as well as water conservation programs to make more water available for downstream migration of anadromous fish.

III. H.R. 519 AND AMENDMENTS

In closing, I want to emphasize that Idaho will support amendments that will (i) clarify Section 1 of H.R. 519 to be consistent with your intent, and (ii) satisfy FERC that the Offers of Settlement are to be included in its Order. The Offers of Settlement are intended to preserve the rights of the parties to protect their interests in fish and wildlife in other forums, including the Snake River Adjudication. The Offers are not intended to resolve such issues.

Thank you for requesting Idaho's comments. We urge your speedy and favorable action on H.R. 519 with amendments in order that our great state may get about the business of managing the Snake River to the benefit of all.

With appreciation for your thoughtful consideration and cooperation, I am,

Sincerely,

CECIL D. ANDRUS,
Governor.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 519, the bill presently under consideration.

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

There was no objection.

Mr. WYDEN. Mr. Speaker, H.R. 519 will help resolve a longstanding controversy over water rights on the Snake River in Idaho.

The bill is the fruit of many hours of negotiation by Mr. STALLINGS with the Idaho Power Co., Idaho State officials, the affected Indian tribes, Federal agencies, and environmentalists. We owe a great debt to Mr. STALLINGS for diligence, his persistence, and his ability to bring all these interests together to arrive at a workable compromise.

The bill will speed ratification of an agreement reached between the power company and the State. It will allow more water to be put to use in the farms and cities of Idaho, while protecting the fish and wildlife that depend on the Snake River.

The bill will also allow Idaho, the Indian tribes, downstream State like Oregon and Washington, and interested agencies like the Northwest Power planning Council to have input into a study that will help make water allocations on the river.

Through the attentions of Mr. STALLINGS, the bill will help promote economic growth in his State while ensuring that fish and wildlife in the Northwest will not get shortchanged. The bill does not reduce present obligations of Federal agencies toward fish and wildlife.

Mr. Speaker, I commend the gentleman from Idaho for his efforts on this legislation and urge my colleagues to support it.

Mr. DAUB. Mr. Speaker, I rise in support of H.R. 519. This bill will help to resolve a longstanding dispute over water rights on the Snake River in Idaho. I applaud the patient and tireless efforts of Mr. STALLINGS in bringing all of the parties concerned with this legislation to an equitable settlement.

This bill affects only certain hydroelectric facilities on the Snake River in Idaho subject to FERC jurisdiction.

In Nebraska, we are keenly aware of the duties of the Federal Energy Regulatory Commission [FERC]. I have observed the progress of this bill with approval because it directs FERC to take action when all parties involved have agreed to a settlement.

Mr. Speaker, I commend the Idaho delegation for their efforts on this legislation and urge my colleagues to support it.

Mr. STALLINGS. Mr. Speaker, as the sponsor of H.R. 519, I would like to address several matters about the bill to ensure that the legislative record is complete and that no misunderstandings arise about what the bill does and does not do.

The final form of the bill was developed in several negotiating sessions involving Energy and Commerce Committee staff, interested environmental groups and Indian tribes, Idaho's Governor and attorney general, and Idaho Power Co. As in any piece of legislation, there were compromises struck among the various interests, so that no party to the negotiations got everything they wanted. In the end, however, the bill was acceptable to all.

The accompanying committee report states this history and the narrow purpose of the bill and is generally consistent with the negotiations. I say generally because it may be possible, by taking statements out of context, to argue an inconsistency. However, remembering that the committee report is not law, and reading the bill in conjunction with the committee report, it is clear that the bill does what it was intended to do, and no more.

The bill directs the Federal Energy Regulatory Commission [FERC] to issue a specific order concerning the Swan Falls settlement agreement. It also directs certain parties to negotiate the scope and financing of studies of the Snake River. In the absence of agreement on the studies, FERC is authorized to decide the scope and financing of the studies and to enforce its order.

As introduced, H.R. 519 did not propose any studies. During negotiations, however, it became clear that some provision for study was necessary to move the bill forward. Concerns were expressed early about the ability of Federal agencies to prepare adequately claims of reserved water rights in the anticipated state court adjudication. This concern was considered to be reason enough to include the studies in the bill. Interested water users in the Snake River Basin should not be surprised, since the possible existence of Federal reserved water rights was a principal reason for desiring an adjudication of the Snake River.

Notwithstanding the provision calling for studies, the bill does not create or imply the existence of any Federal reserved right. Studies of physical attributes of the Snake River, as contemplated in the bill, do not create water rights nor imply the existence of water rights.

H.R. 519 does not give FERC new jurisdiction to enforce the studies. Instead, FERC is given jurisdiction only to enforce its order concerning the scope and financing of the studies. Whatever the results, FERC is given no new authority in this bill to enforce those results. The bill provides that the studies and the report issued thereon shall be considered by FERC in accordance with "existing and applicable law."

In other words, if FERC is to base any order on the studies, it has to use existing law as the basis for that order. FERC has no authority to set minimum flows in derogation of existing rights under current law. This bill simply does not expand existing FERC authority. The savings provision of section 2(c) removes any possibility of doubt that this is the case:

Nothing in this Act shall be construed as (1) affecting the rights or jurisdiction of the United States, the states, Indian tribes, or other entities over waters of any river or stream or over any ground water resource; (2) altering or establishing the respective rights of states, the United States, Indian tribes, or any person with respect to any water or water-related rights. . . .

It could not be made clearer that this bill is deliberately and specifically neutral on water rights and jurisdiction issues.

Finally, H.R. 519 does not permit later changes in the Swan Falls settlement agreement. Adoption of the order by FERC is the last act necessary to full implementation of the Swan Falls agreement. The FERC order becomes effective no later than 60 days after its issuance and must be issued within 90 days after enactment of this bill. Thus, no more than 150 days after the enactment of this bill, the Swan Falls agreement will be fully and completely implemented. The studies themselves may take several years to complete. Therefore, the river flows included in the Swan Falls agreement are not subject to

modification by reason of enactment of H.R. 519. In fact, H.R. 519 will permit full implementation of the Swan Falls settlement agreement and a lasting resolution of the dispute it involved.

In sum, a careful reading of the bill indicates that FERC is directed to issue a certain order concerning the Swan Falls settlement agreement, and empowered to decide questions related to the scope and financing of joint studies of the Snake River. It is not empowered to enforce those studies, set minimum flows regimes on the Snake River or otherwise manage the waters of the Snake River in a way other than that provided in existing law.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentlemen from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 519, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS THAT U.N. GENERAL ASSEMBLY RESOLUTION 3379 SHOULD BE OVERTURNED

Mr. LANTOS. Mr. Speaker, I move to suspend the rules and pass the senate joint resolution (S.J. Res. 205) expressing the sense of the Congress that United Nations General Assembly Resolution 3379 (XXX) should be overturned, and for other purposes.

The Clerk read as follows:

S.J. RES. 205

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby—

(1) declares that United Nations General Assembly Resolution 3379 (XXX), which equates Zionism with racism—

(a) has been unhelpful in the context of the search for a settlement in the Middle East:

(B) is inconsistent with the Charter of the United Nations:

(C) remains unacceptable as a misrepresentation of Zionism; and

(2) recommends that the United States Government should lend support to efforts to overturn Resolution 3379 (XXX) in the United Nations.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. LANTOS] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

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

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

Mr. Speaker, tomorrow the distinguished President of the State of Israel will be addressing a joint session of Congress, and it is singularly appropriate that prior to this historic event, which will mark the first appearance by a President of the State of Israel before the Congress of the United States, we act on this most important joint resolution.

Allow me, Mr. Speaker, to give the Members a bit of the background. During the darkest, most ignominious days of the United Nations, when the organization was bent on self-destruction, a similarly outrageous resolution was passed with the support of undemocratic, dictatorial, totalitarian powers. That day was a day of infamy for democratic nations in the United Nations such as the United States. The resolution declared the national aspirations of the Jewish people, Zionism, to be the equivalent of racism. Our distinguished Ambassador to the United Nations at the time, now Senator MOYNIHAN, violently fought this preposterous attempt to undermine one of the few democratic nations within the United Nations. He failed, and it is only appropriate that he should be the prime mover in the Senate of this resolution calling on our State Department to do its utmost to see that this infamous U.N. resolution be reversed.

November 10 is a particularly significant date as it relates to this resolution. It was November 10, the famous Crystal Night, which began in Nazi Germany the systematic and violent persecution of its people. It is ironic and historic that the President of the State of Israel will address a joint session of this body also on November 10.

It is our hope, Mr. Speaker, that just as the Australian Parliament approved a parallel resolution a year ago, so, after our action today, democratic governments throughout this globe and democratic legislatures throughout this globe will take similar action and the United Nations will see the error of its ways and will move to reconsider and abandon this infamous resolution.

Here in our own House, my two distinguished colleagues, the gentleman from New York [Mr. FISH] and the gentleman from New York [Mr. GILMAN], have been the prime sponsors of this legislation. I want to pay tribute to their work on behalf of this very important move and urge all my colleagues to support the undoing of one of the most preposterous United Nations moves in the entire history of that body.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New York [Mr. FISH], the initial sponsor of this joint resolution.

Mr. FISH. Mr. Speaker, Senate Joint Resolution 205 expresses the sense of Congress that the U.N. resolution equating Zionism with racism should be overturned.

United Nations General Assembly Resolution 3379 (XXX), which "determines that Zionism is a form of racism and racial discrimination," is a gross distortion of the truth. It is also part of an attempt to challenge Israel's credentials and exclude it from the workings of the General Assembly.

Senate Joint Resolution 205 and the companion legislation in the House, House Joint Resolution 385, express the sense of Congress that the U.N. resolution misrepresents Zionism and has served to escalate religious animosity and incite anti-Semitism. These resolutions recommend that the U.S. Government lend support to efforts to overturn the U.N. resolution. House Joint Resolution 385, which I introduced for myself and my colleagues Mr. GILMAN, Mr. BOEHLERT, Mr. GREEN and Mr. SHAYS, is identical to Senate Joint Resolution 205, which the Senate has passed. Currently, 51 of our House colleagues have joined me as cosponsors.

Overturning the U.N. resolution would be a major step in establishing the legitimacy of Israel. Our action in Congress is especially timely, because the President of Israel, Chaim Herzog, will visit the United States beginning November 9. This will be the first official state visit to our country by an Israeli President.

Mr. Speaker, many of us feel that this action by the Congress is long overdue. By coincidence, the U.N. resolution was adopted November 10, 1975. It is doubly fitting that as we approach the anniversary of that date, as well as the visit of President Herzog, we in Congress express our sense to the United Nations, to Israel and the Middle East and to all the world that we emphatically reject the notion that Zionism is in any way racist.

Mr. LANTOS. Mr. Speaker, it gives me a great deal of pleasure to yield such time as he may consume to the distinguished gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me, and I rise in support of this joint resolution.

Just as my good friend, the gentleman from California, referred to the history of the resolution, I, too, would like to cite history. In August 1975, I received a telephone call from our then U.N. Ambassador and now Senator, PAT MOYNIHAN, who advised me that there was pending for a vote before the U.N. General Assembly a

resolution equating Zionism with racism.

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He asked me whether it would be possible to obtain a statement of congressional opposition to the resolution.

I told him of my violent opposition to the resolution. Of course I would try to mobilize congressional opposition to it as well.

I drafted a resolution expressing the sentiment of the Congress against the proposed U.N. resolution and requested the then Majority Leader Thomas O'Neill and Minority Leader ROBERT MICHEL whether they would act as original cosponsors of the bill.

They agreed immediately to do so. I then sought cosponsors among my colleagues, and within 2 days all the Members of the House but one signed on the resolution as cosponsors—all but one, Mr. Speaker, it truly showed the depth of feeling in the House.

We had, I believe, 434 cosponsors of the resolution calling for opposition to the U.N. resolution.

I called Ambassador MOYNIHAN and told him of the House support for the position he had taken in opposition to the resolution, and he used it; but unfortunately it did not stop the later passage of that false and malicious resolution.

At that time in an eloquent speech, Ambassador MOYNIHAN said in part, "We shall not acknowledge, we shall not abide by, we shall never acquiesce in this infamous act."

On November 11, 1975, Mr. Speaker, Majority Leader O'Neill with the cosponsorship of Minority Leader MICHEL offered a resolution in the House which passed by a vote of 384 to 0. That resolution, which I should like to cite at this time, reading the resolving part:

Resolved, the House of Representatives sharply condemns the resolution adopted by the General Assembly on November 10, 1975 in that said resolution encourages anti-Semitism by wrongfully associating and equating Zionism with racism and racial discrimination, thereby contradicting the fundamental purpose of the United Nations, and be it further resolved the House strongly opposes any form of participation by the U.S. Government in the Decade for Action to Combat Racism and Racial Discrimination so long as that decade and program remain distorted and compromised by the aforementioned resolution naming Zionism as one of the targets of that struggle, and be it further resolved that the House calls for an energetic effort by all those concerned with the adherence of the United Nations to the purposes stated in its charter to obtain reconsideration of the aforementioned resolution with a view to removing the subject of Zionism which is a national, but in some way, a racist philosophy from the context of any programs and discussions focusing on racism or racial discrimination.

Mr. Speaker, time has long passed for reconsideration of this resolution, this U.N. resolution.

We ought to bend every effort to achieve that decision, and I hope the bill that we pass today will achieve that purpose.

Mr. Speaker, I include in the RECORD the speech made by the distinguished ambassador at that time, Ambassador PAT MOYNIHAN, to the U.N. General Assembly.

A copy of the above-referenced speech follows:

STATEMENT BY AMBASSADOR DANIEL P. MOYNIHAN, U.S. REPRESENTATIVE TO THE UNITED NATIONS, IN PLENARY, IN EXPLANATION OF VOTE ON THE RESOLUTION EQUATING ZIONISM WITH RACISM AND RACIAL DISCRIMINATION, NOVEMBER 10, 1975

The United States rises to declare before the General Assembly of the United Nations and before the world, that it does not acknowledge, it will not abide by, it will never acquiesce in this infamous act.

Not three weeks ago, the United States Representative in the Social, Humanitarian, and Cultural Committee pleaded in measured and fully considered terms for the United Nations not to do this thing. It was, he said, "obscene." It is something more today, for the furtiveness with which this obscenity first appeared among us has been replaced by a shameless openness.

There will be time enough to contemplate the harm this act will have done the United Nations. Historians will do that for us, and it is sufficient for the moment only to note one foreboding act. A great evil has been loosed upon the world. The abomination of anti-semitism—as this year's Nobel Peace Laureate Andrei Sakharov observed in Moscow just a few days ago—the abomination of anti-semitism has been given the appearance of international sanction. The General Assembly today grants symbolic amnesty—and more—to the murderers of the six million European Jews. Evil enough in itself, but more ominous by far is the realization that now presses upon us—the realization of that if there were no General Assembly, this could never have happened.

As this day will live in infamy, it behooves those who sought to avert it to declare their thoughts so that historians will know that we fought here, that we were not small in number—not this time—and that while we lost, we fought with full knowledge of what indeed would be lost.

Nor should any historian of the event, nor yet any who have participated in it, suppose that we have fought only as governments, as chancelleries, and on an issue well removed from the concerns of our respective peoples. Others will speak for their nations: I will speak for mine.

In all our postwar history there has not been another issue which has brought forth such unanimity of American opinion. The President of the United States has from the first been explicit: This must not happen. The Congress of the United States, in a measure unanimously adopted in the Senate and sponsored by 436 of 437 Representatives in the House, declared its utter opposition. Following only American Jews themselves, the American trade union movement was first to the fore in denouncing this infamous undertaking. Next, one after another, the great private institutions of American life pronounced anathema on this evil thing—and most particularly, the Christian churches have done so. Reminded that the United Nations was born in the struggle against just such abominations as we are committing today—the wartime alliance of the United Nations dates from 1942—the United Nations Association of the United States has for the first time in its history appealed directly to each of the 141 other delegations in New York not to do this unspeakable thing.

The proposition to be sanctioned by a resolution of the General Assembly of the United Nations is that "Zionism is a form of racism and racial discrimination." Now this is a lie. But as it is a lie which the United Nations has now declared to be a truth, the actual truth must be restated.

The very first point to be made is that the United Nations has declared Zionism to be racism—without ever having defined racism. "Sentence first—verdict afterwards," as the Queen of Hearts said. But this is not wonderland, but a real world, where there are real consequences to folly and to venality. Just on Friday, the President of the General Assembly warned not only of the trouble which would follow from the adoption of this resolution but of its essential irresponsibility—for, he noted, members have wholly different ideas as to what they are condemning. "It seems to me," he said, and to his lasting honor he said it when there was still time, "It seems to me that before a body like this takes a decision they should agree very clearly on what they are approving or condemning, and it takes more time."

Lest I be unclear, the United Nations has in fact on several occasions defined "racial discrimination." The definitions have been loose, but recognizable. It is "racism"—incomparably the more serious charge—which has never been defined. Indeed, the term has only recently appeared in United Nations General Assembly documents. The one occasion on which we know its meaning to have been discussed was the 1644th meeting of the Third Committee on December 16, 1968, in connection with the report of the Secretary-General on the status of the international convention on the elimination of all forms of racial discrimination. On that occasion—to give some feeling for the intellectual precision with which the matter was being treated—the question arose, as to what should be the relative positioning of the terms "racism" and "Nazism" in a number of the preambular paragraphs. The distinguished delegate from Tunisia argued that "racism" should go first because "Nazism was merely a form of racism. . . ." Not so, said the no less distinguished delegate from the Union of Soviet Socialist Republics. For, he explained, "Nazism contained the main elements of racism within its ambit and should be mentioned first." This is to say that racism was merely a form of Nazism.

The discussion wound to its weary and inconclusive end, and we are left with nothing to guide us, for even this one discussion of "racism" confined itself to word orders in preambular paragraphs, and did not at all touch on the meaning of the words as such. Still, one cannot but ponder the situation we have made for ourselves in the context of the Soviet statement on that not so distant occasion. If, as the distinguished delegate declared, racism is a form of Nazism—and if, as this resolution declares, Zionism is a form of racism—then we have step by step taken ourselves to the point of proclaiming—the United Nations is solemnly proclaiming—that Zionism is a form of Nazism.

What we have here is a lie—a political lie of a variety well known to the twentieth century, and scarcely exceeded in all that annal of untruth and outrage. The lie is

that Zionism is a form of racism. The overwhelmingly clear truth is that it is not.

The word "racism" is a creation of the English language, and relatively new to it. It is not, for instance, to be found in the Oxford English Dictionary. The term derives from relatively new doctrines—all of them discredited—concerning the human population of the world, to the effect that there are significant biological differences among clearly identifiable groups, and that these differences establish, in effect, different levels of humanity. Racism, as defined by Webster's Third New International Dictionary, is "The assumption that . . . traits and capacities are determined by biological race and that races differ decisively from one another." It further involves "a belief in the inherent superiority of a particular race and its right to domination over others."

This meaning is clear. It is equally clear that this assumption, this belief, has always been altogether alien to the political and religious movement known as Zionism. As a strictly political movement, Zionism was established only in 1897, although there is a clearly legitimate sense in which its origins are indeed ancient. For example many branches of Christianity have always held that from the standpoint of the biblical prophets, Israel would be reborn one day. But the modern Zionist movement arose in Europe in the context of a general upsurge of national consciousness and aspiration that overtook most other people of Central and Eastern Europe after 1848, and that in time spread to all of Africa and Asia. It was, to those persons of the Jewish religion, a Jewish form of what today is called a national liberation movement. Probably a majority of those persons who became active Zionists and sought to emigrate to Palestine were born within the confines of Czarist Russia, and it was only natural for Soviet Foreign Minister Andrei Gromyko to deplore, as he did in 1948, in the 299th meeting of the Security Council, the act by Israel's neighbors of "sending their troops into Palestine and carrying out military operations aimed"—in Mr. Gromyko's words—"at the suppression of the National Liberation Movement in Palestine."

Now it was the singular nature—if I am not mistaken, it was the unique nature—of this National Liberation Movement that in contrast with the movements that preceded it, those of that time and those that have come since, it defined its members in terms not of birth, but of belief. That is to say, it was not a movement of the Irish to free Ireland, or of the Polish to free Poland, not a movement of Algerians to free Algeria, nor of Indians to free India. It was not a movement of persons connected by historic membership in a genetic pool of the kind that enables us to speak loosely but not meaninglessly, say, of the Chinese people, nor yet of diverse groups occupying the same territory which enables us to speak of the American people with no greater indignity to truth. To the contrary, Zionists defined themselves merely as Jews, and declared to be Jewish anyone born of a Jewish mother or—and this is the absolutely crucial fact—anyone who converted to Judaism. Which is to say, in the terms of the International Convention on the elimination of all forms of racial discrimination, adopted by the 20th General Assembly, anyone—regardless of "race, colour, descent, or national or ethnic origin. . . ."

The State of Israel, which in time was the creation of the Zionist Movement, has been extraordinary in nothing so much as the range of "racial stocks" from which it has drawn its citizenry. There are black Jews, brown Jews, white Jews, Jews from the Orient and Jews from the West. Most such persons could be said to have been "born" Jews, just as most Presbyterians and most Hindus are "born" to their faith, but there are many Jews who are converts. With a consistency in the matter which surely attests to the importance of this issue to that religious and political culture, Israeli courts have held that a Jew who converts to another religion is no longer a Jew. In the meantime the population of Israel also includes large numbers of non-Jews, among them Arabs of both the Muslim and Christian religions and Christians of other national origins. Many of these persons are citizens of Israel, and those who are not can become citizens by legal procedures very much like those which obtain in a typical nation of Western Europe.

Now I should with to be understood that I am here making one point, and one point only, which is that whatever else Zionism may be, it is not and cannot be "a form of racism." In logic, the State of Israel could be, or could become, many things, theoretically including many things undesirable, but it could not be and could not become racist unless it ceased to be Zionist.

Indeed, the idea that Jews are a "race" was invented not by Jews but by those who hated Jews. The idea of Jews as a race was invented by nineteenth century anti-semites such as Houston Steward Chamberlain and Edouard Drumont, who saw that in an increasingly secular age, which is to say an age which made for fewer distinctions between people, the old religious grounds for anti-semitism were losing force. New justifications were needed for excluding and persecuting Jews, and so the new idea of Jews as a race—rather than as a religion—was born. It was a contemptible idea at the beginning, and no civilized person would be associated with it. To think that it is an idea now endorsed by the United Nations is to reflect on what civilization has come to.

It is precisely a concern for civilization, for civilized values that are or should be precious to all mankind, that arouses us at this moment to such special passion. What we have at stake here is not merely the honor and the legitimacy of the State of Israel—although a challenge to the legitimacy of any member nation ought always to arouse the vigilance of all members of the United Nations. For a yet more important matter is at issue, which is the integrity of that whole body of moral and legal precepts which we know as human rights.

The terrible lie that has been told here today will have terrible consequences. Not only will people begin to say, indeed they have already begun to say, that the United Nations is a place where lies are told. Far more serious, grave, and perhaps irreparable harm will be done to the cause of human rights. The harm will arise first because it will strip from racism the precise and abhorrent meaning that it still precariously holds today. How will the peoples of the world feel about racism, and about the need to struggle against it, when they are told that it is an idea so broad as to include the Jewish National Liberation Movement?

As this lie spreads, it will do harm in a second way. Many of the members of the United Nations owe their independence in no small part to the notion of human rights, as it has spread from the domestic sphere to the international sphere and exercised its influence over the old colonial powers. We are now coming into a time when that independence is likely to be threatened again. There will be new forces, some of them arising now, new prophets and new despots, who will justify their actions with the help of just such distortions of words as we have sanctioned here today. Today we have drained the word "racism" of its meaning. Tomorrow, terms like "national self-determination" and "national honor" will be perverted in the same way to serve the purposes of conquest and exploration. And when these claims begin to be made—as they already have begun to be made—it is the small nations of the world whose integrity will suffer. And how will the small nations of the world defend themselves, on what grounds will others be moved to defend and protect them, when the language of human rights, the only language by which the small can be defended, is no longer believed and no longer has a power of its own?

There is this danger, and then a final danger that is the most serious of all. Which is that the damage we now do to the idea of human rights and the language of human rights could well be irreversible. The idea of human rights as we know it today is not an idea which has always existed in human affairs. It is an idea which appeared at a specific time in the world, and under very special circumstances. It appeared when European philosophers of the seventeenth century began to argue that man was a being whose existence was independent from that of the State, that he need join a political community only if he did not lose by that association more than he gained. From this very specific political philosophy stemmed the idea of political rights, of claims that the individual could justly make against the State; it was because the individual was seen as so separate from the State that he could make legitimate demands upon it.

That was the philosophy from which the idea of domestic and international rights sprang. But most of the world does not hold with that philosophy now. Most of the world believes in newer modes of political thought, in philosophies that do not accept the individual as distinct from and prior to the State, in philosophies that therefore do not provide any justification for the idea of human rights and philosophies that have no words by which to explain their value. If we destroy the words that were given to us by past centuries, we will not have words to replace them, for philosophy today has no such words.

But there are those of us who have not forsaken these older words, still so new to much of the world. Not forsaken them now, not here, not anywhere, not ever.

Mr. Speaker, I also submit a rollcall of how the United Nations voted on the Zionism issue, as follows:

HOW NATIONS VOTED ON ZIONISM ISSUE

UNITED NATIONS, November 11.—Here is the roll call on the anti-Zionism resolution adopted Monday night by the U.N. General Assembly.

For, 72: Afghanistan, Albania, Algeria, Bahrain, Bangladesh, Brazil, Bulgaria, Burundi, Byelorussia, Cambodia, Cameroon, Cape Verde, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Egypt, Equatorial Guinea, Gambia, East Germany, Grenada, Guinea, Guinea-Bissau, Guyana, Hungary, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Laos, Lebanon, Libya,

Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Poland, Portugal, Qatar, Rwanda, Sao Tome-Principe, Saudi Arabia, Senegal, Somalia, Sri Lanka, Sudan, Syria, Tunisia, Turkey, Uganda, Ukraine, Soviet Union, United Arab Emirates, Tanzania, North Yemen, South Yemen, Yugoslavia.

Against, 35: Australia, Austria, Bahamas, Barbados, Belgium, Canada, Central African Republic, Costa Rica, Denmark, Dominican Republic, El Salvador, Fiji, Finland, France, West Germany, Haiti, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Liberia, Luxembourg, Malawi, Netherlands, New Zealand, Nicaragua, Norway, Panama, Swaziland, Sweden, Britain, United States, Uruguay.

Abstain, 32: Argentina, Bhutan, Bolivia, Botswana, Burma, Chile, Colombia, Ecuador, Ethiopia, Gabon, Ghana, Greece, Guatemala, Jamaica, Japan, Kenya, Lesotho, Mauritius, Nepal, Papua New Guinea, Paraguay, Peru, Philippines, Sierra Leone, Singapore, Thailand, Togo, Trinidad and Tobago, Upper Volta, Venezuela, Zaire, Zambia.

Absent, 3: Romania, South Africa, Spain.

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

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

The gentleman from New York [Mr. GILMAN] is the second-ranking Republican on the full Committee on Foreign Affairs; and at that time when I was a delegate to the United Nations, the gentleman was a great help to me in keeping me advised and helping me on every appropriate occasion calling attention to this disgusting resolution that appears on the record of the United Nations.

When Resolution 3379, equating Zionism with racism, was adopted by the U.N. General Assembly in 1975, our then-Ambassador, PAT MOYNIHAN, predicted that the whole thing would boomerang. And, indeed, that is exactly what has happened. Rather than serving to discredit Israel, Resolution 3379 has served to discredit the United Nations.

When you examine the long list of abuses that has prompted Congress to cut back significantly on American financial support for the United Nations, Resolution 3379 stands as exhibit A.

But an even deeper issue is at stake, Mr. Speaker. We live in an age in which the purveyors of propaganda believe that if the same lie is told loud enough and often enough, it will eventually assume the force of truth. By passing this resolution today, we are telling the world that nobody in America has been fooled. U.N. Resolution 3379 was a lie in 1975, and it is a lie in 1987.

And so I strongly support the resolution now before us. Certainly there is no single thing the United Nations could do that would be more impressive to the American people than to take the step that moral and intellectual integrity demand. The repeal of Resolution 3379. As long as that odious, even vicious, resolution remains on the books, the United Nations can forget about commanding any real support among the American people.

Mr. LANTOS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SOLARZ].

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

I want to pay tribute to the gentleman from California [Mr. LANTOS] for the gentleman's leadership in bringing this resolution before the House, and to congratulate the gentleman from New York [Mr. FISH] for the gentleman's initiative in introducing the resolution which we have before the House today.

I also want to pay a very special tribute to the very distinguished senior Senator from New York, Mr. MOYNIHAN, who has taken the leadership in bringing this entire question before the Congress.

Senator MOYNIHAN was, of course, our Permanent Representative at the United Nations on that day 12 years ago when the Zionism Is Racism resolution was adopted by the General Assembly.

It is only fitting that we take up today this resolution calling for the repeal of the Zionism Is Racism resolution.

That resolution, the Zionism Is Racism resolution, was a wretched resolution. It was a rotten resolution. It was an infamous resolution. It was a total and absolute distortion of the truth.

There have been many national liberation movements in the history of the world. But I think it can fairly be said that, more so than any other national liberation movement ever known to man, Zionism—the national liberation movement of the Jewish people—was itself a response to and a repudiation of racism. If not for anti-Semitism, Zionism would not have developed. And it was the ultimate manifestation of anti-Semitism, the Holocaust, which was clearly a major factor in bringing about the establishment of a Jewish State in Israel. So to label Zionism a form of racism, when it was in fact, a response to racism and when it was the response of the Jewish people to the systematic discrimination imposed upon them in country after country around the world, is a monstrous defamation of the truth.

It is an insult to the millions of martyrs who lost their lives for no other reason than because they were Jewish, and because they believed that the Jewish people—like so many other people—were entitled to a State of their own.

Mr. Speaker, 12 years ago when the Zionism Is Racism resolution was adopted, votes were cast in the United Nations for and against it. For 12 years I have carried in my wallet a little pamphlet that says, "Keep this scorecard with you. It will remind you who your friends are." It lists the 72 countries that disgraced themselves by voting for this resolution, and it has the names of the 35 countries that honored themselves by voting against the resolution. It has the names of the 32 countries that took a walk, that did not have the courage to stand up and be counted and who abstained on the resolution.

Finally, it has the names of the three countries that did not even have the courage to abstain. They were absent, nowhere to be found when this momentous question was before the United Nations.

Mr. Speaker, I submit for the RECORD at this point this rollcall on the Zionism Is Racism resolution, so that the Members of Congress and the American people can remind themselves which countries in the world had the courage of their convictions and the decency to stand up for truth and justice, and which countries of the world, in the most cowardly fashion imaginable, chose to align themselves with those who would desecrate and defame one of the greatest liberation movements in the history of the world.

A copy of the rollcall follows:

THE ROLLCALL OF THE GENERAL ASSEMBLY VOTE APPROVING A RESOLUTION EQUATING ZIONISM WITH RACISM

For (72): Afghanistan, Albania, Algeria, Bahrain, Bangladesh, Brazil, Bulgaria, Burundi, Byelorussia, Cambodia, Cape Verde, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic (Southern) Yemen, Egypt, Equatorial Guinea, Gambia, East Germany, Grenada, Guinea, Guinea Bissau, Guyana, Hungary, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Laos, Lebanon, Libya, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Poland, Portugal, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Somalia, Sri Lanka, Sudan, Syria, Tunisia, Turkey, Uganda, Ukraine, Soviet Union, United Arab Emirates, Cameroon, Tanzania, Yemen and Yugoslavia.

Against (35): Australia, Austria, Bahamas, Barbados, Belgium, Canada, Central African Republic, Costa Rica, Denmark, Dominican Republic, El Salvador, Fiji, Finland, West Germany, Haiti, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Liberia, Luxembourg, Malawi, Netherlands, New Zealand, Nicaragua, Norway, Panama, Swaziland, Sweden, United Kingdom, United States and Uruguay.

Abstaining (32): Argentina, Bhutan, Bolivia, Botswana, Burma, Chile, Colombia, Ecuador, Ethiopia, Gabon, Ghana, Greece, Guatemala, Jamaica, Japan, Kenya, Lesotho, Mauritius, Nepal, Papua New Guinea, Paraguay, Peru, Philippines, Sierra Leone, Singapore, Thailand, Togo, Trinidad and

Tobago, Upper Volta, Venezuela, Zaire and Zambia.

Absent (3): Romania, South Africa and Spain.

Mr. Speaker, in the name of decency, truth, and justice, and in the name of the millions of martyrs who were the victims of anti-Semitism, I call upon my colleagues to support this resolution which calls for the repeal of the Zionism Is Racism resolution adopted by the United Nations 12 years ago today.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. MILLER], another member of the Committee on Foreign Affairs.

Mr. MILLER of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I applaud the efforts of the gentleman from New York [Mr. GILMAN] and the gentleman from New York [Mr. FISH] in bringing this important bill to the floor.

Mr. Speaker, over the past few years there has been much discussion regarding the United Nation—its usefullness and integrity. This bill points out one step the United Nations can take to show it means to become an honest supporter of world peace and freedom. It can end its slur against the Nation of Israel. To accuse a movement, which only seeks to maintain its hardened fight for a homeland, of being racist, as U.N. General Assembly Resolution 3379 does, is itself dangerously close to being racist.

I do not think anything the United Nations has done over the last several decades has puzzled, disturbed, and offended the American people more than this U.N. resolution.

Too often, Mr. Speaker, the United Nations has been used as a soapbox for hypocritical political posturing, and too often the free and democratic country of Israel has faced baseless accusations at the United Nations by those who do not even acknowledge her existence.

The problems in the Middle East are complicated, and the United Nations can play a constructive role in finding solutions to these problems; but it cannot do so as long as it continues to smear nations that stand for freedom and democracy such as Israel.

I urge unanimous approval of this resolution.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I many consume.

Mr. Speaker, Members on both sides of the aisle have spoken forcefully and eloquently.

This outrageous resolution represented a low point in this history of the United Nations. As we would like to see that organization gradually rebuild respect for its actions and itself, it has to move expeditiously to overturn this infamy.

□ 1505

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I commend my colleagues for bringing this resolution to the floor, and I rise in support of Senate Joint Resolution 205, the resolution which expresses the sense of Congress that U.N. General Assembly Resolution 3379 should be overturned. As you know, this U.N. resolution equates Zionism with racism. I am one of the cosponsors of House Joint Resolution 385, the House resolution identical to the one we are considering today.

This faulty, wrong-headed, infamous U.N. resolution is clearly inconsistent with the U.N. charter. Zionism is a theory, plan, and movement for setting up a Jewish national state in Palestine. Racism, though according to Webster's dictionary, is a belief that race is the primary determinant of human traits and capacities and that racial differences produce an inherent superiority of a particular race. Obviously, Zionism, a religious and nationalist based movement, is not racism.

I also agree with Senate Joint Resolution 205 that this flawed U.N. resolution is unhelpful to Middle East peace efforts. It only inflames anti-Semitism and increases religious animosity. The Middle East is already explosive enough and the United Nations should be working to bring about peace, not adding fuel to the fire.

Tomorrow we will be addressed in these Chambers by Israel's President, Chaim Herzog. President Herzog was the Israeli Representative to the United Nations when this negative anti-Israeli resolution passed the United Nations—on the anniversary of the Nazi "Kristallnach." I believe it is very appropriate and timely for the United States to speak up against anti-Semitism by passing this measure calling for the overturning of the "Zionism Is Racism" U.N. resolution.

Again, I fully support Senate Joint Resolution 205.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Illinois [Mr. PORTER], who also serves as chairman of the Human Rights Caucus in the House.

Mr. PORTER. Mr. Speaker, I rise today in support of Senate Joint Resolution 205, expressing the sense of Congress that the U.N. General Assembly Resolution 3379, which "determines that zionism is a form of racism and racial discrimination," should be overturned. Senate Joint Resolution 205 is similar to House Joint Resolution 385, introduced by my distinguished colleague and a member of the congressional human rights caucus, HAMILTON FISH, JR. I cosponsored House Joint Resolution 285 and rise to express my continued support for the resolution before us today.

Mr. Speaker, zionism is the movement that culminated in the establishment of the state of Israel 40 years ago. Senate Joint Resolution 205 expresses strong indignation at the U.N. resolution, which equates the historic accomplishment of a Jewish homeland with racism. The U.N. resolution is an outrage to the Jewish people and an affront to all thinking people on Earth. It is adverse to the search for a settlement of the Middle East conflict; inconsistent with the Charter of the United Nations; remains an unacceptable misrepresentation of zionism; and has served to escalate religious animosity and incite anit-Semitism.

Passage of Senate Joint Resolution 205 today is especially timely, as Israeli President Chaim Herzog will address Congress tomorrow during his state visit. This is the first visit ever by an Israeli head of State.

Chaim Herzog was Israel's permanent representative to the United Nations 12 years ago when U.N. Resolution 3379 was adopted. On that day, he stood and denounced the resolution, calling attention to the fact that it took place on the anniversary of the "Kristallnach" in Nazi Germany, an occasion marked by the first outbreak of government-sanctioned anti-Semitic public violence.

Mr. Speaker, I would also like to call to my colleagues' attention the fine work of a group of concerned citizens and community organizations in Chicago who are working to overturn U.N. Resolution 3379. Under the leadership of the American Jewish Congress, the Chicago Committee for Project CASAZ [combat anti-Semitism and anti-Zionism] will hold a public rally at the Holocaust Memorial in Skokie this Sunday. The goal of Project CASAZ is to exert nationwide pressure to repeal U.N. Resolution 3379. I commend Project CASAZ co-chairman Sol Brandzel and Rabbi Herman Schaalman for their leadership in organizing this important event.

Mr. Speaker, when President Herzog visited Australia last year, the Australian House and Senate unanimously adopted a resolution condemning U.N. Resolution 3379 and calling for its repeal. I urge the House to follow Australia's lead and pass Senate Joint Resolution 205. This joint resolution will help rally world opinion and encourage adoption of similar resolutions in other representative bodies throughout the world. Support from other U.N. members will expedite the reversal of this pernicious resolution and its frightening historic connotations.

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

Mr. Speaker, I rise in support of Senate Joint Resolution 205 which

would express the sense of Congress that the United States should work to overturn the abominable U.N. 1975 resolution which equates zionism with racism. I am an original cosponsor of the House counterpart to this straightforward, sensible measure, House Joint Resolution 385, which was introduced by my friend and colleague, the gentleman from New York [Mr. FISH] in the House. Senate Joint Resolution 205 was introduced in the other body by the distinguished senior Senator from New York, who also served as our ambassador to the United Nations at the time this infamous resolution was adopted.

Mr. Speaker, I think we should also commend the gentleman from Pennsylvania [Mr. YATRON] the chairman of the Subcommittee on Human Rights and International Organizations, for his earlier work on this same issue in our full committee and also to thank the gentleman from California [Mr. LANTOS] for his eloquent words and his efforts on the floor today.

Mr. Speaker, Zionism is not racism. Zionism is the expression of the desire of the Jewish people to have a homeland. The desire by a people to have their own country in which they may live and worship freely is a desire for which the American people have a profound understanding and appreciation. Our Nation was founded by and is populated by those who were forced to flee from oppression and suffering. It is in our nature as a people to reach out a helping hand to all those around the world who seek freedom to be themselves. For this reason we have maintained strong ties and friendship with the State of Israel since its inception and for this reason we must do all that we can to see that U.N. General Assembly Resolution 3379 (XXX) is overturned.

It is my hope that by passing this bill, the United States can join Australia, which also passed legislation along these lines, in encouraging other nations to similarly express themselves. I commend the gentleman from New York, Congressman FISH and Senator MOYNIHAN, for their efforts to reverse the U.N. resolution whose continued existence hampers efforts to promote freedom and justice around the world.

Mr. Speaker, I am immensely gratified that the House is acting on this legislation in an expeditious fashion. I thank the Chair of our House Foreign Affairs Committee, Mr. FASCELL, the ranking minority member, Mr. BROOMFIELD and the others whose efforts have permitted this measure to advance at a rapid pace.

Because we are enacting this legislation before the impending visit of the President of Israel, I believe it would be altogether fitting and proper that President Reagan sign the bill in Mr. Herzog's presence during his state visit.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON], another member of our Foreign Affairs Committee.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding and want to add my support to this very important resolution. I want to commend all those who are sponsoring it for their hard work in getting it to the floor and getting it passed today, as I am sure it will be.

There is one thing that I would like to point out, however, and that is that the PLO, the Palestinian Liberation Organization, has as its sole objective to destroy the State of Israel. Their purpose is to implement the Zionist as racism resolution by destroying the state and toward that end last week, or week before last, I introduced a motion to the State Department authorization bill which would require the State Department to remove the PLO from its mission headquarters not only in Washington, DC, but in New York as well. They are there at the discretion of the United States of America. It is not a requirement of the U.N.

I would just like to say that one of the best signals we could send to repudiate this resolution that was passed in 1975 by the U.N. would be to remove the U.N. mission for the PLO from New York and from Washington, DC. Toward that end, I would just like to urge the conferees on the State Department authorization bill to stick to their guns, to stick with the mandate of this House and get the PLO out of the United States of America.

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

Mr. ANDERSON. Mr. Speaker, I thank the gentleman from California for yielding. This is a matter of great importance, and of great consequence, and I commend the gentleman from California for bringing it forward. Today, I stand to reaffirm my strong support for the ideals of Senate Joint Resolution 205, which seek to eliminate United Nations General Assembly Resolution 3379 declaring Zionism to be a form of racism and racial discrimination. This measure equated the Zionist with the Nazis and the racial doctrine of the Nazis.

On November 10, 1975, the U.N. did in fact endorse this most unfortunate measure. That day marked a void in man's humanity to man, a convoluted distortion of the events which occurred during WWII. The U.N., once considered a leader in peaceful negotiation and a communication network for world relations, cast a dark shadow on its reputation, and severely damaging its unique greatness. The United Nations chose to pass judgment on a period in history.

General Secretary of the United Nations, Perez de Cuellar, would very much like to have this action deleted from its history. We the leaders of the United States now have the opportunity, ability, and responsibility to denounce this injustice. We, as a world leader, also have the responsibility to other nations throughout the world to pave the way in eliminating U.N. General Assembly Resolution 3379. I speak of multilateral diplomacy in initiating and encouraging the confidence of nations represented in the United Nations. By setting a standard of accuracy, we may isolate this inaccurate resolution, and hopefully readjust world perspective for the future.

Passage of Senate Joint Resolution 205 would denounce an event that occurred 12 years ago. Rarely do we have the opportunity to right a wrong. It is with great anticipation that I encourage its passage.

Mr. WEISS. Mr. Speaker, I rise today to support the passage of Senate Joint Resolution 205. I am a cosponsor of the House version of the resolution. Each of the resolutions calls upon the administration to support all efforts to overturn U.N. Resolution 3379, passed by the General Assembly on November 10, 1975, which "determines that Zionism is a form of racism and racial discrimination." It is an outrage that this resolution, a blatant outrageous lie, has yet to be overturned by the United Nations.

Tomorrow marks the 12th anniversary of the passage of Resolution 3379 by the General Assembly. Tomorrow is also the first time the President of the State of Israel, Chaim Herzog, will pay an official visit to the United States.

Twelve years ago, Chaim Herzog, as the Permanent Representative of Israel to the United Nations, rose to denounce the passage of Resolution 3379. He reminded all who listened that the day was also the anniversary of "Kristallnacht" in Nazi Germany, when synagogues and Jewish-owned stores were destroyed in a wave of public anti-Semitism which was but a foreshadowing of the horror that was soon to follow in the Holocaust. President Herzog declared that the passage of the resolution only encouraged those who wished to "complete the work of the final solution by destroying the Jewish people and the Jewish State."

I am proud to say that the United States did not vote with the majority on November 10, 1975. In fact, the U.S. Permanent Representative to the U.N. at the time, who sponsored the original Senate resolution we will vote on today, Senator MOYNIHAN, spoke out strongly against it, declaring that "The terrible lie that has been told here will have terrible consequences."

Despite the warnings of Senator MOYNIHAN and President Herzog, the resolution has not only remained intact, but has reappeared a number of times in other U.N. resolutions dealing with the Middle East. The lie has been ignored, perhaps in the hope that forgetting it would somehow remove the terrible mistake made by the United Nations on that day.

The same technique is used by those who wish to extinguish the Holocaust from the memory of mankind. But we cannot let such events be forgotten, for then we run the greater danger of repeating them.

It is time for this lie to be removed from the record of the United Nations. I ask my colleagues to join me in voting in favor of the resolution today to demonstrate to President Herzog, and the world, that we have not forgotten what the truth is. Those who seek to destroy the Jewish people and the Jewish state must not be allowed any semblance of victory.

Mr. BROOMFIELD. Mr. Speaker, more than a decade ago, the United Nations General Assembly adopted Resolution 3379, and brought disgrace upon the United Nations while increasing feelings of religious animosity and anti-Semitism.

That resolution equated Zionism with "racism and racial discrimination." But in reality it is a slanderous attack on the state of Israel and attempts to exclude that sovereign from the General Assembly.

Last year Australia went on record to expose General Assembly Resolution 3379 for what it is.

Today, the resolution before us, will allow the United States to add its voice in protesting the "Big Lie" perpetrated by the U.N. General Assembly's resolution. It will not erase the tragedy the U.N. general assembly's action of 12 years ago, but it will help in correcting that mistake.

I urge support for the Senate resolution.

Mr. YATRON. Mr. Speaker, I wholeheartedly support Senate Joint Resolution 205 legislation asking the United States to assist in overturning United Nations Resolution 3379 which equates Zionism with racism. Senate Joint Resolution 205, passed the other body on October 23. The contentious United Nations initiative in question, adopted on November 10, 1975, not only violently accosts the Government of Israel; it also undermines the credibility of the U.N. The measure we are considering today points out how detrimental the U.N. resolution is in resolving Middle East conflicts, how inconsistent it is with the U.N. Charter, and how it has served to heighten religious animosity. For these reasons, Senate Joint Resolution 205 recommends overturning Resolution 3379.

On November 10, the President of the State of Israel will be visiting Washington. What better welcome could be given President Herzog by the Congress than indicating our strong and unified disapproval of this U.N. initiative. But revoking this resolution should not be regarded as a symbolic gesture; it should be viewed as a necessary, important act. If the U.N. is to be a formidable force in the international community, then major defects, such as this defamatory resolution must be corrected.

I commend the gentlemen from New York, [Mr. FISH and Mr. GILMAN] for this resolution, along with all of the other Members who are cosponsors. I urge my colleagues to support Senate Joint Resolution 205.

Mr. BIAGGI. Mr. Speaker, I rise to lend my support to Senate Joint Resolution 205 which calls upon the Reagan administration to support all efforts to overturn United Nations Resolution 3379 which equates Zionism with racism. Passage of this resolution is vital if we are to begin the long overdue process of restoring the harm that this resolution has caused to the state and people of Israel since its adoption by the U.N. more than 12 years ago.

U.N. Resolution 3379 is inconsistent and even inimical to the United Nations Charter. It serves as a document of distortion, a vehicle which has claimed many innocent victims in its wake. It has promoted polarization and anti-Semitism and has contributed to the ongoing stalemate in the Middle East.

We should have taken this step years ago. The fact of it is that the administration should be more supportive of this effort. It is totally inconsistent for any person who supports the state of Israel to remain silent in the face of the continued existence of a document which challenges the very legitimacy of Israel as a state.

Later in the week we will have a historic visit by the President of Israel, Chaim Herzog. Let us do something meaningful to coincide with this important event which represents the first ever visit to our Nation of an Israeli President.

In the spirit of Camp David—and the other initiatives which have helped to foster peace in the Middle East—let us support this resolution today. Israel need not enter its fifth decade with the same challenges to its existence that have prevailed up to now. Abolition of U.N. Resolution 3379 would be an important step in the right direction for Israel and for peace in the Middle East.

Mr. WOLPE. Mr. Speaker, 11 years ago, in an act of supreme cynicism and political viciousness, the United Nations General Assembly disgraced itself before the entire world. In declaring Zionism a forum of racism, the international body that held the hopes of humanity at its birth chose to abdicate its principles and its charter in a futile exercise of appeasement to radical and terrorist forces.

This infamous resolution, General Assembly Resolution 3379 (XXX)—raised fundamental questions about the United Nations in the minds of its most steadfast supporters. It stands as a black mark on the institution's hard earned reputation for the promotion of world peace and justice.

We cannot forget, after all, that it was the United Nations, that in 1948 voted the partition of Palestine and recognized Israel's independence and right to exist as a state. It was U.N. peacekeeping forces that had—notwithstanding the unforgivable surrender to Nasser's belligerence in May 1967—played a constructive role in maintaining truces following armed conflict. And it was at the United Nations that the pivotal resolutions, 242 and 338 of the Security Council, on which negotiations for Mideast peace must be premised, were forged.

But this generally admirable record—in which the United States and Israel could place its hopes along with other nations—was scarred by the resolution equating Zionism with racism in 1976.

At that time, the world was still reeling from the OPEC oil embargo of 1973, and was intimidated by the unchecked reign of terrorism throughout Europe, the Middle East, and Africa—terror directed against Israel and those who had the temerity to stand with Israel. Appeasement never loses its ugliness. Yet that is what the General Assembly chose to commit when this resolution was adopted.

We should still recall the cowardice of the confidential assurances of so many nations who allowed themselves to capitulate to the blackmail behind this resolution. Our U.N. delegation, headed by DANIEL PATRICK MOYNIHAN, who stood so courageously against this outrage, received the message from many: "We don't want to vote for this, but we have to."

The fact remains that words do have meaning and can cause harm. And when words are deemed to express the public, collective wisdom of the moment, their meaning must be fully appreciated—at the peril of acquiescing in the pollution of the meaning of language itself. This particular twisting of words was a slander of monstrous proportions—against Israel and against the Jewish people, who have been committed to their homeland in Israel for millenia. Zionism was fulfilled in the ashes of the greatest crime of racism the world had witnessed. For the preeminent victims of racism to be equated by the preeminent world body with racism itself was an abomination that cannot be redeemed—until the United Nation itself repents its malicious action.

We therefore have the responsibility to repudiate the big lie. House Joint Resolution 385 is a declaration of Congress that the U.S. Government should support efforts to overturn U.N. General Assembly Resolution 3379. There is no statute of limitations that protects such crimes. It is never too late for the United States to lead the call to conscience, and to bring the scales of truth and justice into balance.

I urge the adoption of House Joint Resolution 385.

Mr. DAUB. Mr. Speaker, I want to commend the House on its consideration of Senate Joint Resolution 205 condemning U.N. Resolution 3379. That U.N. resolution equated Zionism and racism and is one of the most famous, and, at the same time most contemptible, actions taken by that institution.

The U.N. resolution is an assault on logic. It is one of the major reasons the American people no longer respect or even want to see the United Nations continue its deliberations on American soil.

It is an extraordinary inversion of logic that attempts to align Zionism with racism. Racism is the assumption that human abilities, indeed human worth, are determined by biological race. It is the notion that one group of people, due to a common genetic pool, is superior to others.

Zionism is a political movement which arose in Europe of the 19th century out of a general desire of many Jews to settle in Palestine. Zionism exists among those of a particular belief, not by reason of birth or race. Zionism isn't determined or confined to those of a certain, coherent genetic pool. Israeli courts have held that Jews who convert to another religion are no longer Jews. The Jewish faith admits converts regardless of their ethnic characteristics.

Zionism in origin and practice is thus the antithesis of racism. It stretches both logic and imagination that the United Nations would attempt to twist the meaning of racism around Zionism in order to satisfy the unnatural hatred of a majority of delegates to that hapless institution.

In a cruel bit of juxtaposing, the 1975 resolution was adopted on November 10. That is the anniversary of the infamous "kristallnacht," or crystal night, which began the brutality of Nazi Germany against Jews.

It is also important to note, as the U.S. Ambassador to the United Nations DANIEL P. MOYNIHAN, did during the debate on the resolution that the only previous time the United Nations attempted to define the term racism was when it said racism was a form of nazism. With adoption of U.N. Resolution 3379 linking racism and Zionism, Zionism has been equated with nazism.

In the twisted world of U.N. thinking, the tormented is grouped with his tormentors. This is unforgiveable. It is also unforgettable and that's why 12 years after the adoption of U.N. Resolution 3379, the House brings forward an instruction to the State Department to secure the repeal of this stain on common decency.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LANTOS] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 205.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 205, the Senate joint resolution just considered.

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

There was no objection.

SENSE OF CONGRESS WITH RESPECT TO DEMONSTRATIONS IN LATVIA COMMEMORATING LATVIAN INDEPENDENCE DAY

Mr. LANTOS. Mr. Speaker, I move to suspend the rules and agree to the concurent resolution (H. Con. Res. 209) expressing the sense of the Congress with respect to demonstrations in Latvia commemorating Latvian Independence Day.

The Clerk read as follows:

H. CON. RES. 209

Whereas the United States, since its inception, has been committed to the principle of self determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its constitution, a voluntary federation of autonomous republics;

Whereas the Republic of Latvia did not become a member republic of the Union of Soviet Socialist Republics voluntarily, but rather was occupied militarily by the Soviet armed forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics, and has since been governed by a government approved by, and subservient to, the Government of the Union of Soviet Socialist Republics;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of Latvia and continues to recognize the diplomatic representatives of the last independent government of the Republic of Latvia;

Whereas November 18, 1987, marks the 69th anniversary of the founding of the independent Republic of Latvia;

Whereas the United States Government has traditionally recognized November 18th as Latvian Independence Day, and the Congress has passed resolutions calling for special commemoration of that date;

Whereas November 18, 1987, also marks the 52nd anniversary of the dedication of the Latvian Monument of Freedom, completed in Riga, Latvia in 1935, to honor the Latvian people and their nation;

Whereas since the Soviet occupation of Latvia, the people of Latvia have been prevented from publicly commemorating this important day in their national history.

Whereas a peaceful noncommunist demonstration was allowed to occur on June 14, 1987, as 5000 Latvian people gathered in Riga to honor the victims of Soviet deportations which occurred between 1940 and 1949;

Whereas credible western news sources have indicated that Latvian nationalists are planning to hold their third mass demonstration of the year on November 18 at the Latvian Monument of Freedom in downtown Riga;

Whereas Anatolijs Gorbunovs, Secretary of the Latvian Communist Party Central Committee, has stated that participation in such a demonstration in Riga on November 18 will be construed as an anti-Soviet act; and

Whereas A. Drizulis, Vice President of the Latvian Soviet Socialist Republic Academy of Sciences, echoing the new Soviet policies of openness, democratization, and restructuring, has stated that "it is necessary to cleanse history of various distortions and deformations, to return civic spirit, honesty and courage to it": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) prior to November 18, 1987, the Secretary of State should inform the Government of the Soviet Union that the United States Government supports the right of the Latvian people to peaceably assemble to commemorate important dates in this history, and should urge the Soviet Government to—

(A) apply its new policy of openness and democratization to the people of Latvia;

(B) allow the people of Latvia to publicly commemorate November 18 in whatever peaceful manner they may choose, without fear of arrest, harassment, or other reprisals;

(C) allow the Western media access to Riga, Latvia, on November 18, 1987, to observe and report on events of that day;

(D) halt immediately the harassment of the members of all Latvian human rights groups, including HELSINKI 86 and the Latvian Christian Movement for Rebirth and Renewal; and

(E) release, prior to November 18, 1987, all Latvian prisoners of conscience from internal exile, prison, and labor camps in the Soviet Union, including Latvian human rights activists Linards Grantins and Gunars Astra;

(2) the President should direct all appropriate United States Government agencies to monitor closely the events of November 18, 1987, in Riga, Latvia, and should send an appropriate United States Government representative to Latvia on November 18, 1987, to observe personally the events of that day; and

(3) the President and the Secretary of State should raise the issue of human rights and self-determination in the Baltic states during the next United States-Soviet summit.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. LANTOS] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

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

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

Mr. LANTOS. At the outset, Mr. Speaker, allow me to express my appreciation and respect for my friend and colleague, Congressman BEREUTER, for having led us on this critical issue, and allow me to give a bit of historical background.

Mr. Speaker, November 18, 1987, marks the anniversary of the founding of the Independent Republic of Latvia. Latvia, Mr. Speaker, did not remain independent for long because the Soviet Union occupied and subjugated Latvia, along with Lithuania and Estonia, in the early days of the Second World War. Throughout the long period since that time, the people of Latvia have been deprived of their independence and of their fundamental liberties.

The U.S. Government never accepted the fact that Latvia, Lithuania, or Estonia, are parts of the Soviet Union. The overwhelming bulk of the American people continue to look at these three important Baltic countries as proud and independent entities.

On June 14, 1987, Mr. Speaker, 5,000 Latvian people gathered in Riga, the capital of Latvia, to honor the victims

of Soviet deportations which occurred between 1940 and 1949. We now have good evidence that November 18, just 10 days away, when the Latvian monument of freedom in downtown Riga will again be witnessing a gathering of thousands of Latvians who peacefully want to demonstrate and honor their historic memory as a nation, that this demonstration will not be allowed to take place by the Soviet authorities.

Now, at a time when we are about to receive Mr. Gorbachev, the head of the Soviet Union, when the operative word in the international dialog is "glasnost," openness, relaxation, it is important for the Congress of the United States to speak out and to demand that the people of Latvia be allowed peacefully to assemble and to demonstrate on their national holiday.

□ 1520

What are we asking, Mr. Speaker?

We are asking that our Secretary of State, George Shultz, inform the Government of the Soviet Union that the American people and the Congress of the United States support the right of the Latvian people to peaceably assemble to commemorate important dates in their history. We are asking that Western media have access to the planned events in Riga, Latvia, on November 18, 1987.

We are asking that the harassment of Latvian human rights groups cease.

We are asking that prior to November 18, 1987, all Latvian prisoners of conscience should be released from internal exile, prison, and labor camps in the Soviet Union, specifically including two human rights activitists, Linards Grantins and Gunars Astra.

We are further asking, Mr. Speaker, that the President direct all appropriate Government agencies of the United States to monitor closely the events that will unfold 10 days from today on the shores of the Baltic in Riga, Latvia, and that we send a U.S. Government Representative to that place to personally observe the events of that day.

This is an issue, Mr. Speaker, that all of us in the Congress feel deeply about. Lativia, Lithuania, and Estonia are proud and independent entities. Their people represent the finest in Western civilization and in a spirit of glasnost they ought to be allowed to express themselves through peaceful assembly and demonstrations.

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

Mr. SOLOMON. Mr. Speaker, I yield such time as he might consume to the gentleman from Nebraska [Mr. BEREUTER], the sponsor of the resolution and a member of the Committee on Foreign Affairs who has been very, very active in this issue.

Mr. BEREUTER. Mr. Speaker, I wish to express my appreciation to the gentleman from California [Mr. LANTOS] for his supportive and forceful remarks on this issue. I also want to express my appreciation for the expeditious manner in which this legislation was handled by the gentleman from Florida [Mr. FASCELL], the gentleman from Michigan [Mr. BROOMFIELD], the gentleman from Pennsylvania [Mr. YATRON], the gentleman from New York [Mr. SOLOMON], the gentleman from Indiana [Mr. HAMILTON], and the gentleman from New York [Mr. GILMAN]. It is appropriate that we hear this legislation at this time.

Mr. Speaker, House Concurrent Resolution 209, introduced by this Member, with the cosponsorship of the Cochairmen of the Ad Hoc Committee on the Baltic States and the Ukraine, the gentleman from Michigan [Mr. HERTEL] and the gentleman from Pennsylvania [Mr. RITTER], urges the President to express to Soviet officials the Congress' concern that the people of Latvia be allowed to publicly commemorate their independence holiday on November 18 in whatever peaceful manner they may choose, without fear of arrest, harassment, or other reprisals.

I would like to inform my colleagues, from what I consider to be reliable reports, that in the last few days the Soviets have launched a major campaign to prevent independence day demonstrations in Riga, Latvia.

Latvian high school and university students and their parents have been forced to sign documents promising that they will not participate in any November 18 demonstrations.

Parents are being told they will be held responsible for any acts of so-called hooliganism their children may undertake on that date.

Latvian grammar schools have organized special field trips to locations outside of Riga for young students on November 18 and participation is mandatory.

Latvian workers have received warning at their places of employment that those absent from work on that day will be punished.

Loyal Communists, mostly non-Latvian residents of Riga, have been recruited at their workplaces to form special citizens security groups whose purpose is to patrol the streets of Riga on November 18 and prevent, what the Soviets call, disorders.

There are also highly reliable reports that the KGB has brought in people from outside Latvia, including recently amnestied common criminals, Afghan war veterans, and other reliable individuals and is training them in small-scale terrorist techniques. Their purpose is to create confusion, confrontation, and possibly violence at any mass demonstration on the 18th.

No doubt openly discernible Soviet preparations to disrupt any peaceful proceeding are designed to deter Latvian citizens from venturing into the streets. If, and only if, the Kremlin has its way, November 18 will be the non-event of the year in Latvia.

On at least two occasions during the past 6 months, the citizens of the Baltic republics have participated in mass demonstrations to publicly commemorate important dates in their nations' history.

Soviet authorities reluctantly tolerated the June 14 demonstrations where 5,000 gathered to honor the victims of the Stalinist deportations in the 1940's.

Official response to an August 23 event was relatively harsh, however, when a crowd of nearly 10,000 gathered to protest the signing of the 1939 Nazi-Soviet pact which ultimately led to the invasion of Latvia and its incorporation into the Soviet Union by force.

Many participants were arrested, while human rights leaders were beaten, fired from their jobs, and threatened with further reprisals.

To ensure no repeat occurrences, the Soviet Government has arrested several of the known leaders of the Latvian human rights group Helsinki 86, which organized the successful June 14 and August 23 demonstrations, and ordered the rest of the organizers to leave Latvia and the Soviet Union by November 16.

Due to their personal inability to participate on November 18, and rumors of potential violence against demonstrators, Helsinki 86 members have been reluctant to officially call for a demonstration on that day. Popular feeling to make some kind of patriotic gesture on independence day is nevertheless running high, especially among Latvian youth.

Mr. Speaker, some have suggested that we raise the issue of Baltic independence in vain. They observe, probably correctly, that no Russian Government whether Soviet, democratic, or monarchist would likely relinquish possession of a peripheral territory, except under the extraordinary circumstances in which Lenin and his Bolshevik cohorts agreed to respect the Latvian people's right to self-determination at the close of World War I.

Indeed Russia did not become the largest nation in the world by giving up territory belonging to other nationalities. Nevertheless, if we do not hold the Soviets to territorial and moral obligations, which they themselves freely signed and which have been discarded in the case of the Baltic States, it is an acceptance that the Soviets can expand anywhere their inclinations and use of force sends them.

Moreover, as the true champion of freedom and self-determination of all peoples, this country cannot succumb to indifference concerning the freedom of those deep behind the Iron

Curtain, for in the day we do grow weary of upholding the beacon of freedom, is likely to be the day we begin to lose our own freedom.

This resolution is an expression of the concern that Americans have for freedom everywhere. It asks the Soviet Government to apply its new policy of glasnost to the people of Latvia by allowing them to publicly commemorate November 18 in whatever peaceful manner they may choose, without fear of arrest, harassment, or other reprisals.

It calls upon the Soviets to allow the Western media access to Riga on November 18 to observe and report on events of that day.

It urges the Soviets to halt the harassment of the members of all Latvian human rights groups, including Helsinki 86 and the Latvian Christian movement for rebirth and renewal.

Furthermore, we call upon the Soviet Union to release, prior to November 18, 1987, all Latvian prisoners of conscience from internal exile, prison, and labor camps in the Soviet Union, including Latvian human rights activists Linards Grantins—grant inch—and Gunars Astra.

Finally, the resolution asks the President to monitor the events of that day in Riga by sending U.S. government representatives to observe any demonstrations; and

It asks the President and Secretary of State to raise the issue of human rights and self-determination in the Baltic States during the next United States-Soviet summit.

I urge my colleagues to support this timely and important resolution as a measure of their support for freedom everywhere.

□ 1530

Mr. LANTOS. Mr. Speaker, it gives me a great deal of pleasure to yield 5 minutes to the gentleman from Maryland [Mr. HOYER], chairman of our Helsinki Commission and an indefatigable and effective fighter for human rights.

Mr. HOYER. Mr. Speaker, I thank the gentleman from California for yielding me this time. As cochairman of the Human Rights Caucus and himself one of the principal leaders in this country and indeed on the entire national scene on behalf of human rights everywhere, I am proud to be associated with him and with others who support this resolution.

Mr. Speaker, on November 7 of this year, the Government of the Soviet Union celebrated the 70th anniversary of the Bolshevik revolution. The attention of the world media was focused, and justly so, on that event, and particularly on the November 2 statement by General-Secretary Gorbachev concerning issues facing the Soviet Government and its people.

In this connection, I would like to mention another anniversary that will be commemorated shortly by the people of Latvia, whose land is currently occupied by Soviet forces. November 8, 1987, will mark the 69th anniversary of the declaration of Latvian independence.

Beginning in 1918, the Latvian people enjoyed 22 years of independence. Having successfully rejected foreign occupiers from East and West to establish a stable, prosperous nation on the Baltic Sea. Then, in 1939, came the deal between Stalin and Hitler—a deal which brought death, destruction, and the tragic status of "Captive Nations" to the formerly free Baltic States of Estonia, Latvia, and Lithuania. The citizens of Latvia and of their two fellow Baltic States were robbed of their independence.

Obviously, this November anniversary will not be officially celebrated by the Soviet Government, which continues to claim, despite all evidence to the contrary, that the Latvian people voluntarily entered the Soviet Union and enjoy their current status as a Soviet Republic.

Latvian national and civil rights activists who dare to challenge this version of Soviet history have been imprisoned or forced into exile. In order to help eradicate the Latvian culture and national identity, the Soviet Government encourages non-Latvian immigrants to move to Latvia. As a result, the Latvian language has been relegated to second-class status compared to Russian. The Latvian Lutheran Church, which was the national church during the years of independence, has been reduced to a state of virtual spiritual impotence, its own hierarchy suborned to the will of an alien power, both in the spiritual and political sense.

But the Latvian people have not forgotten their past, nor have they surrendered their future. On June 14 of this year, approximately 5,000 persons gathered at the Freedom Monument in Latvia's capital city, Riga, to honor the memory of Latvians deported to Siberia in 1941 by Stalin. On August 23, the 48th anniversary of the signing of the Molotov-Ribbentrop treaty, nearly 10,000 Latvians attended a peaceful demonstration at the same site to demand that Moscow renounce that death warrant for their unfortunate nation.

We understand that Latvian citizens plan once more to meet at the Monument of Freedom on November 18 and peacefully commemorate their nation's lost independence. We are also informed that local authorities are threatening criminal charges against anyone who appears in the area of the Monument of Freedom. There are also reports that local factory directors are recruiting party thugs to act as outraged workers and provoke violence at the planned gathering. As the Soviet Constitution does provide Soviet citizens with the right to peaceful assembly, and as the Soviet Government does insist that the people of Latvia are indeed Soviet citizens. We hope that these reports of illegal measures being considered by the authorities are incorrect.

I have also been informed that another group of Latvians plan to peacefully demonstrate in front of the old Embassy of independent Latvia in Moscow on the same day as their fellow citizens in Riga. The participants have stated that they intend to observe Latvian independence, protest the continued Soviet occupation, and publicize the Latvian-Soviet treaty of August 11, 1920, in which the Soviet Union pledged to respect Latvian independence in perpetuity.

Mr. Speaker, in July 1986, members of the Latvian human rights group Helsinki 86 wrote to General-Secretary Gorbachev the following:

> Permit us, ourselves, to eat our own bread, and that which is left over, to sell to others; and not the other way around, to have only the leftover bones, claws and udders. Permit us to freely meet with all of the peoples of the world; we have done no evil to any nation, and we have not deserved to be locked up and taught with whom to be friends and with whom not to be * * *.
>
> Do you really need, in addition, 1.5 million Latvians and an insignificant piece of land by the Baltic Sea? Come to us as friends, and in return you will receive friendship. Respect other peoples and you will be respected. If you do not respect other nations, then you will be inflicting an irreversible evil on your own people * * *.

It is perhaps an encouraging development that in the October 7, 1987, issue of Literaturnaya Gazeta, Mr. August Voss, Chairman of the Supreme Soviet of Nationalities and himself a Latvian, admitted that mistakes have been made in Soviet nationality policy. Part of the problem, he said, was caused by Government insensitivity toward the native peoples of the individual republics. Among other things, Mr. Voss stated that "there is nothing more alien to Communist ideology than to try and artificially force the historical process or to try to interfere with it."

Let us hope that Mr. Voss' message is not lost on the Kremlin. The true historical process in the Baltics was tragically and savagely trampled under Soviet tanks in the spring of 1940. As chairman of the Helsinki Commission, I call upon the Soviet Government to uphold Principle VII of the Helsinki accords guaranteeing equal rights of peoples and national self-determination, and to allow the people of Latvia to determine their own destiny.

I also commend my colleagues Mr. BEREUTER, Mr. HERTEL, and Mr. RITTER—who is also a member of the Helsinki Commission—for introducing

this resolution in support of the lawful aspirations of the Latvian people, and I urge my colleagues to support it.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the second ranking Republican on the full Foreign Affairs Committee and a real leader on this issue.

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 209 and I commend its sponsor, the gentleman from Nebraska [Mr. BEREUTER] and the distinguished chairman of our Human Rights Subcommittee, the gentleman from Pennsylvania [Mr. YATRON] and its ranking minority member, the gentleman from New York [Mr. SOLOMON].

In our Nation we are used to political demonstrations of all sorts. Our greatest strength as a nation is our embrace of the right of people to speak their mind freely and to act on their conscience. This is a strength which unfortunately is not found in the Soviet bloc.

Nearly 50 years ago the Soviet Union seized control of Latvia against the will of its people. The Latvian people continue to protest this cruel injustice on their traditional Independence Day, November 18. Credible Western news sources have indicated that Latvian nationalists are planning to hold their third mass demonstration of the year on their Independence Day at the Latvian Monument of Freedom in downtown Riga. Latvian Communist Party officials have stated that participation in such a demonstration will be construed as an anti-Soviet Act.

House Concurrent Resolution 209 would declare that it is the sense of the Congress that Secretary Shultz should inform the Soviet Union that the United States Government supports the right of the Latvian people to peaceably commemorate their Independence Day without fear of arrest, harassment, or other reprisals. Furthermore, this resolution urges that the Western media have access to Riga, Latvia, on November 18, 1987, to observe and report on the events of that day. The world will be watching the presentation of glasnost in Latvia on Latvian Independence Day.

Mr. Speaker, the Soviet Government should recognize that if it truly desires improved relations with our Nation it must permit those that live under its oppressive hand to once again breathe the fresh air of freedom. I commend the gentleman from Nebraska [Mr. BEREUTER] for his fine work on this resolution and I urge my colleagues to fully support it.

Mr. SOLOMON. Mr. Speaker, I yield such time as he might consume to the gentleman from Illinois [Mr. HYDE], a member of the Foreign Affairs Committee who has always stood up against Soviet brutality.

Mr. HYDE. Mr. Speaker, I am very pleased that the gentleman from Nebraska [Mr. BEREUTER] has been thoughtful enough to commemorate this event and bring it to our attention. The problem is we have become so used to Soviet oppression and suffocation of freedom wherever the Soviet Union dominates that we no longer are outraged or shocked or dismayed even by incidents where simple human dignity is affronted and assaulted.

I do not know somebody else's definition of empire. But it would seem to me the Union of Soviet Socialist Republics taking over Latvia, Lithuania, Estonia, and all of the Balkan States, Hungary, Romania, Czechoslovakia, and the rest, it would seem to me that is the definition of an empire.

Then I see their naval base in Camranh Bay, in Nicaragua, in Cuba, in Ethiopia, in South Yemen. I see 115,000 of their troops shooting at the Mujahedin of Afghanistan, and that is my definition of evil. I know a very prominent politician once referred to the Soviet Union as an evil empire, for which offense he is still ridiculed by certain liberal commentators, but these occurrences such as the one mentioned in House Concurrent Resolution 209, where the people of Latvia are going to be criminalized for simply commemorating an important day in their history, it seems to me is an abuse of any definition of human dignity, and it is sad that all we can do is pass a resolution, a piece of paper, and then tomorrow move on to the next event of the day.

This is a festering, lingering sore and we ought to remember it and concentrate on it, and all similar abuses throughout the world wherever the Soviet Union is a dominant force. Political prisoners languish in jail, whether it is in Vietnam or whether it is in Nicaragua, or whether it is in the Balkan States because they dared stand erect on their feet and oppose tyranny.

So I say let us continue to bring attention to these atrocities of the human spirit.

I thank the gentleman from Nebraska [Mr. BEREUTER] for having the foresight to bring this up, and let us as leaders of the free world try to support people who are struggling to be free wherever they are, because that is our high moral obligation.

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

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

Mr. Speaker, the continuing, and illegal, occupation of Latvia and the other Baltic States is a crime for which we must hold the Soviet Union accountable. And even more than that, we must continue to show solidarity with the people who feel the full weight of Soviet occupation and brutality.

There is no more compelling testimony to the failure of communism than the continued resistance of the Baltic peoples—and the Ukrainians, too, I might add—to the heavy fist, and booted foot of the Soviet Union. More than four decades of systematic persecution and so-called russification have not extinguished the lamp of freedom that burns in the hearts and minds of these people. More than four decades of forced relocations and cultural genocide have not diminished the pride these people have in their own national identity and traditions. So-called scientific socialism is notably unsuccessful, when confronted with the more noble aspirations of human nature.

I am glad that this resolution now before us makes Latvian independence day a test of Soviet sincerity on glasnost. The whole world will be watching Latvia on November 18. As the people of that nation desire to celebrate their independence—however brief it may have been—we will be watching to see how the Soviets respond. If the Latvian people are again denied their right to peacefully assemble and celebrate their culture and traditions, what then can be said about glasnost? Not much.

I strongly support this resolution and urge its adoption.

Mr. Speaker, in closing, we have praised the gentleman from Nebraska, the sponsor of the resolution, Ambassador BEREUTER, and my good friend, the gentleman from California [Mr. LANTOS], and the gentleman from New York [Mr. GILMAN]. But I also want to pay special commendation to the gentleman from Pennsylvania [Mr. YATRON], the chairman of my Subcommittee on Human Rights, who could not be here today and who has done such an outstanding job on these issues.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I just want to add my commendation to my colleague, the gentleman from Nebraska, Congressman and Ambassador BEREUTER, as well as the gentleman from New York, Mr. SOLOMON, the gentleman from California, Mr. LANTOS, and others who have cosponsored and fought for this resolution. It is important that we in the United States Congress and the United States remember what goes on in Latvia today. What we do on this floor I know, and we all know from our contacts and experiences, can have a beneficial effect.

□ 1545

It can give hope to those people in Latvia that are struggling and it can

let those in the Soviet Union know that we have not forgotten.

Mr. YATRON. Mr. Speaker, as chairman of the Subcommittee on Human Rights and International Organizations, I strongly support House Concurrent Resolution 209, which seeks to promote human rights in Latvia and commemorates Latvian independence. I want to commend the bill's sponsor, Congressman BEREUTER, for his initiative and outstanding leadership on this issue.

The bill is most timely and relevant and deserves our expeditious consideration. November 18, 1987 marks the 69th anniversary of the founding of the Republic of Latvia. Indications are that Latvians are also planning to hold their third mass demonstration on that date.

By passing this resolution, we will be sending a strong message to the Soviet authorities. We will be reaffirming United States policy of nonrecognition of the unlawful Soviet occupation of Latvia. We will also be reminding the Soviets of their human rights obligations under several international covenants.

House Concurrent Resolution 209 calls on Soviet authorities to apply its new policy of openness to Latvia; to allow Latvians to peacefully assemble to commemorate their nation's anniversary; to allow Western media access to this important event; to halt human rights abuses and release all Latvian political prisoners.

Clearly, there have been some positive human rights developments in the Soviet Union recently. November 18 will present the Soviets with an opportunity to show the world how serious they are in implementing human rights reforms.

I urge my colleagues to support the resolution.

Mr. BROOMFIELD. Mr. Speaker, I support House Concurrent Resolution 209. The resolution urges the leaders of the Soviet Union to allow demonstrations marking Latvian Independence Day to proceed peacefully and without punishment to the participants.

It also urges the Soviet Government to allow Western media access to Riga, Latvia, on November 18, 1987, to observe and report on events of that day, as well as asking the President to direct appropriate Government agencies also to observe the events on that day in Latvia.

Within the last 6 months, in a response to the Soviets' glasnost policy, two successful mass, public demonstrations were held at the Monument of Liberty in Riga, Latvia, to commemorate important dates in Latvian history.

With the success of these two demonstrations, there is justified growing concern that Soviet leaders will try to disrupt further demonstrations—and particularly any marking Latvia's 69th independence day on November 18—in order to maintain Soviet domination over Latvia and the other captive nations.

Mr. Speaker, if glasnost is to be more than a public relations gimmick, Soviet action must accompany their words. They must allow the people of Latvia to peacefully assemble and commemorate the important events of Latvia and their heritage.

Further, when the President meets with General Secretary Gorbachev next month, I urge him to make it clear to the General Secretary that the people of the United States hold human rights to be of the utmost importance. Mr. Gorbachev must understand that the United States will not rest until basic rights of people are finally respected in the Soviet Union with that nation abiding by the Helsinki accords.

I urge my colleagues to approve this resolution and send its important message of human rights to the leaders of the Soviet Union.

Mr. ANNUNZIO. Mr. Speaker, during the last 6 months, Helsinki 86, the Latvian human rights group has organized two large demonstrations at the Monument of Liberty in Riga, Latvia, to protest the human rights violations of the Communists as well as to protest the incorporation of Latvia, Lithuania, and Estonia into the Soviet Union, and to honor the memory of the victims of Stalin's deportations in the 1940's.

Another demonstration is planned for November 18, and the Latvian Communist Party has already issued stern warnings that such a demonstration at the Monument of Liberty would be considered an anti-Soviet act, and the Communist leaders have threatened reprisals against any Latvians who may gather at the monument.

Mr. Speaker, House Concurrent Resolution 209, which I have cosponsored, urges the President to express to the Soviet officials the concern of Congress that any demonstration which occurs in Latvia to mark Latvian Independence Day should be allowed to proceed peacefully and that there should be no reprisals for this participation.

I strongly feel that this legislation sends an important message to the Soviets that we in Congress will not tolerate the oppressive and human rights violations perpetrated against the Latvian people. Therefore, I urge my colleagues in the House of Representatives to vote for this legislation and thereby demonstrate our support for the Latvian people in their struggle to achieve self-determination and freedom.

Mr. BIAGGI. Mr. Speaker, I rise proudly to strongly endorse House Concurrent Resolution 209, which expresses congressional support for peaceful public demonstrations by the freedom-loving people of Latvia on November 18 in commemoration of Latvian Independence Day.

As the leaders of the free world, we are a nation dedicated to obtaining and preserving basic human rights for all people throughout the world. That is why we cannot remain silent when word comes that the Soviet Union is mounting a major campaign to prevent any public demonstrations in Latvia on November 18 to celebrate Latvian Independence Day. This news is particularly disturbing during an era the Soviet Union has called glasnost, a time of openness, and heightened expectations of improved human rights policy by the Soviet Union.

Reports we have received indicate there is no new Soviet human rights policy in Latvia, a nation that has been illegally occupied by the Soviets since 1940. We are informed that it will be considered an anti-Soviet act and a criminal offense for any Latvian to publically celebrate Latvian Independence Day. Simply put, this is a policy that cannot be tolerated and demands our strong protest.

House Concurrent Resolution 209 is consistent with that belief. It requests that the Secretary of State should inform the Soviet Union that the United States Government "supports the right of the Latvian people to peaceably assemble to commemorate important dates in their history." Further, the resolution urges the Soviet Union to extend glasnost to the people of Latvia; calls for the release of all Latvian prisoners of conscience prior to November 18; and calls on the President and Secretary of State to raise the issue of human rights and self-determination in the Baltic States during the next United States-Soviet summit.

Mr. Speaker, there are no freedom fighters more determined and courageous than the Latvian people. They are looking to us for support. They deserve that support and House Concurrent Resolution 209 provides a very strong statement of that support. I urge its approval.

Mr. RITTER. Mr. Speaker, on November 18, 1987, Latvians will mark the 69th anniversary of the founding of the independent Republic of Latvia. During her 22 years of freedom and independence from 1918 to 1940, Latvia was an internationally recognized member of the League of Nations. Tragically, Latvia's freedom was short lived. In 1940 the Nazi/Soviet engineered destruction of Latvia and its neighboring Baltic States of Estonia and Lithuania paved the way for the Soviet Army to invade and begin its illegal occupation which continues to this day. Mass deportations have been replaced by systematic repopulation and russification. The extermination of individuals has been superseded by the extermination of cultures, languages and traditions. What Hitler and Stalin wrought, Gorbachev continues.

Yet, despite the tragic past, and the Soviet Government's continued efforts to erase all traces of Latvian heritage, the Latvian people have never abandoned their hope for the return of an independent Latvian nation. The hope of freedom is a strong incentive and it has kept persons of Latvian descent in the United States and elsewhere throughout the world working constantly over the years toward this goal.

Recent demonstrations on June 14, Baltic Freedom Day, and the August 23 mass gathering of nearly 10,000 people commemorating the 48th anniversary of the Hitler-Stalin Pact certainly indicate that the people of Latvia—especially the young—are responding to the threat of national extinction by reaffirming their national identity and rejecting russification. The spirit of the nation is growing stronger.

According to reports from the Russian occupied Latvia, the Latvian people—who held mass demonstrations on June 14 and August 23—plan to hold another peaceful rally on November 18 in Riga, in the occupied Latvia.

Anatolijs Gorbunovs, a high Latvian Communist Party official, has publicly warned potential November 18 demonstrators that participation in any public gathering on that day would be viewed as an "anti-Soviet act".

In this era of glasnost, the Latvian people should be allowed to publicly commemorate November 18 peacefully, in whatever manner they may choose, without fear of arrest, harassment or other reprisals.

"Western media presence in Riga on November 18 is a must," stated Rolands Silaraups, a recently emigrated Latvian human rights activist and organizer of the June 14 rally in Riga. "The world must be fully informed about whatever actions the Soviets take against the Latvian people." Silaraups, Western representative of the Latvian human rights group HELSINKI 86, is presently touring the United States.

Members of HELSINKI 86 also said that they feared the Soviet authorities were recruiting provocateurs and paroled criminals in order to stage riots on November 13, Latvia's Independence Day. In a transcript of a telephone conversation, a HELSINKI 86 member, Mr. Juris Ziemelis, says: "Rumors are being spread among the people that there will be a torchlight parade. At workplaces, in strictest secrecy, loyal Communists are being recruited to be 'the angry public'. We have information that paroled criminals are being recuited to play nationalist demonstrators who start breaking shop windows and so on."

Americans can help by holding strong to the policy of nonrecognition of the illegal occupation of the three Baltic States by the Soviets after the Second World War. By speaking out against the violation of human and national rights in all the countries of the Soviet Union, Americans lend support to those struggling for freedom.

Through my years in the Congress and as cochairman of the Ad Hoc Committee on the Baltic States and Ukraine, I have become familiar with the struggle of the Latvian people and their Baltic neighbors, Estonia and Lithuania. Their continued determination to fight for their freedom is a testament to the unquenchable thirst of the human soul for the fundamental right of self-determination.

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

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from California [Mr. LANTOS] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209.

The question was taken.

Mr. BEREUTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

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

There was no objection.

FREEDOM FROM VERTICAL PRICE FIXING ACT OF 1987

Mr. RODINO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 585) to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing, as amended.

The Clerk read as follows:

H.R. 585

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom From Vertical Price Fixing Act of 1987".

SEC. 2. EVIDENTIARY STANDARDS IN FEDERAL CIVIL ANTITRUST ACTIONS RELATING TO PRICE FIXING.

(a) In a civil action based on a claim arising under section 1 or 3 of the Sherman Act (15 U.S.C. 1, 3) and alleging a contract, combination, or conspiracy to set, change, or maintain prices, including a minimum or maximum price, evidence that a person who sells a good or service to the claimant for resale—

(1) received from a competitor of the claimant a communication regarding price competition by the claimant in the resale of such good or service, and

(2) in response to such communication terminated the claimant as a buyer of such good or service for resale, or refused to supply to the claimant some or all of such goods or services requested by the claimant,

shall be sufficient to raise the inference that such person and such competitor engaged in concerted action to set, change, or maintain prices, including a minimum or maximum price, for such good or service in violation of such section. For purposes of this subsection, a termination or a refusal to supply is in response to a communication if such communication is a substantial contributing cause of such termination or refusal to supply. Nothing herein shall preclude the court from entering judgment in favor of the defendant, at trial or prior thereto, if the court determines on the basis of all the evidence and pleadings submitted by the parties, in accordance with the Federal Rules of Civil Procedure and the requirements of this subsection, that no such inference of concerted action can reasonably be drawn by a trier of fact.

(b) In a civil action based on a claim arising under section 1 or 3 of the Sherman Act (15 U.S.C. 1, 3) and alleging a contract, combination, or conspiracy to set, change, or maintain prices, the fact that the seller of a good or service and the purchaser of such good or service entered into an agreement to establish the resale price of such good or service shall be sufficient to establish that such seller and such purchaser engaged in concerted action to set, change, or maintain the prices of such good or service in violation of such section.

SEC. 3. APPLICABILITY.

Section 2(a) of this Act shall not apply to suits commenced under the antitrust laws before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. RODINO] will be recognized for 20 minutes and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

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

Mr. Speaker, as an original cosponsor, together with Congressman HYDE—I am pleased that this body will now be able to vote on a very important piece of legislation reaffirming our commitment to an open and free moving American economy based on competition. The Freedom from Vertical Price Fixing Act is a bill aimed at ensuring two basic principles that underly our antitrust laws—the belief in a free-enterprise system where all have the chance to compete without being subject to unfair price fixing conspiracies; and the right of consumers to benefit from such unfettered commerce by having a wider selection of goods and services at the lowest possible prices.

We in the House have fought repeatedly for these twin principles over the last decade; and have done so with a near-unanimous, bipartisan voice. In 1975, with the leadership of President Ford, Congress repealed the so-called fair trade laws which had permitted resale price maintenance to exist within the State borders. Beginning in 1983, as the prohibition against vertical price fixing appeared to be in danger of extinction by enforcement inaction, we passed funding restrictions in 4 of the last 5 years to ensure that the ban against price fixing would not be undercut.

Last Congress, the ranking minority member of the Judiciary Committee, Mr. FISH, led another successful drive for a House resolution, eventually signed into law, which condemned a set of guidelines put out by the enforcement agencies that seemed to minimize the importance of striking hard at all forms of vertical price fixing. Our actions in this area make it very clear that we intend to express the will of Congress when the central pillars of our antitrust policy stand in jeopardy of misconstruction or erosion.

H.R. 585 is a bill that ensures that congressional policy is absolutely clear in its support for both public and private antitrust enforcement against resale price maintenance. Following a 1984 Supreme Court decision in the Monsanto versus Spary-Rite case, great confusion was spawned in the lower courts about certain language in the decision that seemed to set up an almost impossible evidentiary standard for plaintiffs in reaching a trial on the merits in a dealer termination case. Our primary concern in moving H.R. 585 is to clarify this evidentiary standard so that plaintiffs who make a legally sufficient showing at summary

judgment will not be turned away from the jury's door.

H.R. 585 contains two major provisions. First it establishes the burden of proof that is sufficient but not necessary to reach a jury trial in dealer termination situation. To raise an inference of "concerted action" in this type of RPM case, a plaintiff may demonstrate substantial causation by showing: First, that a price-related communication was received by a supplier from a dealer; and second, that "in response to" such communication, a competitor of the dealer was terminated. Such a showing is sufficient in itself to raise the evidentiary inference; there is no additional "something more" factor required, despite the Monsanto Court's suggestion to the contrary. Moreover, under H.R. 585, the plaintiff does not have the additional burden of also offering evidence that "tends to exclude the possibility that the manufacturer and nonterminated dealers were acting independently." (See 465 U.S. at 764). This "double barrel" evidentiary burden does not exist for plaintiffs in other areas of antitrust, and will no longer do so in RPM cases.

If the elements of substantial causation set out in section 2(a) are shown by the plaintiff, an inference of illegal "concerted action" is raised; and a jury will always decide whether the antitrust laws are violated. Where the plaintiff fails to raise the inference, he is not precluded from moving to trial, but his chances of reaching the jury may be diminished if the defendant introduces evidence that could lead a court to find that an illegal conspiracy had not occurred. Finally, if the plaintiff falls short of raising the inference but offers some evidence of concerted action, and the defendant is ineffective in offering support for a claim of independent action, then the plaintiff may still be able to reach the jury. In all these scenarios, however the defendant is never precluded from offering evidence that, under rule 56 of the Federal Rules of Civil Procedure and under the requirements of H.R. 585, would be deemed legally sufficient to warrant a judgment. Moreover, this subsection does not affect decisions to grant summary judgment in antitrust cases not involving vertical price fixing.

Second, section 2(b) of H.R. 585 States plainly and unequivocally that resale price maintenance in all its various forms are illegal per se under the antitrust law. The bill makes clear that recent efforts to qualify or limit the breadth of the RPM prohibition are disapproved as a matter of legislative policy.

In economic practice, RPM occurs in a number of contexts. Congress views them all without distinction in pursuing its absolute ban on vertical price fixing. Thus a RPM violation will equally lie: First, where a conspiracy exists between a supplier and distributor to eliminate or restrict the distributor's full latitude to determine the pricing policies that he will follow; second, where a conspiracy exists between a supplier and a distributor to eliminate or restrict the freedom of a second distributor to determine his own pricing policies; and third, where a conspiracy exists between a supplier and distributor to terminate or cutoff supply to a second distributor because of the second distributor's pricing policies.

Section 2(b) of H.R. 585 reaffirms the long-accepted principle, first declared in the Supreme Court's 1911 Dr. Miles case, that concerted action to set, change, or maintain prices is per se unlawful. This provision establishes an area within which such conduct will be considered per se unlawful. It is not intended to freeze the development of the law or to approve or disapprove particular precedents. Outside this area, it is also not intended to categorize price fixing conduct that has long been considered outside the reach of Dr. Miles. For example, without more, the mere adherence to suggested retail prices does not constitute vertical price fixing. This section is also not intended to bring within the scope of the per se rule promotional practices that have long been considered not to constitute price fixing. What is condemned by H.R. 585, however, is all illegal arrangements intended to stabilize, exclude or minimize price competition, even if they do not include a commitment to a particular price or to some level of pricing.

Unrestrained price competition is one of the central pillars of our antitrust laws. H.R. 585 is a bill that will preserve this tenet of our distinctive and vital American system of competition. I ask that you join us in supporting the bill and moving it swiftly to enactment.

Mr. FISH. Mr. Speaker, I yield such time as he may consume to the principal minority sponsor of this legislation, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I want to thank the chief sponsor, the gentleman from New Jersey [Mr. RODINO], who is also the chairman of the Committee on the Judiciary and particularly the gentleman from New York [Mr. FISH], the ranking minority member who was very faithful in working out language that is acceptable to people who, at the beginning, had some very polarized views on this legislation. It is the essence of good legislation to achieve workable compromise that does not involve eroding principle. That is a great achievement that Mr. FISH and Mr. RODINO, with others of us, were able to work out.

So I salute all of you because I think this is very useful legislation.

This legislation recognizes the value of the discount retail outlets, the billions of dollars that are saved by consumers by being able to purchase merchandise at discount prices and it recognizes the precarious state of discount outlets who may lose access to their merchandise should somebody complain that the price is too low.

The antitrust laws are designed to protect opportunities and competition and in my judgment this legislation furthers that spirit that underlies our antitrust laws.

So everybody benefits from this legislation.

I am very proud to have had a very small part in its introduction and in seeing it through the committee and I hope that my colleagues will support it and it ultimately becomes law.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, [Mr. BROOKS], a member of this committee and the distinguished chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 585—the Freedom From Vertical Price Fixing Act of 1987. This is an important antitrust and proconsumer measure that I hope we can get enacted into law.

The bill has two provisions, both of which conform to and reinforce critical antitrust principles. The bill codifies the existing law that vertical price fixing schemes and conspiracies are illegal per se. We need to put that doctrine on the statute books because the Justice Department has relentlessly sought to undermine it before the courts.

The second provision of the bill would restore to such cases the prevailing evidentiary standard that had been used for years prior to the Monsanto ruling in 1983. The issue is not over the substantive antitrust law, but rather whether a plaintiff can get to the jury to decide the factual issues. The pre-Monsanto standard allowed the plaintiff to reach the jury when he had made the case that his competitor and supplier had communicated on the issue of pricing and that in response his business had been terminated.

H.R. 585 is a modest proposal. It merely codifies and restores time-honored antitrust doctrine—doctrine that has been under assault from those who believe that no antitrust enforcement is the best policy for the Nation. The American people do not want to abandon antitrust rules, and Congress cannot tolerate that approach. H.R. 585 is a proconsumer measure that will help to eliminate resale price maintenance schemes that result in uncompetitive pricing. We need to pass H.R. 585 to restore vigor in this important antitrust area.

Mr. FISH. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, I would like to take this opportunity to commend the chairman of the committee and the ranking member for their willingness to work together to produce a legislative product which clarifies some of the legislative language in the U.S. Supreme Court's decision in Monsanto Co. versus Spray-Rite Service Co., that arguably may have been misconstrued by some of the lower courts.

The bill reported out of our full Judiciary Committee ensures that if given all the evidence submitted by both sides, an inference of an illegal resale price maintenance agreement can reasonably be drawn, the fact-finder will be permitted to decide the issue.

At the same time I think that it is important to state what this bill does not do. It does not in any way alter the fundamental principle of law delineated by the U.S. Supreme Court in United States versus Colgate Co. That a firm may unilaterally decide who it will do businesss with. It is long established doctrine that unilateral action is not prohibited under the law unless it constitutes monopolization or an attempt to monopolize. This legislation does nothing to change that.

I would also point out that nothing in this legislation casts any doubt about the applicability of the rule of reason in nonprice vertical restraint cases as the U.S. Supreme Court outlined in Continental T.V. Inc. versus GTE Sylvania Inc.

This legislation does nothing to affect the requirement in section I of the Sherman Act that there be an Agreement. The bill permits an inference of an agreement only when termination of a dealer is demonstrably "in response to" a price competition communication from a competitor. Furthermore, the communication must be a "substantial contributing cause" of the termination. In other words, it cannot be merely a coincidental occurrence. Other evidence, both positive and negative, on whether the termination was the product of an agreement, as opposed to a manufacturer's unilateral decision will continue to play a role in determining the existence of any alleged agreement.

Amendments made in our committee to clarify that established evidentiary principles regarding proof of an agreement and the standard rules of civil procedure by which courts manage antitrust and other litigation will continue to govern judicial consideration of resale price maintenance agreements.

The standards of the Federal Rules of Civil Procedure will continue to apply with their full force. If the pleadings contain an insufficient allegation of illegal concerted action and cannot properly be amended to be made adequate, judgment on the pleadings under rule 12(c) will be appropriate. Summary judgment under rule 56 may be granted in appropriate cases where an expensive antitrust trial is simply not warranted by the evidence.

My colleague, the gentleman from Ohio [Mr. FEIGHAN] and the gentleman from New York [Mr. FISH] offered a salutory amendment which was incorporated into the bill. It clarifies that nothing in the bill "shall preclude the court from entering a judgment in favor of the defendant, at trial or prior thereto, if the court determines on the basis of the evidence and pleadings submitted by the parties, in accordance with the Federal Rules of Civil Procedure and the requirements of (the bill) that no such inference of concerted action can reasonably be drawn by a trier of fact."

At a time, Mr. Speaker, when our constituents are increasingly concerned about the litigation explosion facing our country, this language provides an important safeguard. It makes clear that the bill does not require the submission of a case to the jury when the evidence is of a mere speculative nature. Where the evidence taken as a whole would not support an inference of illegal concerted action, the court can enter summary judgment, a directed verdict or judgment N.O.V.

H.R. 585 is an attempt to craft an evidentiary balance by ensuring plaintiffs their day in court if—but only if—sufficient evidence is proffered, while at the same time ensuring defendants that they will not be exposed to prolonged and costly litigation when the evidence is found wanting.

Once again, Mr. Speaker, I commend all those who worked out the compromise that we could all support, and I urge my colleagues not to oppose the bill on the suspension calendar.

□ 1600

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in strong support of H.R. 585, the Freedom From Vertical Price-Fixing Act of 1987. I want to congratulate Chairman RODINO, the ranking Republican member Congressman FISH, Congressmen HYDE and FEIGHAN and other colleagues on the Committee on the Judiciary for their time and effort in fashioning this bipartisan legislation which rededicates the Federal Government to its longstanding opposition to "resale price maintenance."

Resale price maintenance in its unvarnished form, is nothing more than price fixing and comes about when a manufacturer requires its distributors to agree to charge certain prices for goods or services and thereby eliminates price competition to the ultimate consumer.

As early as 1911, the Supreme Court struck down such a scheme as illegal "per se" in Dr. Miles Medical Company versus John Park and Sons. Justice Charles Evans Hughes in that seminal holding concluded:

> The complainant having sold its products at prices satisfactory to itself, the public is entitled to whatever advantage may be derived from competition in the subsequent traffic.

This simple and effective rule has served us well for over three-quarters of a century and today we are merely reaffirming it.

The bill before us codifies this rule and clarifies some evidentiary ambiguities that have arisen since a recent interpretation by the Supreme Court in the Monsanto decision. In relation to this latter clarification, I should note that initially there were a number of problems raised by the business community in regard to language in the bill as originally drafted. After lengthy discussions, both at the subcommittee and full committee levels, we were able to develop the present bill before the House, and I am pleased to say that the business community no longer opposes the bill. I not only salute this particular result in what I consider a proconsumer and a probusiness bill, but I also congratulate the various parties for their ability to sit down, in good faith, and negotiate their differences. The end result of this process will not only mean lower prices for the consumers of this country, but also will encourage a healthy and vigorous competition at our retail level.

I urge my colleagues to join me in supporting H.R. 585, a truly bipartisan bill.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 585, legislation to counteract vertical price fixing, reported by the Committee on the Judiciary. Vertical price fixing takes many forms. Perhaps the most destructive form occurs when a full price retailer exercises its economic muscle through a common supplier to force a discount competitor to raise its prices, or worse, to terminate the discounter's supplies altogether.

When this happens, the discounter loses the ability to compete on price—and may lose his or her business altogether. The buying public loses the lower prices that come from price competition. This type of secondary pressure is economically harmful and completely contrary to the entire spirit of the free enterprise system upon which our economy is based.

In Monsanto Co. versus Spray-Rite Service Corp., the Supreme Court said

that a terminated discounter could not make its case by showing that it had been terminated "in response to" price complaints. Even though the plaintiff won in that case, ambiguous language in that opinion has been interpreted by some lower courts so as to impose impossible, formalistic burdens on plaintiffs seeking to get their cases to a jury. Considering the post-Monsanto confusion of the past several years, H.R. 585 contains a fair statement of what the law should be. I hope this bill can be passed as soon as possible so we can end the chaos in the courts.

I urge my colleagues to join me in support of H.R. 585.

Mr. FISH. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, let me thank the chairman, Mr. RODINO, Mr. BROOKS, Mr. FISH, and Mr. HYDE for bringing this legislation forward. This is a difficult, yet critically important piece of antitrust legislation. The Judiciary Committee, under the fine leadership of our chairman, Mr. RODINO, has held numerous hearings during the last three sessions of Congress. This bill reaffirms that the Congress of the United States has not waivered in its firm support of the fight to end resale price maintenance [RPM] commonly called vertical price fixing.

The consumers of this generation and the next have much hope to glean from this bill. Business will have an ability to breathe a fresh breath of confidence in our free market system as a result of the passage of H.R. 585. Both business and consumers will know that the American system of buying and selling will remain unobstructed by the chains of price fixing.

There has been much said about the need to allow business to compete in fair and open marketplace, that is exactly what this legislation does. It reaffirms the basic, fundamental role between business and government. Government's role should prevent policies that hurt industry and the consumer.

This legislation will renew our commitment and will codify the 75 year old per se rule, a rule that allows us to be sure that violations of the Sherman Act can be prosecuted in the courts of our country if not by appropriate government agencies, then by individuals.

Nearly 100 years ago, Congress established the principle that resale price fixing was not in the best interest of American business and consumers. Today we reaffirm that decision made by the Congress of 1890 when the Sherman Act was adopted, as well as by a number of Congresses since the Sherman Act was enacted American business and consumers will look at this day as a shopper's special allowing the American free enterprise system to work to the best advantage of consumers, retailers, and manufacturers.

Let me again thank our chairman, Mr. RODINO, for his persistent leadership. Millions of Americans will benefit from his leadership.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I commend the chairman and the ranking minority member of the committee for their leadership in bringing this legislation to the floor.

Mr. Speaker, one of the most important bulwarks upon which our country is founded is free enterprise. In 1773, colonists enraged by British attempts to control trade took the matter into their own hands and held the Boston Tea Party.

Today we face a similar problem. Confusion over current law and several court rulings has caused it to become very difficult to prosecute distributors for instigating resale price maintenance, the practice of manufacturers dictating the price at which their products will be sold by retailers.

Most cases of resale price maintenance arise when a retailer complains that his contract with a manufacturer is terminated due to refusal to participate in price fixing. Current law, however, makes it very difficult for retailers to prove vertical price fixing by distributors. As a result, public enforcement is no longer a deterrent against resale price maintenance.

H.R. 585 makes prosecution of distributors suspected of vertical price fixing easier. Under this bill, the traditional freedom of business people to deal with whomever they wish and make contracts under terms that were freely arrived at will be restored.

Mr. Speaker, I have long been concerned with this issue. During my service on the Appropriations subcommittee funding for the Department of Justice during 1983 and 1984, I repeatedly questioned the Assistant Attorney General for the Antitrust Division concerning his failure to enforce the antiresale price maintenance laws and twice put language in the report urging their proper enforcement.

I want to commend my distinguished and able colleague, HENRY HYDE, for leading the charge on this important legislation, and I strongly urge the adoption of this bill.

I, also, commend the people of Sportmart, Burlington Coat Factory, and the National Mass Retailing Institute for originally bringing this issue to my attention.

□ 1610

Mr. RODINO. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

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

Mr. Speaker, I rise in support of H.R. 585. This is a bill about resale price maintenance. It is also a bill for consumers, for competition at all levels of our economy—especially the retail level—and against higher prices.

When the House approves H.R. 585, it will be one of the first times since 1980 that we will have enacted legislation to strengthen our antitrust laws. As a cosponsor of H.R. 585, I am proud of what we have accomplished. The bill before us today will allow a retailer who is terminated by his supplier because of his effective price competition to vindicate his rights under the antitrust laws. It eliminates interpretations by some courts that have placed an unfair evidentiary burden on such a plaintiff, and it does so in a fair way to defendants.

While this bill rectifies a problem that antitrust plaintiffs have had, it does so in a manner that is fair to defendants. Both the subcommittee and the full committee added amendments to make sure that a defendant can still obtain favorable summary judgment in cases in which a retailer was terminated for legitimate reasons having no connection with price competition. I am pleased to have been a part of these successful efforts to ensure that this bill protects the rights of those who may be the targets of resale price maintenance suits.

This bill is very important to the consumers of this country, particularly to those customers who shop at discount stores, stores such as Burlington Coat Factory, K-Mart, Wal-Mart, Sims, Loehmanns, and other discount stores.

What this bill says is that shoppers at those discount stores will know that the merchandise that is carried at those stores at lower than retail prices cannot be arbitrarily pulled out of those stores, or those stores be cut out of selling that merchandise at lower prices, because other retailers who are selling at a retail rate, not a wholesale rate, demand the manufacturers of those products to pull them out.

If this bill were not in effect, and if the antitrust laws are not enforced according to that bill, then shoppers at discount stores will not be able to get goods at as low a price as they can get right now, so for all those millions of Americans who shop at these discount stores, Burlington Coat Factory and all the rest, this is a very important bill for you, and a very important bill for fighting inflation in this country.

I want to congratulate the chairman and the gentleman from Illinois [Mr. HYDE] for their leadership on this issue. Other members of the subcommittee, including our ranking minority member, the gentleman from New

Jersey [Mr. HUGHES], and the gentleman from Ohio [Mr. FEIGHAN] have also made substantial contributions to this bill.

I urge my colleagues to join me in supporting this bill.

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

Mr. Speaker, I would like to thank the gentleman from New Jersey [Mr. RODINO] for the gentleman's kind remarks, and for the gentleman's kindness throughout the consideration of this legislation in the committee.

Mr. Speaker, I rise in support of the "Freedom From Vertical Price Fixing Act of 1987"—H.R. 585, as amended.

In 1984, the Supreme Court ruled that evidence of complaints to a manufacturer by certain retail outlets concerning the pricing practices of another competing retailer were not enough to prove that the discounting retailer's termination was the result of a vertical price-fixing conspiracy (that is not enough to prove collusion between a manufacturer and the "complaining" dealers), *Monsanto Company* v. *Spray-Rite Service Corp.*, 465 U.S. 752 (1984). Dealer complaint letters are admissible as evidence, but not persuasive in and of themselves that "the manufacturer and others had a conscious commitment to a common scheme designed to achieve an unlawful objective." 465 U.S. at 764; *Edward J. Sweeney & Sons, Inc.* v. *Texaco, Inc.*, 637 F.2d 105, 111 (C.A. 3d 1980), cert. denied, 451 U.S. 911 (1981). The essential holding in the Monsanto case is still good law and is not overturned by the legislation we consider today.

H.R. 585, however, is aimed at specific problematical language contained in the Monsanto decision, which stated that a plaintiff must come forward with evidence which "tends to exclude the possibility" that: First, the manufacturer and the nonterminated dealer were acting independently; and second, the manufacturer was motivated by nonprice concerns. 465 U.S. at 764. Because of this dicta in the Monsanto opinion, some plaintiffs have encountered difficulty in getting past motions for summary judgment. In some instances, plaintiffs have not only been required to: First, prove a conspiracy (that which has traditionally been required in price-fixing cases)—but also to: second, disprove that the defendant had any legitimate, nonprice motive and disprove that the defendant was acting independently.

H.R. 585 is designed to insure that a plaintiff who has a potentially meritorious resale price maintenance claim under the Sherman Act is not precluded from reaching trial simply because he is unable to prove the negative—to produce evidence that "tends to exclude the possibility" that the supplier and another dealer acted independently. The Judiciary Committee believes that the above phrase has been taken out of context and misapplied in some lower court decisions. Those same decisions have taken an insufficient account of the overall rationale and holding of Monsanto—a rationale and holding, again, which is not overruled by the terms of H.R. 585.

This legislation essentially accomplishes two things. First, section 2(a) is intended to clarify the evidentiary standards applicable in the early stages of litigation involving a dealer termination or refusal to supply, when the asserted motive for the termination or refusal to supply was resale price maintenance. Second, section 2(b) of the bill is intended to codify the existing per se rule in resale price maintenance cases.

As the Members of this House know, I have been a consistent and staunch advocate of the rule of per se illegality in resale price maintenance cases. For example, I was the author and principal sponsor of H. Res. 303 in the 99th Congress—which expressed the sense of the House of Representatives that the "Vertical Restraints Guidelines" issued in 1985 by the Department of Justice did not universally reflect existing law. That legislation was passed by the House of Representatives on December 9, 1985, with no opposition. I have also been involved in numerous legislative efforts aimed at enhancing both public and private enforcement of the prohibition against resale price maintenance. I believe that conspiratorial activities by manufacturers or suppliers, at any level in the distribution chain, specifically aimed at setting prices are, and should remain, per se violations of the Federal antitrust laws.

But, having said that, I admit that I had some initial misgivings about the exact meaning and intent of the language contained in section 2(a) of the original version of H.R. 585. Retailers who are terminated because of their pricing policies should have their full day in court to prove a vertical price fixing case. Unfortunately, since the Supreme Court decision in Monsanto, there has been some lower court confusion regarding what exactly constitutes the scope of the burden of proof in these cases.

At the same time, manufacturers have a legitimate right to be concerned about the effect that retail outlets can have on the reputation and goodwill of their products. There can be valid, nonprice reasons why a manufacturer may choose not to continue a business relationship with a particular retail dealer. This would include, for example, failure to adequately advertise the product as agreed upon, failure to provide adequate repair or warranty service, failure to hire trained sales or service personnel, poor service to customers, failure to properly display the products of the manufacturer, and so forth.

A number of the members of our committee, including myself, wanted to make sure that H.R. 585 did not mean that a manufacturer could be put at an unfair disadvantage in instances where its actions had nothing to do with the resale price of the product or products in question. I am now satisfied that the amended version of H.R. 585 does not change substantive law in RPM cases and that this bill merely clarifies the proper evidentiary standards applicable in the early stages of this type of litigation.

Section 2(a) of H.R. 585 contains the language establishing an evidentiary standard in certain resale price maintenance cases; that is, dealer termination or refusal to supply an existing dealer. It provides that the presence of two factors shall be sufficient to raise the inference that a manufacturer and a competitor dealer engaged in concerted action; that is, a conspiracy to maintain a particular price level. First, the manufacturer has to receive a communication from a competitor of the claimant regarding price competition. Second, in response to that communication, the dealer either terminated the claimant as a buyer or refused to supply * * * some or all of such goods or services requested by the claimant. Now, to raise the inference, a plaintiff must show that the complaint letters were a substantial contributing cause.

Mr. Speaker, dealer complaints about competitors and their competitors' pricing policies are a normal and everyday business occurrence. Price complaints are frequently sent to manufacturers wholly unsolicited—they frequently occur without any prompting by a manufacturer. So, the first part of the required test in section 2(a) of H.R. 585 arguably could be met simply by the existence of one complaint letter found in a manufacturer's file (through discovery)—a situation over which the manufacturer has virtually no control. Again, a manufacturer may have valid nonprice reasons for terminating a dealer, quite apart from the price complaints that a manufacturer may have received from other dealers.

Prior to the amendments adopted in the Monopolies Subcommittee and the full Judiciary Committee, concern was expressed that H.R. 585 held open the possibility that two actually unrelated events could occur in sequence—a complaint letter and a subsequent dealer termination—and a manufacturer or supplier could face potential treble damage liability when, in fact, no price-fixing collusion really occurred. The mere fact that a dealer termination follows a complaint letter or series of complaint letters in time, does not prove that a price-fixing con-

spiracy happened. A plaintiff should have to show more than proof of complaint letters to demonstrate substantial causation and raise the inference.

H.R. 585 now requires that the dealer complaint be a substantial contributing cause of the termination (or refusal to supply). So, the inference would be raised only if the plaintiff can demonstrate a direct and substantial causal link between the defendant's receipt of price-related complaints from other dealers and the defendant's ultimate decision to terminate the plaintiff or refusal to supply the plaintiff "in response to" those complaints.

The complaint or compliants need not be the sole contributing factor in the termination or refusal to supply. They need not even be the primary contributing factor. But the complaint or complaints must be an essential ingredient in the defendant's ultimate decision to terminate or to refuse supply requests from the plaintiff. They are a necessary and fundamental prerequisite to the termination or the refusal to supply. That is, the termination or refusal to supply would not have occurred unless the complaining communications were made, understood, and acted upon by the defendant.

It needs to be made very clear in the legislative history that we are talking about collusion in these fact circumstances, because conspiracy is a necessary element in the proof of a vertical—as well as horizontal—price-fixing violation under the Sherman Act. There must be some common design between the manufacturer and the complaining dealers. Under H.R. 585, the plaintiff will ultimately still have to prove that the manufacturer and others had the previously mentioned conscious commitment to a common scheme designed to achieve an unlawful objective.

It is also important to stress that H.R. 585 as amended in the full Judiciary Committee reaffirms that all opportunities currently available to defendants to dispose of a case prior to its submission to the jury are preserved. The options available to defendants pursuant to the Federal Rules of Civil Procedure remain in place. Quite obviously, any inference raised by a plaintiff in an RPM case can be rebutted by sufficient evidence from the defendant. As section 2(a) states, if the court determines, on the basis of all the evidence and pleadings submitted by the parties, that no inference of concerted action can reasonably be drawn, judgment can be entered by the court in favor of the defendant. Section 2(a) only governs the consideration of motions for summary judgment; it does not create any evidentiary presumption or affect the burden of proof at trial.

Mr. Speaker, the Feighan-Fish amendment adopted in the full Judiciary Committee clarifies two important notions upon which there is bipartisan and widespread agreement. H.R. 585 does not change substantive antitrust law, nor does it deprive defendants of their rights to have a case dismissed prior to going to the jury.

Section 2(b) of H.R. 585 reaffirms the principle, first declared in the Supreme Court's 1911 Dr. Miles case, that concerted action to set resale price is per se illegal. It is not intended to freeze the development of the law, to approve or disapprove of particular precedents, or to categorize as price fixing conduct that has been considered outside the scope of the per se rule.

In particular, there are differences between the application of the per se rules in horizontal and vertical price fixing cases, and section 2(b) is not intended to eliminate those differences. It is legal for a supplier to circulate suggested resale prices, and there is no offense if dealers voluntarily adhere to those prices. In contrast, it may not be legal under some circumstances for a trade association to circulate suggested prices to its members.

Assignments of exclusive marketing areas or areas of primary responsibility for dealers are currently judged under the rule of reason. Supplier-sponsored promotional practices that have incidental effects of price are also evaluated under the rule of reason. Section 2(b) is not intended to bring these practices within the scope of the per se rule.

The purpose of section 2(b) is to rebuff efforts to qualify, trivialize or dilute the per se rule. It preserves the long standing per se rule, but without altering the current glosses on that rule or to limiting the courts' development of the law, consistent with the general per se rule codified by section 2(b).

Again, Mr. Speaker, unilateral action by a manufacturer to terminate a retail dealer for nonprice reasons does not violate the antitrust laws. H.R. 585, as amended, presumes that a showing of a conspiracy—some concerted action—is a necessary predicate for proving a section 1 Sherman Act violation in a vertical case.

In Monsanto, the Supreme Court addressed the standard of proof required to find a vertical price-fixing conspiracy. The Court held that competing dealers' complaints are insufficient by themselves to establish the necessary concert of action. Only if there is additional evidence of another type which tends to show a meeting of the minds between manufacturer and complaining dealers such that they may be deemed to be acting together—may a section 1 violation ultimately be found.

The Supreme Court decision in Monsanto did not alter the per se rule in resale price maintenance [RPM] cases. In fact, the Supreme Court refused to adopt arguments made by the Department of Justice in an amicus brief urging that RPM cases be analyzed under the rule of reason standard rather than the per se standard. The Court specifically declined to adopt the position urged in the Justice Department's amicus brief and instead favorably referred to the per se rule as established law. Dr. Miles Medical Co. against John D. Parke and Sons Co., supra.

It is also notable that the Monsanto decision does not preclude the use of circumstantial evidence to prove a resale price maintenance conspiracy. The Court's decision specifically states: "the antitrust plaintiff should present direct *or circumstantial* (emphasis added) evidence that reasonably tends to prove that the manufacturer and others 'had a conscious commitment to a common scheme designed to achieve an unlawful objective' "; that is, price fixing. 465 U.S. at 764.

Again, the Court held that evidence of price complaints from other dealers (in the same product or product line) does not, by itself, prove that a termination was prompted by a vertical price-fixing conspiracy. Evidence of dealer complaints is admissible and probative under Monsanto, but the plaintiff must also come forward with additional evidence (which may be circumstantial in nature) to support a conspiracy finding.

It is also equally important to stress that H.R. 585 is not intended to overrule such fundamental precedents as *U.S.* v. *Colgate*, 250 U.S. 300 (1919) and *Continental TV, Inc.* v. *GTE Sylvania, Inc.*, 433 U.S. 36 (1977). Subsection 2(a) does not address or affect the fundamental legal standards applied by the Court and the trier of fact in deciding the merits of resale price maintenance claims under sections 1 and 3 of the Sherman Act. Colgate, for example, stands for the proposition that unilateral action by a manufacturer to suggest it distributes prices in advance and to refuse to deal with those who fail to comply is outside the scope of the prohibitions contained in the Sherman Act. Neither Colgate nor GTE Sylvania is discarded or modified by our action with respect to H.R. 585. They remain as authority to the same extent as would be the case if H.R. 585 were not enacted.

To summarize, H.R. 585 is a clarification and refinement of the Supreme Court's decision in the Monsanto case. It is not, and should not be, characterized as anything more. It eliminates ambiguity that has, in some instances, prevented plaintiffs from getting potentially valid claims before a jury.

But it does not alter the fundamental, traditional burden of proof that must be carried by plaintiffs in vertical price-fixing cases.

Mr. FEIGHAN. Mr. Speaker, I would like to voice my strong support for H.R. 585, the Freedom From Vertical Price Fixing Act of 1987. In contrast to the recent attempts by Federal agencies to weaken antitrust enforcement, this bill strengthens it. It codifies, once and for all, the long-standing principle that vertical price-fixing is per se illegal. I commend Chairman RODINO for his vigorous support of this important legislation over the past several years.

Mr. Speaker, during the committee's consideration of H.R. 585, Mr. FISH and I successfully offered an amendment to section 2(a) of the bill that ensures that summary judgment is available where appropriate in the kinds of resale price maintenance cases addressed in that section. Our amendment provides as follows:

Nothing herein shall preclude the court from entering judgment in favor of defendant, at trial or prior thereto, if the court determines on the basis of all the evidence and pleading submitted by the parties, in accordance with the Federal Rules of Civil Procedure and the requirements of this subsection, that no such inference of concerted action can reasonably be drawn by a trier of fact.

The key to this amendment is its intent to preserve the workings of rule 56 of the Federal Rules of Civil Procedure in cases in which section 2(a) is applied. Under rule 56, a defendant may obtain summary judgment if there is no genuine issue of material fact. Section 2(a) is not intended to abrogate the rights of defendants in resale price maintenance cases to obtain summary judgment when such a result is legally appropriate under this standard.

Section 2(a) clarifies the evidentiary burden for the plaintiff in dealer termination cases and provides for an inference of concerted action in cases where the burden is met. To raise the inference, the plaintiff must show that price-related communications from competing dealers were a "substantial contributing cause" of termination. It is insufficient if the plaintiff shows merely that the termination was simply subsequent in time to a price complaint—more evidence of substantial causation is clearly required.

The court must determine whether section 2(a) applies in considering a summary judgment motion. Applying rule 56, the court must decide whether there are genuine issues of material fact with regard to the predicate facts under section 2(a); that is, could a reasonable trier of fact find that price communications were a substantial cause of claimant's termination from the body of evidence presented by both claimant and defendant. Where claimant relies on inferences to establish predicate facts such as substantial causation, the court, under the existing law of summary judgment, must credit those inferences if they are reasonable. If a trier of fact could reasonably find that the requirements of section 2(a) are met, then the court will send the case to the jury. A court could grant summary judgment for the defendants in any case where the trier of fact could not reasonably conclude that the termination was caused by the price complaint.

As noted in the committee report, in setting out the requirements for establishing an inference under section 2(a), the bill does not preclude a defendant from introducing evidence showing the requirements for raising the inference are not met. The overall record of evidence submitted by both plaintiff and defendant will be the basis on which the court will decide whether a trier of fact could reasonably find substantial causation.

The bill does not change the standards for summary judgment prescribed by rule 56 and the case law holding that reasonable inferences are to be credited. Section 2(a) of the bill merely responds to language in post-Monsanto cases which set inappropriately strict guidelines for the types of evidence from which inferences of concerted action could be drawn.

Once the plaintiff has met his burden under section 2(a), the court must recognize that an inference is raised to converted action and permit the jury to consider the issue. The bill does not create any presumption or affect the burden of proof at trial. Of course, if the claimant fails to raise the inference provided in this bill, nothing in this bill will affect in any way the standards for summary judgment in vertical price fixing cases or any other antitrust cases.

Mr. Speaker, H.R. 585 represents an unequivocally positive step toward preserving the original intent of our antitrust law. I am hopeful that under the leadership of Chairman RODINO and yourself, we will quickly see this legislation enacted.

Mr. WISE. Mr. Speaker, the longstanding policy of Congress toward price fixing is one which forbids resale price activities which result in an increase in prices and a decrease in the selection of goods available to consumers.

Recent court decisions, and in particular the statements made by the Supreme Court in the Mosanto versus Spray Rite case, have narrowed the breadth of the prohibition of this policy. H.R. 585, the Freedom from Vertical Price Fixing Act, will ensure that this trend does not continue.

In the past 6 years, the Department of Justice has failed to bring foward a single case concerned with vertical pricing fixing. I believe this has only served to encourage further violations by other manufacturers and suppliers.

The evidence of case law over the past 75 years shows that resale price maintenance is most likely to be anticompetitive. Indeed, the anticompetitive effects of resale-price fixing have been described in the Judiciary Committee report on H.R. 585 as "a triumph of ideology over practicality, of theory over common sense."

I regard it as our responsibility to ensure that consumers are offered the broadest range of products at the lowest of prices. Without the passage of this legislation, a number of these "discount stores" which presently offer such a broad selection at low prices will not be able to operate on the same basis.

A retailer who offers discounts to his customer should not be prevented from doing so by the present conspiratorial practices. H.R. 585, therefore, will protect both the customer and the low-price retailer. I cosponsored this legislation, and I firmly believe that its passage will preserve free competition for both small and large businesses alike. I urge my colleagues to vote "aye" when the "Freedom from Vertical Price Fixing Act" is voted on tomorrow.

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

□ 1625

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. RODINO] that the House suspend the rules and pass the bill, H.R. 585, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 585, the bill just passed.

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

There was no objection.

ORGANOTIN ANTIFOULING PAINT CONTROL ACT OF 1987

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2210) to prohibit the use of certain organotin based antifoulant paints and the use of organotin compounds, purchased at retail, used to make such paints, as amended.

The Clerk read as follows:

H.R. 2210

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organotin Antifouling Paint Control Act of 1987".

SEC. 2. DEFINITIONS.

In this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether

incorporated or not, or any government entity.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 10(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 6 as having a release rate of not more than than 5.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "State" means a State of the United States, the District of Columbia the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, or any territory or possession of the United States.

(10) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 3. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 65 feet in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 4. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) PROHIBITION.—Subject to section 10(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 65 feet in length an antifouling paint containing organotin.

(b) EXCEPTIONS.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 65 feet in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 65 feet in length.

SEC. 5. INTERIM PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS.—Subject to section 10(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator under section 6 as having a release rate of not more than 5.0 micrograms per square centimeter per day.

(b) PROHIBITION OF CERTAIN ORGANOTIN ADDITIVES.—Subject to section 10(d), no person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 6. CERTIFICATION.

(a) INITIAL CERTIFICATION.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 5.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) SUBSEQUENT CERTIFICATION.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 5.0 micrograms per square centimeter per day.

SEC. 7. MONITORING.

The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries in the United States. This monitoring program shall remain in effect until 7 years after the date of the enactment of this Act. The Administrator shall submit annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report detailing the results of this monitoring program for the preceding year.

SEC. 8. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person violating section 4 or 5(a) shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated section 4 or 5(a) is liable to the United States Government for the civil penalty assessed under paragraph (1). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) CRIMINAL PENALTIES.—Any person knowingly violating section 4 or 5(a) or violating section 5(b) shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 9. STATE LAWS.

Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

SEC. 10. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) EFFECTIVE DATE OF PROHIBITION AND PENALTIES.—Sections 4, 5, and 8 shall take effect 90 days after the date of the enactment of this Act.

(c) TERMINATION OF INTERIM PROHIBITION.—Section 5 shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(d) USE OF EXISTING STOCKS.—Notwithstanding the prohibitions contained in sections 4 and 5, the Administrator shall, not later than 90 days after the date of the enactment of this Act, provide a reasonable time, not to exceed one year after the date of the enactment of this Act, for the continued sale, delivery, purchase, receipt, and application of stocks of organotin antifouling paint and organotin additives that exist before the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I many consume.

Mr. Speaker, H.R. 2210 is a bill to control the use of highly toxic organotin chemicals in boat paints.

This legislation grew out of hearings held by the Merchant Marine Committee in both the 99th and 100th Congresses which led our committee to believe that action should be taken to protect our coastal waters from tributyltin, more commonly referred to as TBT, and similar chemicals.

Antifouling paints are used to keep barnacles, algae, and other organisms from attaching themselves to boat bottoms. TBT began to be used for this purpose in the early 1970's. Unfortunately, it may do its job too well. TBT has been shown to kill fish and shellfish at almost infinitesimal doses. Recent studies have shown that in many coastal areas of the United States, TBT is present at concentrations which have been shown in the laboratory to be toxic to a variety of marine life.

The primary action taken by this bill is banning the use of any organotin paints on vessels less than 65 feet in length. Smaller boats tend to spend most of their time in shallow bays and estuaries, and much of that time at their moorings. If they are painted with TBT paints, the TBT is leaching into these waters. And those shallow, protected waters are the areas most susceptible to harm from it.

Banning the use of these paints on smaller vessels duplicates the approach taken by a number of States, including Virginia, Maryland, and Maine.

As a boat owner, I would note that practical, readily available substitutes for organotin paints are available, namely the traditional copper-based boat paints. Where copper-based paints do not constitute an immediately acceptable and practical alternative—on aluminum hulls and on larger vessels—the bill provides an exception. Those vessels would be allowed to use only those which meet a strict standard governing how much organotin they release into the water. Paints not meeting that standard would be banned. The bill sets an interim standard of 5 micrograms per square centimeter per day, and provides for a final standard to be promulgated by the Environmental Protection Agency.

The bill was reported from the Merchant Marine and Fisheries Committee by unanimous vote. The one substantive change from the reported bill is an amendment which changes the maximum length of vessel for which organotin paints will be totally banned from 25 meters—82 feet—to 65 feet.

Since the bill was reported from the committee the EPA has issued a proposed rule governing the use of TBT, in which it bans its use on vesels under 65 feet. The data provided to the committee by EPA supports this change as more accurately reflecting the point where a complete ban is justified. The committee has therefore incorporated the new 65-foot limitation into the bill we bring before the House today. The bill, as amended, is supported by both the majority and minority of the committee.

Mr. Speaker, I wish to gratefully acknowledge the support and leadership of numerous members of our committee on this issue, including our chairman, Mr. JONES. In summary, I ask my colleagues to support the bill, as amended, as an important step in protecting our bays and estuaries from a particularly virulent pollutant.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2210, a bill to control the use of TBT-based paints in the marine environment. As an original cosponsor of this bill, I view this legislation as a key interim measure which will help to regulate the input of TBT and other toxics into our coastal waters. This legislation will act as a temporary remedy until the EPA has completed its review of the effects of TBT-based paints on the marine environment. Once this review is completed, EPA will then develop its final regulation concerning the use or nonuse of such paints.

Mr. Speaker, I would like to point out that several States—including my State of Alaska—have already adopted legislation to control the input of TBT into our coastal waters. In the case of Alaska, the State has recently banned the use of TBT-based paints on all vessels under 4,000 gross tons and it has imposed a maximum TBT release rate on all other vessels.

Mr. Speaker, we have a committee amendment before us today which would prohibit the application of any TBT-based paint to vessels less than 65 feet in length. This amendment will target recreational vessels which have been shown to be the primary cause of TBT leaching problems. This is an important move which will help to eliminate a large portion of the TBT which enters our waters.

Mr. Speaker, I urge my distinguished colleagues to join with me today in passing this bill to conserve our marine environment.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman from Alaska for yielding this time.

Mr. Speaker, I would just like to take this opportunity to commend our chairman and the chairman of the Fish and Wildlife Committee, the gentleman from Massachusetts [Mr. STUDDS] as well, for their fine work in bringing this bill to the floor.

I am not going to take the time to repeat what has been said in terms of the definition of the bill and in terms of its many merits, but I would like to say this, that as many of our colleagues in the House know, our oceans have been the subject of a great deal of discussion, debate, and action, in this House in 1987. This is one of the problems that I feel is very, very important, and a solution as proposed by this bill is of even greater importance. As I think about the ocean and the many problems that we have, we have dealt this year with things that have to do with issues of sludge dumping in the ocean, with garbage dumping in the ocean, with sewage effluent, and the upgrading of sewer treatment plants that do not adequately operate to the degree that we would like, with plastic pollution, with chemical dumping, with dredge spoil disposal, and with medical wastes and many other types of problems that our oceans have experienced.

This is a small but very important step in helping to come to grips with these many problems.

Just this year, and I think it is appropriate to point out, that there is good news for the condition of the ocean if you look at what the House has done this year. This is another step in that direction and I commend the members of the Merchant Marine and Fisheries Committee and the Members of the House for supporting bills such as this that are so important to the marine environment.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the full committee, the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, today the House will consider H.R. 2210, the Organotin Antifouling Paint Control Act of 1987.

I'm sure many Members are wondering what organotin antifouling paints are and why they need to be controlled. Organotins are a group of tin-based biocides which are widely used in marine paints to prevent the buildup of barnacles and other growth on ship hulls.

I introduced H.R. 2210 in April of this year because I was concerned that organotin originating from painted boat hulls was harming marine life. My concern was based on testimony presented at two hearings held by subcommittees of the Merchant Marine and Fisheries Committee which indicated that TBT—the most common type of organotin—has caused damage to shellfish stocks in Europe, England, and the United States. Moreover, it was reported that the waters of many U.S. estuaries have levels of TBT which have the potential, according to laboratory experiments, to cause toxic effects in many other aquatic organisms.

The Environmental Protection Agency [EPA] is reviewing the toxic

effects of TBT-based paints' under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA]. On October 7, the EPA released preliminary regulations governing the sale and use of TBT-based antifouling paints, and hopes to have final regulations ready by July 1988. However, even if these final regulations are released in July, they will be subject to an appeal process which takes an average of 2 years to complete, during which time the EPA's regulations will not be in effect. Based on the uncertainty of the FIFRA regulatory process and the imminent threat to our aquatic environment posed by TBT antifouling paints, I believe that Congress should impose restrictions on its sale and use now.

FIFRA, and the sale and use of pesticides generally, is under the jurisdiction of the Committee on Agriculture. However, the chairman of that committee has graciously allowed the Merchant Marine and Fisheries Committee to move this legislation, which is designed to reduce coastal pollution, without seeking a sequential referral. At this time, Mr. Speaker, I would like to insert in the RECORD a letter from Chairman DE LA GARZA regarding the jurisdictional implications of this bill.

H.R. 2210, as amended, would permanently prohibit the application of organotin paints on nonaluminum hulled small vessels—less than 65 feet in length. These vessels are used primarily in shallow waters, which are inhabited by the organisms most sensitive to TBT. The bill also restricts the sale of paints which release organotin at excessively high rates. By prohibiting the sale of these environmentally damaging high-release-rate paints, those who make their living on the water—the merchant marine and fishing industries—will still be able to enjoy the economic benefits of TBT use and the environment will be afforded a large degree of protection.

The bill also: first, allows for the continued sale and application of existing stocks of organotin paints for up to 1 year; second, directs the EPA to monitor the concentrations of organotin in the waters, sediments, and organisms of representative U.S. estuaries for 7 years after the date of enactment; and third, will not affect a State's ability to adopt more stringent regulations governing organotin-based paints.

As I stated before, the EPA has proposed regulations regarding the sale and use of TBT antifouling paints. It is my opinion that H.R. 2210 and the EPA's proposed regulations complement rather than interfere with each other. First, the majority of the provisions contained in this bill are interim in nature, since they will remain in effect only until the EPA's regulations take effect. The portion of the bill which is permanent, the size limitation on application, has been changed so that it is identical to the cutoff used by the EPA. Second, passage of this legislation will, I believe, insulate the EPA from administrative and judicial challenges to its regulations because this Federal law will remain in effect until all challenges are resolved.

In conclusion, this bill is the culmination of more than 1½ years of work by the Committee on Merchant Marine and Fisheries. It strikes a balance between the environmental and economic consequences of continued use of these types of paints and I urge all Members to consider it favorably.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, October 5, 1987.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, Longworth Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you regarding H.R. 2210, the "Organotin-Based Antifoulant Paint Control Act of 1987."

I believe that the subject matter of this bill falls within the jurisdiction of the Committee on Agriculture, as defined by Rule X of the House Rules. However, in order to expedite the bill's consideration by the House, the Committee on Agriculture will not seek sequential referral of H.R. 2210. This action is taken without endorsing the subject matter of H.R. 2210 and without in any respect waiving jurisdiction with regard to the substantive issues addressed in this bill or in similar bills.

If the provisions in the bill relating to matters within the jurisdiction of the Committee on Agriculture should become an issue with the Senate, I intend to request that this Committee be represented in any conference that may be held.

Thank you for your attention to this matter. With best personal regards,

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, October 27, 1987.

Hon. KIKA DE LA GARZA,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 5 regarding H.R. 2210, the "Organotin-Based Antifouling Paint Control Act of 1987."

I appreciate your assistance in moving this legislation by not asking for a sequential referral. Obviously, matters involving the Federal Insecticide, Fungicide, and Rodenticide Act fall within the Agriculture Committee's jurisdiction; antifouling paints frequently contain substances regulated under FIFRA.

I look forward to cooperating with you on H.R. 2210. Our correspondence will be placed in the Congressional Record during House debate on the bill.

With kind regards, I am

Sincerely,

WALTER B. JONES,
Chairman.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the distinguished gentleman from Alaska for yielding this time.

Mr. Speaker, I rise to join those who would praise the chairman of the full committee and the distinguished chairman as well of the subcommittee for bringing this bill to the floor. In order to abbreviate my remarks and to limit the time of the House in considering this important measure, let me simply say that I believe I was the first of those in the Congress to call upon the Environmental Protection Agency to conduct a special review of organotin paints and certainly I believe perhaps my bill affecting the use of those paints may have been the first introduced. Whoever's bill, and I applaud the distinguished gentleman from North Carolina [Mr. JONES], the chairman of the committee, for his bill we act upon today.

This is a subject which did indeed need congressional action.

Mr. Speaker, since tributyltin-based marine paints [TBT] were first introduced in the 1960's their use has grown dramatically, and the potential effects of this have become a source of serious concern among those who wish to protect the marine environment.

When added to marine paint, tributyltin [TBT] is an effective antifouling agent, keeping marine organisms from building up on the hull of a vessel. The cleaner hulls keep down fuel costs by decreasing friction and reduce the frequency of repainting. Unfortunately, tributyltin compounds pose great risks for organisms in the marine environment other than those which foul boats.

As the use of TBT has increased, questions about its effects on the marine environment have also increased. The First District of Virginia, which I am proud to represent, includes Newport News Shipbuilding and some of the most productive shellfish beds in the world. Therefore, my concern about TBT is twofold. I am concerned both about the possible health effects of TBT on the shipyard workers if, in the future, they are forced to use the pesticide, and the effects which TBT has on marine organisms, particularly those in the Chesapeake Bay.

Prompted by the introduction of my bill, the Tributyltin-Based Antifouling Paint Control Act of 1987, a congressional hearing was held in July by the House Merchant Marine and Fisheries Committee.

The purpose of the hearing was to determine what progress the Environmental Protection Agency [EPA] was making in its special review of tributyltin product registrations; to provide an update on the research being done on the environmental effects of TBT and research on what level TBT that marine organisms can tolerate; to hear

what alternatives were available to TBT-based paints; and finally to determine whether uniform national regulation is necessary. As a result of that hearing the Merchant Marine Committee prepared the legislation which we are considering today. This bill closely follows legislation already in place in Virginia, Maryland, California, and Alaska.

The Environmental Protection Agency, under urging of Members of Congress, has undertaken a special review of the use of tributyltin pesticides. Unfortunately such reviews are extremely time consuming. Even though the Agency has recently announced a preliminary determination of what action should be taken, it may be some time before final action is taken. EPA's proposed actions are more restrictive than those in H.R. 2210, and those actions would override the provisions of this bill when made final.

H.R. 2210 would:

Prohibit the sale of marine paints that release TBT into the environment at a rapid rate;

Prohibit the use of organotin paints on vessels that are less than 65 feet in length;

Allow a year for the use of existing stocks of paints;

Provide for 7 years of monitoring by the EPA to guarantee that the problems the bill addresses are being solved; and

Encourage the use of new and improved copper-based paints.

I am proud to have helped shape this legislation, and it is my hope that that the House will approve this bill. I would also like to commend Chairmen JONES and STUDDS for their action on this issue.

Mr. STUDDS. Mr. Speaker, I yield myself 30 seconds. I just want to round out the commendations here. All the Members on both sides who have spoken on this bill reflect once again the quietly constructive nonpartisan approach of this committee on this legislation. I commend them all.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 2210, a bill to control the use of TBT-based paints in our coastal waters. As an original cosponsor of the bill, I strongly believe that there is an immediate need to regulate the input of toxic chemicals into our marine environment. The EPA is now engaged in a special review of TBT-based paints. Given that such a process might well prove to be a long and tedious one, I believe that H.R. 2210 will provide the necessary interim measure to control the input of TBT and other toxics into the marine environment until the EPA final regulations are promulgated.

Mr. Speaker, the problems of TBT-based paints are not limited solely to saltwater marinas and harbors. The Great Lakes have experienced a growing problem with TBT generated primarily from recreational boats. Given this, my home State of Michigan has announced a summary suspension of registration on TBT-based paints effective June 1, 1987.

Mr. Speaker, we have a committee amendment before us today which would prohibit the application of TBT-based paints to vessels less than 65 feet in length. This amendment specifically targets recreational vessels which have been shown to be a leading contributor to the TBT leaching problem. I believe that this important amendment will go a long way in eliminating that portion of the TBT problem caused by recreational boats.

Mr. Speaker, I strongly urge my colleagues to join with me in supporting this important bill and look forward to further actions which will protect and enhance our marine environment.

Miss SCHNEIDER. Mr. Speaker, I rise today in support of H.R. 2210, a bill to restrict the use of certain antifouling paints containing organotin. The use of organotins in paints has resulted in a very effective antifouling product for boat hulls. These potent biocides have turned out to be so effective, however, that they are now posing an insidious threat to marine life. This bill, of which I am a cosponsor, is merely an interim measure until EPA completes its review of the effects of organotin-based paints on the marine environment. EPA will then promulgate final regulations concerning the use or nonuse of such paints.

Recognition of the potential danger to marine life posed by organotin-based paints is not new. In 1981, in response to a nearly 100-percent incidence of shell deformities and a decline in the stocks of Pacific oysters, France banned the use of organotin-based paints on vessels less than 25 meters (82 feet). Soon after the ban, the incidence of shell deformities declined dramatically, and the stocks of oysters increased. In the United States, nine States have, to date, enacted laws restricting the use of organotin-based paints.

It would be foolish to ignore the preponderance of evidence on the adverse effect of organotins on the marine environment. Although this bill may inconvenience some boat owners, it is a small price to pay for what may be a serious environment and human health problem. After EPA completes their review, we will be better able to determine the extent of the problem, and the best means to resolve it. Until that time, however, the interim measures spelled out in this bill provide the most prudent path to follow. I strongly urge all of my colleagues to support this important bill.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2210, as amended.

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

The title of the bill was amended so as to read: "A bill to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2210, the bill just passed.

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

There was no objection.

MESSAGE FROM THE PRESIDENT

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

SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE AUTHORIZATION

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2583) to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 2583

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 5 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30 1972 (86 Stat. 399), is amended to read as follows:

"SEC. 5. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

SEC. 2. EFFECTIVE DATE.

The Amendment made by section 1 shall take effect on October 1, 1987.

SEC. 3. QUILLAYUTE NEEDLES AND FLATTERY ROCKS NATIONAL WILDLIFE REFUGES.

(a) Notwithstanding any other provision of Public Law 99-635, land and waters in the Quillayute Needles National Wildlife Refuge and Flattery Rocks National Wildlife Refuge established as preserves for native birds and animals by Executive Orders dated October 23, 1907, as amended, which are within the boundaries of Olympic National Park, shall be administered by the United States Fish and Wildlife Service for refuge purposes under laws and regulations applicable to the national wildlife refuge system, including administration in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). Nothing in this Act shall affect, amend or modify the application of the provisions of the Wilderness Act (16 U.S.C. 1131-1139) to the Quillayute Needles National Wildlife Refuge or Flattery Rocks National Wildlife Refuge.

(b) Within 90 days of the enactment of this Act, the United States Fish and Wildlife Service shall, by memorandum of understanding or other means, seek law enforcement assistance from the National Park Service for purposes of enhancing the protection of the ecological resources of the Quillayute Needles and Flattery Rocks National Wildlife Refuges."

SEC. 4. COOPERATIVE LAW ENFORCEMENT AGREEMENTS.

Subsection 4(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)), is amended by adding after the last sentence of that subsection the following; "The Director of the United States Fish and Wildlife Service is authorized to utilize by agreement, with or without reimbursement, the personnel and services of any other Federal or State agency for purposes of enhancing the enforcement of this Act."

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, H.R. 2583 raises the authorization of appropriations for the San Francisco Bay National Wildlife Refuge to such sums as may be necessary to complete the land acquisition there. The author of the bill is Mr. EDWARDS of California, in whose district the refuge lies.

The San Francisco Bay Refuge was established by Congress in 1972. The authorization level provided by Congress in the establishing legislation has not, as it has turned out, been sufficient to achieve the acquisition of the 21,000 acres originally designated as part of the refuge.

The purpose of this bill is to authorize the appropriation of the additional funds needed to complete acquisition. Four thousand acres remain to be acquired, at an estimated cost of $2 million.

This particular acquisition is one of the highest on the administration's priority list for wildlife refuge acquisitions. The refuge protects a small part of the wetland areas that have escaped development around San Francisco Bay. It is used by hundreds of thousands of shorebirds and waterfowl every year, is home to at least three endangered species, and is a center for environmental education activities and wildlife viewing in the bay area.

This bill was unanimously approved and reported by our committee.

ON THE AMENDMENT TO H.R. 2583

The committee also proposes an amendment to H.R. 2583 as reported. The purpose of this amendment is to clarify the legal status of two wildlife refuges in the State of Washington.

Legislation enacted in the 99th Congress to extend the boundary of Olympic National Park was unclear as to how it affected these refuges.

The amendment, which is supported by the Washington delegation, clarifies that the refuges will continue as inholdings within the park, much as the Chincoteague National Wildlife Refuge exists within the Assateague Island National Seashore.

The amendment also provides for cooperation between the Fish and Wildlife Service and the National Park Service in protecting the resources of the refuges.

We would like to express our thanks to the leadership of the House Interior Committee for their cooperation in clarifying the status of the refuges. We have acknowledged their jurisdictional interest in matters affecting Olympic National Park, and wish to include in the RECORD letters on this matter between Chairman JONES of our committee and Chairman UDALL of the Interior Committee.

In summary, Mr. Speaker, I urge my colleagues to support the bill as amended, and I would ask unanimous consent to insert into the RECORD a more detailed statement on this measure.

Mr. Speaker, the purpose of this amendment is to clarify the status of the Quillayute Needles and Flattery Rocks National Wildlife Refuges in the State of Washington. Legislation enacted in the 99th Congress extended the boundaries of Olympic National Park to include these two national wildlife refuges.

Unfortunately, there is a measure of confusion over whether expanding the boundaries of the park resulted in removing these areas from the National Wildlife Refuge System, or whether they remain wildlife refuges within the boundaries of the park, as is the case with the Chincoteague National Wildlife Refuge [NWR]. Chincoteague NWR lies entirely within the boundaries of the Assateague National Seashore, a unit of the National Park System, and is administered by the U.S. Fish and Wildlife Service for refuge purposes under the laws and regulations applicable to the National Wildlife Refuge System.

These refuges consist of isolated sea stacks or island cliffs, immediately offshore of Olympic National Park. Historically, the U.S. Fish and Wildlife Service had not maintained a permanent presence on either of these two island refuges, relying instead upon periodic visits to the areas to enforce refuge laws. Despite the immediate presence of Olympic National Park rangers, the National Wildlife Refuge System Administration Act does not presently contain an express authorization for the U.S. Fish and Wildlife Service to seek the cooperative assistance of such rangers for law enforcement purposes. Under these unique and limited circumstances, utilizing the enforcement presence of park personnel makes good sense.

At the same time, there are good arguments for keeping these areas within the National Wildlife Refuge System. These include the historic significance of these areas as part of our National Wildlife Refuge System. They were set aside for wildlife protection in October of 1907 by President Teddy Roosevelt. Then as now, the key resource of these areas is, in fact, their wildlife. That wildlife includes nesting colonies of migratory seabirds protected by international treaty, for which the Fish and Wildlife Service has primary management responsibility. The authors of the legislation in the 99th Congress stated that it was not their intent to extinguish the historic status of these two refuges. Moreover, the Committee on Merchant Marine and Fisheries has long maintained that the U.S. Fish and Wildlife Service be the primary management agency for units of the National Wildlife Refuge System. This amendment should not be interpreted as changing this historical policy, but rather be viewed as exceptionally narrow and limited in scope due to the particular unique circumstances surrounding these two wildlife refuges.

Fortunately, we can have it both ways. H.R. 2583, as amended, clarifies the authority of the U.S. Fish and Wildlife Service to seek the cooperative assistance of the National Park Service for law enforcement purposes while refining the historic status of these two island refuge areas as units of the National Wildlife Refuge System. Nothing in this section shall alter the boundaries of Olympic National Park, as revised by Public Law 99-635, nor affect the wilderness status of these two wildlife refuges. Thus, commercial activities of all types will continue to be prohibited within these refuge areas, including oil and gas leasing. Because of the continued status of these areas as wilderness, the Fish and Wildlife Service would not have any active land management program which would be in conflict with the surrounding Olympic National Park. It is also our intent that these areas remain closed to sport hunting as is the case in the adjacent areas within the Olympic National Park. The Washington delegation, on both sides of the aisle, supports this action to clarify that these refuges continue to exist as legal entities under the authority of the U.S. Fish and Wildlife

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Service while remaining within the boundaries of Olympic National Park.

In addition to authorizing a specific law enforcement cooperative agreement for these two island wildlife refuge areas, H.R. 2583 also clarifies the U.S. Fish and Wildlife Service's general authority to enter into similar law enforcement agreements for other wildlife refuges where deemed appropriate by the Service.

The Committee on Merchant Marine and Fisheries wishes to express its gratitude to the leadership of the Committee on Interior and Insular Affairs, and in particular Subcommittee Chairman BRUCE VENTO, for the cooperative assistance it has provided in clarifying the status of these two island wildlife refuge areas. The Interior and Insular Affairs Committee has jurisdiction over matters affecting Olympic National Park and thus has a jurisdictional interest in the subject matter of our amendment. We have acknowledged this jurisdictional interest in an exchange of letters between Chairman JONES and Chairman UDALL and wish to include these letters in the CONGRESSIONAL RECORD as part of this floor statement.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 5, 1987.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine & Fisheries, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that the Committee on Merchant Marine and Fisheries intends to offer as an amendment to H.R. 2583 provisions relating to the areas known as Flattery Rocks and Quillayute Needles which are presently within the Olympic National Park as a result of the enactment of P.L. 99-635.

Our staff on the Subcommittee on National Parks and Public Lands is familiar with this matter and we believe that your proposal satisfactorily resolves the problem. Accordingly, with the understanding that our legitimate jurisdictional interest is recognized, we have no objection to your request to consider this legislation under suspension of the rules.

Your cooperation and consideration are appreciated.

Sincerely,

MORRIS K. UDALL,
Chairman.

U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, November 5, 1987.

Hon. MORRIS K. UDALL,
Chairman on Interior and Insular Affairs, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: During the last Congress, Public Law 99-635 was enacted which expanded the boundaries of Olympic National Park. One of the unintended consequences of the passage of this Act was the inadvertent extinguishment of two of the oldest national wildlife refuges in the country, the Quillayute Needles and Flattery Rocks National Wildlife Refuges. These two wildlife refuges were established in 1907 and were part of the historic wildlife conservation legacy left by President Teddy Roosevelt. I would add in passing that the chief sponsors of Public Law 99-635 in the House and the Senate have both disclaimed any intent to have that legislation affect the status of these two wildlife refuges.

After extensive discussions with the State of Washington delegation, I believe that an acceptable solution to this problem has been developed. Language has been drafted which would reaffirm the continued status of these two historic refuges as units of the National Wildlife Refuge System while leaving intact and unaffected the expanded outer boundary of Olympic National Park established by Public Law 99-635. While the two wildlife refuges would continue to be managed exclusively by the U.S. Fish and Wildlife Service (FWS), the FWS would be required to negotiate a law enforcement Memorandum of Understanding with the National Park Service within 90 days, in order to provide enhanced enforcement protection for the ecological resources of these isolated island areas. Moreover, our language would reaffirm the continued status of these two wildlife refuges as wilderness areas, subject to all of the provisions and protection of the Wilderness Act, 16 U.S.C. 1131-1139. Thus, commercial activities of all sorts such as oil and gas leasing would continue to be prohibited within the boundaries of these refuge areas.

We have developed this language in consultation with all of the offices of members of the Washington delegation in the House. They have all indicated that the proposed language is a very reasonable solution to this problem and adequately protects the interests of both the National Park Service and the U.S. Fish and Wildlife Service. Since our proposed language involves matters affecting the status of areas now within (albeit unintentionally) Olympic National Park, this legislative proposal falls within the jurisdiction of the Committee on Interior and Insular Affairs. For that reason, our staff has also worked closely with the staff of the Subcommittee and we understand that the proposed language is acceptable.

Because remaining legislative time is rapidly running out for this session of Congress, I have concluded that our best approach is to offer our language on the floor of the House next Monday as an amendment to a bill to be brought up on the Suspension Calendar, H.R. 2583, a bill reauthorizing the San Francisco Bay National Wildlife Refuge. If you find this approach agreeable, I would propose that this letter acknowledging your jurisdiction over this matter, along with your response, be included in the *Congressional Record* as part of the floor debate on H.R. 2583, as amended. In this manner, your jurisdictional interests will be acknowledged and preserved and the matter will be finally resolved in the House to everyone's satisfaction. I would like to thank you in advance for any cooperation or assistance that you could provide regarding this matter.

With warmest personal regards, I am

Sincerely,

WALTER B. JONES,
Chairman.

Mr. EDWARDS of California. Mr. Speaker, I'm delighted to rise in strong support of H.R. 2583, legislation which will authorize the funds needed to complete the San Francisco Bay National Wildlife Refuge. I would like to thank the distinguished chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. STUDDS, as well as the members of the subcommittee and the full committee for their work on this bill.

In 1972, Congress authorized 23,000 acres of wetlands in the south San Francisco Bay to create the San Francisco Bay National Wildlife Refuge. Presently, the refuge consists of 17,500 acres. I introduced H.R. 2583 to authorize the funding needed to purchase the remaining 5,500 authorized acres.

I am dedicated to preserving the threatened wetlands of the south San Francisco Bay. Overdevelopment has polluted and destroyed much of this environmentally sensitive region. Nearly one-third of the San Francisco Bay has been filled in or diked off from tidal action. We must reverse this destructive trend, and preserve the valuable wildlife and habitat which still surround the bay.

The San Francisco Bay National Wildlife Refuge serves many diverse environmental purposes, and is a haven for several species of wildlife. It is a prime nesting and feeding area for migratory shorebirds wintering on the Pacific coast. It also preserves a hauling ground for a large colony of harbor seals. There is much-needed habitat for several endangered and threatened species, including the California clapper rail, the salt marsh harvest mouse, the California least tern, and the peregrine falcon. In addition, the refuge offers flood control and water purification benefits for surrounding cities.

Not only does the San Francisco Bay Wildlife Refuge provide important wildlife preservation, it also offers a wide variety of public uses. One of the primary public benefits of the refuge is its effective environmental education programs. The refuge's education system is designed to educate teachers and parents to enable them to lead environmentally oriented classes themselves. Each hour that is used to educate teachers about environmental issues eventually reaches 900 students in the California school system. This program has been highly beneficial, and faculty from a great number of California schools have donated their time to participate in the educational seminars.

The refuge is widely used for wildlife observation. The refuge offers 18,000 hours of sightseeing and birdwatching each year. A well-developed system of trails, informational signs, and guided nature walks enable even novices to fully enjoy wildlife and plantlife. This use of the refuge draw over 100,000 visitors each year.

But perhaps the most important asset of the San Francisco Bay Wildlife Refuge is that it offers wide open

space in the heart of a highly urban area. This makes it easily accessible to the local population—some 5 million people live within an hour's drive of the refuge.

Yet, because the refuge is located within the heart of the Silicon Valley, development in adjacent areas presents a continuing threat. The San Francisco Bay once contained almost 200,000 acres of wetlands which were abundant with wildlife. Of those original 200,000 acres of wetlands, only 37,000 remain today. Presently, nearly every wetland parcel in the south bay is targeted for development.

If this trend continues, I am afraid that all of the remaining wetlands of the south bay will disappear. This is why it is so vitally important that we preserve these wetlands under the shelter of the San Francisco Bay National Wildlife Refuge, and bring the acreage of the refuge up to the authorized level of 23,000 acres.

When we established the refuge in 1972, we had a great amount of local support. Today, that support is greater than ever. Local conservation groups, city governments around the bay, and individuals concerned with the environment are working with me in efforts to expand the refuge. I look forward to developing legislation to save the diminishing wetlands by increasing the refuge even further in the months ahead. I hope that my colleagues will join in supporting that effort as well.

Congress must do its part to preserve what we can of these spectacular wetlands. By acting now we can save an additional 5,500 acres of threatened wildlife habitat and scenic wetlands in the center of a metropolitan region. In these days of overdevelopment, let's stop the trend of destruction and pollution and protect the environmentally sensitive regions of our Nation. By passing H.R. 2583 today, we can take one big step toward this goal.

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Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2583. The National Wildlife Refuge System provides, manages, and safeguards a network of lands and waters sufficient in size and diversity to ensure the protection of wildlife of all types. In keeping with this, the San Francisco Bay National Wildlife Refuge was established by Congress in 1972 to protect the rapidly disappearing wildlife habitat of marshes, mud flats, and other open water of the San Francisco Bay. The refuge is a major nesting and feeding area for the waterfowl and shorebirds of the Pacific flyway and provides habitat for several endangered species. The San Francisco Bay refuge is unique in that it is located in the middle of a major metropolitan area and provides extensive opportunity for wildlife-oriented recreation.

The purpose of H.R. 2583 is to increase the authorization level to meet unanticipated increases in the cost of acquiring the outstanding tracts of land for the refuge. It is my understanding that an estimated $2 million is required to complete the acquisition of acreage that was identified in the enacting legislation in 1972. The Fish and Wildlife Service has identified the San Francisco Bay National Wildlife Refuge as one of its high land acquisition priorities.

Mr. Speaker, the amendment that my colleague, Congressman STUDDS, has described addressing the return of two wildlife refuges in the State of Washington back into the National Wildlife Refuge System has been cleared with this side of the aisle and is supported by the Washington delegation.

Mr. Speaker, I ask my colleagues to join with me in adopting this legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I rise in support of an amendment to H.R. 2583 that would clarify management authority and objectives for two national wildlife refuges, the Quillayute Needles and Flattery Rocks National Wildlife Refuges, on the northern coast of Washington State. As the Member who represented this area until 1981, and as a member of the Merchant Marine and Fisheries, I have a special interest in this matter.

Last year, Congress approved a measure—Public Law 99-635—that extended the boundaries of the Olympic National Park in Washington State. One of the lesser known changes was the inclusion of the offshore rocks and islands which comprise the Quillayute Needles and Flattery Rocks National Wildlife Refuges. Although the intent of the inclusion was to provide additional protection for the offshore rocks and sea stacks, the result was to create confusion with respect to the status and management of the refuges. This amendment provides needed clarification and advances to goal of further protecting these wilderness rocks and islands.

As the chairman, Mr. STUDDS, notes, the amendment makes it clear that the refuges continue to exist as units of the National Wildlife Refuge System under the management authority of the U.S. Fish and Wildlife Service [FWS], even though they are within the Olympic National Park boundary. The amendment also authorizes the Director of the Fish and Wildlife Service to enter into agreements with other Federal and State agencies to enhance enforcement of refuge laws and regulations. Furthermore, it specifically directs the FWS and National Park Service to enter into a memorandum of understanding for purposes of enhancing the protection of the ecological resources of the refuges.

The amendment also makes it clear that the refuges will continue to be designated as wilderness. In keeping with this wilderness status and the presence of the refuges within the park, such activities as hunting, oil and gas development, and intrusive development of any sort would obviously be inappropriate. While the refuges would continue to be administered by the Director of the FWS under the provisions of the National Wildlife Refuge System Administration Act, the continued application of the Wilderness Act will ensure that any land use activities within the refuges would be consistent with the amendment objectives of the park.

The scrutiny recently given to this issue has focused attention on a related concern not addressed by this legislation. Only those portions of the offshore rocks and islands above the mean hightide line are under Federal protection—the intertidal zones and the submerged lands and waters surrounding them are not accorded any special protection. I believe the Washington State Congressional Delegation, the committee, the State of Washington, and interested parties should work together on a strategy to protect these sensitive areas.

Mr. Speaker, in conclusion, I would like to thank the full commmittee chairman, Mr. JONES, the subcommittee chairman, Mr. STUDDS and their capable staffs for their patient and helpful efforts to clarify the status and management of the Quillayute Needles and Flattery Rock National Wildlife Refuges. This amendment will provide enhanced protection for the refuges, and, hopefully, we can address the problem of the surrounding areas in the near future.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I greatly appreciate the gentleman's kind statements. It has been rewarding to work with the Committee on Merchant Marine and Fisheries on a resolution of this issue.

The legislation as passed in the 99th Congress extended the boundary of the "Olympic National Park" to include the islands known as "Quillayute Needles and Flattery Rocks. I understood the purpose of this action from members of the Washington delegation, to be necessary because of a lack of law enforcement by the Fish and Wildlife Service. Placing the islands within the boundary of the park would allow local park service personnel to protect the wildlife on the is-

lands. Unfortunately, that language created confusion between the two agencies as to who had primary authority to manage the resources.

I am very pleased that this problem has been worked out and support the language proposed by the Committee on Merchant Marine and Fisheries which clarifies this resource management responsibility.

It is a pleasure to work with members and staff who are dedicated to finding the best solutions for protection of our dwindling natural resource base and I commend the gentleman from Massachusetts for his efforts.

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

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

Ms. PELOSI. Mr. Speaker, I join my colleague from San Jose, Mr. EDWARDS, in supporting H.R. 2583, the San Francisco Bay National Wildlife Refuge authorization legislation.

California's wetlands are vanishing at an astonishing rate, an overall reduction of 92 percent, and the effects on San Francisco Bay alone are cause for alarm. The San Francisco Bay Delta is one of the unique estuarine systems of the world and the largest on the West Coast of North America.

This legislation would add protection to the existing San Francisco Bay National Wildlife Refuge by providing additional acreage for seasonal waterfowl which depend on these wetlands for nesting and survival. There are over 200 species of fish and over 600,000 aquatic birds which use the bay habitat at any one time. The refuge is a resource that must be protected to insure the continued health of the entire bay.

Thank you, Mr. EDWARDS, for your efforts to achieve this goal for the bay's wetland areas.

Mr. STARK. Mr. Speaker, I am pleased the House is considering legislation today that is very important to my district and the entire San Francisco Bay Area. I strongly support the San Francisco Bay National Wildlife Refuge authorization introduced by my friend, Congressman EDWARDS.

There is considerable pressure on the few remaining wetlands that remain in the San Francisco area. The true importance of wetlands to the ecological system is only beginning to be fully realized. Seeing wetlands as a nursery and cleaning system for the bay itself has only been happening in the last decade or so.

The San Francisco Bay National Wildlife Refuge was designed to help protect some of the last of these essential ecosystems. However, the amount of money authorized for the refuge has proven insufficient for the land to be acquired. U.S. Fish and Wildlife wants to spend the money to acquire the land. The legislation provides that authorization.

Mr. Speaker, this bill would allow for the completion of the San Francisco Bay National Wildlife Refuge. This is something that cannot be done too soon.

Mr. MILLER of California. Mr. Speaker, H.R. 2583 will authorize such sums as may be needed to complete land acquisition at the San Francisco Bay National Wildlife Refuge.

This is a critical piece of legislation for San Francisco Bay. This refuge, which will eventually comprise 21,000 acres of salt marsh, open water, and other habitats, is one of the few areas of the bay which have escaped the tremendous pressures of development. The refuge is home to thousands of migratory and resident birds, several endangered species, and serves as an invaluable educational resource. Only 4,000 acres remain to be acquired to round out the refuge.

For many years, the wetlands and marshes ringing the bay were thought to be little more than annoying wastelands, ripe for developing into real estate. Until recently, few people understood the critical role these marshlands play in providing food and purifying the water and the air. Since 1972, the Fish and Wildlife Service has been assembling isolated parcels of valuable marsh into what is now one of the showcases of the National Wildlife Refuge System.

Although our understanding of the importance of places such as this refuge has increased dramatically in recent years, the threats to a healthy bay have not diminished. Diversions of fresh water, leaky toxic waste disposal sites, wastes from farms, cities, and industries, dredging, and continued filling of wetlands continually endanger the bay. H.R. 2483 affords us with a very real opportunity to extend protection to a resource we cannot afford to lose or further degrade.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2583, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

COMMERCIAL FISHING INDUSTRY VESSEL ANTI-REFLAGGING ACT OF 1987

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2598) entitled the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987," as amended.

The Clerk read as follows:

H.R. 2598

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987".

SEC. 2. VESSELS OF THE UNITED STATES.

Section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under chapter 121 of title 46, United States Code;

"(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code and measuring less than 5 net tons;

"(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code and used exclusively for pleasure; or

"(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.".

SEC. 3. RECONSTRUCTION REQUIREMENTS.

Title 46, United States Code, is amended as follows:

(1) Item 12101 of the analysis of chapter 121 is amended to read as follows:

"12101. Definitions and related terms in other laws.".

(2) The caption of section 12101 is amended to read as follows:

"§ 12101. Definitions and related terms in other laws".

(3) Section 12101 is amended by—

(A) designating the existing text as subsection (b);

(B) striking paragraph (6); and

(C) inserting a new subsection (a) before subsection (b) (as designated by this section) as follows:

"(a) In this chapter—

"(1) 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"(2) 'rebuilt' has the same meaning as in the Second Proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).".

(4) Section 12108(a) is amended by—

(A) at the end of paragraph (2)(B), strike "and";

(B) redesignating paragraph (3) as (4); and

(C) inserting after paragraph (2) a new paragraph (3) that reads as follows:

"(3) if rebuilt, was rebuilt in the United States; and".

(5) Section 12108(c)(2) is amended by striking "built in the United States" and substituting "built or rebuilt in the United States".

SEC. 4. SAVINGS CLAUSE.

(a) Notwithstanding the requirements of section 12108(a)(2) and (3) of title 46, United States Code, a fishery license may be issued to a vessel that before July 28, 1987—

(1)(A) was documented under chapter 121 of that title; and

(B) was operated as a fish processing or fish tender vessel in the navigable waters of the United States or the exclusive economic zone;

(2) was a fish tender or fish processing vessel contracted to be purchased by a citizen of the United States, if the purchase is shown by contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the

vessel as a fish tender or fish processing vessel in the fisheries;

(3) was documented under chapter 121 of that title and

(A) was rebuilt in a foreign country; or

(B) is subsequently rebuilt in the United States for use as a fish processing vessel; or

(4) was built in the United States; and

(A) is rebuilt in a foreign country under a contract entered into before 6 months after the date of enactment of this Act, and was purchased or contracted to be purchased before July 28, 1987 with the intent that the vessel be used in the fisheries, if that intent is evidenced by—

(i) the contract itself; or

(ii) a ruling letter by the Coast Guard before July 29, 1987 under 46 C.F.R. § 67.21-1 or § 67.27-3 pursuant to a ruling request evidencing that intent; or

(B) is purchased for use as a fish processing vessel under a contract entered into after July 27, 1987, if—

(i) a contract to rebuild the vessel for use as a fish processing vessel was entered into before September 1, 1987; and

(ii) that vessel is part of a specific business plan involving the conversion in foreign shipyards of a series of 3 vessels and rebuilding work on at least one of the vessels had begun before July 28, 1987.

(b) A vessel rebuilt under subsection (a)(3)(B) or (4) of this section must be redelivered to the owner before July 28, 1990. However, the Secretary may, on proof of circumstances beyond the control of the owner of a vessel affected by this section, extend the period for rebuilding in a foreign country permitted by this section.

(c)(1) Any fishery license or registry issued to a vessel described in subsection (a)(2) of this section must be documented under an application for documentation acceptable to the Secretary filed before July 28, 1987.

SEC. 5. MANNING REQUIREMENTS.

(a) Section 8103 of title 46, United States Code, is amended as follows:

(1) In subsection (a), after "chief engineer,", insert "radio officer,".

(2) Strike subsection (b) and add the following:

"(b)(1) On each departure of a documented vessel, all unlicensed seamen must be citizens of the United States, except on—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for high migratory species as defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802);

"(C) a fishing vessel fishing outside the Exclusive Economic Zone; and

"(D) a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the Exclusive Economic Zone in which case 75 percent of the unlicensed seamen must be citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

"(2) The Secretary may not waive the citizen of the United States requirement for a master but may reduce the citizen of the United States requirement of the remaining complement (including licensed officers)—

"(A) when an offshore supply vessel operates from a foreign port;

"(B) when a mobile offshore drilling unit operates beyond the waters above the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

"(C) for any other vessel, when the Secretary determines, after an investigation, that qualified citizens of the United States seamen, licensed and unlicensed, are not available.".

(3) In subsections (c) and (d)(1), strike "from the United States."

(4) In subsection (e), after "the master", insert "and the radio officer" and strike "until the vessel's first return to the United States port at which" and substitute "until the vessel's return to a port at which in the most expeditious manner".

(b) Section 8702(b) is amended by striking "depart from a port of the United States" and substituting "operate".

SEC. 6. CONFORMING PROVISIONS.

(a) Title 46, United States Code, is amended as follows:

(1) Section 2101 is amended by adding after paragraph 10 the following new paragraph:

"(10a) 'Exclusive Economic Zone' means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983.".

(2) Section 12106(b) is amended to read as follows:

"(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in the coastwise trade.".

(3) Section 12106 is amended by inserting a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a Great Lakes license under section 12107 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the Great Lakes trade or fisheries, as the case may be.".

(4) Section 12107(b) is amended—

(A) after the semicolon at the end of paragraph (1) by inserting "and";

(B) in paragraph (2) by striking "Canada; and" and substituting "Canada."; and

(C) by striking paragraph (3).

(5) Section 12107 is amended by inserting a new subsection (c) after subsection (b) as follows:

"(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the fisheries, as the case may be.".

(6) Section 12108 is amended by adding a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a Great Lakes license under section 12107 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the Great Lakes trade, as the case may be.".

(b) Notwithstanding the requirements of chapter 121 of title 46, United States Code, a vessel for which a coastwise, Great Lakes, or fishery license, or an appropriately endorsed registry, was issued before July 28, 1987, may continue to be employed in the specified trades for which it was qualified at the time the license or registry was issued for one year from date of enactment or until the certificate of documentation is renewed, whichever comes later. On renewal, the owner or master of a documented vessel shall make the vessel's certificate of documentation available as the law or Secretary may require for replacement with an appropriately endorsed certificate.

(c)(1) Section 27 of the Merchant Marine Act, 1920, (46 App. U.S.C. 883), is amended after "vessel" in the Second Proviso by striking "of more than five hundred gross tons".

(2) Paragraph (1) of this subsection does not apply to a vessel under contract to be purchased or rebuilt entered into before July 28, 1987, if that vessel is rebuilt before July 28, 1990.

(3) The Secretary, on proof of circumstances beyond the control of the owner of a vessel affected by this section, may extend the period for rebuilding in a foreign country permitted by this section.

(d) The terms in this Act have the same meaning as in subtitle II of title 46, United States Code (as amended by this Act).

SEC. 7. AMERICAN CONTROL OF VESSELS.

(a) Section 12102 of title 46, United States Code, is amended as follows:

(1) by inserting "(a)" before "A vessel";

(2) by adding at the end the following:

"(b)(1) A vessel owned by a corporation is not eligible for a fishery license under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

"(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.".

(b) Section 12102(b) of title 46, United States Code (as enacted by subsection (a) of this section) applies to vessels issued a fishery license after July 28, 1987. However, that section does not apply if before that date the vessel—

(1) was documented under chapter 121 of title 46 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(2) was contracted for purchase for use as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel in the fisheries.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. Speaker, I am pleased to bring before you today H.R. 2598, the Com-

mercial Fishing Industry Vessel Antireflagging Act of 1987. This bill has the support of the fishing industry, the shipbuilders and the Committee on Merchant Marine and Fisheries and I urge its passage.

Mr. Speaker, this past August I urged my colleagues to support S. 1591, a bill that temporarily restricted the ability to document foreign-built fish processing vessels under the laws of the United States. That bill imposed an immediate moratorium on the reflagging of fish processing vessels and was intended to provide Congress with sufficient time to devise a permanent solution. The moratorium was subsequently extended until November 15 of this year. I hope that with our action today and with quick action from the other body, H.R. 2598 will be signed into law before the moratorium expires.

The major issue addressed by H.R. 2598 is whether and to what extent foreign built processing vessels should be allowed to reflag and operate in the U.S. fishery with all the privileges of U.S.-built vessels. Currently, all other classes of fishing industry vessels must be U.S. built, but the question of foreign-built processors was intentionally left open primarily because our fishing industry had not yet expanded into this area of operations. With the passage of the 200-mile limit some 10 years ago and the development of a vast groundfish fishery in the Pacific Northwest, the fishing industry has now asked Congress to prevent foreign-built processing ships from entering the industry. Were this question to go unresolved, we would see foreign fishing interests moving to gain control of the American fishing industry through the use of foreign-built processing vessels.

The primary purpose of H.R. 2598 is to permanently prohibit the reflagging of foreign-built fish processing vessels as U.S. vessels, thus completing the requirement that all types of fishing industry vessels operating in the U.S. fishery be built in the United States. The bill also requires that U.S. vesselowners build and rebuild their vessels in U.S. shipyards, that fishing industry vessels be owned by a majority of individuals who are citizens of the United States as a condition of new Coast Guard documentation, and that fishing industry vessels and U.S. merchant vessels be manned by U.S. crewmen.

Finally, Mr. Speaker, the committee has attempted to craft a bill that protects those who relied on current law in making commitments in the purchasing or rebuilding of vessels. Specifically, the committee chose a committee markup date of July 28 as the cutoff date for reflagging applications. In fairness to those who acted according to current law prior to that date, they will be allowed to complete their reflagging. Applications for reflagging foreign-built vessels filed with the Coast Guard before that date will be processed, but no application received after that date will be honored. Similarly, in fairness to those who have made commitments to rebuild fishing industry vessels overseas and relied on current law, the committee has preserved their right to continue with their plans. The bill which we bring before the House today contains a modification to the bill reported from the committee which further clarifies and refines these grandfather clauses.

Mr. Speaker, the chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, deserves high marks for his efforts in crafting this bill. By striking a very sensible balance in this bill among all interested parties, he has received the support of the fishing industry, our shipbuilders and the committee, and I urge members to support the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Massachusetts [Mr. STUDDS], the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, for his patience in working on this legislation, and of course to thank the gentleman from Washington [Mr. LOWRY] for his patience, as well as the gentleman from Washington [Mr. BONKER], and the gentleman from Washington [Mr. MILLER] and particularly the gentleman from North Carolina [Mr. JONES], the chairman of the Committee on Merchant Marine and Fisheries.

Mr. Speaker, I rise in strong support of the legislation before us today and urge its adoption by the House.

Mr. Speaker, this bill is a carefully crafted compromise between diverse interests in the fishing and maritime industries. It is designed to advance the development of the U.S. fishing industry and in addition correct certain inconsistencies in maritime law which have allowed foreign interests to deprive American shipyard workers and American crewmen of jobs.

H.R. 2598 was introduced by four members from the Pacific Northwest in response to concerns expressed by our constituents. As reported by the committee, the bill does a number of things: it bans the redocumentation of foreign-built fish processing vessels after July 28, 1987; it requires U.S. vesselowners to build and rebuild their vessels in U.S. shipyards; it requires as a condition of new documentation that fishing industry vessels be owned in the majority by individuals who are citizens of the United States; and it requires that fishing industry vessels and U.S. merchant vessels be manned by U.S. crewmen.

While most of this bill is fairly straightforward, I do want to emphasize two particular sections. The first deals with manning of U.S. vessels. The manning requirements in this bill are identical to those in H.R. 2342, the Coast Guard Authorization Act, which was passed by the House on July 8, 1987. The manning requirements were adopted on the floor by the full House in a voice vote. Unfortunately, the other body has sought to strike this language from the Coast Guard Authorization Act and we understand may attempt to do the same with this bill. I believe that we need to go on record as to the importance of this issue to the House.

The other section of concern involves an ownership amendment which I offered at full committee markup. This amendment was adopted by the committee by a vote of 36 to 1. Again, there are indications that the other body is unwilling to accept this language. I want to make clear that this provision has the strong support of the Merchant Marine and Fisheries Committee and by passage of this bill today of the entire House of Representatives.

We are also aware that the other body is considering an earlier date as a cutoff for banning redocumentation of foreign-built fish processing vessels. The Committee on Merchant Marine and Fisheries chose the date of July 28, 1987, as a cutoff in order to avoid any semblance of a taking of a vesselowner's privileges under law. While this and other issues are obviously open for discussion with the other body in conference, the committee at this time does not see a reason to change.

Again, Mr. Speaker, this bill has been carefully put together after extensive discussion within the committee and has involved participation by nearly every member of the committee. I especially wish to thank the three gentlemen from Washington who are sponsors along with me of this legislation, Mr. LOWRY, Mr. MILLER of Washington, Mr. BONKER, the chairman of the subcommittee, Mr. STUDDS, and the chairman of the full committee, Mr. JONES, for their help and cooperation in dealing fairly with a highly contentious issue.

Mr. Speaker, this bill is widely supported in the United States and I believe it should be adopted by the House.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. MILLER].

□ 1650

Mr. MILLER of Washington. Mr. Speaker, I rise in support of H.R. 2598, the Antireflagging Act of 1987. This bill is another step in fulfilling the

dream of a fully Americanized U.S. fishery zone.

I have been working on fishery reflagging legislation for over a year. Congressman LOWRY and I introduced two bills to end reflagging—one at the end of last session and the other at the beginning of this session. I cosponsored H.R. 2598 along with my colleagues Congressmen LOWRY, BONKER, and YOUNG.

This past weekend, Congressman DON BONKER and I held a very interesting hearing before the Subcommittee on International Economic Policy and Trade on improving the export of fish from the United States. Currently, we have a huge trade deficit and one small component of this deficit is found in fish products. There is a reason for this.

When the Magnuson Act was passed, foreign fishermen and processors took most of the fish in our 200-mile fishing zone. One of the richest fisheries we have is the bottom fish fishery in the North Pacific. Today, our fishermen harvest 80 percent of those fish. According to the National Marine Fisheries Service, last year we processed only 11 percent of those fish. This fishery is booming, but we haven't seen the boom spread to the processing sector of this vital fishery yet. That is what this bill is about.

Under the Magnuson Act, the key to access to our fisheries is the hierarchy of allocations. Domestically caught and processed fish are entitled to first access. Joint ventures are second in line. Last, are foreign nations. However, under current law, a foreign processing vessel can be reflagged and become entitled to a domestic standing.

The key change we make in this bill is to ban possible reflagging of processing vessels. This legislation will require that they be U.S.-flag vessels based on traditional maritime standards. This bill also ends the practice of sending U.S. fishing and fish processing vessels to foreign shipyards for conversion. And, Mr. Speaker, this bill sets U.S. citizen crew requirements.

Finally, Mr. Speaker, this bill does something I think is shortsighted, and something I hope the Senate will correct. We establish an ownership provision for at-sea processing vessels. Mr. Speaker, one reason for our trade deficit is that we hamstring the development of potential industries. Here, we have a perfect example of this practice, the modern factory trawlers cost between $12 million and $35 million. They are floating factories. This provision prevents our fishing industry from seeking the capital they need in the international market.

Most of our fishing industry supports most of this bill. They do not like the provision of foreign investment. I do not like the provision of foreign investment. However, Mr. Speaker, I do not want to slow ths bill down. Overall, it is needed and we should pass H.R. 2598.

Mr. STUDDS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], the distinguished chairman of the full Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Speaker, I rise today to urge my colleagues to support H.R. 2598, a bill to prohibit the reflagging of foreign-built fish processing and tender vessels as "vessels of the United States." The Committee on Merchant Marine and Fisheries has worked for almost 2 years to develop and report this piece of legislation. The hearings and lengthy discussions that have provided the background for this legislation, as well as our 10-year oversight of the Fisheries Conservation and Management Act [FCMA], have made very clear the importance of Americanizing our fisheries to the maximum extent possible.

Since the passage of the FCMA in 1976, Congress has addressed several problems facing the operators of fishing industry vessels through the enactment of three important pieces of legislation. The first is the Vessel Documentation Act of 1980 which significantly streamlined and brought into the 20th century the documentation procedures for vessels. The second is the revision of title 46 of the United States Code. This title contains most of the shipping laws affecting the operation of merchant vessels and was entirely rewritten in 1983 in a manner which clarified the application of these laws for all vessel operators, including the fishing industry. Finally, and most importantly, in 1984, Congress passed the Commercial Fishing Industry Vessel Act which for the first time made sense out of the various maritime and shipping laws as they affect the operation of fishing vessels.

Since the development of at-sea processing by foreign processors in the U.S. exclusive economic zone [EEZ], the annual U.S. deficit in edible and nonedible fishery products has risen to $7.6 billion in 1986. The number of U.S. fishing enterprises has increased in recent years as the fishing industry seeks ways to reduce costs, improve quality, and gain an increased share of both the fish resources and the market that is now shared with foreign competitors. The purpose of this bill is to reduce that annual $7.6 billion foreign trade deficit and to make our fishing industry competitive in the world fishery marketplace.

H.R. 2598 prohibits the documentation of foreign-built processing vessels as U.S. vessels, and as a condition of new documentation requires majority ownership of fishing industry vessels by individuals who are citizens of the United States. In effect, this legislation will work to displace foreign-built fishing industry vessels by domestically-built vessels in the U.S. fisheries. Furthermore, in an effort to revive our struggling shipyards, this bill also requires U.S. vessel owners to build and rebuild their vessels in U.S. shipyards, giving our depressed shipyards much needed work. This bill also requires that fishing industry vessels and U.S. merchant vessels be manned by U.S. crews, thus putting American fishermen back to work.

Today we are offering H.R. 2598 with a further clarifying amendment in response to a request by 13 members of the committee to make more restrictive a portion of the bill regarding the overseas rebuilding of fishing industry vessels. This amendment expresses the committee's concern that those parties who were contemplated by the committee as being "grandfathered" are, indeed, accommodated, but that the bill does not provide a loophole that would unintentionally allow unanticipated or last minute speculative projects to be grandfathered. These legislative measures will produce the climate of certainty that is needed for the fishing industry to make the investment decisions necessary to fully Americanize our fisheries resources.

Mr. Speaker, H.R. 2598 is a carefully crafted and balanced bill which enjoys bipartisan support. In this regard, I would like to acknowledge the thoughtful contributions of Mr. LOWRY, chairman of the Oceanography Subcommittee, Mr. BONKER, Mr. MILLER, and Mr. YOUNG for working together to develop and report this legislation, which is so vitally important to our fishing and shipping industries and of course, the honorable chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. GERRY STUDDS, who has provided his thoughtful assistance and insight throughout the process.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, on July 28, 1987, members of the House Merchant Marine and Fisheries Committee reported H.R. 2598, the Fishing Vessel Anti-Reflagging Act of 1987. This bill, introduced by Mr. LOWRY, Mr. MILLER, Mr. YOUNG, and myself, will provide benefits to the American fisherman and fish processor by insuring domestic priority access to the fishery resources within the United States exclusive economic zone.

I would like to thank the chairman, Mr. JONES, and the committee for their patience and assistance. I would also like to commend the work of my Northwest colleagues, Mr. LOWRY, Mr. MILLER, and Mr. YOUNG, for all of their work and cooperation in advancing this bill. Earlier this year, the four of us conducted two all-day seminars on North Pacific fishing issues in Anchorage and Seattle, and this legislation is evidence of the spirit of cooperation which grew out of those conferences.

For anyone who has not followed this issue closely, let me stress that this legislation has nothing to do with the reflagging of Kuwaiti oil tankers or the Persian Gulf conflict. This legislation is designed to address a pressing regional fishing issue, and has nothing to do with broader foreign policy or security considerations. And while the emotions within the fishing industry do run high from time to time, Mr. Speaker, I do not anticipate the need for U.S. Navy escorts or

minesweeping helicopters in the North Pacific.

Under the current law, it is possible for a foreign-owned, U.S. corporation to redocument a foreign-built processing vessel under a U.S. flag and operate with a 100-percent foreign crew. Since the Magnuson Act was passed in 1976, the issue, the Magnuson Act intended to claim fishing resource, but 10 to 12 foreign-built vessels have been reflagged as fish processing vessels according to the Coast Guard. With increasing interest fueled by better markets for the fishery resources of the Gulf of Alaska and the Bering Sea, the time has now come to lock-in domestic priority access to those resources as provided in part by the Magnuson Act.

Accordingly, several bills have been introduced to accomplish this objective. Earlier this year, hearings were held on initial bill proposals and testimony was received from representatives of the harvesting, processing and shipbuilding sectors as well as the administration and the Coast Guard. The vast majority testified in favor of prohibiting the reflagging of foreign processing vessels. The administration presented testimony supporting the U.S.-built provisions and the U.S.-crew provisions, but they strongly opposed a U.S.-ownership requirement. In addition, the administration testimony was clear in proposing a retrospective date for the reflagging prohibition in order to insure that the intent of the legislation was not undermined during Congress' deliberation of this legislation.

The bill reported by the committee is not a perfect bill, but I believe it will greatly benefit those Americans who have ambitiously developed the seafood industry, particularly in the North Pacific. Unless we act quickly to close the reflagging loophole and enact this legislation, it is likely that the foreign processors currently in joint ventures will reflag United States and dominate the fish processing in this region.

The benefits of greater domestic participation in the harvesting, processing, and marketing of our fisheries resources is well-documented. A Department of Commerce study found that full domestic utilization of the fish resources within our EEZ would increase U.S. GNP by $1.5 billion, cut our Nation's trade deficit by $1 billion and create up to 41,000 new jobs.

Mr. Speaker, I urge my colleagues to support passage of H.R. 2598 and I am hopeful that my colleagues in the other body will consider this legislation without delay.

Mr. LOWRY of Washington. Mr. Speaker, I rise in support of H.R. 2598, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. The bill has been subject to extensive debate within the Committee on Merchant Marine and Fisheries, and the bill has broad support within the U.S. fishing and maritime industries.

At the outset, I would like to thank the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. STUDDS, for his efforts to move this legislation. I would like to especially thank the ranking minority member of the subcommittee, my colleague from Alaska, Mr. YOUNG, who is also a cosponsor of the bill, and who has spent an enormous amount of time in attempting to resolve differences on this legislation.

In addition, Mr. Speaker, I would like to thank the chairman of the full committee, Mr. JONES, for his efforts to move this legislation, as well as the ranking minority member, Mr. DAVIS, who played a key role in helping to fashion the so-called grandfather provision of this legislation. And, finally, Mr. Speaker, I would like to compliment my colleagues from the State of Washington, Mr. BONKER and Mr. MILLER, for their efforts on this legislation.

Mr. Speaker, the primary purpose of this legislation is to ensure the continued growth and orderly development of our Nation's living marine resources within our 200-mile Exclusive Economic Zone [EEZ].

With the enactment of the Magnuson Fishery Conservation and Management Act (the Magnuson Act), which became effective on March 1, 1977, the United States assumed greater control and responsibilities of management of the fisheries within the U.S. EEZ. With the responsibility for managing these fisheries resources also came the opportunity for the development of the U.S. fishing industry, both harvesting and processing, by penetrating markets for fish products which had formerly been served by distant-water fishing nations.

In order to facilitate the orderly development of these newly claimed resources, the Magnuson Act established the so-called full utilization principle. This principle allowed for continued foreign fishing within the U.S. EEZ, but conferred the first priority of access on U.S. fishermen and processors. The remainder of the harvestable resource under the full utilization principle would be available to foreign fishermen and processors as long as they met certain enforcement-related conditions.

As joint-venture fisheries developed, consisting of U.S.-harvested fish being delivered to foreign processing vessels, Congress further amended the Magnuson Act to establish a three-tier allocation system. First priority was given to U.S. harvesters and U.S. processors. Second priority of access was given to U.S. harvesters participating in joint-venture operations, and third priority was given foreign harvesters and processors. For a variety of reasons, primarily related to market access and economic conditions, the U.S. harvesting sector grew at a substantial rate in the form of catcher vessels as part of joint-venture arrangements, and were therefore eligible, for the second-tier allocations.

In addition, in 1979, Congress expressly prohibited the reflagging of foreign-built fishing vessels, which had the effect of stabilizing the investment regime for U.S.-built fishing vessels. At that time, Congress deliberately chose not to prohibit the reflagging of foreign-built processing vessels on the basis that some limited degree of reflagging could accelerate the development of the U.S. processing sector under U.S. control, but Members of Congress also committed to revisit the issue at a later time. Currently, however, with conditions for market access for growth improving, and with some degree of market penetration by U.S. processors already occuring, there is considerable interest on the part of U.S. processors to further invest in developing U.S. processing capacity. Under the three-tier system, U.S. processing capacity will eventually displace foreign-flagged vessel capacity. With this gradual, but inevitable displacement process now underway and accelerating, it is likely that some foreign-flagged processing vessels are likely to become surplus.

The confluence of these conditions has lead to considerable speculation that foreign interests, either independently or in collaboration with domestic partners may seek to reflag these surplus foreign-built vessels in the United States in order to ensure continued access to U.S. fishery resources. If the reflagging of these foreign-built processing vessels were to occur on a significant scale, it is argued that this would: first vitiate the intent of the Magnuson Act by making these vessels foreign-controlled vessels eligible for a first priority allocation under the allocation system; second, undermine the value of existing investments in U.S. processing capacity, therefore destablizing the regime; third, lead to rapid over capitalization by foreign-controlled processors rather than steady, orderly growth of the U.S. industry; and fourth, maintain the market control of nations and dampen the competitiveness of the U.S. fishing industry.

In the North Pacific alone, the National Marine Fisheries Service estimates an annual total allowable catch of over 2 million metric tons of groundfish. Currently U.S. processors have the capacity to utilize only about 15 percent of this total resource. Given recent market conditions, including white fish demands, favorable interest rates and currency exchange rates, considerable investments are being undertaken in the industry to build large catcher/processor vessels.

At the same time, however, questions have been raised about the possibility that many of the large, foreign-flagged processing vessels which are currently engaged in the joint venture operations could be "reflagged", and therefore become eligible for the first-tier allocations under the Magnuson Act. Under existing law, fishing vessels may not be reflagged, fish processing may be reflagged, If these large foreign processing vessels were reflagged, or if it remains uncertain as to whether they will be reflagged, the investment regime for new U.S. fish processing capacity remains very unstable, and the continued, orderly development of the U.S. industry and the resources of the EEZ becomes less certain.

Mr. Speaker, given that this legislation is fairly complicated, and that it dovetails with both the Magnuson Act and title 46 of the United States Code, I believe that this background information is useful in explaining this legislation today. What this bill would do primarily is to prohibit the reflagging of foreign fish processing vessels as "vessels of the United States" for operation for domestic fisheries under the Magnuson Act. By prohibiting the reflagging of foreign-built processing vessels, this legislation would clarify and stabilize the investment regime for potential investors in the processing sector, diminishing the foreign market control, and increasing the ability of U.S. fishermen and processors to participate in the international groundfish market. In addition, H.R. 2598 would clarify the manning requirements for fishing, fish processing, and fish tender vessels engaged in United States whether or not the vessel departed from a U.S. port, by specifying that 75 percent of the unlicensed seamen must be citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

The legislation also specifies transition rules for U.S.-built vessels that are currently being rebuilt and converted in foreign shipyards and, with certain exceptions prohibits the eligibility for fishery license of any vessel rebuilding or converting abroad not meeting those transition requirements.

Finally, H.R. 2598 imposes majority citizen ownership provisions on fishing vessels by incorporating a "controlling interest" test similar to that imposed in the Shipping Act of 1916.

Mr. Speaker, I believe that this legislation is extremely important to the continued orderly development of our Nation's fisheries resources. And, as we continue to develop these resources and penetrate existing markets for seafood and growing markets, both in our country and abroad, this legislation will ultimately strengthen our balance of payments, and strengthen our trade positions vis-a-vis other nations.

Mr. Speaker, I strongly support this legislation and I urge its passage.

Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 2598, the fishing vessel anti-reflagging bill.

The Subcommittee on Merchant Marine, which I Chair, considered this important legislation in conjunction with the two other subcommittees of jurisdiction. I was pleased to work with the two chairmen, GERRY STUDDS and EARL HUTTO, to develop what I believe is good legislation.

The U.S. fishing and fish processing industries have developed rapidly over the past few years. The authors of the Magnuson Act visualized a fully Americanized seafood industry, and that goal is close to fruition. However, despite this progress, a large part of the fishing industry remains in foreign hands. H.R. 2598 should complete the Americanization process.

This bill harmonizes fisheries and maritime law by imposing similar requirements for documentation, ownership, manning, and construction of fishing, fish tender, and fish processing vessels as are imposed on coastwise-qualified vessels.

With regard to ownership, the bill requires majority U.S. citizen ownership of fishing vessels. The "controlling interest" test—similar to section 2(b) of the Shipping Act of 1916—would be applied.

With regard to manning, 75 percent of the unlicensed seamen must be citizens of the United States or aliens lawfully admitted to the United States for permanent residence—regardless of whether the vessel departs from a port in the United States. The committee recognized the practice of employing aliens on fishing vessels used for harvesting highly migratory species of fish, such as tuna, and fishing vessels operating beyond our exclusive economic zone. Therefore, no U.S. citizen manning requirement is imposed on these vessels.

With regard to construction, the bill sets out transition requirements for U.S.-built vessels that are currently being rebuilt in foreign yards. With certain exceptions, vessels not meeting those transition requirements would be ineligible for a fishery license.

H.R. 2598 should remove the uncertainty and ambiguity prevalent in current U.S. fishing laws. This certainty—prompted by uniformity in the application of fisheries and maritime laws to all U.S.-fishing, fish tender, and fish processing vessels—should promote domestic investment for the construction of these types of vessels in U.S. shipyards. The bill should also assist in the orderly substitution of U.S. fish processing capacity in the 200-mile exclusive economic zone. In short, I believe the entire fishing as well as shipbuilding industry will benefit.

I am proud to have contributed to the development of this legislation, and I urge my colleagues to support it.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 2598, The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. This bill has been thoroughly considered by the Committee on Merchant Marine and Fisheries and I believe that the bill as reported by the committee with the committee amendment is a considered and balanced approach to achieving the intent of the proposed legislation.

H.R. 2598 completes the goals of the Magnuson Act. This act was designed to encourage domestic exploitation of the abundant fisheries resources in the U.S.-controlled exclusive economic zone. At the time of the Magnuson Act's enactment, the Congress intentionally limited the scope of the U.S.-built requirement to fish catcher and fish tender vessels. Fish processing vessels were omitted because of the perception that there were insufficient domestic financial resources to provide for a domestic processing capability. Combined with certain anomalies in the documentation laws, this allowed foreign-built fish processor vessels to participate in the priority scheme set up in the Magnuson Act. In the years since the passage of the Magnuson Act, the goals of the legislation have been achieved by the creation of a strong domestic fishing fleet. It is now time to complete the work of the Magnuson Act and fully Americanize the domestic fishing industry. H.R. 2598 achieves this end by closing off the exception by which foreign-built fish processing vessels can be documented as U.S.-flag vessels.

As reported by the committee, H.R. 2598 incorporates an amendment which I offered at the full committee markup of the bill. Under current law, most U.S.-flag vessels are required to perform major repairs, rebuilding, and conversion work in domestic shipyards in order to retain their domestic trading privileges. Historically, fishing vessels have not been subject to the same requirement. H.R. 2598, as reported, would change the status quo to require that all major repair, rebuilding, and conversion work on U.S.-flag fishing, fish tender, and fish processing vessels be performed in U.S. shipyards. This provision recognizes that the fishing industry is part of a larger maritime industry and that full Americanization of the fishing industry and the goals of the Magnuson Act cannot be achieved unless fishing vessels are required to be rebuilt, as well as built, in U.S. shipyards.

The U.S.-rebuild-and-repair requirement recognizes, however, that this is a change in the current law and seeks to protect those who have relied on the current law. It is the intent of the committee that those who have planned and undertaken significant financial commitments based on present law not be adversely affected by these changes. Exactly how to craft a grandfather clause to achieve this end was the subject of much debate by the committee. Today's committee amendment to H.R. 2598, as reported, addresses the grandfather provisions of the bill and I believe represents a compromise the interested parties can accept.

Mr. Speaker, it is time for Congress to complete the goals of the Magnuson Act. H.R. 2598 finishes the task we started with that act and I urge my colleagues to support passage of the bill.

Miss SCHNEIDER. Mr. Speaker, I rise in strong support of H.R. 2598, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987. This is important legislation which will continue the orderly expansion and development of the American fishing industry. This in-

dustry has grown tremendously since the passage of the Magnuson Fishery Conservation and Management Act [FCMA], and U.S. harvesters and processors have been slowly replacing foreign fishermen who once dominated this resource. Both the industry and the U.S. economy have benefited from this growth.

Under current law, only foreign-built fish processing vessels can be reflagged as U.S. documented vessels and participate in the fishery. This exception was based on the premise that limited reflagging could accelerate the development of the U.S. processing sector. In recent years, however, the development of both at-sea and shoreside processing capabilities has brought to light the need to reexamine this policy: Is this option still consistent with the goals of the FCMA or is it a legislative loophole enabling foreign interests to maintain access to the U.S. fisheries resources? More and more, Mr. Speaker, it is becoming clear that this provision is no longer consistent with the intent of the FCMA, and it does indeed present foreign interests with an opportunity to continue participating directly in the utilization of the fisheries resources of the United States. The time has now come to close this loophole, thereby coming one step closer to the full Americanization of our U.S. fisheries resources.

H.R. 2598 will prohibit the reflagging of foreign-built fish processing vessels, and in doing so will preclude their participation in this growing sector of the U.S. fishing industry. This bill will ensure that U.S. fishermen continue to receive the first priority of access to the fishery resources of our exclusive economic zone, an important aspect of the FCMA. The investment regime will be stabilized and clarified for potential investors in the processing sector, resulting in the sector's continued orderly growth. In light of the 1986 fisheries products trade deficit of $6.2 billion, American fishermen should not be undercut in the expansion of their own industry.

While the issue of reflagging foreign-built processing vessels has centered in the Pacific Northwest in the groundfish fishery, it must be stressed that this is not only a west coast issue. Commercial fishermen in my State of Rhode Island have been investing extensively in factory trawlers and shoreside facilities to process squid, butterfish, and other species which have traditionally been completely utilized by foreign fishermen. Through hard work and investment, these foreign interests have been almost completely replaced by American harvesters and processors. The result is an internationally recognized quality product of tremendous export potential. This trend is occurring along the entire east coast. The possibility that foreign interests can reflag their vessels and continue their access to this resource is of great concern to east coast fishermen who have invested so much for its Americanization as well as casting a shadow on the prospect of future investment.

In conclusion, H.R. 2598 is a good bill, and I strongly support this legislation as an appropriate and necessary means to achieve an orderly development of the U.S. fishing industry. I urge all of my colleagues to favorably consider this bill as one through which the United States can wisely develop, utilize, and manage our fisheries resources—with both the U.S. industry and economy receiving the benefits.

Mr. STUDDS. Mr. Speaker, no one is more relieved than I that this bill is on the floor.

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

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2598, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

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

There was no objection.

PUBLIC HEALTH SERVICE INFANT MORTALITY AMENDMENTS ACT OF 1987

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 305 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 305

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. 1326) to amend the Public Health Service Act to provide for additional funds to Community and Migrant Health Centers for the purpose of reducing the incidence of infant mortality and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. 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 committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1705

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 305 is an open rule providing for consideration of H.R. 1326, the Public Health Service Infant Mortality Amendments Act of 1987. The rule provides 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule makes in order the Energy and Commerce Committee amendment in the nature of a substitute as original text for purposes of amendment under the 5-minute rule.

The committee substitute shall also be considered by section and each section shall be considered as having been read.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1326 authorizes a one-time increase in the appropriations for the Community and Migrant Health Center for fiscal year 1988. This increase is necessary to tackle the growing problem of infant mortality in the United States.

In 1950, the United States ranked 6th among 20 industrial nations with respect to infant mortality. The distressing fact today is that the United States now ranks last. Our infant mortality rate is nearly 11 infant deaths per 1,000 births. This figure masks an even more serious disparity among races and between States. The infant mortality rate among blacks is nearly twice that of the national average.

Mr. Speaker, we must act to protect our Nation's greatest resource, our children.

Two-thirds of all infant mortality involve infants with low birth weight. This problem can be largely prevented at a relatively low cost. The Institute of medicine has estimated that for every dollar spent on prenatal care, over $3 would be saved in the total cost of caring for low birth-weight infants.

Mr. Speaker, it is not surprising that infant mortality and inadequate prenatal care occur most frequently

among infants and pregnant women who are poor and without health insurance. For this reason, it is essential that Federal programs which serve low-income families, such as the community and migrant health center programs, increase their efforts.

In conclusion, Mr. Speaker, I want to commend the distinguished chairman of the subcommittee, Mr. WAXMAN, for his efforts to address the tragedy of infant mortality in our Nation.

Mr. Speaker, it is essential that we enact this excellent legislation. I urge my colleagues to adopt this rule and H.R. 1326.

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

Mr. Speaker, House Resolution 305 is an open rule under which the House will consider increasing the 1988 authorization levels for community health centers and migrant health centers.

The rule makes in order the Energy and Commerce Committee amendment to H.R. 1326 as original text for amendments under the 5-minute rule. The committee amendment is to be considered by sections, with each section considered as read.

The rule does provide one motion to recommit, with or without instructions.

Mr. Speaker, the Energy and Commerce Committee bill increases the 1988 authorization level for these two programs by a total of $30 million, despite the fact that both the House and Senate have already approved fiscal 1988 appropriations.

As reported from the Energy and Commerce Committee, the bill increases the 1988 authorization for community health centers by $27 million and increases the 1988 authorization for migrant health centers by $3 million.

In addition, the bill directs that any funds appropriated above the current 1988 authorization levels be used for services to reduce infant mortality.

Mr. Speaker, the Congressional Budget Office estimates that these additional authorizations will result in $17 million worth of new outlays in 1988.

Mr. Speaker, I support this rule because it is an open rule and the rights of the minority to offer amendments are protected. The bill itself, however, is controversial.

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

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri for yielding.

Mr. Speaker, I, too, rise in favor of the rule. The rule is an open rule. It allows for full consideration. It is one of the few rules we have seen come out of the Rules Committee this year that is in fact an open rule with no waivers in it. So it is a rather remarkable piece of legislation we have on the floor today. But it occurred to me when I read the committee report that maybe some questions ought to have been asked about the bill being brought to the Rules Committee. This appears to be a major end run around the reauthorization process because in fact the money is being put into a bill that does not stand for reauthorization until 1989 and it also occurs to me that the money that we are appropriating would more properly be put under the Maternal and Child Health Block Grant Program. I wonder why, given the fact that this was brought before the committee, why we would not have had some concern about that. And also particularly why there is not some concern about the fact that a piece of legislation was brought before this House through this rule that has had no hearings on it whatsoever. We do not have any idea through a hearings process what is contained in H.R. 1326 because this bill has been subjected to no hearings.

Were those questions raised at all at the Rules Committee?

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

Mr. WALKER. I would be glad to yield to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. I thank the gentleman for yielding.

Not as far as I am concerned, Mr. Speaker. But Mr. WAXMAN is here today to answer all of the questions of the gentleman in the well. I am sure he will have abundant opportunity to do that tomorrow.

Mr. WALKER. But during the process of bringing the bill to the floor through the rules, no one raised the question about whether or not there ought to have been some hearings on a bill that is committing us to $17 million more in spending since the last hearings that were held, even, on the subject go back 2 years and nobody was concerned enough about the fact that we are doing an end run around the reauthorization process since the bill that we are amending here does not come up for reauthorization for another 2 years? No one even bothered to raise those questions in the Committee on Rules.

Mr. GORDON. No. That is why we have an open rule so that the gentleman in the well will have an abundant opportunity to do that today and tomorrow if he would like.

Mr. WALKER. I thank the gentleman. We do have an open rule. But I would suggest that we ought not have the bill on the floor today at all.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, 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 previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 305 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1326.

□ 1715

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. 1326) to amend the Public Health Service Act to provide the additional funds to community and migrant health centers for the purpose of reducing the incidence of infant mortality, with Mr. VENTO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

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

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

Mr. Chairman, I rise in support of H.R. 1326, the Public Health Service Infant Mortality Amendments Act of 1987.

In spite of all the progress made in medical care in this country, the distressing fact is that the United States has progressed far less than other industrialized nations in reducing rates of infant mortality. In 1950, the United States ranked sixth among 20 industrialized nations with respect to infant mortality. By 1985, the United States had fallen to last place.

In 1984, 3.7 million children were born in the United States; 40,000 of them died before their first birthday. While this rate of 10.8 infant deaths per 1,000 live births is too high, it masks an even more serious disparity among the races and between certain areas of the country. The infant mortality rate for whites was 9.4 while the rate for blacks was 18.4. In comparison to the Nation's infant mortality rate, the rate in the District of Columbia was 21 and in other major cities it was similarly high.

At the present rate of decline in infant mortality, the Nation will not meet even the modest infant mortality goals for 1990 established by the Surgeon General.

It is estimated that two-thirds of all infant mortality can be attributed to the births of infants with low birth

weight. The tragedy is that low birth weight is largely preventable—and at relatively low cost. Early prenatal care can reduce the number of infants born at low birth weight by two-thirds. The Institute of Medicine has estimated that for every dollar spent for prenatal care, $3.38 would be saved in the total cost of caring for low birth weight infants.

There is now clear consensus that access to prenatal care is the most effective way to prevent low birth weight, and is essential to our efforts to reduce infant mortality. Nevertheless, millions of women receive little or no prenatal care. National health statistics compiled by the Federal Government indicate that, in 1983, nearly one-quarter of all pregnant women in the United States did not begin prenatal care in the first trimester of pregnancy.

It is not surprising that inadequate prenatal care occurs most frequently with women who are poor or without health insurance. The facts are startling. In 1983, nearly one-half of pregnant black women and pregnant teenagers did not receive prenatal care in the first trimester. Poor women of all races and ages were twice as likely to receive no or late prenatal care.

If the United States is to address our serious infant mortality problem, we must provide better access to prenatal care for women and primary health care for women and children who have low income or who live in areas without an adequate supply of health professionals. Community and migrant health centers were established to meet the health care needs of people who are poor, without insurance, and living in underserved areas. This bill provides a one-time increase in funding for community and migrant health centers to improve their ability to care for additional children and women in those areas.

This bill contains language to assure that any additional funds go toward providing health services to reduce infant mortality.

This bill addresses the basic health care needs of women and children, and can make an important difference in our fight against infant mortality. It deserves the support of all Members.

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

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

Mr. Chairman, the incidence of infant mortality in certain areas of the United States is at a level that is totally unacceptable. However, many of us do not believe that H.R. 1326 will achieve the desired end to reduce its incidence.

As introduced, H.R. 1326 increased the authorization levels for community and migrant health centers in fiscal year 1988 by $30 million, but in no way directed how, or for whom, this new money should be spent. At the subcommittee markup, an amendment was offered and accepted which required that any funds appropriated in excess of the current authorization levels be used for health care services for children and pregnant women.

I would like to point out that the President signed into law the authority for these two programs for fiscal years 1987 and 1988 in April 1986. No hearing about infant mortality has been held by the Subcommittee on Health and the Environment since that date that would justify increasing funding levels in midcycle.

If the purpose of passing this legislation is to increase appropriation levels for the community and migrant health center programs, this exercise will be for naught. The House and Senate have already each passed the appropriations bills for fiscal year 1988, which include funding for the community and migrant health programs. Only through a supplemental appropriation bill will any centers receive additional funds. I should also note that more than $500 million in Federal funds are directed toward the prevention of infant mortality through the maternal and child health block grant. Additionally, the Congress has acted to expand the Medicaid Program for infants and mothers during each of the past 5 years.

In sum, this is unnecessary legislation that mocks the authorization process by inserting higher funding levels outside of the normal reauthorization cycle. Reauthorization of the community and migrant health centers is not needed until fiscal year 1989. There is also no evidence that passage of H.R. 1326 will reduce infant mortality.

I urge my colleagues to oppose this bill.

□ 1720

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

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I thank the gentleman from California for yielding this time to me, and I will be very brief.

Mr. Chairman, I rise today in strong support of this legislation and urge my colleagues to support it.

I can think of few greater responsibilities that Congress has than to extend to every child born in this country the opportunity to grow up healthy with access to health care. The United States ranks 16th among developed nations in infant death rates. Each year this country loses 11 newborns out of every 1,000 children born. In my State of Oklahoma, that figure is 10.8.

Oklahoma ranks third in the Nation in the category of babies born to women receiving no prenatal care or none until the last 3 months of pregnancy. According to the Oklahoma Institute for Child Advocacy, accessibility to prenatal care is one of the largest unmet needs in my State.

H.R. 1326 authorized funds to community health centers to be used for health care initiatives to pregnant women and their children who are poor or have inadequate health insurance.

Mr. Chairman, this legislation simply is an investment in our Nation's future. Healthy babies will one day become healthy, productive workers and contributing members of our society. Babies born to young mothers who do not receive health care early on will never get that chance.

Mr. Chairman, I hope that all my colleagues will see fit to support this very important piece of legislation.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, today I rise in support of H.R. 1326, the Public Health Service Infant Mortality Amendments Act of 1987. As you may be aware, recent studies have found that the United States has progressed far less than other industrialized nations in reducing rates of infant mortality. During the years 1950-55, the U.S. rate of infant mortality ranked sixth among 20 industrialized nations. This ranking progressively declined during the years 1980-85 until it ranked very last.

In 1980, the Surgeon General of the Public Health Service established the 1990 health objectives for the Nation with respect to prenatal care and rates of infant mortality. It now appears that the United States will fail to meet these health objectives with respect to the provision of prenatal care early in pregnancy and with respect to reducing the incidence of low birth weight births and of infant mortality. There is clear and convincing evidence that this inadequate care occurs most frequently among individuals who are poor and without health insurance.

H.R. 1326 enables community and migrant health centers to provide health care to additional children, and women of childbearing age, who are poor or have inadequate health insurance, and to enhance the role of such programs in efforts to meet the 1990 health objectives.

Included in this bill is the "frontier amendment," which I sponsored, that requires the Secretary of the Department of Health and Human Services to "give special consideration to the unique needs of frontier areas" in the funding of community health centers.

As you know, frontier areas include those areas having a population density of six or less persons per square mile. Frontier areas are located primarily in Western States, with 394 counties and 45 percent of the U.S. land area being frontier. Many States have high percentages of frontier areas. For example, based upon square miles in each county, frontier areas include 96 percent of Alaska, 84 percent of Nevada, 83 percent of Utah, 62 percent of Idaho, 81 percent of Montana, 52 of New Mexico, 50 percent of Oregon, 47 percent of Nebraska, 61 percent of North Dakota, 65 percent of South Dakota, 20 percent of Washington, 29 percent of Kansas, and 83 percent of Wyoming.

Health care service in frontier areas is sparse. In many instances home health aides and volunteer emergency medical technicians are the primary care providers. Often, even these do not exist. The hospitals in frontier areas are small, usually with less than 25 beds. Consequently they are very vulnerable to economic cycles and staff shortages. Nationally about 220 hospitals are frontier hospitals. Frontier hospitals are frequently the only source of health care for an area.

Reimbursement policies often have unintended negative consequences upon these facilities. Due to distance and remoteness, the costs for utilities, supplies, food, and labor are often higher than average costs. A large portion of the patients in the frontier areas are neither Medicaid nor Medicare eligible. Federal reimbursement does not cover the costs of providing the care. The facilities cannot recover the revenue lost in serving patients whose care is paid for by the Federal Government because there are not enough private-pay patients, and many of the private-pay patients have no insurance and have household incomes near the poverty level.

Mortality data indicates that the frontier areas have a higher rate of working years of life lost than do the rural or urban areas for the following leading cases of death: Motor-vehicle accidents, diseases of early infancy, non-motor-vehicle accidents, heart disease, and stroke. In the last 2 years the rate for suicides in frontier areas has increased significantly.

A number of professional organizations have acknowledged frontier areas. Others, including the Rural Health Care Association, the American Public Health Association, the National Association of Counties, and the American Academy of Family Physicians have adopted resolutions showing their support for the concept. Like us, they are also working to find solutions to delivery, reimbursement, health status, and manpower shortages in these areas.

For these reasons, I strongly support H.R. 1326. I urge all my colleagues to vote in favor of this legislation which is so vital to our Nation.

Mr. DURBIN. Mr. Chairman, I rise today in strong support of the Public Health Service Infant Mortality Amendments Act. This legislation, which increases the authorization levels for community and migrant health centers, is designed to help reduce our outrageously high infant mortality rate by targeting the health improvement of high-risk pregnant women and children.

Community and migrant health centers provide basic health services in some of our country's neediest communities. Of the families served by the health centers: 60 percent have incomes below the poverty level; 48 percent lack health insurance of any kind; 44 percent live in isolated rural areas; and 60 percent are high-risk women and children. There is clearly a valuable role that these centers can play in improving access to care among the medically underserved.

In my downstate, Illinois district, the Community Health Improvement Center, which serves the people of the city of Decatur and Macon County, is a shining example of the values of this important source of cost-effective, primary care. Last year this health center served over 6,000 low-income individuals and Medicaid recipients. Without community and migrant health centers, many families would be without even basic medical care.

Increasing the funding for community and migrant health centers for the purposes of infant mortality reduction is in keeping with the children's initiative in the budget resolution and with the Surgeon General's 1990 infant health objectives.

The adoption of this legislation is a vital component to the continuing fight against infants born at low birthweight and infant mortality in this country. Progress in reducing the infant mortality rate in the United States has come to a virtual standstill. America's infant mortality ranking among 20 industrialized nations has made a dramatic decline from sixth to a tie for last place. As our medical technology advances, our success rate in keeping babies alive is deteriorating at a shameful pace.

The National Academy of Sciences has estimated that low-birthweight infants are 40 times more likely to die in the first year than other infants, and face a much greater risk of developing serious health problems and disabilities. Few dispute that the key to insuring the birth of a healthy baby is prenatal care. Pregnant women who receive no prenatal care are three times more likely to deliver a low-birthweight baby than women who see a doctor early and regularly during their pregnancy. Low birthweight births could be reduced by up to 15 percent, and an even higher percentage of birth defects could be prevented through good prenatal care.

While amazing advances in technology have allowed us to keep low birthweight infants alive, it is likely that many will be faced with long-term disabilities and may require special educational and social services throughout their lifetimes. Each child in a neonatal intensive care unit costs an average of $1,000 a day and the average stay is 22 days. More than $2.5 billion is spent annually on neonatal intensive care services in the United States.

These are shocking figures in light of the estimates that every dollar spent on prenatal care can save over $3 in the cost of caring for a low-birthweight infant.

It is time that this country makes a real commitment to identifying and serving low-income and uninsured women and children. This important, cost-effective legislation is a necessary step toward reducing our Nation's unacceptably high infant mortality rate. I urge you to support the Public Health Service Infant Mortality Amendments Act.

Ms. PELOSI. Mr. Chairman, I rise today in support of H.R. 1326, the Public Health Service Infant Mortality Amendments Act. This important bill increases the authorizations for community health centers and migrant health centers. Among 20 industrialized countries, the United States has declined from a rank of sixth in 1950 to last place. This situation is deplorable. Two-thirds of all infant mortality can be attributed to low birthweight, a condition which is preventable through sound prenatal care.

Infant mortality is used as an international index of a nation's health. The United States, a country which is the leader of civilized nations, should be proud of its Nation's health. Unfortunately, we find ourselves lagging behind other countries. In some areas of the United States, the infant mortality rate equals that of developing nations.

The United States is based on equality and justice for all. Why is it then that minority groups have a significantly higher infant mortality rate than any other group in the United States? Underserved populations in rural and inner city areas are at the greatest risk.

We must do everything possible to ensure the health of our next generation and hence the health of our Nation. Improving access to quality prenatal services is one of the most important steps we can take. I urge my colleagues to support this bill. Thank you.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 1326. I also wish to thank Congressman WAXMAN for his support in offering language on my behalf in the Health and Environment Subcommittee that targets funding to communities with high infant mortality rates.

The statistics clearly demonstrate the critical need for improved health care in medically underserved areas. In 1979, the U.S. Surgeon General established a nationwide goal for 1990 of no more than 9 deaths per 1,000 live births, and a rate not exceeding 12 deaths for any specific racial group. A goal was also set that, by 1990, 90 percent of all pregnant women should begin prenatal care in the first 3 months of pregnancy.

Sadly, however, the Department of Health and Human Services found last year, and I quote, that "achievement of these objectives is questionable"; 22 States will not meet the infant mortality objective for the general total or for black infants. These include my home State of Illinois—12 deaths per 1,000 live births total, and, among blacks, 22 deaths per 1,000 live births, Virginia—12/1,000 total, and 19.6/1,000 for blacks, South Carolina—14.7/1,000 total, and 20.7/1,000 for blacks, the

District of Columbia—21/1,000 total, 24.3/1,000 for blacks, Michigan—11.7/1,000 total, 23.5/1,000 for blacks, and Pennsylvania—10.4/1,000 total, 21.3/1,000 for blacks.

If additional Federal resources are not targeted to areas with the most acute need, then we will continue to see an increase, instead of a decrease, in the number of infant deaths. In my own congressional district, many communities are facing an average infant mortality rate of 24.3 deaths per 1,000 live births. Indeed, the city of Chicago now ranks first in the Nation in infant mortality among blacks, at 23 deaths per 1,000 live births. Proper attention to those communities suffering from high rates of infant mortality will save lives and money.

The Southern Regional Task Force on Infant Mortality states that infant mortality is a measure of the overall health of a community, reflecting issues of distribution and equity, as well as the adequacy of our health care system. The adoption of H.R. 1326, including the special targeting language, will insure a swift response to those communities suffering from a high incidence of infant mortality.

I commend my colleagues in the Health and Environment Subcommittee for their adoption of this language, and I urge my colleagues to vote for H.R. 1326.

Mr. ROBERT F. SMITH. Mr. Chairman, I rise in support of H.R. 1326, the Public Health Service Infant Mortality Amendments Act of 1987. The United States ranks 16th among developed nations in infant death rates. Our Nation has a rate of nearly 11 infant deaths per 1,000 live births. In my State of Oregon, the average figure is 10.2. However, several counties in my congressional district have infant mortality rates above the national average reaching to 15 deaths per 1,000 live births.

It is estimated that two-thirds of all infant mortality can be attributed to the births of infants with low birth weight, a condition which is preventable. The progress made in Oregon in the area of case management is the brightest hope in Oregon's fight against infant deaths. The advances of service in case management is finally allowing the health care community in Oregon to address the causes of infant mortality rather than treating the incidences. This legislation can only benefit those advances.

H.R. 1326 enables community and migrant health centers to provide health care to children, and women of childbearing age, who are poor or have inadequate health insurance. In addition, this legislation requires the Secretary of the Department of Health and Human Services to give special consideration to the unique needs of frontier areas in the allocation of funding of community health centers. Frontier areas have a population density of 6 or less persons per square miles. Based upon square miles by county, 50 percent of Oregon, all of which is in my congressional district, is considered frontier area. This legislation is an important step in our fight against infant mortality. I urge my colleagues to support it.

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

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Health Service Infant Mortality Amendments Act of 1987".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

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

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States has progressed far less than other industrial nations in reducing rates of infant mortality, and as a result, the rate of infant mortality in the United States has declined from a rank of 6th among 20 industrialized nations for the 1950–1955 period to last place for the 1980—1985 period;

(2) in 1980, the Surgeon General of the Public Health Service established the 1990 Health Objectives for the Nation with respect to prenatal care and rates of infant mortality;

(3) no progress has been made in the United States since 1980 with respect to increasing the percentage of infants born to women who receive prenatal care early in pregnancy;

(4) the incidence of low birth-weight births, which is the leading cause of infant mortality and one of the leading causes of handicapping conditions (such as retardation, cerebral palsy, epilepsy and autism) in infants, has been reduced only marginally since 1980;

(5) insufficient progress has been made since 1980 in reducing the overall infant mortality rate;

(6) despite a declining rate of infant mortality among black infants, the probability of black infants dying during their first year is twice that of white infants;

(7) it now appears that the United States will fail to meet the 1990 Health Objectives with respect to the provision of prenatal care early in pregnancy and with respect to reducing the incidence of low birth-weight births and of infant mortality;

(8) there is broad consensus in the medical field that timely and appropriate prenatal care and primary care for infants can reduce the incidence of infant mortality and improve infant health and are essential if the United States is to meet or exceed the 1990 Health Objectives;

(9) there is clear and convincing evidence that inadequate prenatal care, and infant motality and disability, occur most frequently among individuals who are poor and without health insurance;

(10) recent studies indicate that one of every three poor children, and one of every three women of childbearing age, are without health insurance;

(11) Community and Migrant Health Centers were established to provide primary health care in medically underserved areas and receive Federal funds to provide care to individuals who are poor and without health insurance; and

(12) of individuals served by such centers, 60 percent are poor, 48 percent lack any form of health insurance, over 30 percent are children under 14, and over 25 percent are women of childbearing age.

(b) PURPOSES.—The purposes of this Act are—

(1) to enable Community and Migrant Health Centers to provide health care to additional children, and women of childbearing age, who are poor or have inadequate health insurance; and

(2) to enhance the role of such programs in the efforts of the United States to meet the 1990 Health Objectives.

SEC. 3. CERTAIN ADDITIONAL HEALTH-CARE AUTHORIZATIONS FOR FISCAL YEAR 1988 AND REQUIRED USES OF CERTAIN APPROPRIATIONS.

(a) MIGRANT HEALTH CENTERS.—Section 329(h)(1) of the Public Health Service Act (42 U.S.C. 254b(h)(1)) is amended by striking "$45,400,000" after "1987 and" and inserting "$48,400,000".

(b) COMMUNITY HEALTH CENTERS.—Section 330(g)(1) of the Public Health Service Act (42 U.S.C. 254c(g)(1)) is amended by striking "$400,000,000" after "1987 and" and inserting "$427,000,000".

(c) REQUIRED USES OF ADDITIONAL FUNDS.—

(1) Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended by adding at the end the following new paragraph:

"(3)(A) In any case in which the amounts appropriated under paragraph (1) for fiscal year 1988 exceed $45,400,000, the Secretary shall make the total amount of such excess available for grants to migrant health centers for—

"(i) the provision of services for the reduction of the incidence of infant mortality; and

"(ii) the development and coordination of referral arrangements between migrant health centers and entities for the medical management of infants and pregnant women.

"(B) In making grants described in subparagraph (A) from amounts made available pursuant to such subparagraph, the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality.".

(2) Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended by adding at the end the following new paragraph:

"(4)(A) In any case in which the amounts appropriated under paragraph (1) for fiscal year 1988 exceed $400,000,000, the Secretary shall make the total amount of such excess available for grants to community health centers for—

"(i) the provision of services for the reduction of the incidence of infant mortality; and

"(ii) the development and coordination of referral arrangements between community health centers and entities for the medical management of infants and pregnant women.

"(B) In making grants described in subparagraph (A) from amounts made available pursuant to such subparagraph, the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.".

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.".

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 5, line 11, strike "mortality;" and insert the following: "mortality (including counseling and routine testing for women of childbearing age with respect to infection with the etiologic agent for acquired immune deficiency syndrome);".

Page 6, line 7, strike "mortality;" and insert the following: "mortality (including counseling and routine testing of women of childbearing age with respect to infection with the etiologic agent for acquired immune deficiency syndrome);".

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] has reserved a point of order on the amendment and the gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes in support of his amendment.

Mr. DANNEMEYER. Mr. Chairman, I would like to apologize to the Members of the House for presenting this issue which would require that any operator of a community migrant health center which accepts funds under this bill offer a test for the virus AIDS to any female who comes to their facility for medical services during the applicable period of the authorization.

□ 1730

I apologize because I would prefer to bring a bill to the floor, my H.R. 2273, which would require that we test broad sections of our population, hospital admittees, persons who visit sexually transmitted disease clinics, persons convicted of drug abuse, persons convicted of prostitution, persons entering the prison population. These are a few of the groups that our society should be testing today to determine whether or not they have the virus for AIDS.

I do not know whether under the way this House functions this Member from California will ever have an opportunity to bring the substance of H.R. 2273 to the floor. It is now pending in the Health and Environment Subcommittee. It has never been designated for a markup. The chairman, the gentleman from California [Mr. WAXMAN], has at least on four other occasions indicated he would mark up his bill, H.R. 3071. Perhaps that day will come. I do not know; but considering the fact that I may never have the opportunity of offering that bill, H.R. 2273, on the floor of the House, I must pursue what alternatives come through the process.

There is an old saying, "If there is a train going through the legislative process and you have a caboose or a car that is appropriate, tie it on." That is what this amendment would seek to do.

We have roughly 500 community health centers in America. We have about 120 migrant health centers. Annually about 6 million people across this country visit these community and migrant health centers for medical services. This amendment would require that the 4 million of those approximately who visit them each year be offered the virus test to determine whether or not they are positive for the AIDS virus.

There was ample recommendation that we pursue and adopt testing these groups of people. For example, the CDC recommends that all women of childbearing age with identifiable risks for HIV infection should be routinely counseled and tested for the HIV antibody regardless of the health-care setting. CDC identifies women at risk to include women who are living in communities or born in counties where there is a known or suspected high prevalence of infection among women. The CDC has stated that educating and testing these women before they become pregnant allows them to avoid pregnancy and subsequent intrauterine infection of their infants.

In addition, a June 1987 CDC report on the growth rate of heterosexual transmission reveals a growing trend in heterosexual transmission of the disease and increasing difficulty in identifying women who are at risk. For this reason, routine testing of minority populations is particularly important to slowing the growth of the AIDS epidemic.

The AMA has also recommended that the AIDS test should be readily available and routinely subsidized for those unable to pay.

In a 1987 issue of the Morbidity and Mortality Weekly Report, the CDC recommends that premarital testing in an area where the prevalence of HIV infection is as low as one-tenth of 1 percent may be justified if reaching an infected person through testing can prevent subsequent transmission to the spouse or prevent pregnancy in a woman who is infected.

Surgeon General Koop endorsed testing for any woman who wants to have a baby before she becomes pregnant.

At a National Press Club gathering in March 1987, Koop said:

I can't understand why it is so controversial. I would think anybody who is getting married today would want to be tested and would want to know whether the intended spouse was infected with the AIDS virus.

According to the August 14 issue of the CDC Morbidity and Mortality Weekly Report, the sensitivity of the currently licensed enzyme immunoassay test is 99 percent or greater when performed under optimal laboratory conditions. Under ideal circumstances, the probability that the testing sequence will be falsely positive or negative in a population with a low rate of infection is 1 in 100,000.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DANNEMEYER. According to a model developed by California physician Larrimore Cummins, based on CDC's assumptions and Public Health Service data, found that infant mortality would be substantially reduced by testing women of childbearing age in community and migrant health centers. The model assumes 3.6 million women of childbearing age visit community and migrant health centers over a 1-year period. Women in this age group give birth to approximately two infants, the national average, during their childbearing years, but that the clinic is only available to intervene in one of those two births.

The prevalence rate of HIV infection among this population is 0.3 percent, or 1 in 500.

A study of Alameda County, CA, of women applying for marriage licenses found a prevalence rate of one-half percent, or 1 in 200.

What this model suggests is that by offering these tests to women coming to these centers, if they are found to be positive, they can then make a determined judgment as to whether or not they want to bring a child into the world through a pregnancy and the data indicates that about 50 percent of those women who are positive for the virus, the offspring of that mother, herself or himself, will be positive for the virus as well.

The model indicates that if this amendment is adopted, we would then avoid 3,528 children per year being born with the virus for AIDS, and presently there is no cure for it. This number of children would not be born into the world consequently would not die. The loss of life is bad enough, but we citizens in America are paying about $20,000 per infant case to care for that tragic victim of this disease, for which we have no cure at the present time.

Finally, we should be aware that if we continue on this current policy in America of not testing the people of our society, we are heading for an absolute disaster. Dr. Salzburg of a Federal facility in Montana, Chief Medical Service, Miles City, MT, produced a recent survey computer study which indicated that if we continue on the current course of not testing our population, that by 1995 we are going to have 5 million sick and dead, 14 million carriers, at an annual cost of $50 billion.

If on the other hand we begin testing the entire population in America by testing and counseling, intervention and reportability, we can reduce that level by 1995 from 5 million sick and dying to 2.2 million carriers and from 14 million to 3.3. million at a yearly cost of $25 billion.

I ask for your support for this amendment. It provides for routine testing. If the testee does not want to take the test, they can opt out. It does not violate any civil rights.

The CHAIRMAN. Does the gentleman from California [Mr. WAXMAN] wish to pursue his point of order?

Mr. WAXMAN. I withdraw my point of order, Mr. Chairman.

The CHAIRMAN. The point of order is withdrawn.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to give a status report on AIDS legislation that has been referred to by the gentleman from California [Mr. DANNEMEYER] as the reason why he is offering the amendment to this bill.

This bill, by the way, is for the very specific purpose of trying to deal with the infant mortality problem in this country, and the way to deal with that problem is to make sure that no woman goes without prenatal care so that her baby will have a chance to be born healthy. That is very important. That is what we are trying to accomplish.

Now, the gentleman from California [Mr. DANNEMEYER] maintains that he has been trying to get AIDS testing legislation passed. I must tell you, so have I. Our committee has held many hearings on the whole question of AIDS testing. In fact, we have taken every witness that every member of our subcommittee has asked for, including and especially the gentleman from California [Mr. DANNEMEYER], because we wanted to accommodate him.

We have legislation before us. We have the bills that the gentleman from California [Mr. DANNEMEYER] has introduced. We have the bill that we have introduced with a number of other Members of Congress, which was the recommendation of the Center for Disease Control and the recommendation of the Health people within the Reagan administration. Their recommendations are not in disagreement about testing. We all believe there ought to be more testing. If we are going to try to contain the spread of this epidemic, we must identify those people who have the virus. For what purpose? For only one purpose, and that is to counsel those people, to urge them to change their behavior so they do not spread the virus further.

We have no vaccine. We must rely on public education. We must rely on 1-on-1 education through testing and counseling, and testing without counseling does not make sense; but if we are going to have testing in this country, we cannot expect people to come forward for testing if that information is not going to be kept confidential and if that information is going to be used to discriminate against those individuals. That was the centerpiece of what the Reagan administration health people told us we needed for a successful testing program in this country to succeed.

When Secretary Bowen testified before us last, his point to us was that all these ingredients are needed, but it was the administration's position that the States ought to adopt nondiscrimination and other provisions.

I asked him if we did not have protections against discrimination, would people in the high-risk groups come forward to be tested? He said he did not think so.

Well, it would be absurd, I tell you, to have people come in for testing who are at low risk for this disease and people are at high risk stay away, because if we want to contain the spread of this disease we need to reach those people who have the virus.

I tell you all of this for the very simple purpose that we are trying to get legislation to the floor which will provide more testing. We have now before us a central specific bill to deal with infant mortality. People who come into the community health centers, the migrant health centers, are generally low-income poor people. Some have Medicaid, but many do not. Some have private insurance, but almost all do not, very few in fact have third-party coverage of any sort. Should they be advised to take an AIDS test? Should they be given the options of an AIDS test to be accompanied by counseling? Absolutely.

I have no disagreement with this amendment if it will provide that the test be available, to be given routinely at the option and at the choice of the patient; but I want to point out, it is an interesting question that we have before us, because this testing issue is being raised in a very unique population group, pregnant women. If a pregnant woman comes in for testing and she takes this test at her choice and she is informed that her test is positive, that she has the AIDS antibody, she will presumably have counseling to live with the fact that she may die from AIDS, but also to try to decide whether she is going to terminate that pregnancy. That is still an option in this country under the Constitution, according to the U.S. Supreme Court.

I have no problem with that, but I just want my colleagues to understand that what we are doing here is providing a test and counseling that will probably lead to more abortions. I think that is up to the woman and her physician to decide, but let us understand exactly what we are now bringing about.

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

Mr. WAXMAN. I yield to the gentleman from New York.

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

I, like the gentleman, have certainly no quarrel with the idea that clinics ought to make testing available to those clients who request such testing, and if that is all this amendment does, I suppose there would be no problem at all. I guess what I am wondering is whether this amendment——

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. GREEN. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. I yield to the gentleman from New York.

Mr. GREEN. I guess what troubles me, Mr. Chairman, is whether this amendment is purporting to create some general obligation of clinics in every case to proceed to the test, unless the patient specifically requests that it not be done. That would be troubling, first of all from the point of view of what it does to the patient-doctor relationship, but also because of the fact that this is not a costly procedure. It is a procedure which involves some cost, and there are many parts of the country where it probably would be silly at this time for the patient to have that test performed on her, given the very low degree of incidence of the AIDS virus in many parts of the country.

One wonders whether it makes sense, given the fact that these are finite funds, even with this bill spread over a very large population, whether it makes sense to divert those funds

into routine testing for AIDS in parts of the country where there is very little or no AIDS.

Mr. WAXMAN. Well, if I could reclaim my time, Mr. Chairman, I understand the question the gentleman is raising about diverting funds from giving prenatal care and treating infants or taking care of other indigent population groups that may come into these clinics, but I think that any clinic, just as any doctor or any medical facility, ought to have available this AIDS test with counseling. If this amendment is clarified so that we know that the patient may choose to take the test or not, then I really have no problem with it, because that is what we will do in our AIDS bill in a broader context when we get it to the House.

Mr. GREEN. Mr. Chairman, if the gentleman will yield further, I have no quarrel with the idea that every clinic in the country ought to be able to perform this test and have this available and that these clinics and their clients are no different than any others.

What I am concerned about is the possibility that this could be conceived as some sort of instruction to the clinics that they must, as a matter of sound practice, administer this test to every woman who walks in the door, unless she specifically asks otherwise, and that I would find reprehensible.

□ 1745

Mr. WAXMAN. Reclaiming my time, I certainly think the patient ought to have the choice in the matter. There ought to be informed consent by the patient and then I think if that is the case, it ought to be available with counseling.

Mr. ROWLAND of Georgia. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. ROWLAND of Georgia. Mr. Chairman, I think we all want the same thing. I think we are talking around it. My good friend from California [Mr. DANNEMEYER] I believe earlier in his statement indicated that he wanted counseling and to offer testing for those women that were coming in.

I think that is exactly right. I think that test should be offered to those women in the high-risk group because we need to find out whether or not these people do in fact test HIV positive. There is no need here to discuss the potential for AIDS itself and what it will cost because we are very much aware of that.

Mr. Chairman, I have an amendment to the gentleman's amendment which I think will do exactly what he has said, and the gentleman from California [Mr. DANNEMEYER] has already seen that amendment. What it would simply do is state, "including counseling and testing routinely offered to the women."

By that language, when the women come in, they would be counseled about AIDS, they would be told about AIDS, told what it is, and then they would be offered the test.

My fear is that if we say "routine" without clarifying exactly what is being said, it may be that many of these women might not get that test.

Mr. WAXMAN. Mr. Chairman, if I could reclaim my time, I think that would be a very constructive clarification. As I understood the gentleman from California's [Mr. DANNEMEYER] statement on the floor, he seems to be saying the same thing, and if the gentleman from Georgia [Mr. ROWLAND] and the gentleman from California [Mr. DANNEMEYER] are saying the same thing, I think we have an amendment that all of us can support.

Mr. Chairman, I am going to yield the balance of my time, and I hope the amendment is offered by the gentleman from Georgia and we can go forward with the business before us.

AMENDMENT OFFERED BY MR. ROWLAND OF GEORGIA TO THE AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. ROWLAND of Georgia. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROWLAND of Georgia to the amendment offered by Mr. DANNEMEYER: In the matter proposed to be inserted on page 5, line 11, of the bill, strike "routine testing of" and insert the following: "testing routinely offered to".

In the matter proposed to be inserted on page 6, line 7, of the bill, strike "routine testing of" and insert the following: "testing routinely offered to".

The CHAIRMAN. The gentleman from Georgia [Mr. ROWLAND] is recognized for 5 minutes.

Mr. ROWLAND of Georgia. Mr. Chairman, it is my feeling that this amendment will do exactly what the gentleman from Califorina [Mr. DANNEMEYER] wanted to do and that is to routinely offer this test to every woman that comes in of childbearing age so that she can be counseled about it, and if she is pregnant, she will be able to get the test done routinely.

If she does not want to have that test done, then she in no way will be precluded from getting the prenatal care that she needs.

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

Mr. ROWLAND of Georgia. Mr. Chairman, I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I would be happy to accept the amendment offered by the gentleman from Georgia and thank him for the constructive suggestion. What your amendment to my amendment seeks to do is precisely the intent of the amendment that I am offering; namely, that the center would be required to offer the test and then the patients would have the option of determining whether or not they wanted to take the test or not. That is what I intended to do.

Mr. ROWLAND of Georgia. It would be routinely offered to the patient with the patient making the decision about whether or not to have it done.

Mr. DANNEMEYER. That is my intent, yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. ROWLAND] to the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER], as amended.

The amendment, as amended, was agreed to.

Mr. CARPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like first of all to commend the gentleman from California [Mr. WAXMAN] and those responsible for bringing this bill to the floor. I think it is a shame, a tragedy in this country, that we have found ourselves dropping from the Nation with the 6th lowest incidence of infant mortality deaths to a position of 20th today. I am sad to report that the State of Delaware, which I represent, had the highest infant mortality rate of any of the 50 States in 1985. Past Federal funds for infant mortality have often been targeted in States with large pockets of need within their population rather than to the States with the overall high infant mortality rates. That policy has largely excluded a State like mine from fully participating in federally funded programs.

I am going to ask a question of the gentleman from California [Mr. WAXMAN] if I could. The question I would like to direct to the gentleman is that, despite the fact that Delaware was the highest of the 50 States for infant mortality in 1985, we have not qualified for special funds for prenatal care. Although we have a small State and do not have comparatively large pockets of need within our State, we do have an abnormally high level of infant mortality. Would the gentleman give me guidance as to how this bill, if at all, will help a State such as ours?

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

Mr. CARPER. Mr. Chairman, I yield to the gentleman.

Mr. WAXMAN. Mr. Chairman, the purpose of this bill is to target the funds to those areas where we need to be sure that we get the prenatal care for low-income women.

I would expect that any area that is an area with a high incidence of infant mortality, and I am shocked to hear

that the State of Delaware is as high as it is, but I am shocked to hear that the United States has as high an infant mortality rate such as it does, but I would assume that that is the area we would target funds.

Mr. CARPER. As I understand, and I am encouraged by what the gentleman from California [Mr. WAXMAN] says the bill before us today is designed to target funds to States like my own with high infant mortality as well as those States with high incidence and large pockets of need.

In closing, I feel that this bill is of particular value not only to my State but to all of our States.

I commend again all of those who have been working on this legislation. Thank you for bringing it to our attention, and I certainly encourage my colleagues to adopt this bill.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DURBIN), having assumed the chair, Mr. VENTO, Chairman of the Committee of the Whole House on the State of Union, reported that that Committee, having had under consideration the bill (H.R. 1326) to amend the Public Health Service Act to provide for additional funds to Community and Migrant Health Centers for the purpose of reducing the incidence of infant mortality, pursuant to House Resolution 305, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. DURBIN). Under the rule, the previous question is ordered.

Is a separate vote demanded on the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1441) to amend the Public Health Service Act to provide for additional funds to community and migrant health centers for the purpose of reducing the incidence of infant mortality, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

□ 1755

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

Mr. MADIGAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1326, the bill just considered and passed.

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

There was no objection.

REQUEST FOR CONSIDERATION OF S. CON. RES. 85, CORRECTING ENROLLMENT OF S. 1158, PUBLIC HEALTH SERVICE AMENDMENTS OF 1987

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 85) correcting the enrollment of the Senate bill (S. 1158), Public Health Service Amendments of 1987, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

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

Mr. MADIGAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON S. 825, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Mr. ST GERMAIN. Mr. Speaker, pursuant to the order of the House of Thursday, November 5, 1987, I call up the conference report on the Senate bill (S. 825) to amend and extend certain laws relating to housing, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, November 5, 1987, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 6, 1987.)

The SPEAKER pro tempore. The gentleman from Rhode Island [Mr. ST GERMAIN] will be recognized for 30 minutes and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island [Mr. ST GERMAIN].

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

Mr. Speaker, I am pleased to call up the conference report to accompany S. 825, the Housing and Community Development Act of 1987. This conference report is the first major free-standing housing bill to pass the Congress since 1980. We have had housing legislation in the interim passed as part of the Budget Reconciliation Acts and as part of Appropriations Acts, but not since 1980 as a free-standing piece of legislation.

Mr. Speaker, this legislation would not be before us today without the persistent efforts and dogged determination of the distinguished chairman of the Housing and Community Development Subcommittee, my colleague from Texas, HENRY GONZALEZ. He kept housing and community development issues consistently before us on the Banking Committee and monitored disastrous efforts of budget cuts that resulted in 70 percent reduction in the assisted housing programs, 40 percent reduction in the Community Development Block Grant Program, and 60 percent in the Urban Development Action Grant Program. This bill is a testament to his determined effort to address the low- and moderate-income housing and the community development needs of the Nation.

I wish also to commend and highlight the most important role the ranking minority member of the Banking Committee, Mr. WYLIE of Ohio, played in getting this legislation to where we are today. Mr. Speaker, this is a bipartisan bill endorsed by all of the House Republican members of the conference committee. Without their contributions and efforts, we would not be in the enviable position of seeing this legislation to its successful conclusion.

I would also commend the tremendous contributions from all of the members of the Housing Subcommittee, in particular, my colleagues, BRUCE VENTO, CHARLES SCHUMER, BARNEY FRANK, RICHARD LEHMAN, BRUCE MORRISON, WALTER FAUNTROY, MARY ROSE OAKAR, MARCY KAPTUR, and BEN ERDREICH, all of whom participated in the development of this legislation as effective participants in the lengthy conference proceedings.

On the other side of the aisle, I wish to commend the new ranking minority member, the distinguished gentlelady from New Jersey, MARGE ROUKEMA, who has taken over the role formerly filled by our late colleague Stewart McKinney, and also GEORGE WORTLEY, DOUG BEREUTER, JOHN HILER, TOM RIDGE, and STEVE BARTLETT.

Mr. Speaker, I would be remiss in not commending the cooperation of the Senate under the new leadership of the distinguished Senator from

California, ALAN CRANSTON, who now chairs the Senate Housing Subcommittee and who chaired this conference. He was gracious, understanding, and worked very closely with us in achieving the necessary compromises for the conferees to agree. In particular, I wish to commend him for one of the most important provisions in this legislation, title II, the HUD prepayment title. These provisions, for the first time, attempt to address the troublesome issue of HUD-assisted rental housing being lost from the stock of low-income housing. The far-reaching efforts authored by the Senator from California were adopted by the conference. We look forward, Mr. Speaker, to working closely with Senator CRANSTON over the next 2 years as we begin to craft Federal housing and community development policy for the 1990's.

And last but very importantly, Mr. Speaker, I wish to commend the staffs of the House and Senate, majority and minority; they worked long hours to put our agreements and wishes in proper form.

Mr. Speaker, this conference report makes permanent the FHA insuring authorities so that in the future we will not be faced with termination of important FHA home mortgage insurance that in recent years has lapsed on numerous occasions because of the inability of the Congress and the administration to agree on how to address the housing needs of our country.

The conference report reauthorizes our HUD and FmHA assisted housing programs, as well as the CDBG and UDAG programs for the next 2 fiscal years. In addition to reauthorizing these programs, S. 825 makes numerous statutory changes to ensure that the intent of Congress in administering the HUD and FmHA assisted housing programs is carried out by the administration.

Mr. Speaker, this conference report would enact a new Home Ownership Program for moderate income families authored by our distinguished colleague from New York [Mr. SCHUMER]. Modeled after the successful Nehemiah Program in New York, this program combines the efforts of churches, nonprofit groups, city, State, and the Federal Government to increase the availability of housing to moderate-income families.

The conference report also reauthorizes the Crime Insurance Program for an additional 2 fiscal years and provides assistance under the Flood Insurance Program for properties damaged by high water and subsidence.

Finally, Mr. Speaker, this conference report would authorize $15 billion in fiscal year 1988 and provides an adjustment for inflation in fiscal year 1989. While the Democratic conferees believe that the crises in housing and community development in the country warrants a greater Federal commitment, we recognized that this level would provide widespread bipartisan support for the conference report.

Mr. Speaker, I urge my colleagues to support this conference report.

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

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

Mr. Speaker, I rise in support of the conference report now before us. It gives me a great pleasure to say this conference report represents a willingness on the part of the conferees from the Committee on Banking, Finance and Urban Affairs to do our part in reducing the Federal budget deficit.

When H.R. 4 left the House, the funding level was at $15.9 billion, the Senate was at $15.6 billion. The freeze level is $15.36 billion, and our conference report figure is $15 billion.

The conference report provides a 2-year authorization, the first free-standing authorization bill since 1980, and the first housing bill since 1983.

Mr. Speaker, I want to publicly commend our distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island [Mr. ST GERMAIN], for his willingness to negotiate and be cooperative and approach the issue as wanting a housing bill. As the gentleman just said, it is truly a bipartisan bill. The gentleman from Texas, Chairman GONZALEZ, was tremendous. His original H.R. 4 called for $24 billion. That was his wish list. The administration countered with $11.2 billion. That was OMB's wish list. Neither was a realistic figure. But Chairman GONZALEZ was good to work with during markup, and there were several amendments offered by myself and other Republicans which I think improve the legislation which we accepted.

The gentlewoman from New Jersey [Mrs. ROUKEMA] became the ranking Republican on the Housing Subcommittee during the heaviest part of our negotiations, and she has been a real big help indeed in her new leadership role, and I thank her.

I compliment all of our Members of the conference, as the chairman did, and personally thank my Republican colleagues for sticking together.

Mr. Speaker, I believe the aggregate funding levels contained in the conference report represent a positive effort to reduce Federal spending and to tell the American taxpayer we are serious about the budget deficit vis-a-vis Federal housing programs. At the same time, we need a housing program and the funding level is generous in the context of the need to reduce Federal spending.

This bill should send a signal which should help stabilize interest rates, which are so important to the growth of the housing industry. I am pleased to emphasize that this conference report contains permanent insuring authorization for FHA. This has been a great problem, and the off again on again treatment it has received, given by this House, has not been fair.

Mr. Speaker, I would mention the gentleman from Oregon [Mr. LES AUCOIN]. He and I cosponsored legislation in the 99th Congress to make FHA permanent. We had over 250 cosponsors. We introduced H.R. 1228 this year and we have over 218 cosponsors. We thank all of our colleagues for helping make this provision a reality.

Other important FHA provisions are a prohibition on user fees fixing the mortgage insurance rate at 3.8 percent, which is what it is right now, and which is making money.

This report increases the maximum mortgage limits in the high cost areas from $90,100 to $101,250 for FHA single family mortgage insurance programs.

We worked with the home builders, the realtors and the mortgage bankers on these provisions, and they are very pleased, as they should be, and perspective first-time homebuyers are pleased also, and they should be made to feel good by this bill, and we should be to show that we really do care about first time homebuyers.

Another aspect of the conference which warrants special emphasis is our treatment of section 8 and public housing assistance. These funding levels are somewhat reduced because of greater emphasis on modernization and rehabilitation of existing uninhabitable but fixable housing units rather than on new construction. We increase the number of existing units that can be supported through the use of section 8 vouchers and certificates.

This report emphasizes the preservation of our public housing inventory. It will enhance self-sufficiency for public housing tenants through resident management, home ownership and work incentives. In the areas of public housing I believe these provisions are fitting on this 50th anniversary year of the original U.S. Housing Act passed in 1937.

I know Members are especially concerned about the elderly and handicapped, the 202 program. I am happy to report no reduction was made in this most worthwhile, highly successful program. We reauthorized $10 million for congregate housing services for the elderly and handicapped.

In the area of rural housing, the gentleman from Mississippi [Mr. LOTT] and the conference report essentially provides funding at fiscal year 1987 levels. In addition, the conference report protects against losing a home through forgetting to pay taxes or insurance by requiring escrowing of sufficient funds to pay taxes and insurance.

The successful and popular HUD rental rehabilitation program is made available for the first time in rural areas as a demonstration pilot program.

The community development block grant and UDAG programs are funded at fiscal year 1987 levels.

One of the real hair shirts for this Member was finding a balanced and workable way to maintain private contract rights of prepayment on HUD and Farmers Home sponsored rental units while avoiding the hardship of displacement for low-income tenants. Many of us questioned the effectiveness, workability and even legality of the provisions in the conference report, but it sunsets in 2 years, so we can review the prepayment provision after 2 years. And yes, there is a new Nehemiah Housing Program, a continuation of HODAG, UDAG, and crime insurance, which frankly I opposed.

But the conference report authorizes the HUD Secretary to designate 100 enterprise zones with a minimum of one-third in rural areas, a new program which I do like.

So I think all conferees on both sides of the aisle have worked in a spirit of compromise to get a housing bill. The same can be said generally of the Senate conferees.

I think we have developed a balanced, well-rounded conference agreement while staying within the bounds of reality dictated by our budget deficit. I support passage of the conference report wholeheartedly and urge any aye vote by all House Members.

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

Mr. ST GERMAIN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ], chairman of the Subcommittee on Housing and Community Development.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for his kind and gracious words during the time he spoke and for yielding me this time.

Mr. Speaker, I wish to say that of course this is most gratifying. I think it is also historical because after a sort of a blighted period in which we were reneging on national commitments to housing, which had been in place for 44 years, this is a reaffirmation of this national commitment. At this time when we see this sad, tragic development of Americans refugees in their own homeland, the homeless, it was my idea to entitle this bill not only the housing and community development bill but the Homeless Prevention Act, because such it is.

□ 1810

I think that the main features that this conference contains are very significant in themselves. For one, we will stop this roller skating experience with extending the FHA mortgage insurance programs and the authority of the Secretary to issue insurance.

We make it a permanent feature in this bill.

We provide some long needed replenishment and extension of the community development programs which are so sorely needed by communities throughout our country, as the League of Cities, Conference of Mayors have repeatedly pointed out to us, including the Governors' Association.

So all in all I want to thank the distinguished chairman because of his great experience, his background of experience, his sagacity, his ability to consult and negotiate with the Senate were tremendous factors in bringing the realization of this conference bill now.

I want to certainly compliment all of the Members on both sides, majority and minority. I think that the minority did yeoman work in bringing about an agreement with respect to the funding levels, which was one of the big issues that we finally boiled the conference discussions down to.

I believe in short that this is a great day and that we will see a diminution, as we progress, in these programs that once again reaffirm our commitment to housing and community development. The infrastructure of this country is crumbling around our ears. Every community in the land, rural and urban is in dire distress from its infrastructure needs.

Mr. Speaker, I rise this afternoon to urge your support for the passage of the conference report on S. 825, the Housing and Community Development Act of 1987. Other than the passage of a minor technical corrections bill in 1983, this is the first time since 1980 that a conference report affecting our housing and community development program has been brought back to this House alone, standing on its own merits, for final passage. I believe all of the Members of this body, both Democrats and Republicans, can be proud of the bipartisan effort that resulted in this significant achievement.

Mr. Speaker, I wish to commend all of my colleagues on the conference committee, particularly Chairman ST GERMAIN and the ranking minority member, Mr. WYLIE, who cooperated with me in a superb effort at concluding an agreement on very complicated issues. In particular I wish to commend my colleague from Massachusetts, Mr. FRANK, and Mr. LEHMAN of California and Mr. MORRISON of Connecticut, for their major contributions to this legislation. Senator CRANSTON, the chairman of the Senate Housing Subcommittee, worked together with us in an outstanding demonstration of Senate/House partnership that bodes well for the future.

What are the principle improvements in housing and community development policy that will be achieved by passage of S. 825? First, the FHA's home mortgage insuring programs will become permanent. No more fits and starts, no more short-term expirations. Nothing could be a more fitting celebration of the role the Federal Government has played in making this a nation of homeowners than making the FHA programs permanent.

Second, this conference report authorizes almost $1 billion less than the total authorized by the House when H.R. 4 was passed last June. Those of you who know me well understand how painful that concession was for me. I feel very strongly that the housing and community development programs covered by this bill are critical to the well being of this Nation. These programs are used to house the homeless, to provide decent housing for the handicapped and elderly, to help the poor and working poor families find affordable housing and to help urban and rural areas address their community development needs, particularly for their lower income residents. I continue to believe these programs should not be cut but increased. However, in a serious effort to reach bipartisan support for this conference report, I agreed to a significant reduction from almost $16 to $15 billion.

Third, this conference report contains a number of significant policy improvements. It is no secret that the increasing number of homeless families living in the streets and public shelters of our country are there because over the past 7 years the assisted housing production programs have been decimated and affordable rental housing units have been converted to market rate rentals or condominiums. In this conference report we maintain a modest public housing acquisition and production program, extend the section 8 moderate rehabilitation program and authorize the production of 12,000 units for the elderly and handicapped. A number of provisions are designed to preserve and extend this useful life of housing that is presently subsidized for lower income households. $1.7 billion is authorized for the rehabilitation of public housing units and strict standards are established to assure that only if public housing units are obsolete and rehabilitation is infeasible could that valuable housing resource be sold or demolished. In the majority of cases that lost housing would have to be replaced with newly constructed or project-based assisted housing only in very limited circumstances could 15-year section 8 certificates be allocated to substitute for lost units.

It is also clear from a number of creative efforts undertaken around the country that where public housing tenants assume responsibility for managing their projects, where local governments work cooperatively with independent public housing agencies to provide funds or improved services where well-managed public housing agencies are given greater discretion to operating their housing projects in a professional manner and where the Federal Government provides sufficient operating funds to cover increased costs such as insurance costs and to recognize changed circumstances over time, public housing can provide a viable and affordable housing resource.

The conference report provides $2.34 billion for rental assistance through the section 8 program. The conference report does not specify how much of those funds should be used for 15-year section 8 certificates or for 5-

year section 8 vouchers. Given the preliminary research on the effectiveness of vouchers, Congress should be extremely cautious about expanding that program. In contrast to the section 8 certificate program where low-income families must pay 30 percent of their income for housing, under the voucher program almost half of the families assisted pay more than 30 percent of their income for rent, a substantial percentage pay an unbearable 40 to 50 percent of their income and because of the lack of a rent reasonableness test in the voucher program, the amount of subsidy actually paid by the Federal Government under the voucher program is higher than the amount under the section 8 certificate program. For the same amount of money over the same period of time, we could house more families paying 30 percent of their income for rent under the section 8 certificate program than under the voucher program.

Over 1½ years ago the housing and Community Development Subcommittee began the first congressional investigation of the potential loss of over 1 million units, presently available and affordable to low and moderate income tenants, as sections 236 and 221(d)(3) federally insured and subsidized rental housing projects reach their 20 year anniversary and owners consider repaying the mortgages and terminating rent and occupancy requirements. Faced with the spectre of this loss, which is even more devastating because of the failure over the past 7 years to maintain a healthy assisted housing production program, this conference report contains an interim solution. The owners of housing insured under the National Housing Act can neither prepay their mortages or in any way change the status or the terms of the regulatory agreement without the Secretary of HUD approving a plan of action which must be designed to preserve as much low and moderate income housing as possible.

This conference report is also a tribute to the survival of the rural housing programs of the Farmers Home Administration. Congress has rejected the administration's attempt to eliminate this key source of homeowner loans for lower income families in rural areas, and has created a modest loan guarantee program for families whose income does not exceed 115 percent of rural median incomes whose access to financing is extremely limited, particularly in the case of first-time home buyers. The conference report also addresses the critical problem of the loss of affordable section 515 rental housing units for low income families. Through a program of incentives and refinancing, owners of these projects are encouraged to keep these projects in the rural low income inventory for another 20 years or to turn them over to local nonprofit or public agencies without penalty.

The conference report extends the CBDG Program for 2 more years and sharpens the focus of that program. The amount of funds that must principally benefit low and moderate income families is increased from 50 to 60 percent, while this change affects the total expenditure in a State or entitlement community up to a 3-year period, it has not changed the low- and moderate-income threshold that individual projects must meet. The conference report also strengthens citizen participation requirements and assures that low- and moderate-income families that are displaced from their homes as a result of CDBG or UDAG funded activities will be compensated fairly.

Finally, the conference report establishes a program of Nehemiah homeownership grants designed to assist nonprofit organizations to help families whose incomes generally are no higher than the area median to purchase homes that are concentrated in lower income neighborhoods. This neighborhood revitalization effort is modeled after a very successful program initiated in Brooklyn, NY, and was the subject of hearings held by the Housing Subcommittee in 1984.

Given the reasonableness of the authorization levels, the inclusion of a number of reforms urged by our Republican colleagues to the Public Housing Program, the Rural Homeownership Loan Guarantee Program, the section 202 Handicapped Program, the Enterprise Zone Program, and the permanent authority provided for the FHA insuring programs, I urge my colleagues' support for the passage of this conference report.

Mr. Speaker, the text of the statement of managers contains an error on page 201 which I intend to clarify. As the conference report provides, under section 241, the 120-day period for which an offer to sell to a nonprofit organization and public agency is required can only occur if funding is available for purposes of carrying out a transfer under section 502(c)(5)(a) as amended.

Mr. Speaker, I want to clarify that a provision contained in section 503(b) of title V, subtitle A, Community and Neighborhood Development and Preservation, pertaining to the classification of urban counties (page 116 of House Report 100–426), is incorrect. The correct language should be:

(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

Rather than what was inadvertently printed on page 116. I will state that the committee will make this change in the next legislative vehicle going through the Banking, Finance and Urban Affairs Committee.

HUD AND FmHA's AUTHORIZATION LEVELS

[Budget authority in millions of dollars]

	Fiscal year 1988 (budget authority)		S. 825 conference report (budget authority)	
	H.R. 4	S. 825	FY 1988	FY 1989
Subsidized housing	7,813	7,510	7,091	7,436
Operating subsidies	1,600	1,600	1,500	1,563
Sec. 202 Loans	622	595	622	651
Subtotal	10,035	9,705	9,213	9,650
Other programs:				
Nehemiah	100	(1)	(1)	150
FHIP	5	5	5	5
P.H. child care	5	.....	[2](5)	[2](5)
HODAG	100	100	75	78
Multifamily capital improvements	(50)	.....	[3](50)	[3](50)
Rental rehabilitation	175	220	200	200
HUD research	17	17	17	18
Congregate services	13	7	10	10
Housing counseling	4	.....	4	4
Emergency homeownership counseling	30	.....	(1)	(1)
Flood insurance studies/surveys	38	37	37	(1)

HUD AND FmHA's AUTHORIZATION LEVELS—Continued

[Budget authority in millions of dollars]

	Fiscal year 1988 (budget authority)		S. 825 conference report (budget authority)	
	H.R. 4	S. 825	FY 1988	FY 1989
Urban homesteading	12	12	12	13
Solar Bank	(1)	(1)	(1)	(1)
Retention of disposable proceeds	7	0	7	0
Miscellaneous provision	1	0	1	1
Neighborhood Reinvestment Corp	19	19	18	18
Neighborhood development demo	2	2	[2](2)	[2](2)
HHS/HUD demo	5	.....	0	0
Enterprise zone	1	.....	1	1
Subtotal	534	419	387	498
CDBG	3,000	3,000	3,000	3,000
UDAG	225	225	225	225
Sec. 108 Loan guarantee limit	(150)	(150)	(150)	(150)
Sec. 312 Rehabilitation loans	(80)	(80)	(80)	(80)
FHA credit limit	[4](100)	[4](104)	[4](100)	[4](104)
GNMA–MBS guarantee limit	[4](150)	.....	[4](150)	[4](156)
Grant total HUD	13,794	13,349	12,825	13,373
FmHA rural housing: New rural housing authorization	2,120	2,193	2,051	2,147
FmHA loans:				
Sec. 502 Homeownership	(1,110)	(1,340)	(1,104)	(1,157)
Sec. 504 Repair	(11)	(11)	(11)	(12)
Sec. 514 Farm labor	(11)	(11)	(11)	(12)
Sec. 515 Rural rental	(826)	(670)	(647)	(678)
Sec. 523(g) Mutual/self help	(1)	0	(1)	(1)
Sec. 524 Site loans	(1)	(1)	(1)	(1)
Subtotal	(1,960)	(2,033)	(1,775)	(1,861)
Rural rental displacement prevention	72	0	72	76
Rural housing support programs:				
Sec. 504 Repair grants	13	12	13	13
Sec. 509 Construct defects	1	1	1	1
Sec. 516 Farm labor grants	10	10	10	10
Sec. 523 Self-help grants	8	8	8	8
Sec. 521 RAP (5 yrs)	(160)	(160)	(275)	(287)
Sec. 533 Preservation grants	20	19	20	21
Subtotal FmHA support	52	50	52	54
Total FmHA	2,244	2,243	2,175	2,278
Grand total HUD and FmHA	16,038	15,592	15,000	[5] 15,653

[1] Such sums.
[2] Public Housing Child Care and Neighborhood Development Demonstration Programs to be funded from CDBG amount.
[3] Funded from section 236 excess payments (Flexible Subsidy Program).
[4] Billions.
[5] Actual totals may differ due to rounding.

S. 825 CONFERENCE REPORT: FISCAL YEARS 1988 AND 1989 AUTHORIZATION FOR SUBSIDIZED HOUSING ACCOUNT

[In millions of dollars]

	Budgetary authority	
	FY 1988	FY 1989
Public Housing:		
New construction (40 yrs)	337	352
Indian (40 yrs)	145	152
Modernization	1,700	1,775
Subtotal	2,182	2,279
Section 8:		
202 (20 yrs)	1,681	1,761
Mod. Rehab. (15 yrs)	400	419
Cert./Voucher (15/5 yrs)	2,340	2,444
Prop. Disp. (15 yrs)	302	329
Loan Mgmt (5 yrs)	186	204
Subtotal	4,909	5,157
Total	7,091	7,436

Finally, Mr. Speaker, I wish to clarify section 516. It is the intent of the conferees that 516(b) does not apply to section 119(h)(5) of the Housing and Community Development Act of 1974. The applicability provisions of sub-

paragraph (c) control the applicability of 119(h)(5). Indeed the reason the conferees amended section 119(h) was to rectify a situation resulting from a grant awarded several years ago. It is not consistent with the intent of the entire section to permit section 119(h)(5) to projects which have not received preleminary approval prior to the date of enactment.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the ranking minority member of the Subcommittee on Housing and Community Development, the very distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the conference report.

Mr. Speaker, as the ranking minority member of the Subcommittee on Housing and Community Development, I am most pleased that we are able to bring this conference report before the House. This is a bill which should be passed with strong support of the House and one which the President would be well advised to sign. Much credit and praise are due to the diligence of the distinguished chairman, Mr. ST GERMAIN, the ranking minority member, Mr. WYLIE, and the distinguished chairman of the subcommittee, Mr. GONZALEZ.

I did not vote for H.R. 4 when it passed the House in June of this year. In fact, the gentleman from Ohio [Mr. WYLIE] and I offered an unsuccessful substitute on the floor, and then voted against final passage of the bill.

Since then, the conferees have worked hard to fashion a reasonable compromise, and I am pleased to inform the House that the conference report is a greatly improved document and one worthy of our support.

It has been apparent for some years that our Federal housing programs were in great need of reform. For example, the per unit subsidy cost of the section 8 new construction program had reached a staggering $200,000 over the term of the contract. There is no question but that new approaches to affordable and public housing must be developed.

While since 1981 we have reined in spending which was spiraling out of control, we have not enacted a free-standing housing authorization in the last 7 years.

We need a bill. There is a serious need for housing assistance. In almost every section of the country there are waiting lists for public housing and section 8 assistance.

The passage of this bill represents progress, although it does not bring some of the innovations that we might have sought. That is a project and challenge for our next authorization. This conference report is a good basis for a new beginning in Federal national housing policy.

OUTLINE OF PROVISIONS

This conference report is not everything I had hoped it would be. Naturally, it is the product of compromise, and, thus, is not perfect from this Member's point of view. There are several items I do not like. However, on balance it is a reasonable package, and I would like to outline some of its more important contents.

AGGREGATE FUNDING

The fiscal year 1987 appropriation for the programs authorized by this conference report was about $15.3 billion, which is a freeze. This is approximately the figure now being worked on in the conference on the HUD-Independent Agencies appropriations bill.

However, our authorization figure is even less than that. We have brought our bill in at exactly $15 billion. This is a reasonable figure, and is a testament to the sincere efforts of Members on both sides of the aisle who want to see a bill enacted. I would remind the membership that the House-passed figure was $15.9 billion and the Senate-passed figure was $15.6 billion. I hope it is not lost on the Members that the conference report comes in significantly less than either the House or Senate versions.

SECTION 8 CERTIFICATES VERSUS VOUCHERS

For several years now, many of us on the Banking Committee have proposed housing vouchers as an alternative to section 8 certificates. I have contended that in many areas vouchers are just as useful as certificates and allow the recipient the added advantage of deciding exactly what level of housing is most suitable for him. Vouchers provide a shopping incentive to the holder, allowing him to rent more housing than he could get with a certificate, if that were his choice, or allowing him to choose less housing and retaining a portion of the rent differential.

A proper mix of certificates and vouchers makes sense. H.R. 4, when it passed the House, authorized no vouchers. In contrast, this conference report authorizes a total of $2.34 billion for certificates and vouchers. This leaves the precise composition to the appropriations process, where, I might add, vouchers have done very well in recent years.

PUBLIC HOUSING

We have learned a great deal over the years about what makes for good public housing and what does not. The recent demolition of a high-rise project in Newark was a dramatic example of past mistakes. But those mistakes have taught us some valuable lessons.

Unfortunately, one of the lessons we have not yet learned well is how to maintain public housing units properly. Even though we are no longer building high-rise monsters, we still need to maintain the low-density projects which do make sense.

This bill authorizes $337 million for public housing new construction. The good news is that we are authorizing substantially more than that for public housing modernization. However, I still think it makes little sense to spend hundreds of millions of dollars to construct new projects when we cannot even afford to maintain the units we already have.

PUBLIC HOUSING CHILD CARE

The House approved a demonstration program wherein HUD could provide grants to PHA's to provide child care. I opposed this provision because the last people who should become involved in child care are HUD bureaucrats. The intention here is laudable. Clearly, it is more likely that people in public housing will be able to find jobs and eventually move out of public housing if child care is provided. I have no quarrel with that. However, HUD is not the proper agency to provide the funds and to oversee such a demonstration.

The House bill authorized $30 million for the demonstration. I am pleased to report that the conference report authorizes only $5 million for it and stipulates that this amount must come out of CDBG funds. Obviously, this is an improvement, but I am still very concerned over HUD involvement in a serivce it knows nothing about.

HOUSING FOR THE ELDERLY AND HANDICAPPED

This conference report authorizes $622 million in section 202 loan authority, which ought to maintain construction of such units at 12,000.

This is a most important program to serve this Nation's elderly and handicapped, and I am pleased that we have been able to maintain this figure. This is one area where we should have been able to do more. It is my intention as a leader in housing to set a high priority and top level creative thinking to new approaches to housing for our elderly population. Those 75 years and older are the fastest growing segment of our population. We must anticipate a burgeoning need for housing for this age group who frequently cannot maintain their own home or afford rentals.

NEHEMIAH HOUSING

The House bill contained authorization for the new Nehemiah housing program. This program has already operated with some success in New York and may hold some promise elsewhere.

My objection, however, is that now is not the time for a new program. We are having difficulty enough maintaining funding for existing programs. It just does not make sense to me that we should embark on a new program at this time. I strongly endorse an approach that would have made this housing an eligible activity under Community Development Action

Grants. The program, as drawn in this compromise, is far more carefully targeted to the eligible population.

The good news in this regard is that while the House bill would have authorized $100 million for Nehemiah, this conference agreement which we bring to you today authorizes such sums, thus leaving the funding up to the Appropriations Committee, which I presume will be realistic in its consideration of the program.

PREPAYMENT

One of the biggest problems we face in housing over the next several years is that of prepayment of existing mortgages of low-income housing. Over the coming years we may lose as many as 950,000 low-income housing units because of mortgage prepayments and the expiration of section 8 rental assistance contracts. This is a major problem and one with which we will be grappling for some time to come.

It is essential to maintain as many of these units for low income use as possible. There are many incentives which could be offered to make it attractive to keep these as low income units. Such incentives include an increase in the rate of return on equity, the provision of insurance for a second mortgage to take out equity, the provision of additional section 8 assistance or an increase in the rents under existing contracts, and others.

Our emphasis should be on such incentives.

Unfortunately, the conference report goes well beyond this approach. In a complicated fashion, it requires any owner who wants to prepay to develop a plan of action, submit that plan to HUD, and obtain HUD's permission to prepay.

There are complex issues involving the possible abrogation of contracts which come into play, and it will be remarkable if we escape serious law suits challenging this approach.

While I am not totally satisfied with all of the details relating to prepayment in this conference report, I do want to emphasize to the House the seriousness of the problem we face over the coming years, and it is certainly an issue which will be revisited with a sense of urgency.

LEAD-BASED PAINT

Finally, Mr. Speaker, I want to discuss another problem which is pervasive and which will be expensive but worth the costs in protecting children's health. A substantial amount of the Federal housing stock is contaminated with lead-based paint. Tragically, some children have already been poisoned by ingesting either the chips or dust from this paint.

At present, HUD has regulations to address the problem, but, in some instances, HUD would not require action until after a child had already reached a certain level of lead poisoning. Clearly, this is just not acceptable.

This conference report overturns those regulations and requires that HUD measurement criteria be based on the condition of the housing rather than on the health of the residents. The Secretary of HUD would be required to carry out an 18-month abatement demonstration program on HUD-owned single and multifamily housing. This demonstration is to be used to develop the most practical and cost-efficient methods and procedures for testing and abatement.

This is a difficult issue, involving complicated technical equipment and finite measurements. And, as I said, it will also involve substantial cost in the years to come. This is a cost, however, which we cannot avoid. We have an obligation to protect the health of the residents of contaminated units, and we will have to meet that obligation. This is a matter on which I hope the subcommittee chairman will convene hearings next year.

CONCLUSION

In conclusion, I would like to emphasize to my colleagues that, while I do not agree with every detail of this conference report, it is a reasonable set of compromises and is worthy of your support. We have brought the aggregate funding level down well below that contained in either the House- or Senate-passed bills. We maintain the important CDBG and 202 programs. We provide permanent authorization for the FHA insurance programs, so that we will not again have the kind of lapse in authority which we saw again just last week.

This is a responsible conference report, and I urge its adoption.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. VENTO], a member of the committee.

Mr. VENTO. Mr. Speaker, I rise in strong support of the conference agreement on the Housing and Community Development Act. This act is the culmination of almost 7 years of hard work by Chairman ST GERMAIN, subcommittee Chairman GONZALEZ, and the members of the Banking Committee. I want to commend Housing Subcommittee Chairman GONZALEZ and his staff for their diligence in negotiating a realistic and pragmatic housing bill that has achieved such broad bipartisan support. They have had an extremely difficult task as the need for housing assistance far exceeds the authorization levels they were forced to work within.

Housing programs have been cut more than any other programs during the Reagan years. The programs have been cut by more than 70 percent since 1981, while the number of people living below the poverty level and in need of housing assistance has grown dramatically during that same period. During conference, we all had to make difficult compromises and accept funding cuts and freezes in hopes of getting the President to sign the bill. The result is an authorization level representing a reduction of $360 million below the fiscal year 1987 level and far below the actual House and Senate passed measures. But importantly provides growth for the 1989 year authorization removing the aura of uncertainty that has existed these past 6 years. The conferees in both the House and the Senate put politics aside and reached agreements on an overwhelming number of issues. This bill is a fair and balanced agreement which deserves strong bipartisan support and a signature from the President.

As housing dollars have become scarce, housing policy has increased in importance. New policies in this bill help ensure that such scarce dollars are put to the best use possible. This act includes many significant improvements in housing and economic development policy.

I especially appreciated the strong bipartisan support I received from my housing colleagues on my initiative to help prevent the misuse of Urban Development Action Grant funds. The provision strengthens the antipirating prohibitions on UDAG's and helps rectify a situation which occurred in my district of St. Paul where UDAG funds were used to relocate a corporation and displace over 700 workers. This provision is the result of a 4-year long struggle to achieve a fair solution to this problem. The struggle included my continued personal intercession, a GAO investigation, congressional oversight hearings, a threatened lawsuit by workers, and numerous attempts to deal with recalcitrant Federal agencies. The Justice Department and HUD finally came around and ordered the $2.8 million be repaid. This decision would never have been reached without the consistent support for my efforts from Chairman GONZALEZ and Chairman ST GERMAIN and my Housing Subcommittee colleagues. I deeply appreciate their support and assistance and that of my personal staff Steve Judge, now serving as staff on the full Banking Committee and the dedicated help of Frank De Stefano from the Housing Subcommittee staff.

Yet another important aspect of this Housing and Community Development reauthorization is that as a 2-year authorization which will provide continuity and stability to all the housing and CD programs which have had to exist in an atmosphere of uncertainty over the past few years. The act also includes permanent authorizations for two important programs that have experienced numerous difficulties as a result of their temporary status. The programs I am speaking of are the

FHA program and the Congregate Housing Services Program [CHSP]. The permanent authorization of FHA—a proven program—will help keep the American dream of homeownership alive. The permanent authorization of the CHSP program—a recent initiative—importantly will help the frail elderly maintain their independence and prevent premature institutionalization. These are surely examples of outstanding programs which deserve permanent status in housing law.

In addition, this act contains desperately needed authorizations for assisted housing and community development programs. This act, also known as the Homeless Prevention Act, builds upon the specific homeless protection legislation enacted earlier this year. This measure represents a significant step forward in renewing our commitment to providing decent and affordable housing opportunities for all Americans. I strongly urge my colleagues to support this conference agreement and join me in calling on the President to sign it into law.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. UPTON].

[Mr. UPTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Speaker, I rise in support of this conference report on the Housing and Community Development Act. Mr. Speaker, I commend the principal architects of this measure, the distinguished chairman of the Committee on Banking, Financing and Urban Affairs, the gentleman from Rhode Island, Mr. ST GERMAIN, the ranking member of the committee, Mr. WYLIE of Ohio, as well as the eminently interested subcommittee chairman and ranking member, the gentleman from Texas [Mr. GONZALEZ] and the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mr. Speaker, when H.R. 4 was brought before the House of Representatives in June, I voted against the measure because I believed it was an unnecessarily expensive bill filled with unwise provisions that repeated past failures in housing policy. As much as we needed a housing bill, that version was not the answer. It was also a sure bet to be vetoed by the President, a veto that would have been upheld by Congress.

During the conference, of which I was a member, many constructive modifications were made to the legislation and I believe it is a bill that now warrants the support of my colleagues.

If a housing bill is not enacted this year, the failure to enact freestanding housing legislation will extend over 6 years. This lack of continuity is bad for those dependent on housing programs, those finding themselves homeless or in dangerous and deteriorating buildings, and it adversely affects the housing industry which is an engine driving our economy.

I cannot predict the administration's action on this issue, but I will be urging the President to sign this compromise agreement into law.

Contrary to the House-passed bill in June, the conference report before us is not a budget buster. At $15 billion for 1988 it represents a slight decline from current spending levels although 1989 would see an increase. This does not mean that less people will be served. In actuality, more people could be served because the bill makes better use of the available funds than in the past, such as concentrating more on rehabilitating existing housing assets rather then new construction.

In addition, the mortgage insurance and secondary market programs, which have helped many households of average means become owners rather than renters, are continued and improved. The FHA mortgage program is authorized permanently to avoid the multiple shutdowns which have plagued borrowers and lenders in recent times.

Mr. Speaker, I would also like to address a small, but important, provision in the legislation which I sponsored requiring the Farmer's Home Administration to provide rural borrowers with escrow accounts for the purpose of taxes, insurance, and other necessary expenses. Municipalities would be better able to collect their tax payments, the Federal Government would be able to protect its loan, and rural borrowers would be able to budget and pay small monthly tax bills rather than a large lump sum at the end of the year.

I would also like to bring to the attention of my colleagues another initiative I sponsored which is included in the conference report. This proposal would establish a demonstration program under the Federal Housing Administration for home equality conversions designed to benefit elderly homeowners. Home equity conversion is one way older who own their own homes can obtain additional disposable income while remaining in their residences.

This final, negotiated legislation deserves to be enacted.

□ 1825

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER], a member of the conference committee.

Mr. SCHUMER. Mr. Speaker, I would like, if possible, to engage in a colloquy with the chairman of the committee.

Mr. Speaker, I understand that the public housing economic rent, established by section 102(a) of the bill, is available not only to families who are presently income eligible for public housing and whose income in future years increases to more than 80 percent of area median, but is also available to families now in public housing whose income was below 80 percent of area median upon admission but is now more than 80 percent of area median.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. SCHUMER. I yield to the chairman of the committee.

Mr. ST GERMAIN. Mr. Speaker, as the gentleman knows, we have been working with him on this problem for a number of years, and I think there should be no question whatsoever but that the outline just presented by the gentleman is absolutely and entirely accurate and supersedes anything else that might have been written by non-Members relative to this point. So I say to the gentleman that he is absolutely correct.

Mr. SCHUMER. Mr. Speaker, I thank the chairman of the committee.

Concerning the bill, Mr. Speaker, let me say to my colleagues that I think this is a very proud day in the House of Representatives, because we are finally getting a bipartisan housing bill that contains many things that the people need. For sure, this is not the bill I would have written, because there is not enough money in it and there is not an attempt, in my opinion, to deal with all the problems we have. But it is a start.

In 1981 there were over 300,000 units of assisted housing being built. Now we only have approximately 80,000.

Is it no wonder that we have homeless people? Is it no wonder that we have a huge housing crisis that affects the poor and the middle income alike? Is it no wonder that the average boy-meets-girl, boy-marries-girl, and they buy-a-home becoming a more and more remote dream? It is no wonder, because we have cut back so on housing.

This bill represents a new start, a bipartisan start, which says, first, that we must remember some of the mistakes of the past. We have tried to do that, and I have tried to do that in the Nehemiah Program. But at the same time we cannot abandon the housing field altogether because there is such a dire need.

Let me repeat that in this bill there is the Nehemiah Program. I believe that it represents a new path, a path for home ownership, a path of hope, a path of cost-efficient housing where we can deal with inner city housing

problems cheaply, effectively and in a way that can make us proud.

So, Mr. Speaker, I am proud that Nehemiah will become law, hopefully, when this bill is signed into law or when a veto is overriden. I hope that Nehemiah will become the pattern for the future for many different housing programs to come, programs that realize some of the mistakes of the past but present a bright new hope for the future.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference report on the Housing and Community Development Act, and I urge my colleagues to support it also.

This housing bill represents the culmination of several months of work by the Housing Subcommittee and I commend the subcommittee chairman, Mr. GONZALEZ, the ranking minority member of the subcommittee, the gentlewoman from New Jersey, Mrs. ROUKEMA, the chairman of the Banking Committee, Mr. ST GERMAIN, and the ranking minority member, Mr. WYLIE, for their ability and sincere dedication to steering this bill through the House and the conference with the Senate.

This bill addresses some of the most pressing problems which now confront the housing industry and includes important initiatives. This legislation will provide, among other things, a permanent authority for the FHA mortgage insurance programs. This change eliminates once and for all the uncertainty which arises among prospective homeowners and lenders whenever it comes time for Congress to renew or extend FHA insurance programs.

Senate Resolution 825 provides for a demonstration project which will enable elderly people to convert a portion of the accumulated equity in their homes to liquid assets for health care, housing and other living expenses. It is a concept that this Member has supported for some time. For many elderly citizens, the equity which they have accrued in their homes is often their largest single asset. This legislation will allow them either to draw monthly payments which will not diminish as long as the borrower owns the home as a principal residence, or to acquire a line of credit in which interest on each disbursement accrues at a fixed rate for the life of the mortgage.

This Member is also especially pleased that the conferees agreed to retain an amendment which I successfully offered in the Housing Subcommittee that will allow states to utilize up to 10 percent of their FmHA section 502 funds for unsubsidized guaranteed home loans for moderate income families.

This earmark to an existing FmHA Program will enable people who live in any community too small to be covered by Federal Housing Administration programs and who have incomes between 80 percent to 115 percent of the median income for the area to be eligible for the FmHA Guaranteed Loan Program.

In representing a predominantly rural or nonmetropolitan congressional district, I would point out to my colleages that it is frequently very difficult for moderate and low-moderate income people living in smaller communities to obtain home mortgages. Many times, when a family in a smaller community begins to look for a commercial or government guaranteed home mortgage, the only advice they receive is to move to a larger community. My amendment helps to correct this inequitable situation so that interested people can build or purchase homes in smaller rural communities when that is the location of their choice.

Finally, I would point out that the authorization level of $15 billion for fiscal year 1988 is significantly lower that the amount actually spent for fiscal year 1987, and it is below what was authorized in both the House- and Senate-passed versions of the bill. In light of the budgetary problems which we now face, I believe that the House-Senate conferees have not only been responsive to the housing and community development needs of this country, we have also been fiscally responsible.

Again, I commend my fellow conferees for their work on this legislation and I urge everyone of my colleagues to support the adoption of the conference report.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK], whose district adjoins the First Congressional District of Rhode Island.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding this time to me, and let me say that is how we always think of ourselves.

Mr. Speaker, I am delighted to be here, and I do not think I have ever been happier to speak about a bill that I think is inadequate. It is inadequate because we are in a fiscal crisis and there is not enough money in here to meet our housing needs. But given the combination of political and fiscal restraints we face, this is as good a piece of legislation as I have seen.

I am delighted with the work of all those who participated. This was a great example of partisanship and bipartisanship combined. We differed on some issues, we followed the regular process to decide them, and we also were able to cooperate and conciliate to get a bill out.

So I want to repeat that I think this is far too little for the housing crisis we face, but it is, given the circumstances we confront, an excellent piece of legislation.

I want to talk specifically about one part of the bill. With the strong support of my colleagues on both sides, for which I am grateful specifically and personally, an amendment which I sponsored was adopted which for the first time recognizes the problem of poor tenants who are displaced because governments take action to make general economic advances. We worked out a very good piece of legislation that reasonably deals with their needs.

In the final conference meeting, I was a little careless in the course of a colloquy and I apparently agreed to a diminution of 5 years of protection in one area that I had not intended to. But because this is a delicately balanced bill, when that was pointed out to me, I receded.

I want to say now that I feel badly about that because I think, as a result of my carelessness in this one instance, 5 years less protection goes to people who may have been directly displaced. But that will not come into play until 6 years from now because the effective date is 1 year from today or the date of enactment, and we have a 5-year period that they are guaranteed. That means that 6 years from now there will be a question of whether or not people can be kicked out and since it was my carelessness that led to the 5 years being rescinded, I want to serve notice on everyone now that I want those 5 years back, and a major legislative goal for me for these next few years will be to get back for the poor people the 5 years that the municipalities unfairly took away from them.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Speaker, I rise today in support of the conference report that accompanies the Housing and Community Development Act of 1987. While not a perfect bill, it is a good compromise, and the chairmen and vice chairmen of the Housing Subcommittee and the full Banking Committee deserve our thanks for bringing the conference to a happy conclusion.

I want to emphasize that the report is a compromise, which by definition means that nobody is completely satisfied, but that everyone is satisfied to one degree or another. I signed the conference report because of the 85 percent or so of the provisions that I agree with and a general belief that the time has long passed for Congress to agree on a freestanding housing bill. Providing housing opportunities to those who need our help and community development programs for towns and cities that want to improve the standard of living for their citizens

are important and worthy goals that deserve our time, effort, and support.

Our effort to produce an acceptable compromise at a reasonable cost succeeded. The $15 billion authorization level for fiscal year 1988 is commendable, given the forces at work. The conferees on the other side of the aisle deserve our thanks for agreeing to a funding level that can get the job done without ignoring our deficit problems.

I also take this opportunity to thank the conferees who supported the Hiler/Lehman compromise on manufactured housing energy standards. The conference report directs the department of housing and urban development to establish preemptive, cost-effective energy standards. I hope HUD clearly understands the intent of the conferees and creates standards that consider the overall cost of homeownership, not utility costs alone.

I am also pleased to have been part of Mr. RICK LEHMAN's efforts to forge a workable compromise on the farmers' home 515 prepayment issue. Once again, the outcome was not perfect, but acceptable in the final analysis.

Unfortunately, there are provisions in the report I cannot find acceptable. Among the more unfortunate sections are those affecting the Community Development Block Grant Program.

The State of Indiana runs one of the finest small cities CDBG programs in the country and they are understandably concerned that their ability to do their job well is in jeopardy. While targeting the benefits of CDBG and UDAG funds is commendable, the ability of small cities to meet this higher percentage is difficult, especially with the 3-year average computation. It would be very unfortunate if our Nation's smaller cities are cut off from this important development tool because of this new law.

The CDBG displacement provision is also of concern. Again, while we all want to avoid the wholesale displacement of low and moderate income families and individuals, I have to join with the Indiana Association of Cities and Towns, the National League of Cities, the National Association of Housing Redevelopment Organizations, and the U.S. Conference of Mayors in opposing the approach.

First, there is no evidence that a major problem exists or, if it does, what the dimensions are. Also, the Uniform Relocation Act, which provides for the fair and uniform treatment of displaced residents, ought to be equal to any isolated cases of displacement. The provision is fertile soil for litigation, and cities and developers will no doubt hesitate to pursue revitalization projects for fear of being sued.

I do not agree with these provisions, and there are others that harm this compromise. But when balanced against the good the compromise will accomplish for Indiana's Third Congressional District and for the Nation as a whole, I think we must come down on the side of support. If you look at the good the Rental Rehabilitation Program will do by putting our existing housing stock back to work so efficiently and effectively; when you look at the good a permanent FHA authorization will do by adding stability to the housing market; when you look at the good that community development programs can do for our inner cities, and I hope, for our smaller cities still, the scale tips in favor of support.

A compromise so large in scope, so looming in importance, and so grand in scale cannot be perfect for everyone. About all we can ask for is a compromise that does its best to meet the goals, hopes, and aspirations of the people who wrote it and the people who will be affected by it. That's a tall order for any piece of legislation, and the conference report comes as close to meeting that order as it can. I recommend your support.

Mr. Speaker, I wonder if the chairman of the committee would engage with me in a brief colloquy.

Mr. ST GERMAIN. Mr. Speaker, if the gentleman will yield, I would be delighted to engage in a colloquy with the gentleman.

Mr. HILER. Mr. Speaker, as the gentleman from Rhode Island [Mr. ST GERMAIN] knows, the language in section 569 of the conference report directs HUD to establish preemptive energy standards for manufactured homes that are cost effective for consumers. The conference rejected the idea of applying HUD's minimum property standards for site-built homes to all manufactured homes and accepted, instead, language offered by Mr. RICK LEHMAN and I that takes into consideration all the costs of homeownership. The purpose of the language accepted by the conference was to consider not only monthly utility bills, but the overall affordability of the homes. That means the standards should promote affordable downpayment costs and monthly loan costs as well. That's why the language directs HUD to establish standards that achieve the lowest total of construction and operating costs.

Is it your understanding that the statement of managers language reflects these goals accurately?

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. HILER. I yield to the chairman of the committee.

Mr. ST GERMAIN. Mr. Speaker, the intent of the statement of managers is that the Department of Housing and Urban Development is directed to develop an energy standard that provides the lowest total costs for manufactured home owners.

The conference report reflects the fact that the conferees accepted the language you and the gentleman from California [Mr. LEHMAN] offered in this area and I fully expect HUD to abide by the instructions we provide in our report.

Mr. HILER. Mr. Speaker, I thank the chairman of the committee for his statement, and I urge my colleagues to support this conference report.

□ 1835

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I rise today in strong support of S. 825, the Housing and Community Development Act of 1987. Chairman ST GERMAIN and Housing Subcommittee chairman, Mr. GONZALEZ, along with their staffs, have done a superb job in meeting the concerns of all parties involved, including the administration, to bring to the floor a bill that deserves the support of all Members.

Mr. Speaker, I would like to stress two points with regard to this important, and much needed legislation.

First, this bill is not a budget buster. On June 11, when the House approved its version of this bill, by a vote of 285 to 120, there was much concern about the price tag which was $15.9 billion. At that time, I ardently defended the funding levels, as they were below the House-passed budget resolution and they represented funding levels of 70 percent below that which was provided in 1981. This $15.9 billion level has since been cut substantially.

Not to $15.6 which was the level approved in the Senate-passed Housing bill, and also within the limits set under the budget resolution,

Not to $15.3 billion which would represent a freeze level from the fiscal year 1986 level,

The funding levels were reduced to $15 billion which is a $300 million cut from last year's levels. Cuts like this are significant considering that our Nation's housing programs have already shouldered a disproportionate share of budget cuts.

So, let no one tell you that this bill is a budget buster. Clearly, the Banking Committee has done its work in bringing to the House floor a bill that is so reasonably priced that it deserves the support of even the most frugal.

The second point I would like to make Mr. Speaker, is that this bill goes a long way in meeting the various housing needs of our population. The permanent authorization of the FHA Program will instill a sense of stability and certainty to a vital homeownership program that has been subject to several shutdowns as a result of congressional inaction. S. 825 keeps down the cost of homeownership by prohib-

iting increases in user fees for our mortgage credit programs. Other provisions in S. 825 will serve to increase the number of potential homeowners who can take advantage of the FHA Program by increasing the mortgage insurance amounts in high cost areas.

Further, this bill begins to address what I consider to be one of the most critical housing issues to confront us—the shrinking of the national supply of low-income and subsidized housing. A reduction in our Nation's supply of low-income housing is caused through the expiration of subsidy contracts and the prepayment of loans with various urban and rural housing programs. This results in the displacement of residents and the loss of valuable low income rental units. A prepayment occurred in my district, displacing 70 tenants from a Farmers Home project, and I have experienced first hand the turmoil caused by such an event. Last August, I introduced legislation which called for a moratorium on the prepayment of Farmers Home multifamily projects. At that time, I emphasized that this moratorium was to be an interim measure until Congress could assess this prepayment problem and enact a permanent solution. I am pleased to report that S. 825 enacts what I consider to be a very equitable solution, one that well maintain our low income housing and protect the needs of the tenants, while at the same time recognizing the rights of the developers and owners of the projects. I commend the Subcommittee staff for all of their hard work and perseverance on this very difficult issue.

Mr. Speaker, S. 825 is a good bill. We need to reverse the trend of the last several years and reestablish our longstanding commitment to housing as a national priority. I urge my colleagues to vote for the conference report.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in strong support of the conference report.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I am pleased to rise in support of the housing and community development conference report. I do so without hesitation.

For more than 6 years, we have been unable to authorize permanently these programs. After voting and working against the House-passed bill, H.R. 4, last summer, I had my doubts as to whether this year would be any different. But, as a member of the House-Senate conference, I can honestly say that the conference report before the House this evening is a vast improvement over the original House-approved bill. My colleagues, I ask that you take a close look at this conference report; I think you will like what you see and I encourage you to support it.

The authorization, $15 billion, is reduced from $15.9 billion in the House-passed version and $15.6 billion in the Senate version. This reduction of several hundred million dollars was not reached easily and without very difficult reductions. Skeptics should note that the total housing authorization was around $26 billion in 1980. We have reduced Federal spending on housing and community development by $11 billion in 7 years. I don't know of any other area of Federal spending that has been reduced so drastically.

Many of the cumbersome legislative provisions have either been dropped or significantly improved. The bill improves the efficiency and flexibility of the Public Housing Comprehensive Improvement Program, improves the workability of section 8 Certificate and Voucher Programs, expands the section 202 Program for handicapped individuals and makes many other positive contributions to existing housing law.

For my Republican colleagues, you should be aware that the conference report does not preclude vouchers as done in the House bill and now adequately supports some of the innovative public-private leverage programs. For example, the Rental Rehabilitation Program, which leverages $3 for every $1 dollar for rehabilitating units in depressed neighborhoods was funded at last year's level of $200 million. Additionally, the Enterprise Zone Program with 100 zones to be designated, one-third in rural areas was reauthorized.

The conference report is a balanced approach to housing and community development. It supports essential community development with programs such as the Community Development Block Grant Program at last year's level and the Urban Development Action Grant Program. The Housing Assistance Program emphasizes modernization and improving our Nation's stock of housing over the more costly new construction program. It takes initial steps to address the forthcoming crisis resulting from the loss of privately owned federally assisted low-income housing. For Americans in rural areas, it reauthorizes the Rural Housing Assistance Programs at last year's level and refines the program to make it more efficient for low- and very-low-income individuals. For high-cost urban areas, it increases the maximum mortgage amount for FHA insurance from $90,000 to $101,250 while taking steps to ensure against discrimination by lenders seeking to avoid lower cost, and therefore less profitable, FHA mortgage lending.

I am sure that many Members are reviewing this conference report very closely in light of the events of October 19 and the budget negotiations underway. They certainly should. But, what my colleagues will find is a conference report that authorizes spending at $360 million below last year's level and $360 million below the 1988 appropriation approved by this House in August. The fiscal responsibility shown in this conference report should be encouraged. I urge my colleagues to support this important conference report.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GARCIA], a distinguished member of the conference.

Mr. GARCIA. Mr. Speaker, I rise in support of the housing conference report we are considering today. This report reflects nearly 2 years of work and compromise that deserves the respect and support of every Member of this body. It also reflects the Congress' continuing support for and awareness of the increasing need for housing that is decent and affordable.

I won't reiterate all the things you have heard before about the growing number of homeless individuals and families and about the projections of the need for housing reaching crisis proportions. I will say that this report, although not a complete answer to the problem, represents the first important step. This will be the first free-standing housing bill since 1981. That in itself is a sign of the strong bipartisan effort that was made in crafting the underlying legislation.

The housing bill, which provides for a 2-year authorization, sends a signal to those who live and work for public housing that the Congress is serious about addressing the lack and potential loss of low-income housing units.

I want to congratulate my colleagues on the housing subcommittee, and thank the staff on a terrific job. I urge your support of this most worthwhile effort.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in strong support of the passage of the conference report on the Housing and Community Development Act of 1987. I urge a "yes" vote on this conference report for every Member of the House, and particularly those Members from my own side of the aisle.

I will likewise urge the President to sign this piece of legislation.

Mr. Speaker, this legislation is much-improved legislation since it was marked up in committee and it is much-improved legislation since it passed the House floor as H.R. 4. As the Members recall, both times I joined with my colleague, the gentleman from Ohio [Mr. WYLIE], and

others in opposing the legislation at that time. I would have been prepared to oppose it today, except that the legislation has been substantially changed, altered and improved, and deserves the support of every Member of this House. Most particularly, it deserves the support of those conservative Members of this House.

Mr. Speaker, this legislation is much-improved legislation over the status quo of current housing. We need to keep in mind that this legislation represents new authorization language to replace current law, and this legislation is a substantial improvement over current law. If this legislation were to be defeated, we would then be stuck with the status quo and with current law. I think particularly those on my side of the aisle should remember that and we should vote for this conference report for that reason.

Mr. Speaker, I want to be specific and speak directly to those who share the philosophy that many of us on our side of the aisle articulate and particularly my Republican colleagues who previously voted no to other legislation before it was changed.

This is a bill founded and funded in conservative principles. It emphasizes the conservative principles of a reduction of Federal spending to so lower the Federal deficit. It emphasizes homeownership opportunities, local control for housing and community development, and a commitment to the FHA as a self-insurance homeownership program.

Let me give several specifics. No. 1, money. It is astonishing to note, and every Member of the House needs to understand, that today if we pass this legislation and it is signed into law, we will spend fewer dollars than if the legislation were to be defeated. Specifically, $300 million of a reduction of total Federal spending would be accomplished by a positive action on this legislation; so if you are interested in the deficit, and we all are, and if you are interested in a deficit reduction, this legislation spends $300 million less than if we had no legislation at all.

No. 2, the legislation increases local control. It increases the efficiency and the flexibility through the Public Housing Comprehensive Improvement Program by providing the first step in a long-sought reform by HUD that began some 3 years ago by increasing local control over repair and modernization.

It further allows for the replacement of dilapidated public housing where adequate alternatives exist.

No. 3, this legislation extends in a large way tenant management and tenant ownership opportunities. It creates tenant management corporations. It permits the Secretary of HUD to waive existing HUD regulations for tenant management corporations. It is a major step down the road toward providing for homeownership opportunities for public housing tenants.

No. 4, the legislation improves dramatically the operation of the FHA in the secondary markets. It makes permanent the FHA insurance authority. It creates the maximum mortgage amount in high-cost areas, increases those amounts from $90,000 to $101,250.

It provides for permanent authority for Fannie Mae and Freddie Mac to purchase second mortgages.

Now, I emphasize the permanent nature of the FHA in this bill. It is a major step forward in and of itself because it has been the annual extensions of the FHA that oftentime has brought us bad legislation.

No. 5, it establishes for the first time in Federal law up to 100 enterprise zones to attract business to distressed areas.

No. 6, it makes several major reforms in the operation of public housing, including emphasis on rehabilitation rather than construction of new public housing and emphasis on freedom of choice and certificates and vouchers and a provision for the first time in Federal law of the portability of section 8 certificates and vouchers within a metropolitan area.

Mr. Speaker, this bill makes a major step forward in the area of sensible housing opportunities, home ownership housing opportunities, of a reduction in the Federal deficit, of a total reduction in the amount we spend on housing programs, and yet at the same time improving those programs. It is a bill that Members in this House of all philosophies and in both parties can be proud of. I urge a "yes" vote and will urge the President to sign it.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. MORRISON], a member of the conference committee.

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the chairman for yielding. I want to commend the chairman and the chairman of the Housing Subcommittee, along with the ranking members on the Republican side.

I urge my colleagues to unanimously support this legislation and to send a message to 1600 Pensylvania Avenue that this Congress expects housing policy to be a major agenda item of this Government.

This legislation is far from perfect. It does not solve all the problems that we have and it does not have all the resources we would like to see to combat the lack of housing opportunity in our communities; but it lays an important basis for continued growth in the future.

This is reform legislation. This is improvement legislation. This does promote home ownership for low-income people through the Section 235 Program and the initiation of the Nehemiah Housing Program, good initiatives that allow low- and moderate-income people a chance at owning their own homes.

This legislation is concerned about the preservation of the housing stock. It has provisions to prevent the prepayment of mortgages on guaranteed housing opportunities for low- and moderate-income people and it is a step in the right direction.

It provides for the replacement of low-income public housing that may be destroyed or sold, guaranteeing that there will be realistic housing opportunities in place of those that are not able to be maintained because of inadequate or obsolete units. It extends antidiscrimination provisions in the section 8 programs so that section 8 certificates will no longer just be the opportunity to look, but the right to rent housing that is available.

It sets in motion a process which I hope will result in a short period of time in the ending of inadequate utility allowances for many in public housing.

Mr. Speaker, this is good, strong reform legislation. By passing it now we lay a baseline for future growth in adequate funding for housing for low- and moderate-income people.

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Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. MFUME], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. MFUME. Mr. Speaker, I rise in support of the conference report and I rise also to extend my thanks to the gentleman from Texas [Mr. GONZALEZ], the chairman of the Subcommittee on Housing and Community Development, and the gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking minority member for their leadership on this, as well as the chairman and ranking minority member of the full committee.

Just yesterday Baltimore United and Leadership Development, one of probably a hundred such organizations nationwide, came together to celebrate 10 years of existence and to celebrate also how they have worked so very hard towards passage of this legislation. I would expect that as we approach passage tonight, that that celebration is even more heightened.

The conference report, as we all know, does some good things. It expands the 202 Program, FHA is made permanent, and we have an extension of the Urban Development Action Grant Program, all so very necessary for cities. We have also the extension of the Community Development Block Grant Program, and we have something new in the establishment of the Nehemiah Program and the lead paint

demonstration projects that are a part of this important legislation.

This is national housing policy. It sets the Nation on the right course. I urge Members of this body to pass this bill unanimously to adopt the conference report, and I certainly urge that the President sign this significant piece of legislation into law.

Mr. ST GERMAIN. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CARPER], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. CARPER. Mr. Speaker, I rise in strong support of this conference report, and I commend not only the chairman of the full committee, but the chairman of the subcommittee and the members on both sides of the aisle for working out this compromise.

Mr. Speaker, if all other Federal programs had been cut as deeply as housing has been cut over the last 6 or 7 years, we would have no need for a budget summit. The reason is that not only would we have balanced budget, but we would have a surplus almost as large as the deficit that we face today.

This conference report says "enough is enough." I certainly believe that is true. Housing has been cut enough. This conference report addresses three issues that are particularly near and dear to my heart. I want to thank the gentleman from Texas [Mr. GONZALEZ] and those Members who stood by our committee's position on eradicating lead-based paint from public housing.

I want to thank the conference members for their work in ensuring that small States will have an FHA office.

Finally, I want to congratulate the conference members for making sure that we take some small steps toward ensuring that scarce housing resources are better targeted for truly needy families in this country.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in support of the conference report as one who previously has not supported it.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

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

Mr. Speaker, I want to conclude by stating that the road to this evening has been a very rocky one. It has been many years. I would state that the last significant housing bill was enacted in 1983 when it was tied to the IMF legislation.

How was this accomplished this evening? A lot of work by a lot of people, has led to this evening. However, I think that throughout, one of the more important factors involved was the fact that people kept their word. In the legislative process so much can be accomplished if Members can rely upon each other to keep their word.

Long ago in my introduction to the legislative process when I was first a member of the State legislature in Rhode Island, the long-time speaker of the house called me aside and said, "Remember, you are a young fellow. You have been elected at a very young age of 22. As you go through the process, if you can remember that your word is your bond, you will accomplish a great deal in the years ahead."

During this conference I found that with all my fellow conferees, both House and Senate, their word was their bond and that is why we are here this evening.

I urge adoption, and I hope that we have a unanimous vote on this conference report.

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

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

Mr. Speaker, I would just conclude by saying that the chairman has made an excellent point as far as the Members working together on this, and I think all of my colleagues would agree that after hearing the debate today, that there has been a lot of give and take that has gone into the making of this conference report.

The conferees eliminated most, if not all, of the controversial micromanagement provisions. We worked very well together indeed. I think all the conferees should be commended.

Like the chairman of the full committee, I urge all of the Members to vote for this bill and give approval to a job well done by the conferees.

I, too, would urge the President to sign the bill after it is passed by this body.

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

Mr. BONKER. Mr. Speaker, I rise in support of the conference report for S. 825, the Housing and Community Development Act of 1987. I commend Mr. GONZALEZ, chairman of the Housing Subcommittee, for his efforts in developing this legislation. I also would like to commend Senator CRANSTON, chairman of the Subcommittee on Housing and Urban Affairs, for his efforts on behalf of housing programs.

As chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, I have been extremely disturbed by the Reagan administration's retreat from the Nation's commitment to decent and affordable housing for every American. Housing budget authorizations have been cut by more than 70 percent from levels funded in the late 1970's. These cuts have run deeper than those for any other segment of the budget. They have come at a time when we face critical shortages in low-income housing, increases in our older population, and increased homelessness in many areas throughout our Nation.

As though past cuts were not enough, earlier this year the administration proposed cutting the remaining housing budget by another 28 percent. The President's proposed budget would have eliminated funding for new units of housing for the elderly, public housing, and rural housing as well as funds for important programs such as the Congregate Housing Services Program [CHSP].

Even its most ardent supporters acknowledge that the conference report that we pass today will fall far short of the goal of providing decent housing for all who need it. It is nonetheless imperative that the Congress pass a regular housing reauthorization for the first time since 1980.

I am pleased that S. 825 authorized $621,701,000 for fiscal year 1988 and $651,334,000 for fiscal year 1989 to provide for loans to build 12,000 section 202 units each of these years. The section 202 program is the primary Federal financing mechanism for constructing subsidized rental housing for older Americans. Through direct loans to private, nonprofit sponsors for use in developing section 8 housing, we provide much-needed housing designed specifically for the low-income elderly and the handicapped.

Some 150,000 units have been built since 1959, and I am pleased that S. 825 provides for additional units. Although 12,000 units does not meet the yearly need by any stretch of the imagination, it is essential that we continue to fund section 202 loans at whatever level our budget constraints will allow. I am also pleased to note that the conference report contains a substitute provision to permit the Secretary, on a project-by-project basis, to reduce the rent contribution to not less than 25 percent of adjusted income for each elderly family living in an efficiency unit in a public housing project if the Secretary determines that the reductions are likely to result in lower costs to the Federal Government as a result of minimizing vacancies.

I would also like to mention several changes in S. 825 of particular importance to our Nation's older citizens that deserve the support of this Congress. Among the most significant is a provision to permanently authorize the Congregate Housing Services Program [CHSP], at an increased level of $10 million for fiscal year 1988 and $10 million for fiscal year 1989. These funds would allow for the addition of the first new CHSP sites since 1983. The CHSP has been operating as a demonstration project since it was first authorized in 1978. S. 825 would also authorize an independent study to identify those elderly at risk of institutionalization as well as State programs and funding resources for congregate services at all levels of government. This study would make legislative recommendations on the future of the CHSP based on this data.

In July, I released a report that documents the success of the CHSP both in preventing premature institutionalizations and in making it possible for nursing home residents to return to more independent settings in their communities. By providing nonmedical, in-home services for frail, elderly, and handicapped residents of federally subsidized housing, the CHSP has often meant the difference be-

tween independence and institutionalization for the people it has served.

Perhaps the most innovative new initiative in S. 825 for older Americans is a demonstration program that will insure home equity conversion mortgages for up to 2,500 older homeowners. Older Americans are estimated to have over 600 billion dollars worth of equity tied up in homeownership. With declining income in late life, many older people find themselves to be house rich but cash poor. The Federal Home Equity Conversion Demonstration Program will limit the risks both to the lender through loan guarantees and to the older homeowner through consumer safeguards against displacement. I commend the efforts of a distinguished member of our subcommittee, Mr. WORTLEY, who offered this legislation in committee, and Senator HEINZ who has worked to include this program in the housing reauthorization legislation since we considered H.R. 1. A great deal of the credit must also go to Jo Reed of the American Association of Retired Persons, and Ken Scholen of the National Center for Home Equity Conversion for their commitment to this important concept for older adults.

This bill also takes a modest first step toward addressing a serious problem that, without remedial action, may precipitate a major crisis for low-income renters of all ages. Hundreds of thousands of units of federally assisted housing may be lost in the near future due to contract expiration and mortgage prepayment. The General Accounting Office [GAO] reports that over 1 million units funded under the section 8 voucher programs could be lost in the next 20 years if contracts are not renewed. Both GAO and the Congressional Budget Office [CBO] have issued reports warning that several hundred thousand mortgages subsidized under the section 221(d)(3) and section 236 programs could be prepayed with a resulting loss of subsidized units. S. 825 requires notification of HUD and State and local agencies. These provisions will allow HUD to offer incentives to maintain existing units by finding alternative owners. Unfortunately, it does not require prior notification of tenants by owners of low-income housing who want to prepay subsidized mortgages. It is my sense that we in Congress have just begun to address this important problem and that further efforts will be necessary to ensure that low-income and elderly residents ar not at risk of losing their homes.

Mr. Speaker, we can be proud of the fact that millions of Americans of all ages have received housing assistance through Federal action. However, our Nation's 50-year commitment to decent and affordable housing for every American remains unfulfilled. Two million eligible elderly households are receiving no Federal assistance. Waiting lists stretch into years at many housing facilities for older adults, and growing numbers of families desperately need shelter and services. Despite the current climate of fiscal restraint, it is essential that we maintain our commitment to assisted housing for low-income and elderly citizens. S. 825 goes a long way toward meeting this commitment considering the fiscal restraints under which we currently operate. I strongly urge my colleagues to support this important legislation.

Mr. ACKERMAN. Mr. Speaker, today the House will consider passage of the first free-standing housing authorization bill to come to the floor in 6 years. The measure contains desperately needed funding for Federal housing programs that have been slashed by more than 70 percent since President Reagan took office.

While housing programs have shouldered a disproportionate burden of budget cuts, homelessness has increased dramatically, and the number of families waiting for assisted housing has soared.

I am particularly pleased that the proposal addresses the increasing problem being faced by low-income families of finding themselves homeless due to the conversion of low-income housing to more expensive residential units or commercial property.

Under the conference agreement, low- and moderate-income housing that is demolished must be replaced by decent affordable housing. Replacement housing would have to be sufficient to house the same number of people as the demolished housing.

In addition, the measure authorizes $552 million over the next 2 years for the development and rehabilitation of rental housing, and establishes a new program and revolving fund to minimize the loss of low-income rental housing.

I urge my colleagues to demonstrate their support for reestablishing sound national housing policies by voting for passage of the bill.

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of this conference report. I want to thank my colleagues who serve on the Committee on Banking, Finance and Urban Affairs for bringing this conference report before the House. In particular, I want to thank Mr. GONZALEZ and his subcommittee staff for their fine work on this legislation.

I want to confine my remarks today to the provisions which are contained in section 544 of the conference report. These provisions are similar to those contained in section 444 of the House-passed bill. Those provisions were orginally proposed by the Honorable FRED UPTON, and I offered a floor amendment on June 11. This amendment was graciously accepted by Mr. GONZALEZ, Mr. UPTON, and by the House. The members of the conference have adopted this provision with several amendments which make further improvements. I will describe these specific changes later in this statement.

As one of the sponsors of this provision, I would like to explain generally how these provisions will be implemented and how they will affect the operation of the National Flood Insurance Program [NFIP]. Then I will describe, in greater detail, some of the technical and procedural issues which will need to be addressed through the rulemaking process.

All Members who represent coastal districts are familiar with the burgeoning problem of erosion. This is particularly true for our colleagues from the Great Lakes region, where rising water levels have exacerbated erosion which, in turn places coastal structures in a position of increasing risk of damage from storms and flooding. The direct relationship between erosion and flood risk is illustrated by the following quote from an article by Mr. Spencer M. Rogers, a coastal engineer at North Carolina State University.

While the threat to the building is greatly heightened by [erosion], the actual damage invariably occurs during a small storm event. One year or five year storms can result in total losses and high flood insurance claims which have routinely been paid in the past.

Clearly, erosion is the root-cause of many flood-related claims. Since the Federal Government, through the flood insurance program, is the principal insurer of high hazard coastal structures, shoreline erosion is insidiously increasing the financial exposure of the taxpayer. This provision can reverse that trend, and thereby avoid costly damages to coastal property.

Not only does the provision make good financial sense, it makes good common sense. Under the existing NFIP, property owners across the Nation are often put in a very difficult position. As erosion brings the water even closer to their home or business, they are faced with a catch-22 situation. Even though the structure is doomed to collapse, they cannot receive any payment until the damage actually occurs. They must sit helplessly by and await the inevitable. They could, of course, relocate the structure, but they would have to pay out of their own pocket. It doesn't take a mathematics scholar to figure out what the vast majority will do. They will let the structure fall and collect insurance for a total loss.

To demonstrate the calamity of the current situation, I would like to submit the following letter:

1250 S. WASHINGTON STREET
Alexandria, VA, August 3, 1987.

Congressman HENRY B. GONZALEZ,
Chairman Subcommittee on Housing and Community Development, 2129 Rayburn Building HOB, Washington, DC

DEAR SIR: This letter is to ask you to do everything in your power to see that the Congress will pass the amendment to the Housing Bill to included the provision to allow the Federal Flood Insurance to pay for moving homes in danger of being washed away because of erosion. This legislation was included in HR-4. I understand it is now being considered by the conference committee working on Senate Housing Bill S-825.

I own Property on the ocean at Nags Head, N.C. The home immediately next to me was condemned because the beach erosion left no place for their septic field. The house is fine . . . just a bit shaky on its foundation pilings. It is covered by the National Flood Insurance Program and so the owner will just wait for another storm to push it over. At that time the government will pay about $100,000 as a total loss to the owner. That is all it can do under current regulations. How much better if it were able to pay to move the house now. What a savings that would be. Multiply that savings by the number of homes in this position and you can see immediately the financial advantage to the government of passing this amendment.

My home, also insured by the National Flood Insurance is in imminent danger of being washed into the ocean. This home gives me a good income. I would much prefer to move it if I could get the financial help . . . if not, I'll just let it sit there and

soon I will lose it and National Flood will reimburse me for a total loss. What a shame that will be. It's a good home; it should be saved; it could be if you will do what is right.

I urge you to do what you can to assure passage of this Amendment.

Very truly yours,

MRS. R.C. MUTCHLER.

The situation described by Mrs. Mutchler is created, in part, because the existing NFIP does not acknowledge that erosion is a fact of life regarding coastal development. As erosion occurs gradually over the life of a structure, risk grows because exposure to wind and wave increases; at some definable point, collapse of the structure becomes imminent. It is at this point that implementation of the flood insurance program should be flexible enough to allow for an advance payment.

As proposed in section 544, an advance payment will allow the structure to be moved in an orderly and timely fashion. The homeowner will not be required to wait helplessly for the structure to collapse. The home will not be a health or safety hazard. The beaches will not be littered with debris. Local governments will not be burdened with the costs of cleanup.

In return for advance coverage, the owner will be required to meet minimal requirements for redevelopment or relocation. These requirements, referred to as "erosion setbacks," are designed to provide a margin of safety and will help prevent repetitive damages. Because relocation is cheaper than total loss, and because repetitive damages will be avoided through implementation or erosion setbacks, NFIP costs should be reduced over the long term.

The discussion above has generally outlined the manner in which this provision will work, and how it will change administration of the flood insurance program. Next I would like to cover the procedural and technical issues which will be involved in implementation.

The provisions of this amendment can only be triggered when the Director of the Federal Emergency Management Agency [FEMA] makes a final determination that a structure is subject to imminent collapse or subsidence. Therefore, FEMA will be responsible for developing regulations outlining uniform standards and procedures for making such determinations; these regulations will need to incorporate considerations of regional geology, expected erosion rates, sea-level rise, and storm periodicity and severity, among others. The intent will be to establish a process which results in the timely and accurate identification of structures which, with a high degree of certainty, are likely to collapse within the near future. The ultimate goal is to avoid structural collapse, and therefore total losses, where possible.

The process of identifying threatened structures begins at the State or local level. Using the FEMA regulations for guidance, State or local land use agencies will be able to make a preliminary identification of structures which are subject to imminent collapse. That agency will then submit a certification which will initiate consideration by FEMA. This role for State and local land use agencies is designed to speed the identification process and to provide the Director with information needed in making a final determination.

As a footnote, I would add that the amendment provides that the structural collapse must be the result of "waves or currents of water exceeding anticipated cyclical levels." This phrase was added because it parallels existing FEMA flood insurance regulations and because it has been helpful in applications in the Great Lakes region; for application to that region, any lake level in excess of the levels recorded in 1973 has been considered as exceeding anticipated cyclical levels. However, for areas of the ocean coast such distinctions will be less evident.

Most shorelines have consistent seasonal changes in wind speed and direction each year so the fluctuations appear as an annual cycle. For instance, in North Carolina the annual fluctuation is typically 75 to 100 feet with a wide summer beach and a narrow fall or winter beach. This "type" of erosion is generally not a problem for development because the sand that is removed offshore during winter storm periods returns with the relatively quiet summer season. These seasonal fluctuations can be anticipated. More problematic are gradual, long-term erosion and short-term erosion occurring rapidly during a brief but severe storm. These latter cases cannot usually be anticipated.

Once the Director has made a final determination concurring with the State or local certification, the appropriate insurance payment is authorized. The owner of the structure then bears responsibility to demolish or relocate the structure in compliance with these provisions, and with any relevant State or local regulations. The owner is required to take reasonable and prudent action to relocate or demolish the structure before it collapses. Failure to take such action will result in a limitation of benefits under the NFIP.

The amendment refers to "proper" demolition or relocation. This implies that the owner has the responsibility to comply with relevant statutory and regulatory requirements. In particular, any sewage or septic works must be completely removed.

Since physical relocation of a structure is less costly than demolition and replacement, the schedule of payment is different. For demolition, the owner will receive a maximum of 110 percent of the structure's value. The increment above 100 percent is provided to offset the cost of demolition, but in no case can this amount exceed 10 percent of the value of the structure.

A maximum of 40 percent of the structure's value is available for proper relocation. Eligible expenses would include: the severance and reconnection of utilities such as sewerage, gas, electric, and phone service; and the costs associated with the physical relocation of the structure, such as contractor, architectural, or engineering services. The costs of acquiring additional property would not be eligible, since the insurance policy covers the structure and not the property.

A major feature of my amendment to H.R. 4, on June 11, was the requirement for responsible redevelopment. This will be achieved by requiring, as a condition of eligibility for subsequent flood insurance or disaster aid, that the owner comply with minimal setback requirements.

One of the most effective approaches for managing coastal erosion hazards is the requirement that new buildings be placed at a specified distance from the shoreline—usually defined as the seaward line of stable dune vegetation—based on the annual rate of erosion. Such requirements are commonly known as "erosion setbacks". The general rule is that safety of a structure is increased as it is located farther away from the water. Erosion setbacks are presently enforced by a number of coastal States, including North Carolina. These States should provide FEMA with an important source of expertise in implementing the setback requirements under this section.

To implement the setback requirements FEMA will be required to develop nationwide data on erosion rates. These rates can be obtained by the comparison of vertical aerial photography or of shoreline maps. Shoreline comparisons are reduced to average, annual erosion rates—for example, feet per year—in order to calculate the applicable setback. These erosion rates can be published in tabular form. In many areas, such as North Carolina, reliable erosion rate information is already available.

The erosion setbacks are a crucial feature of this provision. A final determination by the Director of FEMA is an acknowledgment that the subject parcel of land is subject to high rates of erosion. Therefore, it is reasonable to place certain restrictions on redevelopment of that parcel, such as the minimum setbacks required under paragraph (5). These setbacks are based on the size of the structure to be built or relocated. A structure of four dwelling units or less must be placed landward of the 30-year erosion setback, while any other structure—including any commercial structure—must be placed landward of the 60-year erosion setback. These minimum setbacks are expected to help channel redevelopment into areas which are reasonably safe from damage over the expected life of the structure.

It should be emphasized that these setbacks are the minimum requirements for redevelopment. No flood insurance or disaster aid—except in life threatening situations—is available for any redevelopment which does not comply with the provisions of paragraph (5). However, this does not constrain FEMA from taking additional steps to further reduce the hazards related to erosion. To the contrary, the provisions of this section should be viewed as an important first step in dealing with the problem of erosion, and FEMA should be encouraged to take additional actions to fully utilize its existing authorities to address this problem on a broader scale.

For example, FEMA should work with State and local land use agencies—such as State coastal zone management offices—to develop adequate land use and erosion management practices. Efforts to identify erosion hazard areas and to assist State and local governments in avoiding inappropriate development of these areas would be desirable. Existing FEMA regulations provide for this type of planning process, and the erosion rate data gained through implementation of these

amendments will provide the data base necessary to support effective implementation.

This same erosion rate data can substantially improve administration of the insurance program. While the 30- and 60-year erosion setbacks have been established as minimum requirements, beyond which no flood insurance coverage may be obtained, insurance rates landward of the setback can be set to reflect the actuarial risk based on the rate of erosion over the life of the structure. Therefore, new flood insurance policies will more accurately reflect the long-term threat posed by erosion and owners may voluntarily decide to build even farther landward than required under these provisions in order to reduce their insurance premiums.

In the final portion of this statement, I would like to briefly describe the amendments proposed by the conference committee. First, there have been a number of relatively minor adjustments which are intended to clarify that FEMA is responsible for developing all regulations to implement these provisions and for making the final determination regarding the eligibility of any structure.

Second, the setback requirement was extended to 60 years for large structures—more than four dwelling units. This was due to a general recognition that large residential structures—condominiums—and commercial structures—hotels and restaurants—have a longer life expectancy and are more difficult to relocate.

Third, in order to increase the incentive for compliance with the setback requirements, the availability of disaster aid would also be restricted. Thus, a structure would be ineligible for low interest loans or other post-disaster assistance for repair or redevelopment. This restriction would not apply to assistance needed to protect lives and ensure safety.

The members of the conference committee are to be commended for making these constructive changes. The provision has been improved through their consideration.

Mr. Speaker, as I said earlier, this provision makes good sense. It is an important first step in coming to grips with its difficult national problem. It will make the flood insurance program more responsive, and it will provide the data needed to make further improvements. I ask my colleagues to support it by supporting passage of this conference report. I ask unanimous consent to revise and extend these remarks.

Mr. RAHALL. Mr. Speaker, after 6 long years without a freestanding housing authorization bill, I rise in very strong support of the conference report on the Housing and Community Development Act which authorizes $30.6 billion for fiscal year 1988 and fiscal year 1989 for most housing and community development programs administered by the Department of Housing and Urban Development and the Farmer's Home Administration. I am especially pleased that we are acting on this conference report because of the extreme importance of many of these programs to my home State of West Virginia.

Included in the conference agreement is authorization for $18.9 billion for assisted housing programs, which include section 8 low-income assistance, elderly and handicapped housing, new public housing, and grants for public housing comprehensive improvement assistance programs. These programs are heavily depended upon by many in West Virginia who face unfortunate circumstances beyond their control. These programs are of vital importance to the State as West Virginia continues to fight against one of the highest levels of unemployment in the country.

I am extremely pleased to note that, yet again, the Congress, contrary to the Reagan administration, has seen fit to reauthorize both the Urban Development Action Grants Program and the Community Development Block Grants Program. This measure authorizes $3 billion in both fiscal year 1988 and fiscal year 1989 for the CDBG Program and $225 million in each of these years for the UDAG Program.

The UDAG Program is uniquely able to target economic development assistance to distressed areas with special needs and has proven effective as a tool for the revitalization of depressed areas by leveraging substantial amounts of private investment. The value of this program to many areas in West Virginia cannot be stressed enough.

The city of Huntington, WV, which is in my congressional district, is seeking UDAG funding for its premier development site, dubbed the "super block." The super block would consist of shopping areas, gallery space, office and apartment complexes, and hotel space. The development of the super block is crucial to the revitalization of Huntington, the largest city in West Virginia, and would not be feasible without UDAG funding.

Again, I would like to reiterate my strong support for this long-overdue, much-needed authorization measure and I urge my colleagues' support as well.

Mr. DAVIS of Michigan. Mr. Speaker, I would like to add my support to section 544 of this report, which amends the National Flood Insurance Program. This section, which is based largely on a House floor amendment authored by Congressmen UPTON and JONES, grants homeowners the option of moving structurally sound structures which are threatened by coastal erosion and flooding away from the hazard area. As an incentive to restricting inappropriate placement of these homes, smaller structures must be placed landward of a 30-year erosion setback line and larger structures must be sited behind a 60-year erosion line to be eligible for future flood insurance.

This provision is critical to those who live along the Great Lakes, as demonstrated by a partial roster of those endorsing the bill—the State of Wisconsin, the Center for Great Lakes, Great Lakes United, the State of Michigan, and the Northeast-Midwest Coalition. The Great Lakes homeowners have been particularly hard hit, with over $300 million in damage having occurred along our fourth coast, mostly due to high water levels and winter storms.

My home State of Michigan has already imposed a setback requirement for new development along its Great Lakes shoreline. It is through this foresight that I hope that the devastation the Great Lakes States have experienced will not be repeated. I urge my colleagues from the Great Lakes States to support this opportunity for assistance and this opportunity to prevent costly future damage to our shoreline.

Mr. MOLINARI. Mr. Speaker, I rise in strong and enthusiastic support of the conference report on S. 825, the Housing and Community Development Act of 1987. The conference report contains the ceiling rent provision that I first introduced in the House in 1984. This measure allows public housing authorities to establish rents below the 30-percent income level for certain tenants based on operating expenses and debt service for apartments.

The experiences of public housing residents in my congressional district led me to get involved in the issue of ceiling rents. Over the past several years, many public housing officials and residents have told me that the current open-ended, rent-to-income policy for public housing tenants places a serious financial burden on working families. This short-sighted policy forces the most stable, working tenants out of public housing, thereby eroding the social and financial future of many projects and surrounding neighborhoods.

In response to this situation, I introduced legislation in the 98th, 99th, and 100th Congresses that would allow public housing authorities, at their discretion, to establish maximum rents based on operating expenses and debt service for units, as well as other relevant factors. A modified version of my legislation passed the House as part of H.R. 4 and has been included in the conference report that we have before us today.

A rent ceiling is necessary for the long-term future of this Nation's housing program. In order to maintain an economic mix—a cross-section of low, lower, and lowest income families—and prevent the isolation of the very poor, public housing authorities must have this flexibility. I believe enough evidence has been produced to illustrate that social change and economic mobility are enhanced by encouraging housing in which families of different incomes and age groups can live together.

The positive effect of the presence of working tenants in public housing cannot be denied. The New York City Housing Authority, which runs one of the most successful housing programs in the country, states that the integration of various income groups is one of the main reasons for its success over the past 50 years.

Apart from promoting an economic mix, there is another very important reason for allowing housing authorities to establish a rent ceiling. If the lower income working tenants are driven out of public housing due to the inability to pay a higher rent, there will be a drastic loss in rental income to the authority because the incoming tenants will have significantly reduced incomes and rent levels. The result of this would be increased operating subsidies by the Federal Government and the American taxpayer. In these times of great concern over Federal deficits, this does not seem to be the course of action we would want to follow.

I urge my colleagues in the House and Senate to support this conference report and hope the President will sign it. The ceiling rent provision contained it the measure will enhance the quality of life in our public housing developments.

Mr. GALLO. Mr. Speaker, I rise to support the Housing Conference Report on H.R. 4, the

Housing and Community Development Act of 1987, that provides $30.6 billion over the next 2 years for Federal housing and comnmunity development programs.

The bill would generally hold spending for most Federal housing programs at current levels. It would provide $3 billion for community development action grants and $225 million for urban development action grants.

I am particularly pleased that, under the bill, the Federal Housing Administration's home mortgage insurance program would be permanently reauthorized, and a $100 billion limit would be set on mortgages the FHA can insure next year.

The repeated interruptions in FHA lending authority over the past several years have disrupted the reliability of the mortgage lending process. With this permanent extension, the Congress has acted to avert future shutdowns of the FHA insurance program.

The conference agreement also authorizes $9.2 billion in fiscal 1988 and $9.7 billion in 1989 for federally assisted housing programs including low-income assistance, elderly and handicapped housing, new public housing and grants for public housing improvement assistance programs.

Mr. Speaker, I am, however, disappointed that this legislation does not fully address the fact that more than 950,000 units in privately owned buildings are in danger of being lost from the low-income housing stock over the next decade as regulatory restraints, that ensure their use as low- and moderate-income housing, expire.

Although there are provisions in the bill that try to address the problem that will result from building owners prepaying their HUD mortgages, I question whether they are either workable or constitutional. For this reason, I urge the Congress to revisit the problem of displaced tenants as quickly as possible.

The agreement also includes several new initiatives, including the President's fair housing initiative program to combat housing discrimination, the Nehemiah inner-city housing opportunity grant program, enterprise zones for distressed areas, and public housing child care and counseling programs.

Mr. Speaker, I urge my colleagues to recognize the strong bipartisan support that exists around the country for the reauthorization of our Nation's housing programs. I would further urge my colleagues to support the final adoption of this housing legislation on which so many of our citizens depend.

Mr. BUNNING. Mr. Speaker, I rise today in support of the conference report on S. 825, the HUD authorization for fiscal years 1988 and 1989.

As this body well knows I did not vote for the House version, H.R. 4, previously in committee or on the floor. However, like many other Members of Congress, this did not mean that I did not support the primary legislative provisions of the bill. I made my reasoning pretty clear. The funding was just too high.

In both the committee and on the floor, I supported a substitute offered by the ranking member of the House Banking Committee, Mr. WYLIE of Ohio. This substitute contained most of the same legislative provisions that were in H.R. 4. However, the Wylie substitutes were funded at lower levels—responsible levels.

I support this conference report for three major reasons. First, and foremost, the conference was able to bring the spending in the bill under control. The funding level of S. 825 of $15 billion in fiscal year 1988 and $15.6 billion in fiscal year 1989 is in the ballpark of the Wylie substitute. More importantly, it is $300 million less than the appropriation for fiscal year 1988 previously passed during the 100th Congress by this body. Therefore, the conference report actually saves money.

Second, the bill contains many legislative provisions that are important to the future of housing in America. One prime example of this is the permanent extension of the Federal Housing Administration insurance programs. I was cosponsor of H.R. 1228, a freestanding bill to permanently extend FHA. This provision is very important to me. It will insure to millions of Americans that their dream of homeownership is not forgotten in the Halls of Congress.

Finally, and quite frankly, it is time for a freestanding housing bill. It has been 7 years since a freestanding housing bill has been signed into law. One can make all kinds of arguments as to why a bill has not been enacted. Now, with this conference report, the finger pointing is behind us and we will have a bill before the President that has the support of the Congress.

Mr. Speaker, this is a historic day for housing in this Congress. We rise to consider a conference report that contains good legislative provisions and is properly funded. I urge support of the report.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 1326. I also wish to thank Congressman WAXMAN for his support in offering language on my behalf in the Health and Environment Subcommittee that targets funding to communities with high infant mortality rates.

The statistics clearly demonstrate the critical need for improved health care in medically underserved areas. In 1979, the U.S. Surgeon General established a nationwide goal for 1990 of no more than 9 deaths per 1,000 live births, and a rate not exceeding 12 deaths for any specific racial group. A goal was also set that, by 1990, 90 percent of all pregnant women should begin prenatal care in the first 3 months of pregnancy.

Sadly, however, the Department of Health and Human Services found last year, and I quote, that "achievement of these objectives is questionable"; 22 States will not meet the infant mortality objective for the general total or for black infants. These include my home State of Illinois—12 deaths per 1,000 live births total, and, among blacks, 22 deaths per 1,000 live births, Virginia—12/1,000 total, and 19.6/1,000 for blacks, South Carolina—14.7/1,000 total, and 20.7/1,000 for blacks, the District of Columbia—21/1,000 total, 24.3/1,000 for blacks, Michigan—11.7/1,000 total, 23.5/1,000 for blacks, and Pennsylvania—10.4/1,000 total, 21.3/1,000 for blacks.

If additional Federal resources are not targeted to areas with the most acute need, then we will continue to see an increase, instead of a decrease, in the number of infant deaths. In my own congressional district, many communities are facing an average infant mortality rate of 24.3 deaths per 1,000 live births. Indeed, the city of Chicago now ranks first in the Nation in infant mortality among blacks, at 23 deaths per 1,000 live births. Proper attention to those communities suffering from high rates of infant mortality will save lives and money.

The Southern Regional Task Force on Infant Mortality states that infant mortality is a measure of the overall health of a community, reflecting issues of distribution and equity, as well as the adequacy of our health care system. The adoption of H.R. 1326, including the special targeting language, will insure a swift response to those communities suffering from a high incidence of infant mortality.

I commend my colleagues in the Health and Environment Subcommittee for their adoption of this language, and I urge my colleagues to vote for H.R. 1326.

Mr. DAUB. Mr. Speaker, I support the conference agreement on S. 825, the Housing and Community Development Act of 1987. This legislation represents a bipartisan effort to address and correct problems facing the housing industry.

Perhaps the most important provision in S. 825 is the establishment of a permanent authority for the FHA mortgage insurance programs. A permanent FHA mortgage insurance authority will eliminate confusion and will assist lenders and homeowners.

This housing authorization bill will also allow the elderly to utilize part of the equity in their homes as liquid assets for health care and housing. This provision is both fair and farsighted.

Finally, S. 825 reflects the spirit of fiscal responsibility. The authorization level of $15 billion for fiscal year 1988 is lower than the amount spent in 1987. The House-Senate conferees walked a tightrope and balanced the needs of the housing industry with the need for fiscal constraint.

Mr. UPTON. Mr. Speaker, I rise in support of the conference report on S. 825, the Housing and Community Development Act of 1987. I commend the members of the conference, on both sides of the aisle, for their willingness to craft a bill that helps meet the housing needs of our Nation and improves existing Federal housing programs.

The conference report is a major improvement over the housing bill considered earlier by the House. I did not support passage of H.R. 4 earlier in this session because I felt that given today's budgetary constraints, our Nation could not afford a $15.9 billion housing package. The reduced funding authorized by this conference report greatly improves the chances that freestanding housing legislation will be passed for the first time in 6 years.

The conference report contains provisions to improve the National Flood Insurance Program which are very similar to those I introduced as H.R. 2500. H.R. 2500 was introduced to accomplish three objectives: To reduce pollution of our Nation's waterways caused by household debris, to provide much needed assistance to owners of shoreline homes damaged by floods or erosion, and to prevent abusive or excessive claims. For those Members not familiar with this provision, I would like to explain the intent of the provi-

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sions incorporated as section 544 of conference report 100-426.

During consideration of H.R. 4 by the full House, Congressman WATER JONES of North Carolina offered an amendment to the National Flood Insurance Program. The amendment, which I supported, was approved by voice vote. His amendment improved section 444 of H.R. 4 by designating that payments are to begin at the time a structure is certified to be in "imminent danger." His amendment provided a partial benefit to owners of certified structures to relocate them prior to collapse. In addition, the Jones amendment granted the Director of the Federal Emergency Management Agency authority to promulgate regulations defining the conditions in which a structure is "subject to imminent collapse."

Effective implementation of this provision will depend on the accurate and timely identification of structures which are subject to imminent collapse. FEMA will be responsible for developing regulations that outline uniform standards and procedures for making such determinations. Section 544 directs FEMA to promulgate regulations which define "subject to imminent collapse" in such a manner to allow owners of structures reasonable time to relocate or demolish them prior to actual collapse.

Section 544 is not intended to expand the cost of the National Flood Insurance Program. Section 544 only applies to those structures covered by the National Flood Insurance Program and those structures, with a high degree of certainty, are likely to collapse in the near future. I hope that FEMA will promulgate these regulations in compliance with congressional intent in the swiftest possible manner.

In conclusion, I wish to thank Mr. GONZALEZ, Mr. WYLIE, and Mrs. ROUKEMA for their hard work and perseverance on this issue. I urge my colleagues to support this conference report.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

Mr. MORRISON of Connecticut. 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 391, nays 1, not voting 41, as follows:

[Roll No. 417]

YEAS—391

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—1

Crane

NOT VOTING—41

Aspin
Biaggi
Bosco
Boxer
Brown (CA)
Bustamante
Coelho
Crockett
DeFazio
Dingell
Dixon
Dowdy
Dreier
Ford (TN)
Frost
Gephardt
Hansen
Kemp
Kleczka
Lancaster
Leland
Levine (CA)
Lowery (CA)
Mack
Madigan
McCurdy
McEwen
Moody
Neal
Oberstar
Pepper
Price (NC)
Rangel
Roberts
Roemer
Rose
Roybal
Schuette
Spratt
Walgren
Williams

□ 1915

Mr. STUMP and Mr. RUSSO changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DREIER of California. Mr. Speaker, I was unavoidably detained and was not able to vote on the conference report on the Senate bill, S. 825, Housing and Community Development Act of 1987.

Mr. Speaker, had I been present I would have supported the bill and I would have voted "yea."

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous and tabular material, on the conference report just agreed to.

The SPEAKER pro tempore (Mr. DURBIN). Is there objection to the re-

quest of the gentleman from Rhode Island?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 2752 do novo; S. 247, by the yeas and nays; H.R. 2167, by the yeas and nays; H.R. 519, by the yeas and nays; S.J. Res. 205, by the yeas and nays; H. Con. Res. 209, by the yeas and nays; and H.R. 2598, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

ENCOURAGING USE OF PROGRAM CROP ACREAGE TO CREATE GAME AND WILDLIFE HABITAT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2752, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2752, as amended.

The question was taken.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 29, not voting 42, as follows:

[Roll No. 418]

AYES—362

Ackerman	Borski	Conte
Akaka	Boucher	Conyers
Alexander	Boulter	Cooper
Anderson	Brennan	Coughlin
Andrews	Brooks	Courter
Annunzio	Broomfield	Coyne
Anthony	Bruce	Craig
Applegate	Bryant	Daniel
Atkins	Buechner	Darden
AuCoin	Bunning	Daub
Baker	Burton	Davis (IL)
Barnard	Byron	Davis (MI)
Barton	Callahan	de la Garza
Bateman	Campbell	Dellums
Bates	Cardin	Derrick
Beilenson	Carper	DeWine
Bennett	Carr	Dickinson
Bentley	Chandler	Dicks
Bereuter	Chapman	DioGuardi
Berman	Clarke	Donnelly
Bevill	Clay	Dorgan (ND)
Bilbray	Clinger	Dornan (CA)
Billey	Coats	Downey
Boehlert	Coble	Duncan
Boggs	Coleman (MO)	Durbin
Boland	Coleman (TX)	Dwyer
Bonior	Collins	Dymally
Bonker	Combest	Dyson
Early	Latta	Rostenkowski
Eckart	Leach (IA)	Roth
Edwards (CA)	Leath (TX)	Roukema
Edwards (OK)	Lehman (CA)	Rowland (CT)
Emerson	Lehman (FL)	Rowland (GA)
English	Lent	Russo
Erdreich	Levin (MI)	Sabo
Espy	Lewis (CA)	Saiki
Evans	Lewis (FL)	Savage
Fascell	Lewis (GA)	Sawyer
Fazio	Lightfoot	Saxton
Feighan	Lipinski	Schaefer
Fields	Livingston	Scheuer
Fish	Lloyd	Schneider
Flake	Lott	Schroeder
Flippo	Lowry (WA)	Schulze
Florio	Lujan	Schumer
Foglietta	Luken, Thomas	Sensenbrenner
Foley	Lukens, Donald	Sharp
Ford (MI)	MacKay	Shaw
Frank	Manton	Shays
Frenzel	Markey	Shuster
Gallegly	Marlenee	Sikorski
Gallo	Martin (IL)	Sisisky
Garcia	Martin (NY)	Skaggs
Gaydos	Martinez	Skeen
Gejdenson	Matsui	Skelton
Gekas	Mavroules	Slattery
Gibbons	Mazzoli	Slaughter (NY)
Gilman	McCloskey	Slaughter (VA)
Gingrich	McDade	Smith (FL)
Glickman	McGrath	Smith (IA)
Gonzalez	McHugh	Smith (NE)
Goodling	McMillan (NC)	Smith (NJ)
Gordon	McMillen (MD)	Smith (TX)
Gradison	Meyers	Smith, Denny (OR)
Grandy	Mfume	Smith, Robert (OR)
Grant	Mica	Snowe
Gray (IL)	Michel	Solarz
Gray (PA)	Miller (CA)	Solomon
Green	Miller (OH)	Spence
Gregg	Miller (WA)	St Germain
Guarini	Mineta	Staggers
Gunderson	Moakley	Stallings
Hall (OH)	Molinari	Stangeland
Hall (TX)	Mollohan	Stark
Hamilton	Montgomery	Stenholm
Hammerschmidt	Moorhead	Stokes
Harris	Morella	Stratton
Hastert	Morrison (CT)	Studds
Hatcher	Morrison (WA)	Sundquist
Hawkins	Mrazek	Sweeney
Hayes (IL)	Murphy	Swift
Hayes (LA)	Murtha	Synar
Hefley	Myers	Tallon
Hefner	Nagle	Tauke
Henry	Natcher	Tauzin
Herger	Nelson	Taylor
Hertel	Nichols	Thomas (CA)
Hiler	Nowak	Thomas (GA)
Hochbrueckner	Oakar	Torres
Holloway	Obey	Torricelli
Horton	Olin	Towns
Houghton	Ortiz	Traficant
Howard	Owens (NY)	Traxler
Hoyer	Owens (UT)	Udall
Hubbard	Oxley	Valentine
Huckaby	Panetta	Vander Jagt
Hughes	Parris	Vento
Hutto	Pashayan	Visclosky
Hyde	Patterson	Volkmer
Ireland	Pease	Vucanovich
Jacobs	Pelosi	Watkins
Jeffords	Penny	Waxman
Jenkins	Perkins	Weber
Johnson (CT)	Petri	Weiss
Johnson (SD)	Pickett	Weldon
Jones (NC)	Pickle	Wheat
Jones (TN)	Porter	Whittaker
Jontz	Price (IL)	Whitten
Kanjorski	Pursell	Wilson
Kaptur	Quillen	Wise
Kasich	Rahall	Wolf
Kastenmeier	Ravenel	Wolpe
Kennedy	Ray	Wortley
Kennelly	Regula	Wyden
Kildee	Richardson	Wylie
Kolbe	Ridge	Yates
Kolter	Rinaldo	Yatron
Konnyu	Ritter	Young (AK)
Kostmayer	Robinson	
LaFalce	Rodino	
Lagomarsino	Roe	
Lantos	Rogers	

NOES—29

Archer	DeLay	Packard
Armey	Fawell	Rhodes
Badham	Hopkins	Shumway
Ballenger	Hunter	Smith, Robert (NH)
Bartlett	Inhofe	Stump
Bilirakis	Kyl	Swindall
Brown (CO)	Lungren	Upton
Cheney	McCandless	Walker
Crane	McCollum	Young (FL)
Dannemeyer	Nielson	

NOT VOTING—42

Aspin	Ford (TN)	Moody
Biaggi	Frost	Neal
Bosco	Gephardt	Oberstar
Boxer	Hansen	Pepper
Brown (CA)	Kemp	Price (NC)
Bustamante	Kleczka	Rangel
Chappell	Lancaster	Roberts
Coelho	Leland	Roemer
Crockett	Levine (CA)	Rose
DeFazio	Lowery (CA)	Roybal
Dingell	Mack	Schuette
Dixon	Madigan	Spratt
Dowdy	McCurdy	Walgren
Dreier	McEwen	Williams

□ 1930

The Clerk announced the following pairs:

On this vote:

Mr. DeFazio and Mr. Dixon for, with Mr. Lowery of California against.

Mr. Leland and Mr. Moody for, with Mr. Mack against.

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

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to encourage the use of program crop acreage for the purpose of creating game and wildlife habitats, feeding areas, and sanctuaries by protecting farm program crop acreage bases."

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DURBIN). The Chair wishes to announce that votes will now be taken in the following order:

S. 247, H.R. 2167, H.R. 519, S.J. Res. 205, H. Con. Res. 209, and H.R. 2598, all by the yeas and nays.

Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

DESIGNATING THE KERN RIVER AS A NATIONAL WILD AND SCENIC RIVER

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 247.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 247 on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 26, not voting 44, as follows:

[Roll No. 419]

YEAS—363

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—26

Armey
Badham
Barton
Burton
Cheney
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Hammerschmidt
Herger
Hunter
Kyl
Lungren
McCandless
Oxley
Packard
Sensenbrenner
Shumway
Smith, Denny (OR)
Solomon
Stangeland
Stump
Thomas (CA)
Wortley

NOT VOTING—44

Aspin
Biaggi
Bosco
Boxer
Brown (CA)
Bustamante
Coelho
Crockett
DeFazio
Dingell
Dixon
Dowdy
Dreier
Ford (TN)
Frost
Gephardt
Hansen
Kemp
Kleczka
Lancaster
Leland
Levine (CA)
Lewis (CA)
Lowery (CA)
Mack
Madigan
McCurdy
McEwen
Moody
Neal
Oberstar
Pepper
Price (NC)
Rangel
Roberts
Roemer
Rose
Roybal
Schuette
Spratt
Sweeney
Swift
Walgren
Williams

□ 1940

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RAILROAD UNEMPLOYMENT INSURANCE AND RETIREMENT IMPROVEMENT ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2167, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 2167, as amended, on which the yeas and nays are ordered.

This is a 5-minute rollcall vote.

The vote was taken by electronic device, and there were—yeas 366, nays 24, not voting 43, as follows:

[Roll No. 420]

YEAS—366

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Baker
Ballenger
Barnard
Barton
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha

Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—24

Archer
Armey
Badham
Bartlett
Brown (CO)
Burton
Cheney
Crane
Dannemeyer
DeLay
Herger
Hunter
Ireland
Kolbe
Kyl
Lungren
Packard
Sensenbrenner
Shumway
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Swindall
Walker

NOT VOTING—43

Aspin
Biaggi
Bosco
Boxer
Brown (CA)
Bustamante
Coelho
Crockett
DeFazio
Dingell
Dixon
Dowdy
Dreier
Ford (TN)
Frost
Gephardt
Hansen
Kemp
Kleczka
Lancaster
Leland
Levine (CA)
Lott
Lowery (CA)
Mack
Madigan
McCurdy
McEwen
Michel
Moody
Neal
Oberstar
Pepper
Price (NC)
Rangel
Roberts
Roemer
Rose
Roybal
Schuette
Spratt
Walgren
Williams

The Clerk announced the following pairs:

On this vote:

Mr. DeFazio and Mr. Mack for, with Mr. Lowery of California against.

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FRENZEL. Mr. Speaker, on rollcall No. 420 on the bill, H.R. 2167, I voted "yea."

I would like the RECORD to show that I voted in error and intended to vote "nay."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2167, RAILROAD UNEMPLOYMENT INSURANCE AND RETIREMENT IMPROVEMENT ACT OF 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2167, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing this bill.

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

There was no objection.

SWAN FALLS WATER RIGHTS AGREEMENT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 519, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 519, as amended, on which the yeas and nays are ordered.

This is a 5-minute rollcall vote.

The vote was taken by electronic device, and there were—yeas 393, nays 0, not voting 40, as follows:

[Roll No. 421]

YEAS—393

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer

Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—40

Aspin
Biaggi
Bosco
Boxer
Brown (CA)
Bustamante
Coelho
Crockett
DeFazio
Dicks
Dingell
Dixon
Dowdy
Dreier
Ford (TN)
Frost
Gephardt
Hansen
Kemp
Kleczka
Lancaster
Leland
Levine (CA)
Lowery (CA)
Mack
Madigan
McEwen
Moody
Neal
Oberstar
Pepper
Rangel
Roberts
Roemer
Rose
Roybal
Schuette
Spratt
Walgren
Williams

□ 1955

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS THAT U.N. GENERAL ASSEMBLY RESOLUTION 3379 SHOULD BE OVERTURNED

The SPEAKER pro tempore (Mr. DURBIN). The pending business is the question of suspending the rules and agreeing to the Senate joint resolution, S.J. Res. 205.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LANTOS] that the House suspend the rules and agree to the Senate joint resolution, S.J. Res. 205, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 0, not voting 39, as follows:

[Roll No. 422]

YEAS—394

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—39

Aspin
Biaggi
Bosco
Boxer
Brown (CA)
Bustamante
Coelho
Crockett
DeFazio
Dingell
Dixon
Dowdy
Dreier
Ford (TN)
Frost
Gephardt
Hansen
Kemp
Kleczka
Lancaster
Leland
Levine (CA)
Lowery (CA)
Mack
Madigan
McEwen
Moody
Neal
Oberstar
Pepper
Rangel
Roberts
Roemer
Rose
Roybal
Schuette
Spratt
Walgren
Williams

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS WITH RESPECT TO DEMONSTRATIONS IN LATVIA COMMEMORATING LATVIAN INDEPENDENCE DAY

The SPEAKER pro tempore (Mr. DURBIN). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 209.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LANTOS] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 389, nays 0, not voting 44, as follows:

[Roll No. 423]

YEAS—389

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly

Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—44

Aspin
Barnard
Biaggi
Bosco
Boxer
Brown (CA)
Bustamante
Coelho
Crockett
DeFazio
Dingell
Dixon
Dowdy
Ford (TN)
Frost
Gephardt
Gingrich
Hansen
Hawkins
Hochbrueckner
Kemp
Kleczka
Lancaster
Leland
Levine (CA)
Lowery (CA)
Mack
Madigan
McEwen
Moody
Neal
Oberstar
Pashayan
Pepper
Rangel
Roberts
Roemer
Rose
Roybal
Scheuer
Schuette
Spratt
Walgren
Williams

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2005

COMMERCIAL FISHING INDUSTRY VESSEL ANTI-REFLAGGING ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2598, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2598, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 351, nays 40, not voting 42, as follows:

[Roll No. 424]

YEAS—351

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Ballenger
Bateman
Bates
Bellenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Daniel
Darden
Davis (MI)
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Watkins
Waxman
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—40

Armey
Badham
Baker
Bartlett
Barton
Bereuter
Boulter
Brown (CO)
Burton
Cheney
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dreier

Fawell	Ireland	Shumway
Fields	Kyl	Smith (NE)
Frenzel	Leach (IA)	Solomon
Gekas	Lightfoot	Stump
Green	Morella	Walker
Hefley	Nielson	Weber
Herger	Packard	
Hopkins	Pickle	

NOT VOTING—42

Aspin	Frost	McEwen
Barnard	Gephardt	Moody
Biaggi	Hansen	Neal
Bosco	Hawkins	Oberstar
Boxer	Hochbrueckner	Pepper
Brown (CA)	Hunter	Rangel
Bustamante	Kemp	Roberts
Coelho	Kleczka	Roemer
Crockett	Lancaster	Rose
DeFazio	Leland	Roybal
Dingell	Levine (CA)	Schuette
Dixon	Lowery (CA)	Spratt
Dowdy	Mack	Walgren
Ford (TN)	Madigan	Williams

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN GOVERNMENT OF UNITED STATES OF AMERICA AND GOVERNMENT OF JAPAN CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, including an implementing agreement pursuant to Article 11 of the proposed agreement. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the Nuclear Proliferation Assessment Statement by the Director of the United States Arms Control and Disarmament Agency concerning the agreement. The joint memorandum submitted to me by the Departments of State and Energy, which includes a summary of the provisions of the agreement, the views of the Director of the United States Arms Control and Disarmament Agency, and an analysis of the approvals and consents contained in the agreement, including the implementing agreement, and associated subsequent arrangements are also enclosed.

I also enclose for your information the texts of a proposed subsequent arrangement under the United States-Norway Revised Agreement for Cooperation Concerning Peaceful Uses of Nuclear Energy and a proposed subsequent arrangement under the United States-EURATOM Additional Agreement for Cooperation Concerning Peaceful Uses of Atomic Energy. These subsequent arrangements are designed to give effect to certain provisions of the United States-Japan implementing agreement and will enter into force only after the agreement enters into force. They are being processed by the Department of Energy in accordance with the applicable provisions of the Atomic Energy Act of 1954, as amended.

The proposed agreement with Japan, including the implementing agreement, has been negotiated in accordance with the Nuclear Non-Proliferation Act of 1978 (NNPA). In my judgment it meets all statutory requirements. It will supersede our 1968 agreement with Japan and, given the magnitude of our long-standing cooperation with Japan in the peaceful uses of nuclear energy, will represent the most significant achievement to date in our program initiated pursuant to section 404(a) of the NNPA to update all existing agreements for peaceful nuclear cooperation to include the more stringent standards established by that Act.

I believe that the new agreement will strengthen the basis for continued close cooperation between the United States and Japan in the peaceful nuclear area and that it will further the non-proliferation and other foreign policy interests of the United States. The implementing agreement provides Japan advance, long-term consent for reprocessing, transfers, alteration, and storage of nuclear material subject to the agreement, provided that the reprocessing and subsequent use of the recovered plutonium meet and continue to meet the criteria set out in U.S. law, including criteria relating to safeguards and physical protection. These arrangements should enable Japan to plan for its long-term energy needs on a more assured, predictable basis, while at the same time embodying the most advanced concepts of physical security and safeguards of any agreement. This step forward in our cooperative relations with Japan will be consistent with the NNPA's injunction to take such actions as are required to confirm the reliability of the United States as a nuclear supplier consistent with non-proliferation goals.

Japan is not only a close ally of the United States but is also a party to the Treaty on the Non-Proliferation of Nuclear Weapons and has long been one of the strongest supporters of the international non-proliferation regime. Moreover, the United States and Japan have a substantial identity of views and intentions with regard to preventing nuclear proliferation and are prepared to work together on measures that will contribute to the prevention of proliferation consistent with the peaceful uses of nuclear energy. An exchange of letters between the United States and Japan, the text of which is included in the agreement package, sets forth in detail our shared views on non-proliferation.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

I have also found that this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, and therefore, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

RONALD REAGAN.

THE WHITE HOUSE, *November 9, 1987.*

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AMERICAN STRATEGY: A WORTHY PAST, AN UNCERTAIN FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, I rise today to deliver the fourth of my five speeches on military strategy and military education. I want to focus these remarks on the lessons of history. As a wise man once said, "Those who are ignorant of history are condemned to repeat it." I believe all of us, including our military leaders, have much to learn from America's history.

In days gone by, Mr. Speaker, America produced military leaders of great strategic vision. We never lost a war until Vietnam, and that was partly be-

cause until Vietnam we always produced strategies equal to their task. Time and again, in America's hour of need, we produced able leaders and brilliant strategists who led our troops to victory.

George Washington was the first and one of the greatest of these strategists. His strategy was simple. It was one of attrition: to block the British advance into the interior, to hold the fledging American Army together, and to avoid its destruction at all costs. As long as the Continental Army existed, the revolution was alive. And as long as the Army had as a commander a man of strategic vision, it was a threat to our enemy.

In the end, the strategy paid off. When the British General Cornwallis retreated to the Yorktown peninsula, Washington got the French fleet to blockade his Army from the sea, while he himself marched most of the American Army to attack the British by land. The result was the great American victory at Yorktown, which decided the war in favor of the young United States.

Of course, George Washington did not win the war alone. Besides his strategic vision and unflagging valor, he needed the dedication and patriotism of his troops, and the aid of some outstanding subordinate generals. Washington's contribution was in the field of strategy, the planning of the whole war. The job of his top subordinates, like Gen. Nathanael Greene, was in the planning of single campaigns. General Green's campaign in the South in 1781 was a brilliantly conceived plan of attrition. His strategy was to lure the British General Cornwallis far from its outposts in the Carolinas and Georgia, and then isolate and destroy the outpost. He won hardly any major battles, but he won the campaign: at the end of it, he had destroyed British power in most of the South, and the stage was set for Washington's victory at Yorktown.

America's war against Mexico produced another great American strategist, Gen. Winfield Scott. General Scott understood, even better than did President James K. Polk, that the only way to win a decisive victory was to strike at the enemy's center of gravity. For Mexico, the center of gravity was the government in Mexico City. General Scott's strategy was to land an army at Vera Cruz on the Mexican coast—in the first major amphibious landing in American military history—and then to strike directly at Mexico City. At first, General Scott had trouble convincing the President that such a landing was necessary, but in the end General Scott was proved right: it was his march on Mexico City which finally won the war.

In the war between the States, the outstanding strategist was Lt. Gen. Ulysses S. Grant. It was Grant who, after his appointment as General in Chief in 1864, devised the strategy which finally brought that tragic war to a close. He proposed to bring to bear the decisive superiority of economic resources and manpower to defeat the Confederacy. He would stop Gen. Robert E. Lee from using his interior lines by severing his rail and road links with other parts of the Confederacy. With this end in mind, during the last year of the war, Grant gave strategic direction to field five armies.

As with the victories of Washington and Scott, the key to General Grant's success was his ability to pick an objective and stick with it. Grant's predecessors had all given up on their plans after suffering setbacks in battles against the gallant and tactically brilliant Robert E. Lee. It was U.S. Grant's determination which allowed him to press on and succeed, and end the war, where others had failed.

I believe that the most brilliant display of American strategic planning came in the Second World War. Of the great American soldiers and sailors of that war, the greatest strategist was undoubtedly Gen. George C. Marshall, the Chief of Staff of the United States Army. General Marshall deserves most of the credit for pushing through the strategic plan most responsible for bringing the war in Europe to a successful conclusion: the D-Day invasion of Normandy on June 6, 1944. This strategy was much like Winfield Scott's: to land on the enemy-held coast—in this case in France—and attack and occupy the enemy's heartland—Germany. Marshall's most important contribution, as was General Scott's, was to convince the President that the other strategies he was considering would not work as well.

In the Pacific War, Marshall was aided by field commanders who were themselves great strategists: Gen. Douglas MacArthur and Adm. Chester Nimitz. The collaboration of these three great American commanders resulted in a masterful innovation: the strategy of island hopping. Using this strategy, the American forces attacked only a few of the hundreds of islands occupied by the Japanese—only the ones needed as bases to prepare for an attack on Japan itself. The rest of the occupied islands were bypassed and isolated by our Navy, so we did not have to attack them and they posed little threat. This strategy followed the same principle as our strategy in Europe—striking toward the enemy's center of gravity. And the result, as in Europe, was a quicker end to the war.

What all of these great American strategists had in common was an ability to see the main goal, and to devise a way to achieve it. Then they had the courage to warn political leaders insistently against strategies that they knew would not work. Washington endured, and triumphed; Scott attacked, and won; Marshall planned, and conquered.

In Vietnam, as in those earlier wars, we has a clear objective: pacification is what we called it. It meant making sure that that the people of South Vietnam could go about their lives in peace, free from the fear of Communist attack. It meant, simply, securing the countryside and the cities. But we could not do this directly. We could help the South Vietnamese do it for themselves, but we could not do it for them.

As it turned out, we became confused in our strategy, neither making an all-out effort to pacify the country ourselves nor helping the South Vietnamese to do it. We just tried to kill enemy soldiers, which is not at all the same thing. We had search-and-destroy missions, bombing missions, and attacks with helicopters and artillery. And we fought Communist offensives. Some of this was unavoidable. But we lost sight of the main goal because we did not have a clear strategy reminding us of what that goal was. We did not pacify the countryside or the cities. We did not organize them so they could successfully defend themselves. So when we swept an area, the enemy would simply leave, and come back after our troops left. Our troops would patrol villages during the day, and theirs would collect taxes from the same villages at night.

As the deputy American commander in Vietnam, Gen. Bruce Palmer, later wrote, "We demonstrated that our troops could defeat the best that the Viet Cong and the North Vietnamese Army had to offer, but this was not our basic objectives." The situation was exactly the reverse of General Greene's campaign in the American Revolution. General Greene lost most of the battles but won the campaign, and in the end we won the war. In Vietnam, we never lost a battle, but we lost the war.

We failed because our stategy failed. The irony is that the ideas for a winning strategy were written down, long ago, but no one seems to have thought to consult them. The French Marshall Gallieni, who helped save Paris from German capture in World War I, had pacified parts of North Vietnam in the 1890's. He and some of his students published a series of brilliant studies of how to win counterinsurgency wars. The ideas in those books were the result of the personal experiences of Marshall Gallieni and others in winning those kinds of wars all over Africa and Southeast Asia. But our leaders hardly studied what those Frenchmen wrote, and used few of their methods. So we lost.

Now I do not mean to imply that our Nation's military leaders were solely or even mostly to blame for our defeat

in Vietnam. It was mostly a failing of our political leadership. Our political leaders did not really understand who the enemy was, so they developed a political strategy that aimed at the wrong enemy. They thought that by impressing the Soviets with our determination, we could stop the North Vietnamese offensive. President Johnson did not want to fight a war; he backed into it trying to avoid a defeat. Because he did not fully realize we were fighting a war against the Vietnamese Communists, he did not set out to win it.

And because the President did not want to pay the political price of admitting we were really in a war, he imposed on the military restrictions which made it almost impossible to achieve victory. he did not organize the command structure on a wartime footing, so command in Vietnam was not unified—no one was in charge. He refused to mobilize the Reserves, depriving the generals of the men they needed to win, and at the same time insisted that they defend everything. In trying to keep the war limited, he insisted on respecting the dubious neutrality of both Cambodia and Laos, and so ensured that Communist supply lines remained open.

The Vietnam tragedy happened because all our leaders failed. The White House focused on the wrong enemy, failed to unify command in the field, and saddled our generals with political constraints both great and petty, sometimes wisely but often not. And it did not give the generals enough to win. While the military effort was aimed at the right enemy—the Vietnamese Communists—it fought with one hand tied behind its back. Because the President was unwilling to pay the price of victory, he ensured we would have to suffer the costs of defeat.

Our generals' great failure was that they did not point out that simple fact. As General Palmer wrote, "The JCS seemed to be unable to articulate an effective military strategy that they could persuade the Commander in Chief and the Secretary of Defense to adopt. Not once during the war did the JCS advise the Commander in Chief or the Secretary of Defense that the strategy being pursued most probably would fail."

My concern, Mr. Speaker, is that we are now making those same mistakes over again in the Persian Gulf. As in Vietnam, our goals and interests are clear. There are lists and lists of them: keeping the oil flowing from the Persian Gulf; containing Soviet expansion; containing Iranian power; bolstering American prestige; supporting moderate Gulf states; ending the war. But as in Vietnam, how our policy can finally achieve those goals and interests is far from clear.

The greatest danger, ironically, is that for now the policy seems to be working. The oil is flowing, Soviet and Iranian power is checked, and our prestige in the region is rising. But the dangers that deviled us in Vietnam are also threatening, while the administration appears to be too complacent to see it. The Iranians take advantage of our self-imposed restrictions by attacking targets, such as Kuwaiti oil facilities, which we cannot protect or avenge. And should the Iranians choose to escalate their attacks, drawing us deeper into the conflict, the Soviets may be irresistably tempted to supply them. All they have to do is keep the Iranians supplied with such weapons as mines, speedboats, and missiles to replenish Iranian stocks when they run out of silkworms. At that point, winning will become nearly impossible, fighting excessively painful, and withdrawal unacceptably costly.

What we need, and what we do not seem to have, is a coherent combined political can military plan of action. The only way we can ensure that all our interests are protected is to end the war. Until the war ends the oil supply will always be in danger, and Iranian power continually a threat. So the real goal of our efforts must be to end the war, not as something that would be a nice outcome, which is the way the administration seems to be treating it, but as an indispensable requirement for our national security. So all of our efforts must be bent in that direction. The reflagging operation can only be a temporary measure until peace is achieved.

Since we are obviously not going to intervene in the Iran-Iraq war in order to force the Iranians to accept peace, this means that our main tool must be diplomacy—backed by military power, not spearheaded by it. We must get the international community to act to force the Iranians to accept, as a first step, a cease-fire. And we must put enough pressure on the Iranians so they will and need one.

The adminstration does not want to do this because it would be too painful. We might have to ask the Soviets for diplomatic support, since we certainly cannot succeed against their opposition. We might have to apply firm pressure against friends and allies, including Israel and China, to stop arming the Iranians. We might even have to take the United Nations seriously and work to get it to act. Some of this has been done, but nowhere nearly enough.

What I have outlined here is not the only possible approach to protecting our interests. But having a strategy—a political strategy and a military strategy—is the only way to protect those interests. We need for our political leadership to formulate a plan to solve the problems we face, and not merely act to stave off catastrophe. They need to specify what the military role in that plan will be. And then our military leaders need to formulate a military strategy to achieve the goals the political leadership assigns to them. That strategy has to include provisions for dealing with all of the likely responses, end runs, and covert actions the Iranians might respond with. And the strategists need to be clear about what they cannot do, about what won't work. All of that planning is necessary if we are going to achieve our goals. But as far as I can tell, we do not have much of it done now.

Mr. Speaker, when in the past our political and military leaders devised strategies for achieving goals, and when our military leaders firmly opposed bad strategies, our goals were achieved. When leaders did not think carefully about strategy, we have all too often failed. Mr. Speaker, this is one of the lessons of history we need to learn. We cannot afford to continue to fail. The stakes are too high; the price of success must be paid, if we are to avoid the costs of failure. Part of that price is that the people in the White House and the Pentagon must think clearly about strategy, and they must be able to explain that strategy clearly to the American people. I do not think that should be too much to expect.

RESCUE DEMOCRACY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, Haiti's November 29 elections for President and Congress are now only 21 days away and the leader of the military junta, General Namphy, last Friday proclaimed himself or promoted himself to the position of Commander in Chief. He was just a general before; now he is Commander-in-Chief.

We can see the handwriting on the wall. I suppose his next step will be to proclaim himself Commander in Chief for life following the pattern of Francois Duvalier who proclaimed himself president for life and then when he died proclaimed his son as his heir for life.

We are on the road to more of the same in Haiti unless the U.S. Government intervenes.

General Namphy and his junta are creations of the U.S. State Department. They do not have any legal basis at all. The only body in Haiti that does have some legal basis that was created by the new Haitian constitution is the provisional electoral council. The provisional electoral council is under direct attack by General Namphy's military thugs.

Last Friday the New York Times in an editorial entitled "Rescue Democra-

cy in Haiti" called for the U.S. State Department to organize an inter-American effort to save the Haitian electoral process, in the wake of the recent violence in Haiti. The New York Times editorial says in part, "The divisions are now inescapably clear. On one side stand the Haitian people, the National Electoral Council and the democratic cause; on the other side, the Namphy junta and Duvalierist thugs. What possible reason is there for the United States to stay on the wrong side?"

Mr. Speaker, I ask unanimous consent to have this editorial reprinted in full in the CONGRESSIONAL RECORD.

The editorial referred to and a report are as follows:

[From the New York Times, Nov. 6, 1987]

RESCUE DEMOCRACY IN HAITI

At the voting urns and in the streets, Haiti's people have declared themselves emphatically in favor of a free presidential election later this month. But Gen. Henri Namphy's ruling junta is not impressed. This week it showed itself, at best, barely willing to lift a finger to safeguard the democratic process. Once again, the democrats have the people but not the guns.

The Reagan Administration once plausibly claimed that backing the junta assured prompt elections. Now it needs to defend democracy more forcefully. Just imagine what it would say about an election conducted under these conditions in, say, Nicaragua. It's urgent now for the State Department to organize an inter-American effort to rescue the Haitian election process.

Though desperately poor, Haitians care passionately about their democratic rights. They voted in surprising numbers for a new democratic Constitution. And when the Namphy junta tried to usurp the constitutional role of the independent National Electoral Council, they angrily took to the streets, compelling the junta to back down.

But even that did not secure an unimpeded electoral process. In recent months, the junta has permitted a climate of fear reminiscent of the Duvalier era. Nights bring murder and mayhem from thugs who always manage to escape justice. Days bring deadly violence from troops and police.

The targets have not just been random. One political leader was hacked to death by a rural mob. Another was gunned down while speaking outside police headquarters. This week, shots were fired into the offices of a presidential candidate. the Electoral Council's headquarters was set ablaze. A ballot-printing plant was burned.

The divisions are now inescapably clear. On one side stand the Haitian people, the National Electoral Council, the democratic cause; on the other, the Namphy junta and Duvalierist thugs. What possible reason is there for the United States to stay on the wrong side?

REPORT ON VISIT TO HAITI, OCTOBER 22-23, 1987, HON. JIMMY CARTER AND HON. GEORGE PRICE

First, as members of the Council of Freely-Elected Heads of Government, we were invited to observe Haiti's electoral process by the Haitian Provisional Electorial Council (CEP) and the International Institute of Haiti for Research and Development (IHRED), which has been assisting the electoral process. Due to the recent murders of two Haitian Presidential candidates, we were advised by Haitian leaders and specialists of Haiti that an immediate trip as the voter registration process got underway would be helpful.

Second, the purpose of our visit was not to endorse a candidate or a party, but rather to lend our support to the democratic process. We observed the registration process and met with the leaders of the government (C.N.G.), the members of the Electoral Council, Catholic and Protestant Church leaders, union and business leaders, and many of the Presidential candidates. We also had an opportunity to meet and speak with people on the streets of Port-au-Prince.

Third, as a result of these meetings, we reached the following conclusions:

The Haitian people are expecting to improve their lives through the democratic process and are committed to participating in free elections.

The CEP (Electoral Council) has achieved an independent and credible standing among the Haitian people, and its courageous members are determined to organize and supervise free elections despite frequent and numerous threats. Municipal elections are planned for November 15, and elections for the President and Legislative Assembly are to occur on November 29.

The CEP is currently evaluating the applications of 35 Presidential candidates. The Constitution, approved by referendum in March 1987, requires that the CEP exclude those candidates who were associated with the Duvalier governments, and the CEP indicated that they will uphold this provision, despite its very controversial nature. (The members implied that if they do not exclude Duvalierist candidates, they would lose the support of the people, but that excluding these candidates could lead to a violent reaction that might enjoy the support of some in the armed forces.) The CNG (the government Junta) said that they would uphold the Constitution and maintain order for the elections.

The CNG has offered to cooperate with the CEP to make the elections peaceful and successful, but as of yet, there are few, if any, signs of cooperation. The CEP has insisted on its independence, but has requested help from the government to use schools for registration and government transportation for voters. The CPE has not yet received a response from the government.

The Churches are well-informed and have lent their facilities for voter registration. The Bishops of the Catholic Church have also made several effective public statements indicating their unequivocal support for the elections and explaining to the people how to register and vote.

The recent violence has introduced a degree of uncertainty, and the CNG has unfortunately not done anything to dispel this uncertainty. It has not, for example, pursued a credible investigation of the murders of the Presidential candidates or of any of the other political crimes.

We met with about sixteen candidates for the Presidency and found them an impressive group of individuals. Some are determined to campaign widely, including in the rural areas, despite the violence and the continuing threats. Few of the candidates, however, have tried to organize broadly-based political parties, and the philosophical differences between the candidates is not clear.

We heard charges of systematic human rights violations. As we were unable to verify such charges, we intend to recommend that the Inter-American Commission on Human Rights and other human rights organizations investigate.

Fourth, to succeed, the elections will need to overcome formidable logistical, educational, and political-military obstacles. Everyone committed to free elections in Haiti expressed gratitude for our visit and said that they believed that continued international attention to the electoral process in Haiti is of the greatest importance in assisting the electoral process. Haitians requested sustained interest and moral and political support from the Council of Freely-Elected Heads of Government and from the entire international democratic community. Haiti will also need considerable economic assistance if a new democracy will be able to survive and prosper.

HON. JIMMY CARTER,
HON. GEORGE PRICE,
DR. ROBERT PASTOR,
Secretary to the Council of Freely-Elected Heads of Government.

Mr. OWENS of New York. Last Friday, gunmen fired several times at the headquarters of centrist presidential candidates Marc Bazin and Leslie Manigat. These people have not been brave enough to venture outside of their headquarters to campaign. The Namphy thugs and the remnants of the Ton-Ton Macoutes have now sought them out in their headquarters.

Another centrist candidate, Eugene Gregoire also was fired upon. These three candidates had publicly endorsed the electoral council's position which had disqualified the old Duvaliers as candidates for election.

The Haitian people are determined to carry out their free elections despite all the violence of last week. In an Associated Press interview last Saturday elections official Jean-Robert Sabalat said that lack of certain technical equipment has made the elections process difficult. He said that they could use some helicopters to move around, they need phones, radios, a lot of minor kinds of things that could be supplied by the U.S. Government or the governments of the Organization of American States or the United Nations. It is surprising that these very small technical kinds of assistance are not already available to the electoral council in Haiti.

The report on last month's fact-finding trip to Haiti by former President Jimmy Carter has been released by the Carter Presidential Center in Atlanta, and it bears out all of the statements that I have made over the past few days concerning the elections in Haiti. Immediate intervention is needed, peaceful intervention but immediate intervention is needed according to the report by President Jimmy Carter. If elections are to prevail, if we are to have free elections, then the time to act is now. The only body, again I repeat, the only body that has legality in Haiti, the only body that is a creation of the Haitian people is the provisional electoral council. The time

has come. I joined with a group of Haitian Americans who met over the weekend and called for the military junta under General Namphy to step down since it is an illegal body or a nonlegal body; it has no status. They are calling for it to step down. And between now and the consummation of the elections, they should allow the provisional electoral council to govern the country. The provisional electoral council has more status, more legality and is as qualified to run the government as the military junta which was created overnight by our State Department.

We urge that action be taken here in Washington to encourage, to encourage the military junta to step down.

Barring that, steps should be taken to mobilize the power and the influence of the Organization of American States, the United States, the United Nations to move to prevent what is about to happen, another situation where a handful of people who have guns and who control the weapons for violence dominating the majority. The democratic majority of Haiti is being dominated by a handful of thugs all because they have guns.

□ 2035

This has happened all over the world in numerous Third World countries. It has happened in this hemisphere. We cannot stand by any longer and allow a handful of people to prevent the democratic process that the majority has willed should go forward.

We have insisted that Nicaragua have democratic elections. We have insisted on it, and we have also appropriated quite a number of millions of dollars, more than $100 million, in an effort to drive Nicaragua into democracy.

Here is a situation where a majority of the people of a country which is just 90 miles from our shore has already made it clear they want democracy. They have established a constitution. They deserve our help, and that help should come very soon.

Mr. Speaker, we should take action, as the New York Times says, and come down on the right side, the side of the majority of the Haitian people.

NANCY COSTELLO—WOMAN OF THE YEAR

The SPEAKER pro tempore (Mr. DARDIN). Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA of California. Mr. Speaker, it is a pleasure for me to be able to bring to the attention of my colleagues the fact that a very deserving woman is to receive this year's Woman-of-the-Year Award from the Quota Club of the Monterey Peninsula.

Nancy Costello, a woman who has worked selflessly to improve the lives of migrant workers and other needy individuals in the Monterey Peninsula and Salinas areas, is to be the Quota Club's 1987 honoree, and I am looking forward to attending the dinner on November 14 at which she will receive the award.

When we talk about voluntarism and about the need for private individuals to assist in caring for the needy in this country, we are talking about people like Nancy Costello. But there are not many individuals who commit the kind of time and energy that Nancy Costello does to make this commitment real. Indeed, I think she defines the word "commitment," and she inspires by her example.

Mr. Speaker, I would like to include in the RECORD at this point two articles which have appeared in the Monterey Peninsula Herald over the past 2 years about Nancy Costello. I think they offer some insight into the work that Nancy Costello has accomplished and the impact she has had on people's lives in my area of the country. I hope my colleagues, and all readers of this RECORD, will take a moment to read about this great woman. They will see that the Quota Club has made an outstanding choice for its Woman of the Year.

TAKING FOOD AND FRIENDSHIP TO FARMWORKER CAMPS

Farmworker families know her name: "La Nancy." Members of churches and organizations which collect food, clothing, toys and many other items for her know it, too: Nancy Costello. She'd just as soon remain anonymous.

She'd rather that people knew the names of all the Teresas, Rosas, Marias and Juanitas and about their generosity to each other. And that people knew about poverty and substandard housing as she encounters it every day.

She didn't know until that hot summer day about 17 years ago when she saw it for herself. She had responded to an article in The Herald about a Salinas Valley grower installing an above-ground swimming pool for the enjoyment of his farm workers and their families but that none of the children owned bathing suits which were required of users. Gathering castoffs from her own brood of six, by then mostly grown, and collecting more suits from family and friends, she drove to Salinas and met poverty face to face.

Going back with food for a few families, she heard that another needed shoes and someone else needed blankets—and that they all needed food. She made a few more trips. This kind of direct service continues as it began, a gesture of friendship.

"I had to learn Spanish so I could find out what they needed," she said, but the camp conversations include more than "I want" lists. There is talk about family happenings and even space for laughter as the unhurried exchange leads up to such emergencies as a broken stove and no heat, the need to move with no money for it, the need for medicine for a sick child.

Mrs. Costello doesn't make promises but she'll try to find a new stove, a new house—she'll pick up the medicine.

Her sources of help for these families have evolved through the years into an impressive network. First word went out at the Naval Postgraduate school, spurred by a close friend, Mary Haltiner. Navy families began donating outgrown children's clothes, unwanted household goods and canned food. Friends and strangers drop off next-to-new clothes and furniture in Mrs. Costello's driveway. Schools have provided unclaimed lost-and-found items, rummage sales some of the leftovers. Motels undergoing refurbishing have given mattresses and supermarkets give unsellable food.

And Mrs. Costello's strong arms load up her truck which travels more than 40,000 miles a year taking all this to where it is needed.

"These people struggle to make ends meet and want nothing more than to work and earn their own way," she said about the majority of families she meets in the camps. "I heard someone say proudly that her family had never had to accept welfare and I knew that I had been bringing them food and clothing for years. But the difference is that it's done as a friend and they accept it as such. They give me things, too."

And they help each other. Years ago, one family told her about a couple with 24 children in Hollister who needed beds, and when Mrs. Costello rounded up some beds they delivered them to Hollister. One of those 24, now grown, is continuing that concern for others. "I passed her a blanket one day and she immediately gave it to someone else," said Mrs. Costello. "And you never know when you give food how many people you are helping out."

During the three weeks before Christmas others join her on the road, helping to deliver food boxes and gifts to some 2,000 families. Their help, like hers, is quiet and noninstitutionalized.

"I was in one camp trying to make lists of the families and what they needed when a woman offered to help," said Mrs. Costello. "She caught on right away and gave me every family in the camp with the names and ages of the children. But even better she added little things about how badly someone needed something."

Descendent of a pioneer Monterey County family, Mrs. Costello probably knows the backroads of the county more than any of her ancestors. And she knows as much about rural poverty as any body. She knows about hunger.

The people that cater the Conference Center called her on a recent Sunday afternoon saying they had a hundred dinners left over from an event that had been underattended: did she want them? In a short time she was on the road, taking the meals to Castroville and Pajaro where she could pass them out quickly. As a friend.

FROM CASTROVILLE TO KING CITY—MONTEREYAN BRINGS CHRISTMAS TO MANY FAMILIES

(By Pat Griffith)

This is a Christmas story about Nancy, who won't like it.

You may know Nancy. At one time or another you've probably glimpsed her.

Maybe at a supermarket in the early morning hours. She was the sturdy, motherly figure hefting crates of past-dated milk or day-old bread onto the back of a yellow Toyota pickup truck.

Maybe driving down a highway somewhere in Monterey County. She was the pleasant round face behind the wheel of a mud-spattered truck adorned with a green tarp, its bungie cords straining to contain a crazy-quilt load of mattresses and chairs and boxes stuffed with who-knew-what.

Maybe after a big rummage sale. She was the one who came last, smiling and a bit breathless, to carry away some children's shoes and schoolboy jackets and a boxful of pots and pans.

Nancy. The woman who gathers food and clothing, bedding and toys, furniture and dishes and books—the overflow of an affluent society—and gets them to those who live on the flip side of prosperity in the migrant labor camps and subsidized housing units of the Salinas Valley.

HUNDREDS OF FAMILIES

The woman who—with the help of her friends and hundreds of people she's never seen or met—is bringing Christmas this year to 800, 900, perhaps 1,000 or more families from Pajaro to King City.

"Who best exemplifies the Christmas Spirit?" John Boit Morse of Carmel wrote The Herald earlier this month.

"Nancy Costello, of course, and by a county mile. But I suppose nothing can breach her passion for anonymity."

Many have called The Herald through the years to ask in bewilderment why no story has ever appeared on Nancy. The response has been simply this: She didn't want one.

She has been adamant and unyielding on that score, refusing to cooperate in any endeavor that could, by any stretch of the imagination, be construed as attention seeking. She did not know about this story until she picked up today's Herald. She will not be pleased.

And as the widow of former Herald city editor and Weekend magazine editor Jimmy Costello, she will be doubly chagrined at this blatant violation of the axiom that not only does a true newspaperman not make the news, his family doesn't either.

But the story is already out. More readers mentioned Nancy, in response to our question, "Who in the area best exemplifies the Christmas spirit?" than anyone else.

Hers is a story worth telling.

It began during a hot summer about 16 years ago. The Herald reported that a Salinas Valley grower had installed an aboveground swimming pool for the enjoyment of his farm workers and their families. The posted rules stipulated that bathing suits must be worn—perfectly reasonable, except that virtually none of the children owned a bathing suit or had any prospect of acquiring one.

One look at a photograph of sad-faced youngsters outside the enticing pool was all it took to get Nancy moving. She rounded up the castoffs from her own brood of six, by then mostly grown, and collected more from neighbors and friends.

And off she went to a farm outside Salinas, a drive of perhaps 25 miles or so. It was really nothing at all, she thought at the time, just a simple, spontaneous gesture in response to an obvious need.

Then she met families living out of cars along the side of the road. Their need was for food. A journey of several hundred thousand miles had begun.

Returning initially with food for a few, Nancy learned of others equally destitute. Finding them, she heard of still more.

Why yes, of course, she'd see what she could do. Yes, she'd try to find school shoes for the youngsters scampering barefoot across the sun-baked dirt of a farm labor camp. Yes, if she happened upon a spare chair or a warm blanket or a bed, she'd bring them along, too. Yes, she'd stop by a cousin's cabin near Greenfield with some "extras" because the father was out of work with a bad back and the mother and children were in need.

Yes, she'd try. No promises of success. But yes, she'd do what she could.

COMMITMENT

Summer slid into fall, fall faded to winter. Imperceptibly, compassion evolved into commitment.

There was no inspired vision of a grand design then, and there is none now. All that has happened has simply evolved.

Word went out at the Naval Postgraduate School, spurred by her close friend Mary Haltiner (who, in her own right, has been named by a Herald reader as an exemplar of the Christmas spirit). Navy families began donating outgrown children's clothes, unwanted household goods and canned food to the school's chapels for Nancy to pick up. They have been a mainstay of support ever since.

Through the years countless others have joined in. Zander Klawans of Monterey, now retired, was one of the first merchants to give new clothing from his store to be distributed through Nancy. Motels undergoing refurbishing have given mattresses, supermarkets unsellable food.

Friends and strangers routinely drop off next-to-new clothes and furniture in her driveway. Schools have provided unclaimed lost-and-found items, rummage sales some of the leftovers.

Every weekday and most Saturdays and Sundays, Nancy and the yellow pickup jauntily proceed to Castroville or Gonzales, Soledad or Greenfield, King City or Pajaro. The odometer ticks off 30,000-plus miles a year shuttling west to east, north to south.

UNFAMILIAR NAMES

It stops at places unknown to most Peninsulans. Camp 21, Kent's Court, La Orcha, Villa Camphora and Jiminez Camp. A house in an artichoke field. A shack below the railroad tracks. A cluster of cabins behind a barn.

"I will never forget one summer day when my wife and I went with Nancy Costello to visit the migrant camps," the Rev. James Brock, rector of St. Dunstan's Episcopal Church in Carmel Valley, wrote The Herald in a Holiday Spirit letter.

"What a memorable sight it was to behold as she drove her overloaded yellow Toyota truck into the camp near Soledad prison. It seemed as if hundreds of children 'came out of the woodwork' to greet her with shouts of 'Nancy!' 'Nancy!' Each child knew that Nancy would have something for him or her to wear or to eat."

To travel with Nancy is to partake of joy and struggle, heartbreak and triumph. Everywhere she goes she is welcomed, not just as a bringer of things, but as someone who shares family confidences and provides a helpful link with a world beyond the furrows of the Salinas Valley.

Some years ago, aware that her fractured Spanish was not adequate for more than perfunctory exchanges, she carved a few hours out of her self-imposed 12-hour workday to take some classes in conversational Spanish.

Now, as she speaks of the families she knows well and of newcomers in their midst, it is her English that sometimes fragments into descriptive Spanish words and phrases.

OPEN, RELAXED

Her manner is open, relaxed, involved. No Lady Bountiful here. Each stop is a warm, sometimes extended, exchange of news. How is Maria's new baby? Has she been to the clinic? What word is there from Manuel at San Jose State? And what about the men, have they had much work this week?

The questions and responses come slowly, softly. Sometimes there's an urgency, a suggestion of quiet desperation. There's no medicine for a sick child. The disability check for the father disabled in an automobile accident has not come. The stove has stopped working, and there is no meat. A family must vacate a condemned building and there is no place to go, no money for higher rent.

Nancy responds to these emergencies, too. She will call the doctor and pick up the medicine at the pharmacy. She will provide more food until the disability check comes. She will look for a stove. She will ask about a possible new home for the family as she makes her rounds, and somehow, the money will be found.

From time to time Nancy is queried about the people who make up her world. Aren't they mostly illegal aliens? Isn't she just encouraging more to come by helping to subsidize their existence?

Her blue eyes grow wide with wonder at the questions, even as a snap comes to her normally gentle voice.

"Sure, some are. Most aren't. But what does that have to do with anything? What does it matter when a kid is cold or hungry whether or not there's a green card? They're here. They need."

Inevitably, one thinks of Christmas.

Her Christmas outreach has also evolved—exponentially. In the early years it was relatively self-contained. The Costello home was headquarters, where toys and gifts of every size and description were wrapped and tagged with individual names and put in family boxes for delivery Christmas week.

The mounds of boxes would fill the family room, then splash across the kitchen to the dining room, and around the corner until they swallowed up the living room, grand piano and all, and marched out the door to the back patio, forcing hasty installation of evermore fiberglass covering to try to protect the wrapped parcels from December rains.

Meanwhile boxes of food multiplied at the Post-graduate School and in Mary Haltiner's garage, to be distributed in tandem with the presents.

From the beginning, it was overwhelming, chaotic, impossible, and accomplished.

It still is.

One is tempted to say that a loaves-and-fishes principle has been operating. There is never enough for all the people Nancy would help. But as the giving expands and the word spreads, the more that gifts and money for food and people to help show up.

It is always a struggle. There is no possible way all the names on Nancy's multiplying lists can be aided. But they are.

Nancy's Christmas has long since outgrown its original base of operations. St. Dunstan's Episcopal Church, which serves as the coordinating point and message center for Nancy year-round, is a whirlwind of sorting, wrapping and boxing from midsummer on.

Many other churches in Carmel, Monterey, Pacific Grove, Salinas and King City join in a great ecumenical outpouring of toys, food and money—all to be funneled through Nancy.

Several schools, public and private, collect and give through her. Scores of individuals, some who know only her reputation, add much more. In Monterey, six women have teamed for the past four years to host a "giving party," inviting some 200 friends to a luncheon. Each guest brings a gift, wrapped and tagged to tell its contents and

age of child it is for. All these go into Nancy's Christmas collection.

Food money at Christmastime is used to buy chickens and hams and turkeys by the caseload—more than $1,000-worth in one day alone last week. Nancy will have already bought mounds of 100-pound sacks of rice and beans, all of which are rebagged into family-sized portions and put into food boxes with canned goods under Mary Haltiner's supervision.

For the last three weeks, a parade of vehicles—commercial vans, pickups, station wagons, cars with big trunks—has followed the yellow Toyota on its holiday rounds. The drivers, too, are volunteers from every community and walk of life who have heard, through the grapevine, that Nancy needs help.

Their commitment can also be impressive. One man, who first made an all-day-into-the-night circuit with Nancy as a teen-ager living in Carmel Valley, took unpaid leave from his job in Berkeley to spend Tuesday, Christmas Eve, as he has so many others—driving a van for Nancy.

This web of support, grown broader and stonger though the years, has also remained largely anonymous. Like Nancy.

Only a few years ago, Nancy was astounding family and friends by reaching 50 or 100 or 200 families who would otherwise be forgotten at Christmas. Last year more than 3,000 gifts and over 700 boxes of food went out.

This year is bigger yet. It will be a few days before she finds time to tote it all up.

Today is Chirstmas. If custom holds, and it surely will, Nancy will be on the road while most families are just opening their stockings, because she will have thought of a family here and a family there that somehow was bypassed in all the scramble of recent days.

Tomorrow the world at large moves on from Christmas. Nancy will be back on the road simply because for her no other reponse is possible. Hunger and cold and despair are real. People need.

Loaves and fishes. The spirit of Christmas.

POLISH INDEPENDENCE DAY

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, 69 years ago, on November 11, 1918, the Polish people proudly proclaimed their independence, and were able to regain the right to self-determination and freedom after more than a century political darkness and intellectual repression at the hand of foreign tyrants.

Although one of the first democratic constitutions known to the world was the Polish Constitution written in the 18th century, shortly after the creation of this document, the Polish people saw their beloved homeland invaded by three of the country's more powerful hostile neighboring nations. These nations exploited and brutalized Poland until 1918, and responded with repressive measures whenever the heroic Polish people attempted to achieve self-government or preserve their precious cultural heritage.

After the end of World War I and the signing of the Treaty of Versailles, the major European powers recognized the national sovereignty of Poland, and the Polish people were able to reassert their national destiny and develop their national, religious, and cultural institutions without the fear of persecution or reprisal.

This glorious revival of freedom lasted for only one generation, and then, in 1939, Poland became a victim of Nazi aggression and the people of Poland were subjected once again to the most extreme forms of persecution imaginable. Although the end of World War II in 1945 brought an end to Nazi persecution, the Polish people were forced to submit to a new form of tyranny imposed by the Communist Soviet Union.

Mr. Speaker, although the years of renewed liberation and self-government were short-lived for the Polish people, today their courageous struggle to be free and develop a free economy and preserve their cultural heritage continues. I am privileged to join with Polish Americans in the 11th Congressional District of Illinois, which I am honored to represent, and Americans of Polish descent across this nation, as they commemorate Polish Independence Day and pray that one day Poland shall overcome its communist oppressors.

ELDERLY CITIZENS WOULD BE IMPACTED BY TAPPING SOCIAL SECURITY COLAS

Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute.)

Mr. LOWRY of Washington. Mr. Speaker, in recent days some of my colleagues have suggested that Social Security COLA's be limited or capped to help us achieve the $23 billion savings mandated by Gramm-Rudman. While both sides of the aisle will need to make concessions in order to put together such a package, capping the COLA will have a devastating impact on hundreds of thousands of elderly in this Nation who live below or near the poverty line.

In the last few decades the percentage of poor older Americans has shrunk substantially. The payment of automatic COLA's, instituted in 1975, has played a role. It remains a sad fact, however, that poverty among the elderly is more widespread than among any other adult age group.

According to the Census Bureau some 3.5 million elderly Americans were poor in 1985. These individuals had incomes that year below the "poverty line" of $5,156—or $6,503 for a couple. In real-life terms that means to have had a weekly income below $99—or $125 for a couple.

Poverty among certain segments of the elderly population is particularly pronounced and deep rooted—for minorities, women and the very old. In 1985, 31.5 percent of elderly blacks were poor, nearly three times the percentage of older whites. While women constitute almost 59 percent of the Nation's elderly, they account for 72.4 percent of the elderly poor and elderly women have a poverty rate nearly double that of elderly men. Finally, the "oldest old," those over the age of 85, have a poverty rate of 18.7 percent, about the same as the poverty rate among children under the age of 18.

In 1985, when the Congress last gave serious consideration to withholding the Social Security COLA, the Congressional Budget Office estimated that eliminating the COLA would push 420,000–470,000 individuals into poverty. The plight of those already in poverty would be even greater as they are pushed even deeper into that position, from which they have little hope of ever recovering.

A decision to eliminate or cap the Social Security COLA in 1988 will have much the same impact as when proposed in 1985. The American Association of Retired Persons [AARP] has just released its own analysis of the impact of eliminating the COLA. They estimate that some, an additional 272,500 individuals age 62 or older would fall below the poverty line if the COLA is withheld. Of this figure, some 165,000 would be elderly women.

Social Security is progressive in its nature, paying a higher benefit relative to earnings for the low-income wage earner as opposed to the higher wage earner. Social Security benefits constitute a much greater percentage of the income of the low-income elderly than more affluent older people. On average, Social Security accounted for 80 percent of the income for those elderly individuals and couples with less than $5,000 in annual incomes in 1982. These individuals depend on Social Security for their very survival and to deny them the COLA or limit its size leaves them with little hope of maintaining their already minimal standard of living.

THE CENTRAL AMERICAN PEACE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, it is not with a great deal of joy that I rise this evening to speak out against the McCarthyite tactics by some of my colleagues on the other side of the aisle. Objections have been raised today on the floor of the House to discussions that Speaker JIM WRIGHT has had with the Nicaraguan Government with regard to the Central American peace plan. This, I might pointedly say to those of my colleagues who are listening, is patently absurd.

I suppose some in this body would say that the United States should never at any time under any circumstances establish a dialog with a government with which we disagree which is alleged to be Communist. But these Members should listen to their own President on these matters. Today during his speech before the Organization of American States, President Reagan himself, the President of the United States, announced that he was willing to enter into multilateral negotiations with the five governments of Central America, including Nicaragua. And on December 7, the President plans to hold his third summit with Secretary Gorbachev. These are steps to promote peace, and I applaud them.

If we were to draw up a list of all the Members of this body on both sides of the aisle, Democrats and Republicans, who have been to Central America and to Nicaragua specifically, it would be a very long list indeed. And just this past August 2 Presidential candidates from the opposing party traveled to Central America. Senator DOLE engaged in discussions with President Ortega, and this past weekend a delegation of five Members of the House from the opposing side of the aisle traveled to Nicaragua—Communist Nicaragua, as they like to say. The official observer groups from the Senate with bipartisan representation have just returned as well.

The fact is that many Members from both sides of the aisle, from all points of view, have met on numerous occasions with leaders of the Nicaraguan Government and with the internal opposition, and they have met with Contras and with Sandinista soldiers. In every forum they have offered their observations and advice on how to achieve peace in Central America and I applaud these activities.

It is my hope that all Members will have an opportunity to talk to the key players in the region. The increased understanding that will result on both sides represents, I think, the best in our democratic traditions.

The Speaker has shown a tremendous amount of leadership in promoting the peace plan in Central America. It offers the hope of peace in a region that has been racked by violence. It offers a way to turn this nation from the disastrous road to war. The fact of the matter is that the peace plan is working, but there are some, unfortunately, in this body and in the administration who are infuriated and who are upset by the process of peace breaking out. Some do not believe in negotiations, and they would have us pursue military tactics only in response to every conflict, and I say this is surely a sorry state of affairs.

But the tactics of those who would oppose the peace plan will ultimately fail. Peace is indeed having its day. Just this past weekend, the International Verification Commission met for the first time and issued a 14-point report that describes the progress that is being made. The Commission stated that the reconciliation commissions in these five countries have been formed and that the dialog with the internal political opposition has begun in El Salvador and in Nicaragua. The Verification Commission also applauded El Salvador and Guatemala for declaring amnesty and Nicaragua for pardoning political prisoners and declaring a unilateral cease-fire.

I think clearly the Guatemala Peace Plan has set us on the path toward peace from which there can be no veering, and the announcement by President Daniel Ortega last week that he is willing to negotiate with the contras through the Cardinal is perhaps the most significant breakthrough yet in peace and in reconciliation. His release of almost 1,000 prisoners and his commitment in the near future to lift the state of emergency and to grant a more general amnesty are all important steps toward the compliance with the Guatemala accords.

I think that now, more than ever before, the United States must stand four square behind this peace plan. We must end the Contra aid and do everything in our power to see that the five nations in Central America have an opportunity to turn their swords into plowshares. All sides in the Contra debate must lower their rhetoric in the hope of success, including both the Nicaraguan Government and the Contras themselves, and Contra opponents as well as supporters in this country.

Now is again the time for diplomacy in word as well as in conduct. President Arias of Costa Rica has shown the way to a lasting peace in Central America, and for his efforts he has received, as everyone knows the Nobel Peace Prize. The world is indebted to his leadership.

Here in this body Speaker WRIGHT has shown us the way as well. At every step of the way the Speaker has sought to work in a bipartisan fashion. The Wright-Reagan initiated our support for a bipartisan solution. In numerous meetings since, Speaker WRIGHT has sought to find common ground with my colleagues on the other side of the aisle. This includes his first meeting with Nicaraguan Ambassador, at which the distinguished minority leader was present. If peace is achieved in the region, it will be in part due to the courage and the leadership of the Speaker, who has not been afraid to reach out to all the parties and bind the wounds of war. I think to take the good name of the Speaker and his office with "McCarthylike tactics" is an immature and a radical approach to some very delicate and difficult problems that we suffer in this hemisphere. I would remind those who try to take the name and the image of the leadership on this side of the aisle that by doing so they open up criticism of their own leadership in this body and literally dozens, if not perhaps hundreds of Members of Congress who have engaged in dialog with the opposition in other countries as well as the opposition here.

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

Mr. BONIOR of Michigan. I yield now to my friend, the gentleman from Wisconsin, for any remarks he may want to make.

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

There is one difference between the gentleman in the well and myself. He may find it easy to take seriously the implied and direct criticism of the Speaker made by certain Member of the House. I am a little different. I frankly find it very difficult to take that criticism seriously.

I would begin my observations by simply pointing out that the Speaker involved himself in this process to begin with at the invitation of the White House and at the invitation of the leadership on the other side of the aisle who sought the Speaker's help in trying to work out a bipartisan position that could be presented by this country to our Central American friends as our adversaries.

□ 2045

I would simply say that I for one am proud to serve under a Speaker who has guts enough to try to see to it that the wealthy pay a sufficient share of taxes in this country, as well as a Speaker who has guts enough to try to take some risks for peace.

I find some of the objections to the Speaker's activities remind me very much of a character invented in the twenties by a man named Don Marquis, Archie the cockroach. Archie was a poet who had died and come back to life in the body of a cockroach who lived in a newspaperman's office. He would crawl out of the woodwork every night. He would type little messages by diving headfirst onto the keyboard of the typewriter and it would appear in the newspaper the next day. Some of what Archie had to say reminds me from time to time of some Members of this body.

I notice, for instance, that Archie observed on one occasion: "Man cannot even make war with the efficiency and generalship of an army of warrior ants and he has done little else but make war for centuries, make war and wonder how he is going to pay for it. Man is a queer looking gink who uses what brains he has to get himself into trouble with and then blames it on the fates."

That description reminds me of a number of my colleagues from time to time as they eagerly seek to pursue policies which would use a military option first, rather than last.

I am also reminded when some of our Members get excited about the activities of the Speaker that they ought to keep a sense of proportion. Archie said something else once. He said, "The trouble with most people is that they lose their sense of proportion. Of what use is it for a queen bee to fall in love with a bull?"

I would again commend Archie's comments to some of the membership in this House who have criticized the Speaker from time to time.

I would also say that I frankly think that sometimes it must be very tempting for an individual Member who would like to gain attention to criticize the Speaker because what easier way is there to gain attention than to criticize the leadership of the House; but again I would say that in doing so they remind me of another character in Archie's book, "A Toad Called Warty Bliggens," and with permission of the gentleman, I would like to read a portion of that poem.

Mr. BONIOR of Michigan. What was that toad's name?

Mr. OBEY. Warty Bliggens. This is what Archie said:

WARTY BLIGGENS, THE TOAD

[i met a toad
the other day by the name
of warty bliggens
he was sitting under
a toadstool
feeling contented
he explained that when the cosmos
was created
that toadstool was especially
planned for his personal
shelter from sun and rain
thought out and prepared
for him
do not tell me
said warty bliggens
that there is not a purpose
in the universe
the thought is blasphemy
a little more
conversation revealed
that warty bliggens
considers himself to be
the center of the said
universe
the earth exists
to grow toadstools for him
to sit under
the sun to give him light
by day and the moon
and wheeling constellations
to make beautiful
the night for the sake of
warty bliggens
to what act of yours
do you impute
this interest on the part
of the creator
of the universe
i asked him
why is it that you
are so greatly favored
ask rather
said warty bliggens
what the universe
has done to deserve me
if i were a
human being i would
not laugh
too complacently
at poor warty bliggens
for similar
absurdities
have only too often
lodged in the crinkles
of the human cerebrum

I would suggest that I sense that same search for self-importance on occasion when some Members of this House try to attack the Speaker.

I am reminded of one last thing that Archie the Cockroach observed, because it reminds me of many of my colleagues. Archie observed once, he said, "Did you ever notice when a politician does get an idea, he gets it all wrong?"

I would suggest that you do have it all wrong if you think there is something wrong with the Speaker of the House trying to use his influence as the leading politician in this body to try to seek peace, rather than trying to seek the option of war.

The gentleman in the well knows, as he has said, a number of us have been to Central America talking with a good many practicing politicians down there, talking with people in the church, talking with people in working people's movements all throughout Central America, talking to people in various governments. We hear a lot of things, but I tell you, when I returned from my trip to Central America in April, what I heard from about 90 percent of the people with whom I met was simply this. They said, "Look, the important thing for the United States is not whether it supports the Contras or whether it doesn't support the Contras. The important thing for us to know is that the United States is going to have a Central American policy which can be one of continuity, one which we can count on to remain the same over a 10- or 15-year period."

So they said, "Look, if supporting the Contras will give you that policy and continuity, support it. If opposing the Contras will give you that sense of continuity by bringing your parties together in a bipartisan support for your policy, then forget support for the Contras. Do whatever has to be done in order to try to establish a bipartisan consensus in your own country that can be sustained through a series of administrations."

I submit that is what the Speaker has been trying to do.

I would urge all Members of the House, and I would urge the administration not to miss this opportunity that is presented by the Arias plan. We have already missed one opportunity in Nicaragua. It is my conviction and it has been the conviction of a good many very conservative anti-Sandinista Nicaraguan officials and Nicaraguan citizens that if we had pulled the plug on United States support for Somoza a year earlier than we did that we would not have in Nicaragua today a Sandinista government, a pro-Marxist government. We would in fact have a government composed largely of pro-American businessmen, but what happened is that when for a variety of reasons, some of which had to do with obstruction in this Chamber, when the administration at that time was prevented from taking the advice of people like Adolfo Calero, who wanted us to pull the plug on Somoza even earlier when they were prevented from taking that advice, then we were left with a situation in which the middle class left, the business leadership left and there was no competition left in Nicaragua that after the revolution could compete with the Sandinistas for control of the government and control of the society. That was a tragic mistake. We do not want to repeat that by having us miss the opportunity to get behind the Arias peace plan, which is the best shot we have for stability and peace in that region.

I, for one, am not overly optimistic about the Arias plan. I hope it succeeds. I think it has as much chance for failure as it has for success, but I would say that 5 years from now or 10 years from now if it has failed, one of the parties that would have to bear a major responsibility for that failure would be the collection of political groups from this country that have tried to prevent this country from getting behind that plan with the full might of its moral suasion as well as the full might of our ability to provide economic aid to the region. If we miss that opportunity to get behind this plan, we will in a sense be engaging in a self-fulfilling prophecy.

So I applaud the Speaker. I have to chuckle somewhat at the Lilliputian objections that are sometimes raised to his efforts to really strike for peace, but I think people with a sense of balance will recognize where the criticism comes from and applaud the Speaker for his willingness to go the last mile to try to help this country achieve its mission of bringing peace to Central America.

Mr. BONIOR of Michigan. Mr. Speaker, I thank my colleague.

I yield to my colleague, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Michigan. I applaud the remarks that he made and also the remarks of the gentleman from Wisconsin [Mr. OBEY].

I have been to Central America, and like other Members of Congress, both Democratic and Republican, have gone as a man of peace, as a representative of the United States, most interested in seeking democracy and peace, peace for all the people of that troubled region.

It is very hard for me to imagine, Mr. Speaker, that any of us should be critical of the other, Democrat or Republican, if when any of us seek to implement, to help the implementation of the Arias plan. I predict that the history books will record that not only President Arias received the Nobel Prize, but that a partner, a quiet partner in receiving that prize was our Speaker, JIM WRIGHT, because his impetus, his courage, his contribution, and I might say worked out with the White House, nothing that Mr. WRIGHT proposed did not have White

House participation, I suggest that the history books will record that he was a partner in the receipt of the Nobel Prize by Mr. Arias.

I agree with the gentleman from Wisconsin [Mr. OBEY] that the path is difficult; however, it is the best shot we have had. We should all, all Americans, should work together and work with each other regardless of party, regardless of differences that we might have in political beliefs, to make certain that this marvelous plan for stopping the killing, for peace, permanent peace in this region, has a chance.

Mr. Speaker, I thank the gentleman for yielding. I applaud him for the remarks that he has made. I think they should be very well received.

Mr. BONIOR of Michigan. Mr. Speaker, I thank my friend for his comments. I agree with him in regard to the Peace Prize and its sharing, not only with the Speaker, but also, of course, the other Presidents of the Central American countries who have given really so very much and have taken a tremendous courageous step to end the conflict that has taken over 100,000 lives in the region.

Mr. Speaker, I yield to my friend, the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I thank the gentleman for the time.

It is interesting that at the moment when the administration has finally taken its first supportive action in support of the peace process by the President at least indicating a willingness to speak with the Sandinistas about this crisis in the region, a government, by the way, that we still maintain full diplomatic relations with and that we have this diversion, as assault on the Speaker for his continuing efforts in the peace process.

In the theater, a diversion is often used to get people's attention from one part of the stage over to another. Maybe what this is all about is an attempt to prevent people from recognizing that the President has been forced to shift the ground, that the President who first spoke of a solution, found it in Central America by the Central American governments, when confronted with that solution, when the Arias peace plan found the Central American governments as a group supporting the peace process and the White House opposing it and the American people supporting that peace process, that when it came time for the President of the United States to shift the positions, that we have this diversion of assaulting the Speaker of the House for his tremendous efforts on behalf of peace.

I frankly was not one of those who was supportive of the President's efforts with the White House. We have had 7 years in this Congress of watching the White House send representatives to Capitol Hill, including Secretary Abrams and others, who did not tell the Congress the truth, people who came up here, and maybe they did not call them lies, but clearly as they came before the Congress they did not honestly deal with another branch of government.

We had people from the State Department and elsewhere coming and telling us things that simply were not so.

Frankly, when I heard that the Speaker had reached out to the White House and taken great political risks to join with the President in the peace plan, I was fearful that he was being used and that this Speaker may have taken too great a risk.

I now see that I was wrong, and that while the White House was not supportive of the Wright-Reagan peace plan, that the Speaker's courage has paid off. This Speaker that took a political risk joining with the President of the opposite party and working with them and the governments of the region proposed a peace plan that moved the other Presidents in Central America.

We are not here to apologize for the Speaker. We ought to be here to apologize today for failed covert and overt military actions, covert and overt military actions in the region that have failed to attain their stated goals by their proponents, that have had American tax dollars being used toward the deaths of innocent civilians and citizens.

□ 2100

What we should be having is a special order from the other side demanding that organizations that use American tax dollars pay attention to human rights and civil liberties, that organizations that we support ought not be attacking school buses with children and women in them. We should be here in a bipartisan vein supporting the Speaker of the House in his courageous efforts.

In Central America today we pay not simply for the failed covert military actions of this administration, but the failure over decades, the toppling of a freely elected government in Guatemala and in the mid-1950's that simply wanted to give some land to its own people. We paid that price for the next three decades as Guatemalan citizens were murdered by the tens of thousands as a result of the turmoil that we brought upon that country.

In Nicaragua and Haiti and Venezuela and throughout the region, American military might has not been a help but a hindrance to democracy. As one talks to the democratic governments and people in the region, the one thing that we find for those who are fearful of the Sandinista government, for those who oppose the Sandinista government, for all the democratic governments of the region, the one thing they do not want to see is American military action in the region. They want to see the United States be a supporter of the peace process and when one looks at the courage of the Presidents in Central America; President Arias and his great effort; President Duarte caught between a left that wants to keep fighting and a right that would like to bring the death squads back; in Honduras a government that has just barely become a democracy, all the governments of the region are to be commended for their efforts.

In this House, we ought to be singing the praises of the Speaker of the House, the praises of a Speaker of the House that has courage to allow no boundary to his efforts on behalf of peace, and to say that somehow an elected Representative of the Congress, the Speaker of the House, does not have the right to engage in conversations with representatives of governments that we have full diplomatic relations with, is simply unacceptable, or that somehow Members of Congress and the Speaker included should be restricted more so than the average American is, is an absolutely ridiculous assumption.

The Speaker of the House of Representatives and every American, every Member of this Congress, has a right and indeed as Members of Congress we have an obligation to seek out the heads of other governments, to see that all the voices of America are heard abroad, and that every effort for peace is pushed forward.

The gentleman in the well has taken what I think is a great step to see that on this evening, as the President of the United States is finally taking some action for the peace process, that here in the U.S. House of Representatives there is a clear statement about what the American people want. In the streets of America they want their politicians from President Reagan down to Congressmen to be supportive of the peace process and not supportive of the Contras, to have American policy stand for the kind of righteous ideals that we have here in this Nation.

My parents in 1946 fled the Soviet Union. They came to this country not simply for economic opportunity, they came to this country because it stood for something better. I believe with the help of Speaker WRIGHT our policies in Central America will stand for something better.

Mr. Speaker, I commend the gentleman in the well, and I thank him for yielding me this time.

Mr. BONIOR of Michigan. Mr. Speaker, I thank the gentleman for his eloquent statement.

Before I yield to the gentleman from Wisconsin [Mr. OBEY], I would just

point out that a statement was made by a Member of this body that the Speaker should report to the House how often he and his staff have been talking with the Nicaraguans in person or by telephone.

That is just patently absurd to require that the leadership of this House have to do that. It assumes, first, that the leadership of this body should not be talking with other foreign governments. It assumes that we should be keeping a record, and it seems to me that that is not in keeping with the best democratic ideals of this institution.

Second, assuming that we were to take this a little further and allow the fact that Members of this body should not only have the right but the responsibility as my colleague from Connecticut [Mr. GEJDENSON] and my colleague from Wisconsin [Mr. OBEY] who sit on the appropriation and authorizing committees, they have the responsibility to meet with these people, then to assume that by meeting with them if these other officials say something that is not in keeping with perhaps what we might think that we are indeed then responsible because the gentleman that I am referring to was outraged by the fact that the Speaker met with the Ambassador from Nicaragua who, by the way, the minority leader has met with on a number of occasions, and suggested that the comments made by the Ambassador from Nicaragua as to his feelings about further aid appropriations was being taken by the Speaker as mandating we do X and not do Y.

That is patently absurd because the Speaker, the majority leader, nobody in this leadership takes orders from any foreign government, or any ambassador. We make decisions on behalf of the people of this country, and to assume because we meet with these people that we are indeed taking their orders is, I think, just very much an absurdity.

One would have to question whether or not the gentleman who made these assertions thinks it is permissible to discuss foreign policy with the Greeks or the Israelis or our Arab friends or the Turks or the Germans or our friends and other NATO allies. Of course it is. That is our responsibility and our job.

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

Mr. BONIOR of Michigan. Mr. Speaker, I yield to my friend from Wisconsin.

Mr. OBEY. Mr. Speaker, I would suggest that probably the comments of some Members of this House who might be concerned about the Speaker's actions are perhaps related to the fact that the Constitution clearly gives only the President the right to negotiate with a foreign power.

Everybody recognizes that.

I would simply like to quote from a letter which the gentleman from New York [Mr. MCHUGH] and I sent to Mr. Ortega in 1984 in which we said:

> Obviously Nicaragua has only one foreign policy at a time and that is the policy you and your leadership enunciate. The United States obviously also has one policy at a time and that is the policy enunciated by the President and his official representatives. Our letter to you in no way represents any effort in negotiations because we are in no position to negotiate for our country. That is up to the President. But we do have the right as human beings to communicate with other human beings in the world in the interest of trying to encourage rational conduct which could help end bloodshed and establish more civil relations.

I think that is clearly what the Speaker has been doing. I hope he does a whole lot more of it and I hope that we do not take too seriously the objections from gnats about the efforts of the Speaker and others to try to bring peace to the region.

Mr. BONIOR of Michigan. Mr. Speaker, it is important not to take too seriously these allegations and these McCarthy-like tactics, but it is important to challenge them when they are made. I think it is important that we let people know in this country that we are not going to stand and be intimidated by that type of rhetoric and that type of action.

Mr. OBEY. If the gentleman would continue to yield, let me assure him that coming from the State that produced the original Joe McCarthy, I have not seen very many good imitations. I have seen many people who tried to imitate him, but I have seen very few who fall in his class. So I agree that if people act like it, they ought to be called on it, but I would not worry about their being very effective.

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

Mr. BONIOR of Michigan. Mr. Speaker, I yield to the gentleman from Connecticut.

Mr. GEJDENSON. There are several other practical problems with this approach. First of all, the record is out there and clearly some of my colleagues on the other side of the aisle during a previous, and Democratic, administration made comments to foreign governments on a number of issues. But I would take issue where I would think there was broad support in the House in a bipartisan manner that all of us in this Chamber have taken actions through either direct communications, letters or petitions to the heads of foreign governments regarding human rights situations in a number of countries around the world. I think regularly our offices are involved in efforts to free Soviet Jewish refuseniks, and presently my office is involved in a Greek Cypriot who disappeared during the Turkish invasion of the island.

We are constantly involved in human rights cases around the world. Oftentimes these take the form of direct communications with ambassadors or other representatives of countries.

I remember when Mr. Dobrynin was here in Washington at a meeting on arms control that bipartisan Republicans and Democrats joined together in, and I passed the names of several refuseniks who had been trying to leave the Soviet Union, and I asked that he might pay some attention to these individuals.

□ 2110

I would daresay that there ought not be a Member of the House or in the country who would try and curtail the ability of an individual Member, the Speaker or anybody else, from trying for these humanitarian kinds of actions. And clearly a cessation to the hostilities in Central America, and into the war would relieve us of much of this work. If the Speaker of the House and the effort that he began is successful, there will be fewer people who will be missing, fewer that will be interned, and it will be one grand gesture where most of us as individual Members of the House are best able to help on one individual locked in a gulag, one individual whose family is seeking someone lost from a conflict.

Presently I am involved in an effort trying to find the remains or whereabouts of prisoners of war that occurred in the Korean conflict. With the State Department's full knowledge, we have been meeting with representatives of the North Korean Government. We may at some point travel to North Korea. Yes, but we are working with the Government and we are reaching out trying to help American citizens.

Mr. BONIOR of Michigan. In that regard, through the Speaker's efforts and the efforts of those of us who supported the Arias peace plan, we have allowed literally 5,000 El Salvadorans to cross the Honduran border and to go home. We have been able to through our importations and requests, and the Nicaraguan Government I think played some role in helping to release a thousand prisoners from jail just the other day in Managua.

I think talking has been very helpful, and talking in a constructive manner particularly to the Nicaraguan Government has been helpful in ending what we see as a terrible bloodshed in that region of the world.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to my friend, the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman from

Michigan for yielding and thank him for taking out this special order. I agree that it is unfortunate that it was necessary that the gentleman had to take out this special order. I will only talk just briefly in agreement with the comments that have been made before by our colleagues.

I was stunned to find that accusations would be made against Speaker JIM WRIGHT for what he has been doing, which I think is one of the most courageous and one of the most important political acts that I have had the opportunity to witness in my 9 years in Congress. I was one of those who when I woke up one morning and read the Washington Post and it talked about the Reagan-Wright peace plan, who was extremely worried. I am a member of the Speaker's caucus, a member of the Speaker's constituency, the caucus constituency that is overwhelmingly opposed to the Contra war and is overwhelmingly very suspicious based on the record of the actions of this administration. So when I read, as did most of my close colleagues in our caucus, read that the Speaker had gone with the representatives of the President and met with the representatives of the President up here, and the President actually talked about a Reagan-Wright peace plan in Central America, I like many was extremely concerned and irritated.

The point I want to make may not be real easy for a lot of people to understand. But the Speaker had the courage to lead at a point when many of his important supporters within the caucus said, hey, Mr. Speaker, we do not think you should be doing this. We are very, very concerned about what you are doing because of the record of this administration.

He knew that, and yet he still stepped forward to give that courageous leadership. As a result of that, today we have the grandest opportunity for peace and stability in that area where there have been 100,000 deaths that we have ever had. The Speaker was right; I was wrong. The Speaker had the courage to lead us forward and I am glad he had that courage.

Mr. BONIOR of Michigan. That courage not only opened up those prisons for a thousand people that I just talked about, and not only did it do that, and not only did it allow about 5,000 people to go home in Salvador, but it helped open up the press in Nicaragua, it helped the radio station open up, it helped La Prensa to be printed again. It helped for the first time in a long time, and most people do not focus on Guatemala, but there has been a war raging in Guatemala for decades, literally a whole Indian population has almost been decimated to genocide in the hemisphere. He has finally addressed that very important problem.

It has done a number of things in Salvador. It has brought the reconciliation of the countries, it has pulled together where they are talking for the first time. When I had lunch with Mrs. Arias, Oscar Arias' wife, she was telling me how the Central American presidents' spouses never talked, never met, never discussed things, and now they are talking and discussing issues, and they are talking to their husbands about the issues.

A wonderful thing has happened, and peace has probably been promoted further these last 90 days, in such a grand style and scale, I might add. We are not talking about a one-on-one situation, for instance, like Iran and Iraq. We are talking about 5 countries here and various factions, and we have made tremendous progress, and that is due to a large extent to the actions of the Speaker of the House, and certainly the President.

Mr. LOWRY of Washington. The gentleman is absolutely right, that is what it is due to.

Mr. GEJDENSON. If the gentleman will yield further, as I stand here another thing comes to mind. This Speaker has not just started under the Reagan administration to be involved with the situation in Nicaragua. During the Carter administration my recollection is that Speaker WRIGHT, then majority leader of the House, took great efforts concerning our interests in Central America. And if we think that we are overstating the potential here and how this progress started, I would have Members of the House think back to what one trip by an Egyptian leader named Sadat did as he entered Jerusalem for what seemed to be impossible, the two most powerful nations in the Middle East, Egypt and Israel, at war since 1948, with no hope for an end to war in sight, suddenly through Begin and Sadat's efforts, through great courage on their parts and leadership from President Carter we saw peace brought at least to those two nations. They have a long way to go there, but they made an incredible start. I think the same thing needs to be recognized here.

The battles in Central America come from poverty and hunger, from a lot of misplaced values in a lot of corners, and from actions taken by our country when maybe instead of military assistance we should have provided nutritional assistance and educational assistance. But for whatever reason we see the turmoil there, whether it is Soviet agents behind every bush, or hunger and poverty, or a combination of both, it seems to me that what we have all wished for, what we have all spoken of we now have an opportunity to see happen. For the first time, the governments in the region are speaking to one another, they are involved in a peace process. There is no debate that Speaker WRIGHT played a major role in that process, and he ought to get the credit for it. To find an attempt on the other side for some kind of diversion, as even the President recognizes the need for a dialog in Central America, saddens me because what we ought to be doing is working to move this process down the road to peace and not trying to disrupt it by attacking the courageous Speaker of the House.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding. I will not take much of his time. I plan to try to refute some of these statements in my special order following this.

But what I wanted to point out is that although they have committed to releasing a 1,000 prisoners, political prisoners in Nicaragua, it is estimated that they have between 5,000 and 6,000 political prisoners.

Leño Hernandez, who is a human rights activist, and President Azcona believe that there are many, and they have just released a 1,000. So there are another 5,000 or so still in the prisons down there suffering from torture and imprisonment.

Mr. BONIOR of Michigan. We are going to do all we can to make sure those people, the ones who I think should be released are released, and I agree there are thousands more that perhaps should be released, to see that in fact that they are released.

Mr. BURTON of Indiana. That is part of the peace agreement.

Mr. BONIOR of Michigan. The president has indicated he is willing to release and allow others to go free. But he would like some reciprocation from this country. He would like this country to stop aiding the Contras. And that position, by the way, I might add, was just upheld this weekend by the verification commission which is made up of 5 Central American countries, the 8 Contadora countries, the offices of the U.N. and the OAS when they issued a statement, a 14-point statement that basically said that the Nicaraguans have released a thousand people, now really the ball is in the court of the United States before there is further amnesty. And before there is a complete lifting of the stage of seige there has to be an end to the aiding of the Contras, who are the perpetrators of the war in the first place.

Mr. GEJDENSON. Is the gentleman unhappy that a thousand prisoners have been released?

Mr. BURTON of Indiana. Of course not. Let me finish. I will answer the gentleman if he will let me finish. We are not in front of a jury, and if the gentleman wants me to answer I will answer it.

Mr. GEJDENSON. Is the gentleman unhappy that Cardinal Obando y Bravo has been chosen as mediator between the Sandinistas and the Contras? Is the gentleman uncomfortable with that?

Mr. BURTON of Indiana. I am happy to answer if you will give me a little time. First of all, I think Cardinal Obando y Bravo is a fine choice.

Second, I think that releasing a thousand political prisoners is a step in the right direction, but the Communist Sandinistas have promised to release all political prisoners, and President Azcona has said without exception unless they comply with all facets of the peace agreement he does not consider it worth the paper it is written on. So one thousand, although it is a step in the right direction, certainly does not absolve them of the rest of the responsibilities they have to release those other 5,000 political prisoners suffering down there.

Mr. GEJDENSON. Does the gentleman not feel though that a process that has for the first time instead of increasing the number of political prisoners begun to decrease the political prisoners, a process that has taken one of the harshest and most powerful critics of the Sandinista government, Cardinal Obando y Bravo and made him a central player in the negotiations, is that not some indication that we ought to try to move this process further and get more of those prisoners released and stop more of the fighting rather than trying to put obstacles into the road of the peace plan?

Mr. BURTON of Indiana. I would like to respond to that as well. I think we all would love to have peace down there. But many people, myself included, believe that what Daniel Ortega and the Communist Sandinistas are doing is creating a facade so that they can buy time, and during this time hope that the Contras will dissipate, fall apart, no longer be a viable force. And if that is the case, then they can further their goals of revolution throughout Central America and into Mexico.

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

Mr. BONIOR of Michigan. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would like to suggest that when you play chess and you are trying to get the other person in a mated position, or a check mated position, that it is a lot easier to do that if you are using all of your players at the same time. It is pretty tough to get somebody in a check mate position when you are only dealing with one mover. And it seems to me if you want to get the Sandinistas in a corner and in a box so that they have the least possible room to wiggle out of their obligation to release political prisoners and meet some of the other obligations under the Arias plan that what you need to do is have all of the major players in the region, plus the United States, working together. So if we want to put them in a squeeze, the best thing for us to do is for us to cooperate to the letter with the Arias peace plan so that it is obvious that there is only one party which stands in the way of getting a settlement, and it is not the United States.

I do not want there to be a scintilla of doubt that the United States has gone the last mile in order to bring peace to the region. I think that is the most effective way that you can make the Sandinista government, whether they like to or not, live up to their obligations under the Arias plan.

Mr. BURTON of Indiana. Will the gentleman yield again?

Mr. BONIOR of Michigan. Yes, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I would like to just suggest that we do all want peace. I would like to ask the gentleman a question. First of all, I would like to see the Contras at least be a viable force until the peace process ends. Now if the Contras are still a viable force when the peace process ends, and we all hope that they will, at least I do, then let me ask you this question: If the Sandinistas do not comply, and if they continue to export revolution down there, will you support aid to the Contras if they do not live up to the peace agreement?

Mr. OBEY. There is plenty of time, if the gentleman will yield, there is plenty of time to talk about what we will do if the process fails after it fails.

Until that happens, I would just as soon see us talking about what we are going to do to make it succeed. We have had too much foot dragging trying to help the process fail.

Mr. GEJDENSON. Let me take a look at what the gentleman would like to have us do. He would like us to continue on a policy that after 7 years of legal and illegal funding has done nothing for the United States but cause embarrassment and failure.

We ought to go back and take the press releases out of the administration where the Contras were 5,000 and 20,000 and growing, and the projections were continuously that this force of 5,000, growing to 20,000, would soon have hundreds of thousands of Nicaraguans in an army marching on Managua.

□ 2125

There were deadlines given for when territory would be held.

Mr. BURTON of Indiana. Whose fault was that?

Mr. GEJDENSON. The administration told us that we were shortly to see territory held in Nicaragua.

The Contras had all kinds of grand plans. What we need to recognize is that no matter what happens in the peace process, the continued funding of the Contras is a disaster for the United States. It is another land-based Bay of Pigs, an embarrassment for American policy, and to continue that kind of policy will give us more problems for a longer period of time in Central America. What we ought to do is find a policy that makes the United States look good and that achieves American goals. I will submit to my friend in the House today that 7 years of financing the Contras—and I would grant them that the Contras only received hundreds of millions of dollars, tens of millions of dollars, not billions of dollars to overthrow a country with 3 million people—and I would submit——

Mr. BURTON of Indiana. Let us tell the whole story.

Mr. GEJDENSON. Had we not spent tens of millions of dollars trying to overthrow the Sandinista government, we would find that there would be political pressure within Nicaragua. But the present policy has delegitimatized the legitimate opposition, it has taken out the kind of leaders that could have won elections in Nicaragua and it will continue to fail as a military policy. And that is something my friends on the other side of the aisle need to recognize.

Mr. BONIOR of Michigan. Not only has it failed as a military policy, but this whole idea of appropriating—and I am glad the administration is finally moving away from this proposal for $270 million for the Contras—is another absurdity. I mean, here we are 6 years, almost 7 years into this war and they want to spend another $270 million on 10,000 soldiers.

Now if you do the math on that, that comes out to about $27,000 per Contra. Now that is more than the average man and woman makes in the district of the gentleman from Indiana [Mr. BURTON] $27,000 a year. You know, if there was something to show for that, but there has not been; there is no land held, there is limited support.

I yield to my friend from California.

Mr. DORNAN of California. I thank the gentleman from Michigan for yielding.

There are two propositions here that I do not understand because there seems to be a similarity. My colleagues on the other side of the aisle, and I include everybody who is here tonight, who are fair, say SDI was wrong from its inception but we must admit, they say begrudingly, it did get Gorbachev to the table. But now is the moment to give it up.

But I do not hear them say, although everyone says this in Nicaragua, that Contra funding was wrong but we must admit it did get Ortega up to Guatemala City to sign Esquipulas II. That happens to be the fact.

Cardinal Obando y Bravo said that, Monsignor Bismarck Carballo says that, the little girl who was beaten up on October 22 whose name I cannot use because they will rearrest her, all the mothers and wives of the prisoners, the sisters that I spoke to yesterday in Nicaragua, the people on the march that we marched in, five of our colleagues yesterday, they all said—particularly the clergy—without the Contra funding, whether it was right or wrong, made Ortega sign this document.

Mr. BONIOR of Michigan. I would say to my friend it depends what clergy you talk to. I know a lot of clergy in Nicaragua that will maintain that the funding of the Contras has been the problem, has been the reason that you have had some restrictions on civil liberties and indeed it has not been—that has not been the reason they have gone to the table. They have been willing to go to the table now for 6 years. They were at the table in 1984 and the day before the elections in this country when we pulled the rug out from under this peace process by yanking out the support of the Hondurans and the Salvadorans.

They have been asking to continue to meet since the talks of the United States broke off with Nicaragua since 1984. They have always been willing to go to the table. It is only since the pressure of Arias who, by the way, takes the same position that I do and opposes your position with respect to the Contras as being the reasons they are at the table; he takes the position that the Contra policy has been a failure and that the Sandinistas are willing to come to the table on a reasonable proposal, a reasonable proposal like that which was made in 1984 when we had the Contadora proposal on the table. So with all due respect, it depends who you talk to. I would disagree with the gentleman.

Mr. DORNAN of California. Have you talked to Cerezo about this? Azconas, Cerezo, Duarte have all told me to my face without the Contra funding, without commenting on whether it is right or wrong, this is what brought Ortega to Esquipulas I on the Honduran border and Esquipulas II up in Guatemala City. I think this House, probably on December 16, will vote for more humanitarian aid. We are not going to go home to our baked Virginia hams and stuffed turkeys and watch the Contras straggle out of Nicaragua like the Bataan Death March. They will get that humanitarian aid. The big fight is going to be in this House in January. As I said down there in Managua yesterday, the man of the hour is the man whose Nobel prize was won for him by the blood of young Nicaraguans and some of them boys and girls about 10 miles deep in Honduras across the Rio Coco all the way down to the San Juan. Those Contras have given their lives for freedom in their country. They are all peasants now. You know, when you go down there the first thing you can see, and you can tell them from skin color, is that the fighting force is not Somocista, it is all peasants. In the prisons, the politicial prisoners they are not fair-skinned middle-class kids from Managua, they are the peasant kids, the mothers and wives and sisters I meet with, all peasants. It is peasants against middle-class kids acting out their adolescent Marxist theorizing which is the junta. This is a junta. I do not care whether it is left or right. Pinochet is a junta, the comandantes are a junta.

Mr. BONIOR of Michigan. I will yield to my colleague from Connecticut, but before I do I want my friend from California to know that this special order started over the idea that for some reason it was not proper or right for Members of this body, particularly the Speaker, to be talking with the Nicaraguan Communists. I just want to note for the RECORD that my friend here was at a table discussion with Daniel Ortega. I think it was probably a very helpful discussion in terms of where he saw certain segments of our society coming from and frankly where the gentleman saw him coming from.

I yield to my friend from Connecticut.

Mr. GEJDENSON. I want to point out several things here. Our friend from California is someone who knows his facts. Even if I feel sometimes he draws the wrong conclusions, I would also say that he is someone who probably has met with Ortega more times than the Speaker and more times than most Members and he does so because he takes his job seriously.

But I say to him whether we debate the issues of Contra funding—and I thank the gentleman from Michigan for bringing us back to the point of this special order—and I would be happy to debate with my friend both star wars and Contra funding on another evening; the focus here this evening is the Speaker's role and all our roles frankly in the peace process. And that now that we are at this point, for whatever reason you may argue or we may argue, we are at this point, that we all ought to be supporting the peace process with every bit of our energy because unless we do so——

Mr. DORNAN of California. The gentleman knows that I endorse Wright-Reagan or Wright-Reagan-Tunnerman.

Mr. GEJDENSON. I commend the gentleman for that. The blood of all Central Americans will be on our hands. We do have this opportunity, a window in time, to use a favorite phrase of the President, where we can push the peace process forward. There are no guarantees in the effort toward peace, only that it will be less costly than if we had not taken the effort for peace.

Mr. BONIOR of Michigan. I yield to my friend from Wisconsin.

Mr. OBEY. I thank my friend.

I simply would like to say that I do not frankly find it very interesting or very helpful to continue to debate the past for the 500th time on this floor. The question, we are not going to change many minds about the utility of aid to the Contras in the past. The question, it seems to me simply, what is their utility now? What ought to be our policy now? I think it is clear that right now with the Arias plan on the table the best option for all of us, all Members of Congress as well as the administration, is to support wholeheartedly the Arias plan and not try to find debating-point reasons for screwing it up.

Mr. BONIOR of Michigan. I thank my colleagues for participating in this special order.

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

UPDATE ON THE CENTRAL AMERICAN ARIAS PEACE PLAN

The SPEAKER pro tempore (Mr. DARDEN). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I came down tonight to talk about some articles that we had written in a book recently but unfortunately or fortunately I had the opportunity to hear the special order of the gentleman who preceded me and I would like to point out a few parts of the picture that were left a little blank in the discussion.

First of all, the gentleman from Michigan indicated that these people in Nicaragua are alleged to be Communists. The fact of the matter is they are Marxist-Leninists, they are Marxist-Leninists by their actions and by their words as well as by their deeds.

There is just no question about that.

When we were in Managua about 6 or 7 weeks ago, and the gentleman from California, Congressman DORNAN, and I went over there to see Lino Hernandez who is a human rights activist who was jailed because he appeared at a demonstration; he did not participate, he just appeared at a demonstration and they threw him in jail without benefit of any kind of a trial.

We went over to see him and while we were waiting in the police chief's office, Congressman DORNAN pointed out to me over my left shoulder a large picture of Lenin and over my right shoulder was a large picture of Karl Marx. Those were not hanging there just for aesthetic reasons. They

were there because that police chief as well as all those in leadership down there are avowed Marxist-Leninists. Daniel Ortega just got back from Moscow where he participated in celebrating the 70th anniversary of the Bolshevik Revolution with Gorbachev, with Fidel Castro and others. There is no question they are a Communist organization, they are a Communist government. There is no question that they plan to export revolution into the surrounding countries and that they have been doing that. In El Salvador I was in Chalatenango Province. I saw captured Communist weapons, I talked to captured Communist guerrillas who told me they were trained in Nicaragua, that their weapons came through Nicaragua. No question about that.

In addition to that, during the attack by the M-1 guerrillas in Colombia last year when they killed members of the Supreme Court down there, there were found among the dead members of the Sandinista military participating with the M-1 guerrillas and trying to undermine the government in Columbia. No question it is a Communist regime.

Now what happens if the peace process fails and the Contras dry up and blow away because we do not give them funding? We all want peace to work in Central America. We all want to give peace a chance.

But if it does not work, there should be a viable alternative to the Communist Sandinista government.

Now my friends on the other side of the aisle would have it that the Contras would no longer get funding, they would become members of the United States of America, flee to the United States or stay and go to Honduras and live in refugee camps or go back and under the state of amnesty become part of the Sandinista government or part of the Sandinista citizenry. Many of them no doubt will be taken to task, imprisoned or killed down the road.

But the fact of the matter is that they would have it that there would be no viable opposition to the Sandinistas if the peace process fails because they do not want any further Contra aid.

My feeling is that the peace process, although it should be given a chance, is likely to fail. If you talk to the other Central American leaders they are filled with apprehension as well.

Congressman DORNAN and I met with President Azcona in his Presidential residence and he told us that he had told Senator CHRIS DODD that if the peace process failed—and he had great apprehension about it—that he was going to request 50,000 American troops be stationed in his country. He was also going to request up to $250 million in military assistance. So he has apprehension about it.

President Duarte of El Salvador is very apprehensive about it. When we talked to them privately about whether or not Contras should be funded so that they could remain a viable force in case the peace process fails, they say, yes; they should at the very least get humanitarian aid so that they will be able to survive and there will be some alternative to the Sandinistas if the peace process does not work.

My friends on the other side of the aisle would have it that the Contras no longer be a viable force and if the peace process fails there would be no way to do anything about the Communists Sandinistas and their expansionist policies throughout Central America. They have been exporting revolution in the past; as Congressman DORNAN of California said a while ago the thing that got them back to the conference table, Esquipulas II, was the gains that had been made by the freedom fighters, the Contras, on the field of battle this year. The pressure had been increased on them and Tomas Borge and others have said privately that they are a threat to the Sandinista government and therefore they went to the conference table.

Now after having gone to the conference table and signing it, they are trying to buy time. They are not complying with all facets of the peace agreement, there is no question about that. They released 1,000 political prisoners or promised to release them. There are 5,000 to 6,000 political prisoners in those jails down there. Congressman DORNAN and I talked to mothers and wives and daughters of these political prisoners and with tears flowing down their cheeks they talked about the torture and the repression that their husbands and sons and brothers were feeling in those prisons, real torture.

□ 2140

And there are over 5,000 of them. So they are going to release 1,000 and say they are complying with the peace agreement? Not on your life.

In addition to that, they said they were going to allow La Prensa to print. Well, that was a step in the right direction and we all applauded that. They said they were going to let Radio Catolica broadcast again. Radio Catolica did not have the power that was necessary and one Member of our body here went down there with radio equipment and helped fix that radio station so it could broadcast not only in Managua but all the way down to Costa Rica and all the way up to Guatemala. The signal is now very strong. Lino Hernandez went on that radio station to give a news report on the human rights violations that were taking place at the hand of the Sandinistas, and they immediately once again imposed censorship on news broadcasts on Radio Catolica. They cannot broadcast news today. So once again they are not complying with the peace agreement.

As I said before, I think President Ortega in Nicaragua is trying to buy time.

And what are they doing with the young people down there? I did not bring all of my information over tonight because I did not intend to get into this lengthy discussion on this subject, but they are teaching young children to add and subtract using military equipment instead of apples and oranges. So two AK-47's plus two machineguns plus two machineguns are six machineguns; and three hand grenades plus three hand grenades are six hand grenades. And as the children get older, the indoctrination gets more severe, so that they will have a solid corps of young people to throw into the field of battle at some point in the future.

They are building their army toward a 250,000-man active army and militia. They have reached their goal of 139,000 right now, which is far greater than any of the other Central American countries, in fact probably greater than all those countries combined. And yet they continue to build. Because they felt pressure on the battlefield, they have decided to sign the peace agreement to buy time.

We all hope it works, but if it does not work, there should be a viable alternative to the Communist Sandinistas and their objectives down in Central America.

My colleagues on the other side of the aisle said that Oscar Arias received the Nobel Peace Prize, and that JIM WRIGHT should be a co-recipient because of his participation in the peace proposal. Well, if the peace proposal does not work, I hope Mr. WRIGHT, our Speaker, is equally willing to accept the responsibility for the failed plan. Of course, we hope it works, but if it does not, if you accept the accolades and there is failure, you should go with the blame as well.

Mr. OBEY. Mr. Speaker, will the gentleman yield on that point?

Mr. BURTON of Indiana. Certainly, I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would just like to make this observation. I have heard that suggestion made before, and it seems to me that what you have with that line of argument is a setup, because if you are going to hold someone fairly accountable for whether or not the Arias plan succeeds, then before you do that, it seems to me one ought to have a record of being four square for the Arias plan and doing everything possible to support it and make it work. In my judgment, as I said earlier, I am skeptical that the plan will work because I think many forces operate

against its success. But the only chance it has for success is if the United States gets behind it 100 percent rather than, as it has often done in the past, leaving the impression that we are really foot-dragging and trying to find some historical accident which will unravel it or trying to find some other factor that will unravel it.

So if people want to assign blame for the failure of the Arias plan if it indeed does not work, I think it would be a whole lot better position if they had a track record of working for a couple of years to see to it that it does work.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I hope that the gentleman from Wisconsin [Mr. OBEY] will stay there so that we can have a colloquy on this, because I did support what I have now come to call the Wright-Tunnerman plan, with Reagan signing off on it, or, rather, if you want, the Tunnerman-Reagan plan. I did support it, and I told the President in his office on August 7 at the very moment the five Presidents down in Central America were signing that I would support it through September 30, which was our Speaker's date, the 49th anniversary of Munich. I said I would support it sincerely and vigorously, and the gentleman in the well and I disagreed about it. But I think it showed, from what I saw in Managua yesterday, and the day before yesterday, that the gentleman's wisdom was superior to mine.

But I wanted to go that extra last mile, and the gentleman quoted that. I think it was fair to characterize it as that. That is what three conservative Congressmen and myself described it as, the typical Reagan last mile, on the lawn of the White House on August 7. Then it was swallowed 3 or 4 days later by the Arias plan. Two of those Presidents down there have told me they did not have much choice. After the Wright-Reagan plan or the Wright-Tunnerman plan, how could they not sign in Guatemala City?

So then they extended the date until November 7. Some people chose November 5, including Ortega, the exact 90 days. So now that whole period is gone, and now we are in the extension of the Arias plan which swallowed the Wright-Tunnerman-Reagan plan. Now we have a new date—I thought it was January 7, but now I am told it is January 16—where Arias will give a report on whether or not Ortega has lived up to the plan.

The gentleman from Michigan [Mr. BONIOR] correctly bragged on President Duarte, that he had lived up to it, and that a 1,000 prisoners are freed, including the people that killed Bobby Dixon and Gregory Weber and the other 2 marines and 9 other people that got the coup de grace right in the face. Those people are free. That is what reconciliation means.

But I am not trying to set anybody up. I say to my good friend, the gentleman from Wisconsin [Mr. OBEY], that I am now strung along. I am supporting it until January 7. I am not throwing any blocks in its way. I do not want any lethal or military aid to go to the Contras.

We can honestly disagree, I think, as to whether or not we want them to straggle out there like they did on the Bataan Death March. I think the gentleman knows he is going to lose that vote next month. But how does he see this as a setup? I want it to work.

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

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I suggest that I have not referred to anything said by the gentleman from California. I was simply responding to the line of argument made by the gentleman from Indiana which I described as a rhetorical setup, and I believe it is a rhetorical setup.

Mr. DORNAN of California. I see what the gentleman means.

Mr. BURTON of Indiana. Mr. Speaker, the gentleman may call it what he wants, but when he and his colleagues on the other side of the aisle say he is deserving of the accolades that Arias received in the form of the Nobel Peace Prize, I will not take issue with that, but I will say that if he is entitled to the accolades, he is also entitled to the blame if the thing does not work.

I think that the Arias peace plan is fatally flawed. I think it is flawed from the standpoint that while we are supposed to cut off aid to the Contras and while there is supposed to be no support for the revolutionary forces opposing the Government down there, the Soviet Union continues to pour large shipments of military assistance into Nicaragua. Two years ago they sent 18,000 tons of war materials in, last year they sent 23,000 tons of war materials in, and this year they are going to send in 36,000 tons of war material. They have every kind of Communist fellow traveler down there aiding the Communist Sandinista government, and the Contras are no longer supposed to get any support from outside sources.

It seems to me that if you are the author or coauthor of a plan that leads to cutting off aid to an indigenous freedom-fighting force while the Communist regime, under an expansionist policy that has not changed since the Bolshevik revolution continues to get aid, then you bear some of the responsibility for the failure if the plan does not in fact succeed.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I think maybe the gentleman's choice of the word, "blame," is unfair to our Speaker, and I am not going to blame Arias. What I said today in the press conference reporting on my trip to Managua, was this. And that was my 7th trip, by the way, and I think that is more than any other Member of this body, the 13th in the area, and that passes the gentleman in the other body who serves on the same committee I do, the sister Committee on the Western Hemisphere. I have been down there more than anybody, and I do not want to blame Arias, and I do not want to blame our Speaker, JIM WRIGHT.

What I want them to do, instead of accept blame, is to shoulder the responsibility or the obligation, as Mr. Kissinger did over his Nobel Peace Prize, and say that it was premature, that they tried but that Ortega has betrayed his signature on that document in Guatemala, and now we must move forward, the gentle path of diplomacy having failed, and we will fund the freedom fighters as we funded the Yankee squadrons in Great Britain or the Flying Tigers in China, that we have to now turn to force.

Would the gentleman be willing to say they shouldered the responsibility or say they tried but failed, rather than putting it in the context of using the word, "blame"?

Mr. BURTON of Indiana. Mr. Speaker, I would be happy to say, if I were going to put it in that context, that they should shoulder the responsibility, not unlike Lord Chamberlain had to shoulder the responsibility for the agreement that was signed at Munich in August 1938 when he came back waving that piece of paper saying, "Peace in our time." His public relations people thought it was a great coup. His Gallup poll rating probably would have gone to 99 percent, but yet he had just sowed the seeds of World War II. So from that standpoint, if you want to say, "Shoulder the responsibility," all right, I will say he should shoulder the responsibility.

Mr. DORNAN of California. Well, but Chamberlain resigned.

□ 2150

Mr. OBEY. Mr. Speaker, will the gentleman yield on that point?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. I would like to suggest that I note that the gentleman in the well has indicated that he believes that the Arias plan is fatally flawed. It very well may be, but I suggest that the true art of leadership lies in trying to take plans which may be flawed and turn them into winners, the way Bobby Kennedy did during the Cuban missile crisis. What Kennedy did was to recognize the fact that we had two messages from Khrushchev, one earlier, which was more conciliatory, and the second message, which was less conciliatory.

Bobby Kennedy suggested that the way out was simply to ignore the second message, which was more belligerent, seize upon the earlier message and act as though that was the position that the Soviet Union was going to take. By doing so he broke through the barrier and brought a successful end to that crisis.

I would suggest that if the Arias plan does have weaknesses, the thing to do if you really care about peace is not to debate the weaknesses but to try to push on, or put your full pressure and support behind the plan and make it work and if you think it is defective, change it so it can work, rather than an artificial deadline saying, "Sorry, you missed the calendar by 6 hours and 8 minutes, so now we've got to go to war." That is not a very smart policy.

Mr. BURTON of Indiana. Well, all I can say is that the Cuban missile crisis to which the gentleman alludes certainly did not get nuclear-tipped missiles out of the Cuban area. They were removed for a short period of time.

Mr. OBEY. But it did avert war, did it not?

Mr. BURTON of Indiana. Well, you know, you avoid war and you end up with a bigger problem down the road.

Mr. OBEY. Is the gentleman suggesting we should have gone to war?

Mr. BURTON of Indiana. I did not give the gentleman any time, I do not think.

Mr. OBEY. Is the gentleman suggesting we should have gone to war?

Mr. BURTON of Indiana. I did not yield any time, did I? I do not think I yielded any time.

Mr. OBEY. All right, the gentleman does not want to discuss the point. I will be happy to stop.

Mr. BURTON of Indiana. I do not mind discussing it if the gentleman will wait until I finish my thought and not interrupt.

The point is that the result of the Cuban missile crisis was not in achieving the goals of the Kennedy administration in getting the Soviet brigades out of there or getting the missiles out of there, because the Soviet subs with missiles are being tendered off the coast of Cuba right now. There are Soviet brigades there right now. There are Soviet Mig 23's and 24's there right now, so the Cuban problem was never resolved by the actions taken by the Kennedy administration.

As a matter of fact, the reason that we have the cancer in Central America today and the exportation of revolution to Angola and the South American countries as well as other countries in Central America is because we did not do something about the Cuban crisis 25 or so years ago.

Now, those who want to appease and say, "Hey, my gosh, no war at any price," sometimes have to reap the whirlwind. What we are reaping right now in our hemisphere because we did not take positive action in Cuba 25 years ago is a Communist expansionist policy in our hemisphere that threatens the very security of not only the Central American fledgling democracies, but the United States of America ultimately as well.

Mr. OBEY. Mr. Speaker, will the gentleman yield on that point?

Mr. BURTON of Indiana. Just a minute. We have a 2,000-mile border between us and Mexico. We cannot even keep illegal aliens out. The Soviet Union knows that and the Soviet Union is not pouring all its war material into Nicaragua, that little country, for its health. It is doing it because it wants to put us in an untenable situation on our southern flank, the soft underbelly of America, because they know full well that it we have to use our resources to take care of 10 million or so refugees fleeing into this country and we have to defend that 2,000-mile border, we will have to withdraw support from NATO, the Middle East, and other parts of the world that are vital to our security, and it will give them a freer hand in dealing with the United States and the free world. So the Soviet Union is not doing it for their health.

Because we vascillate right now we give the Soviets a stronger hand in Central America and the ability, as the gentleman used awhile ago the analogy of playing chess, we give them another rook. We give them another bishop. We give them another pawn and we sit here idly by while they continue to expand in this hemisphere.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield for a three-way colloquy?

Mr. BURTON of Indiana. Yes, that is fine. I yield to the gentleman from California.

Mr. DORNAN of California. Let me go first, and then I will yield immediately to my good friend, the gentleman from Wisconsin [Mr. OBEY].

The gentleman from Wisconsin has notice from the prior special order and this one that the rules seem to be, "You get to go for 1 minute as a foil and then we beat up on you for 10."

Let us get a colloquy going, because I accept the gentleman's characterization of that tiny part of the so-called Cuban missile crisis where Bobby Kennedy played to the positive and ignored the negative and got over that 1-day hump.

Mr. OBEY. That is not what I said.

Mr. DORNAN of California. Well, no, he said, "Ignore the negative hostile message from Khrushchev, go with the positive one and see if we can't go to a positive conclusion."

The problem is, and this is not revisionist history, this is opening up under Freedom of Information the documents and listening to the living Dean Rusk and the living Ted Sorensen to tell us what really happened.

The problem is that the gentleman from Indiana [Mr. BURTON] is correct, and the gentleman from Wisconsin [Mr. OBEY] knows this, that what we were left with was a Cuba sanitized, protected. They shut down the freedom fighter movement called Alpha 66 and about four others, CIA handlers turned suddenly into keepers, locking over 400 boats in a bayou down there in Louisiana over which I have flown and telling them they cannot fight for freedom in their country and giving Castro the wherewithal to prevail through seven Presidents, probably bring about Kennedy's assassination later, since Oswald said he was doing it in Cuba's name and went to the Russian Embassy in Mexico City, and now we have 19 countries suffering, young Cuban soldiers, baptized Christians in secret, sent off as the Russian empire's mercenaries to Yemen on the Saudi Arabian peninsula, thousands of them in Angola dying, bringing home AIDS to Cuba, and we have got a megalomaniac Castro who has done precisely what the gentleman from Indiana has said, prompt revolution all over three different continents.

If you listen to what Sorenson says, he said—now get this, I say to the gentleman from Wisconsin [Mr. OBEY]—that they were willing to tolerate 40 IRBM's in Cuba. I never knew that until 3 weeks ago on the 25th anniversary. I never knew that, that they would have blinked if the Soviet Union had not blinked first. I heard Sorenson say that in a debate in Atlanta.

What this is turning out to be is one of the biggest foreign policy failures of this century, that a 45-year-old President, to die at 46, in less than 2 years and a few months of an administration—well, less than 2 years, a few weeks shy of 2 years—came up with the biggest policy failure in our struggle against communism. I think that is the way history is going to record it from now on, as tragic as that is.

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

Mr. BURTON of Indiana. I will be happy to yield in just a minute.

My concern is that we do not make a second tragic mistake like that made in Cuba.

I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

I must confess that I have minimum high regard for the historical analysis of both these gentlemen. I am sure they have minimum high regard for mine.

Mr. DORNAN of California. But high regard, nevertheless.

Mr. OBEY. Let me simply say that if you want to debate the history of the Cuban missile crisis, I am perfectly happy to accept what I think is the orthodox judgment of history that the United States came out of that pretty well in comparison to what we were facing.

Mr. DORNAN of California. In comparison to Castro?

Mr. OBEY. I wonder if I could finish.

Mr. DORNAN of California. Sure.

Mr. OBEY. The goal of the Kennedy administration was to seek to have those missiles withdrawn. They succeeded in that.

The secondary goal was to avoid war. They succeeded in that.

I would suggest that the alternative at the time to—well, let me put it this way. The goal of the Kennedy administration was not at that point to "remove Castro." The goal was to remove missiles. He succeeded in that and I would suggest that the inconvenience of having someone like Castro around today is far less than the inconvenience we would have experienced if several hundred million people had gone up in a nuclear blast.

Mr. DORNAN of California. The gentleman does not believe the assassination theories that are laid at the feet of the Castro regime?

Mr. OBEY. I would like to complete my statement, if I could.

The SPEAKER pro tempore. The Chair reminds the assembly that the gentleman from Indiana has the time.

Mr. BURTON of Indiana. I yield to the gentleman from Wisconsin.

Mr. OBEY. In closing, I would simply make this point, that you can debate the past about the Cuban missile crisis just as you can debate the past utility of the Contras.

The fact is that we have one peace plan before us today. That is the Arias plan. So long as the Central American Presidents are saying that it has a chance, I think we ought to give it a chance. That does not mean pulling the plug on it at 1 minute after midnight because somebody has a fast watch.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Well, I do not want to pull the plug on him and I am not going to quibble about 6 hours or 6 days, but I am going to object strenuously to 6 months. If somebody comes up with the idea, if Mr. Arias or anybody else, that we extend it 6 months from January 7, or now it has slipped another 9 days to January 9.

Let me join in the colloquy here. I have a list in front of me of the Nobel Prize winners since 1970. Let us go back just briefly to 1921. Frank Kellogg of the Kellogg-Briand Pact. That was 1929. He won the Nobel Prize for ending war, for stopping all wars. Well, 9 years later Mr. Chamberlain was standing there on the tarmac at Munich referring to Herr Hitler as a decent man who has signed this great diplomatic coup with him. Hitler was just a few years away from the Hitler-Stalin pact where they cut Poland in half and signed away the lives of all the people who had 19 years of freedom in Estonia, Latvia, and Lithuania. So much for old Frank Kellogg getting the Nobel Prize.

Now, I am looking at this series of documents. There are some people on here you have to admire. There is Mother Teresa, 1979; Anwar Sadat paid for it with his life. He got a good coup de grace with a machinegun right over the edge of the reviewing stand in Cairo.

Then there are two ladies, people forget about these two nice people, Betty Williams and Moired Corrigan in Northern Ireland. Did they bring peace there? There were 11 people blown to bits in a bar in Northern Ireland. I have not had a chance on the news to find out which side it was, probably the IRA.

What they should do is say that the Nobel Prize is for people who try to bring peace. After all, Mother Teresa was not dealing with nations. She was dealing with the very scum of the gutters of Calcutta, people dying of everything from leprosy and every disease you can name, except AIDS, and now that has hit there too, or will soon. Mother Teresa was trying to bring peace to individual people.

I do not begrudge Arias the peace plan. I was one of the 18—I do not know how the gentleman in the well voted—not to commend him for it, not because of him personally, but because of the tawdry way the Scandinavians handled this. The cutoff date was February 2. That means that someone already selected for that Peace Prize who probably did something of accomplishment or something that had more fruition to it, they were cut out and only the people on that secret committee know what two women or two men, or one man or one woman, lost the Peace Prize this year, so that on the February 2 cutoff date they throw it out the window and rush in to influence the political process in Central America. If they felt it was going to save lives, fine. It does not diminish the fighting in the field. The Contras are not fooled by Ortega's lies. They are going to continue fighting and if we cut them off totally, many of them say they will go on fighting, even if it turns out to be a band of only a thousand guerrillas, which is all that is left of the Communist guerrillas in Guatemala.

Now, let me ask my colleague about the severest line I have ever read about our colleagues, because I like them all and I am not here like Marc Antony to damn them with faint praise, but someone who is a friend of mine who I like a lot, Patrick Buchanan, one of the better writers of all the columnists, certainly provocative, makes people think, and was our President's communication director for a couple of years, almost a couple of years. He said, and these are harsh words, they are not mine, I want anybody who follows the discourse in this Chamber to know. He said, "The liberal Democrat leadership of the Congress of the United States have become the indispensable arm of Communist expansion around the world." Those are rough words.

Mr. BURTON of Indiana. They sure are.

Mr. DORNAN of California. They got a lot of people angry on the other side. Some of them came up to me and said, "BOB, call off your pit bull, Pat Buchanan. Them is rough words." They tend not to say they are fighting words, because they do not like to think about fighting ever on anything.

I do not want to add insult to injury, but sometimes I feel that there are some Members in this Chamber, maybe on both sides of the aisle, who if their wife was being raped in front of them, they would never use just violent force to stop it. They would just yell a lot and say, "Don't do that. Can't we talk?"

There are times in history, it is not only World War II, where people of conscience take up arms. Most people in this Chamber admire the gentleman from Illinois, HENRY HYDE, who said he needs the ultimate theological and philosophical document on the difference between violence and legitimate moral force.

We have been in those camps together. You know what I mean when I say those are dark-skinned peasants, not middle-class lighter skinned kids from Managua. These are kids off the fincas. These are campesinos from the farms of Nicaragua who are tired of being dragooned into military service and having their rights to a little simple basic free-market economics to deal with their crops and they are fighting for freedom.

Mr. BURTON of Indiana. That is a very good point. I just wish all my colleagues who were here a while ago could have gone into those camps and talked to those particular people. When we went in, you remember they were hollering, "Viva Reagan. Freedom for Nicaragua." There was no question that those people wanted to go back and be free.

Mr. DORNAN of California. Well, I know the gentleman admires St. Francis of Assisi, that type of person, who falls to his knees—this is what Joan Baez did in Vietnam, and I have come to sort of like Joan Baez. She says, "Stop fighting, both of you. Talk. A pox on both your houses. Diplomacy. Don't fight."

We say that to our kids, "Be nice, don't fight." I had five all under 7 years of age once. "Be nice, don't fight." We admire that type of person, but sooner or later there comes what I call the samurai point, to borrow that word from an oriental culture, where somebody has to unsheath his sword and say to the cripples, the ill—Bowie was on his back on a bed in the Alamo, he was too sick to fight with pneumonia, but he still died fighting. Those that are ill, crippled, the women—some women choose to fight, Molly Pitcher, right down to the eight women's names on the Vietnam Memorial wall, but most women chose not to fight, to protect their children.

□ 2205

To the clergy, to the conscientious objectors, to the 4-F's, and we have a lot of them in this Chamber. My heart goes out to them. I used to get down on my knees, because my father was a decorated World War I veteran, and I would pray, "Don't let me be 4-F. Let me be 1-A, not 4-F."

The samurai said everybody back inside the fortress, and close the gate. I will stand outside the gate and you reverend, or you, monk, or you, rabbi, stand up on the wall or get down on your knees and pray for me that we succeed. If I fail in guarding the gates of this small city, our women are going to be raped and murdered and carried off into bondage, and our children are going to be galley slaves or whatever they want them to be. I will die along with every able-bodied man, some will die slowly through torture, and by the way, the men were tortured at the Alamo. Somebody has to do that, somebody has to stand up and fight, and that is what those humble campesinos are doing out in the field, those we call the Contras.

I am not being insincere, it is not a Marc Antony trick here, but is there some leadership in this Congress that is the indispensable arm helping the Communist Government of Mozambique along with my hero President's State Department to block the freedom fighters called Renamo?

I say to the gentleman that he worked that issue harder than anyone in the House.

Mr. BURTON of Indiana. No question about it.

Mr. DORNAN of California. Are there some people that have inadvertently or by willful judgment become the indispensable arm helping the Communist Government in Angola hold off Jonas Savimbe, and what I think are the forces of freedom in that country? They hold territory. They hold more than a third of the country.

Mr. BURTON of Indiana. That is right.

Mr. DORNAN of California. Is somebody joining with the Russians and fighting through diplomacy in this House that fight for the Angola Government that would not last 10 minutes if he were not for the Russian and Cuban troops?

Mr. BURTON of Indiana. I do not think there is any question.

Mr. DORNAN of California. Has there been a policy in this House, and it is not any of the gentlemen who spoke in the well or on the floor today, I might say. But has there been a group of Members in this House, some in our party and about twice as many in the other party, about 50 people, who were the group that Ollie North was really talking about when he said at the Iran-Contra-gate hearings over in the Russell Building—Senator Russell of Georgia, who told the Vietnamese, "If you torture one of our prisoners, we'll bomb you into the Stone Age." He has a building named after him. That stopped the torture when the Senator from Georgia, one of the leaders on the Senate Foreign Affairs Committee got that tough. Maybe it was the Armed Services Committee. But Ollie North said the Congress of the United States must take the blame and I think I have even memorized the words in proper order, "Because of a vacillating, fickle, unpredictable, on again off again Congress. We are betraying these freedom fighters down there.

He was not talking about the gentleman from Indiana [Mr. BURTON]. He was not talking about me. He was not talking about the gentleman from Wisconsin [Mr. OBEY] or the gentleman from Michigan [Mr. BONIOR] or the gentleman from Connecticut [Mr. GEJDENSON]. He was not talking about the liberals over there or the conservatives. He was not even talking about the people that Pat Buchanan wrote of that has inadvertently done this. He was talking about 50 people who have a wet finger in the air and they run this way and that way, and I just want to ask the gentleman from Indiana [Mr. BURTON] a question, because I do not know the answer.

Why does the gentleman think that fickle, vacillating, unpredictable, on again off again group, 15 in our party and 35 over there roughly, why do they run back and forth? Why can they not make up their minds? What are they worried about? Is it some judgment of history?

Mr. BURTON of Indiana. Political pressure probably.

Mr. DORNAN of California. Oh, let us talk about that because no two Members have seen that political pressure in the raw incubating, being nurtured in Managua more than the gentleman and I have. Let us discuss what we saw with that Witness for Peace group back in the first week of September. What did we witness when we walked in that room?

Mr. BURTON of Indiana. Hostility.

Mr. DORNAN of California. And they did not know who we were. They saw two U.S. Congressmen, their teeth flashed, their bodies recoiled 2 or 3 inches physically. They looked at us like we were the scum of the Earth, that we were funding terrorists to bayonet pregnant women.

Sixty thousand of those people had been recycled back into this country, and I say to the gentleman I bumped into a bus full of them Saturday up in Matagalpa. Of course we know who they started quoting, Norm Chomsky. Norm Chomsky, this apologist for the horror and slaughter in Cambodia and for the death of over half a million to 600,000 boat people. I do not want to hear from that old Vietnam retread radical procommunist that used to get flowers at the airport in Hanoi. I do not want to hear from him any more than I want to hear from Jane Fonda or Tom Hayden about this struggle against communists in Central America.

Mr. BURTON of Indiana. These people, these 60,000 have been going down there for the past 5 or 6 years. They go on a predetermined course through villages.

Mr. DORNAN of California. And they sign a contract.

Mr. BURTON of Indiana. They sign a contract. When they get through with a 12-day tour, they have heard nothing but horror stories about the atrocies perpetrated on the people of Nicaragua by the Contras and much of it, if not all of it, is disinformation and they come back to this country and they put pressure on the vacillating 50 or 60 Congressmen alluded to earlier, and that is why we have had an on again off again policy in Central America.

Mr. DORNAN of California. And if the gentleman will continue to yield, he has only answered half of the question. The half of the question that was answered was why they run to the left, that is because they are under political pressure from the 60,000 plus people that were brainwashed by groups like Witness for the Church in the Name of Jesus Christ, which is

what drives me up the wall, but what makes them come back to the side of anticommunism, of drawing a line in the dirt on the resistance.

Mr. BURTON of Indiana. I think the answer there is that the President has been successful a number of times in bringing to the attention of the American people the necessity for defending our soft underbelly, the Mexican-American border, and helping those democratic governments hold off the influence of communism.

Mr. DORNAN of California. Could it be that, or can we attribute that to too much decency to people who are fickle and vacillating, could it be they are sincerely worried about the judgment of history? Does the gentleman think it really puts them off to see Ortega run off to bootleg people on top of Lenin's tomb in Moscow? Does the gentleman think it does worry them when Ortega invaded Honduras? I did not criticize that, because I said Ortega is throwing down the gauntlet, sock him in the face, Contras; and they did. They had a battalion surrounding the Sandinistas that they had to let go.

One thing the Democrat liberals cannot stand on the other side of the aisle is they cannot give public relations orders to Ortega. He is all so predictable, not unpredictable. He is predictable as all young Communists are. They are impatient, they want to get the job done, they have their eye on Lenin, and they do not care what liberal Democrats with guilty consciences do up here, and he is a frustrated man.

Mr. BURTON of Indiana. Mr. Speaker, if I might reclaim my time, Ortega is probably watching this, or he is having one of his aides watch it. Let me just say that we underestimate the dear commandante because he has been doing things to try to stem off the tide of additional aid to the Contras by signing the agreements in Esquipulas.

Mr. DORNAN of California. I would ask the gentleman if he heard what Ortega did Thursday night?

Mr. BURTON of Indiana. In addition to that, he has released a few hundred of the 6,000 or 5,000 political prisoners, he has let La Prensa print a few papers, he has let Radio Catolica broadcast a little bit even though he did ban the broadcast of newscasts.

Mr. DORNAN of California. That is right, only mass and music can be broadcast. But let me tell the gentleman, I, like the gentleman from Michigan [Mr. BONIOR] have a share in an overriding important issue here, pro-life, and he is always a gentleman. But I wish he were here to respond to this.

Thursday night, with the mayor of New York sitting in front of the audience, with D'Escoto trying to encourage him to come up on the dais, the mayor did not. He is no fool. He served too many years in this body.

He always said that the only thing we did here was that we passed a lot of crap here that he is paying the price for now as mayor of New York.

But he would not get up on the dais because they wanted to talk about the release of the prisoners. The mayor said you talk about the release of prisoners, then I will get up on the dais. Then, he said, you will sing that cockamamie song about we are the pigs and killers of the world. They sang the song, and insulted the mayor's country to his face.

Mr. BURTON of Indiana. Mr. Speaker, I would ask the gentleman to say what they say in that national anthem. It does bear repeating.

Mr. DORNAN of California. They say in the song that the blood of the war is on our hands.

Mr. BURTON of Indiana. And, kill the Americans.

Mr. DORNAN of California. Yes, kill the imperialist Americans. And he goes beyond that, he gets it into a chant, and my Spanish is not so good but this is the way it goes, and we can see this on the tape. I am going to put his transcript in the CONGRESSIONAL RECORD tomorrow.

He says, aqui, which means "now." And I mean he yells like Adolph Hitler, or Mussolini. He used to be a lousy speaker not 3 years ago, but he is as good as any fascist now. He yells aqui, and the audience is all trained to yell back, and it rhymes better in Spanish, Aqui, Alla el yanqui morira, and they yell back, Aqui, Alla el yanqui morira, Aqui, Alla el yanqui morira, and that means here and there are the Yankee dead, here and there the Yankee dead. He does it about five times right in the mayor of New York's face.

I know that they do not like that, I mean my good friend the gentleman from California [Mr. MILLER] and the gentleman from Michigan [Mr. BONIOR] who ran down there one time and said, "Mr. President, what are you going to Moscow for? Why do you do these dumb public relations things?"

Ortega probably laughs at them when they leave, saying these weak liberals.

What did they do in North Vietnam? The first thing they did was drive the VC out of the country and take over.

□ 2215

The first thing the Communists do is go to the liberals because the liberals are sometimes idealistic and they try to talk democracy and they try to reason with people, and they are the first persons that are driven out of the government, and they put them up against the wall. Castro executed all of these liberals, even his best friends, one of whom came up to him and said, Fidel, I may be socialist and liberal but I am not Communist and I just want out of here, and leave me alone and let me go to the United States, and Castro said, you are not leaving me. He said you are writing a book. He said, no, I am not. He threw him in prison, in the nude, for 15 years in solitary confinement, and it is a miracle he is alive. I have talked to him, Armando Vayodaros. You have talked with Ambassador Vargas in Equador from the Embassy in Cuba, and Castro said Ambassador, come out, you have been a distinguished diplomat, we are not going to hurt you, you are a distinguished diplomat, we are not going to hurt you. If you want to leave the country, fine. He said, OK, I trust you and he comes out and gets 23 years in prison.

We passed out there to the mothers Armando Vayodaros' book in Spanish, and these mothers gobbled it up. And I said, if you cannot read, get somebody to read this to you because this story will give you hope, it will reinforce that great courage you already have. I just wish the gentleman from Michigan [Mr. BONIOR] and I could go down sometime on my itinerary, and then we will go on his itinerary. I caught some people in the street yesterday. I did not tell the gentleman this, but when we went to Victor Hugo Tinnoco, and I said to him that butterball ex-priest, he does not run this place. I said you are the ones who runs the foreign ministry, and he smiled and took it as a compliment. You know, the guy sitting immediately to your left, kind of medium sized guy with kind of an open little Wally Cox, Mr. Peepers face, big glasses, he is moving around yesterday afternoon with the secret police, and I walked up to him and I said I know you, you were in the foreign ministry with Mr. BURTON and myself. What are you doing out here with five Congressmen. If we were not here, what would you be doing, beating these people up if we were not here. If we were not at that parade yesterday they would have beaten this little 22-year-old girl, the Sandinista woman would smack her in the face. I would love for Mr. BONIOR to see and talk to this young lady. They smacked her in the face, knocked her down a whole flight of stairs where the mothers were from the church, and four men kicked her in the head, in the chest, and that is why she passed out from a heat stroke yesterday.

Mr. BURTON of Indiana. There is no question that they have a different agenda, the more liberal Members of this body. When they go down there they talk to the Revolutionary Church.

Mr. DORNAN of California. The people's church.

Mr. BURTON of Indiana. About 80 or 90 Catholic priests and nuns who believe in the revolutionary doctrine that they espouse.

Mr. DORNAN of California. More like 60 out of 900.

Mr. BURTON of Indiana. I thought there were about 950 that are in the regular Catholic Church which is headed by Cardinal Obando y Bravo, and they never talk to him, and when they do they have a biased point of view going in.

I think the gentleman's point is very well taken. They ought to go down and look at both sides of it. We have seen both sides. You and I met with the mothers and the wives of the political prisoners and heard their horror stories about how their husbands and sons are tortured and brutalized in those prisons.

I asked Members of Congress when they were down there to go and talk to them and they would not. We asked the Witnesses for Peace at the meeting, we said one thing we would like for you to do before you leave Managua is to go and talk to the mothers of the political prisoners, and they would not do it. Remember?

Mr. DORNAN of California. The mothers asked one of the leaders from the other body, the Senate, they said how come you have never met with us in your trips down here. And he said, at least that eliminates a few women in the other body, he said I have just never had the time. I do not know how any Member can say that. Mr. SCHEUER met with the suffering mothers, the daughters, the young wives, and if they are wives of members of the Guardia their men have been in prison for 8½ years. I asked my colleagues on the other side of the aisle to ask Mr. SCHEUER, and Mrs. BOGGS, our colleague from Louisiana, ask the Clerk of the House, Donnald K. Anderson, and he is as good a Clerk as this House has ever had in two centuries, ask him what his impressions were in January when he first met with that group and they were just then forming.

I do not know what is going to happen in January, but anybody who follows the discourse on the floor of this Chamber should be aware now that the knock-down, drag-out fight is going to happen in January. They must have noticed that my colleagues who have a different opinion on this Central American crisis down there, that they did not again say what I was saying, that the next continuing resolution, the one that will take us through our Christmas holidays, that it will have in it humanitarian aid, which means helping the war effort, because if you give people food and boots and clothing for the supply troops, and if they have bullets, then that puts the whole package together for them.

I am old enough to remember the Bundles for Britain. When I was a kid in New York in 1941 and 1942 we had those Bundles for Britain which helped the British war effort hold off Hitler while England was all alone, and the rest of Europe was under the Nazi jackboot. We are going to pass that aid, as I said, and I will say it for the third time. We are not going to go home to our Virginia baked hams, stuffed turkeys and feed our faces and watch these Contras struggle out like the Bataan death march. That continuing resolution will pass, because after all, we are putting it on a bill that means the Government is going to continue running or not running whether we vote that up or down in this Chamber.

What we have now is the rest of this month. After all, it is only the ninth day. So we have 22 days, 31 in December, and Lord knows how much in January, somewhere between the 7th or the 16th, or we will probably get around in the 20's of January, one year out from a new President being inaugurated. Then we are going to have that knock-down drag-out debate.

I do not know about you, but I plan to go down at least two more times and I plan to take more freshmen down. I think you and I may plan to go down another time, and we have it down to a science now. We do not even go to our quarters. We get on the bus at the airport and get right out in the countryside and talk to the people. There is only one other Congressman who has been way out in the countryside, and that is STEVE SOLARZ, my good friend from New York. And the Embassy people tell me, and I wish he was here to say whether it was true or not, he finally said to them you are setting me up with handpicked people to talk to me and tell me how bad the Sandinistas are. And they said, Congressman, we swear we are not. There is a bus stop, pick anybody. So he goes up to the bus stop and there are about eight people in a row, and he picks a young lady. And she says, well, we have just gotten out of prison, that they have arrested her because she had 2 dresses. They were my dresses, I just bought the other one, but they said that I was smuggling. So I have spent several months in jail. After he talked to her at length through a translator STEVE turns and says, OK, you win, I am convinced. This is a horrible government down here. And I have not heard him speak much on the floor.

Mr. BURTON of Indiana. But the question is after coming to see that revelation did he change his vote on Contra aid?

Mr. DORNAN of California. No. No, you see, this is the mystery. They are not for the Sandinistas, they will not speak at their rallies the way I spoke at an internal democratic resistance rally. But they will do work for them, I guess inadvertently here in the House to block any real positive moves from turning them. And now I find they will not even admit that the Contra funding helped get them to the table. Mr. BONIOR said he was coming to the table anyway. Well, coming to the table on his own terms.

You and I are going to the White House with the four Members that we went down with some time next week, and I want the world to hear it. Mr. President, we are coming down, are we not, DANNY BURTON, me, and the four other Members who were down over the weekend, and we will be in the Oval Office next week giving a report, I can promise.

Mr. BURTON of Indiana. Let me just divert my attention for a minute here to something that I wanted to get in the RECORD tonight that parallels or points out the position that you and I have taken regarding supporting the Castros.

Dr. Haing S. Ngor, the Cambodian refugee who won an Oscar for his performance in "The Killing Fields," you remember——

Mr. DORNAN of California. I have met him many, many times.

Mr. BURTON of Indiana. He told demonstrators protesting the Soviet Union's 70th anniversary that communism must be fought, and this is what he said:

> In my country, the killing fields are not over yet. They won't end until millions of dollars go to support the fight against communism and the Soviet Union.

Our former Ambassador to the United Nations, Jeane Kirkpatrick, commenting on the Arias peace plan made this statement regarding the resistance, and this was in the paper this morning:

> But if the resistance is dismantled and the Nicaraguan military regime is left intact, there will be no peace, no stability, no development and finally no freedom in Central America—not in El Salvador, nor in Guatemala, nor in Costa Rica.

This is a lady who has some expertise, being our Ambassador to the United Nations. She has worked on the Central American issue for years now, and she said even though there is a peace plan that is in vogue right now, the fact of the matter is that if there is no military resistance to the Sandinistas freedom will not prevail in Central America in any of these fledgling democracies down there.

Mr. DORNAN of California. There is something that I want Mr. OBEY to read in the RECORD tomorrow, and he may not agree with this either. But I know of what I speak when I say this. John F. Kennedy's personality and his whole method of operation is closer to mine and yours than it is to Mr. OBEY's. This is an Irish Catholic from an upper east coast family that had a feeling of noblesse oblige like his older brother, and at least Bobby, who knew that they were privileged and had to

serve and asked for combat. I understand that. I am an Irish Catholic, only there he was first generation or second generation wealth. My dad was a pauper who made it on his own.

But I understand that noblesse oblige, and if John F. Kennedy, and here is the statement I make that Mr. OBEY would not know the first thing about if he disagrees, if you could have taken John F. Kennedy in that Oval Office with Bobby Kennedy at his side and shown him a crystal ball and said watch this, Mr. Forty-Five-Year-Old President, we are going to show you what it is going to be like 25 years from now, here is Castro still in power, here are 19 countries with Cuban mercenary troops in them. Here is Nicaragua, which you used as a support base for the Bay of Pigs. You signed off on it, here they are crushed, more political prisoners than any nation in the world prorated to population. Here is what has happened in Argentina and/or Chile over the intervening years. Maybe we could go 10 years in the future that you and I don't know yet. What do you want to do now?

Do you know what Mr. President Kennedy would have done? Air strikes to take out the missiles, and you know what, there would not have been a World War III. We would have called their bluff. We had them 10 to 1 in strategic nuclear power. They would have turned their ships around and gone back, and I believe he would have taken military action, and there is one thing he certainly would have done that did not even mean sure military action. Khrushchev told him you have our Soviet permission to inspect the sites in Cuba, and Castro, this pipsqueak, a tiny little army, not nearly the strength he has now said, I countermand Mr. Khrushchev and you do not touch my island or we fight. And President Kennedy, with Soviet acquiesence, backed off on on-site inspection. He would not have done that if he could have seen the future.

Mr. BURTON of Indiana. That is the problem we face in Nicaragua today. We have seen appeasement and what it leads to in World War II, and prior to World War II it led to World War II. We have seen appeasement and what it led to in Cuba, and now the cancer of Cuba has spread to the African Continent, it has spread to Central America and South America, and we still sit by feeling that we can deal with the Communists, the Soviet Union and her surrogates from a position of weakness and from a position of appeasement and negotiation. You cannot do it. The only thing they understand is strength.

I would like to just use a couple of quotes from Winston Churchill in World War II.

He said:

Two years ago it was safe (to stand up to dictators), 3 years ago it was easy, and 4 years ago a mere dispatch might have rectified the position. But where shall we be a year hence? Where shall we be in 1940?

He said that in 1938. And then at the conclusion of World War II Churchill was asked by Franklin Roosevelt what we should call World War II. And he said, "the unnecessary war."

He went on to say:

There could hardly have been a war more easy to prevent than this second Armageddon. I have always been ready to use force to defy tyranny or ward off ruin. But had our British, American, and Allied affairs been conducted with the ordinary consistency and common sense usual in decent households there was no need for Force to march unaccompanied by Law; and Strength, moreover, could have been used in righteous causes with little risk of bloodshed. In loss of purpose, in their abandonment even of the themes they most sincerely espoused, Britain, France, and most of all, because of their immense power and impartiality, the United States, allowed the condition to be built up which led to the very climax they dreaded the most. They have only to repeat the same well meaning, short-sighted behavior towards new problems which in a singular resemblance confront us today to bring about a third convulsion from which none may live to tell the tale.

He was very prophetic. We have a situation in Nicaragua right now that parallels what happened in Munich in 1938.

Mr. DORNAN of California. Do you know what, in the British Parliament in larger numbers than we have here is a group of vacillating, unpredictable, on-again-off-again MP's who ran back and forth, mostly toward the side of appeasement until some of their sons ended up dying in everywhere from the jungles of Burma to a sword in Juno Beach at Normandy.

Mr. BURTON of Indiana. Let me tell you a story. Winston Churchill came in like the legitimate kind of England who kind of wanted him to be Prime Minister, but the party did not want him to, but they could not coalesce around any candidate.

□ 2230

So Winston Churchill came into power as Prime Minister like an illegitimate child. When he went to his first Cabinet meeting, because of the division within the Parliament, he kept the same Cabinet that Lord Chamberlain had. When he went to his first Cabinet meeting, and he walked through the door they had elected a spokesman and the spokesman said to Winston Churchill:

Mr. Churchill, Mr. Prime Minister, we have concluded that we must sign an agreement on Herr Hitler's terms or else our island nation is going to be destroyed.

And Churchill in his bulldog fashion, pulled the cigar out of his mouth, looked them all in the eye and said:

Gentlemen, I have concluded that I cannot and will not deal with that man. If this beloved island nation of ours is to die let every Englishman die choking in his own blood.

And he jammed the cigar back in his mouth, did a pirouette and walked out.

Mr. DORNAN of California. You know, that is a fascinating story. To show you how he was bluffing Hitler, I heard a story——

Mr. BURTON of Indiana. I do not think he was bluffing. I think he was standing up to him.

Mr. DORNAN of California. No, no, he was standing up to him but he also was bluffing partially, not himself, his own will power, but knowing he did not have the wherewithal to prevail, that is why he kept talking to Roosevelt secretly, to President Roosevelt but was cutting deals with him around the backs of 435 secretaries of state. Even then they had that problem. I heard on a television interview once, one of the founding members of the BBC, who is now dead, say that he was in the room when Churchill made the stirring broadcast which was a direct answer to Hitler that if they attacked the island he says:

We will fight them in the streets, we will fight them on the farms, we will fight them in the chicken coops and they will not think that they have landed in a chicken coop; they will think rather they have landed in the lion's den.

And he went off the air and said:

But I don't know what we will fight them with.

He was talking to the BBC executive. But he was putting up the best front he could. He held the line alone. Churchill and about 1,400 upper-class kids like John F. Kennedy who were those fighter pilots in the Hurricanes and the Spitfire squadrons who Churchill called, "Never in the course of human history have so many owed so much to so few." Well we have a few kids fighting down there in the jungles of Nicaragua and we call them Contras. What they are are Contra-tyrants. They are Contra-Communists. They are fighting for freedom. And if we are going to shut them down we are going to rue the day because none of us in this body, not a single person on our side of the aisle and certainly no one over there wants to see the 82d Airborne bailing out over Central America.

Mr. BURTON of Indiana. One thing that the gentleman and I have heard President Azcona say in Honduras and in Tegucigalpa that if the peace process fails and if the Contras are no longer a viable force to oppose the Communist Sandinistas, he was going to request 50,000 American troops be stationed in his country and would ask for $350 million in military support. Now that was just Honduras. That does not mention what will help in El Salvador or Costa Rica. Arias does not even have an army down there.

Mr. DORNAN of California. Quickly, has the gentleman gotten a briefing from Maj. Roger Miranda, this top executive from their little Pentagon down in Managua? Has the gentleman gotten a secret briefing yet?

Mr. BURTON of Indiana. No, I have not.

Mr. DORNAN of California. Nor have I. But does the gentleman know what he is going to tell us? Well, Ortega spilled the beans Thursday night. Ortega said, all right, we have had a traitor defect to the United States. So he is going to tell them we have plans for an army of 600,000 people. Let them find out. We are going to have an army of 600,000 people and then he starts another chant, "Aqui, no surrender here, no surrender here."

Mr. BURTON of Indiana. Six hundred thousand?

Mr. DORNAN of California. Six hundred thousand is what Miranda is probably telling the CIA.

Mr. BURTON of Indiana. The last figure we heard was a quarter of a million. Now he is going to build a 600,000-man army in Central America?

Mr. DORNAN of California. That is what Miranda is going to tell the CIA, he knows that and what he is going to tell us in 227.

Mr. BURTON of Indiana. Well, if our colleagues on this side of the aisle do not pay attention to that speech, there is something wrong. A 600,000-man army in Central America, that is against the United States, the imperialist Yankees, is a threat.

Mr. DORNAN of California. We saw that in the film, "Red Dawn," that is how psycho that is.

Mr. BURTON of Indiana. Well, there is no question we had better pay attention.

Mr. DORNAN of California. Well, after we get our briefing from Miranda let us bring the new Secretary of Defense-designate Carlucci in and see if he will do what my friend "Cap" Weinberger did not do and that is, and I say it for the umpteenth time in 12 years around this Hill, declassify 80 percent of the top secret briefings so that we can build some political pressure and let our free American people in on the judgment because a lot of people around this House will not get those briefings.

Mr. BURTON of Indiana. We are about at the end.

Mr. DORNAN of California. Let him get the last word.

Mr. BURTON of Indiana. That is one thing I would like to get across to the American people, the American people need to know the facts and they will inherently make the right decision. They always have.

At this point in the RECORD, I include the chapter by DAN BURTON:

CHAPTER VIII—THE HOUSE AND FOREIGN AFFAIRS: MAKING THE WORLD SAFE FOR TYRANNY?

(By Dan Burton)

. . . this House views with grave concern the tendency among the nations of the world to resume the competitive race of armaments which has always proved a precursor to war; it will not approve any expansion of our armaments unless it is clear that the Disarmament Conference has failed . . .

From the Motion of Censure by the Liberal Party in the British Parliament, following the government's increase in defense spending in response to the illegal buildup of the German Air Force, 1934.

Two years ago it was safe [to stand up to the dictators], three years ago it was easy and four years ago a mere dispatch might have rectified the position. But where shall we be a year hence? Where shall we be in 1940? Winston Churchill, British Commons, March 24, 1938.

Today, the free world is facing an even greater challenge to global peace and stability than faced the allies, primarily Britain and France, in the 1930's. The stakes are higher, and the burden more concentrated on the shoulders of one country, the United States. Not only our own freedom, but the fate of millions of people all over the world, rides on American foreign policy. It is on this world stage that the House of Representatives has thrust itself.

While I agree with those who decry Congressional foreign policy activism as overstepping constitutional bounds, I see no signs of the clock turning back on this account. To me, the central question is whether the Congress, particularly the House, can or will share the responsibility with the Executive Branch of safeguarding American values and interests in an increasingly dangerous world. As this chapter indicates, I do not believe that the House has been contributing positively to the conduct of our foreign policy and the maintenance of our national security.

The French author Jean-Francois Revel has noted that democracies have a tendency to combine great success at home with indifference to threats from abroad.

Democracy is by its very nature turned inward. Its vocation is the patient and realistic improvement of life in a community. Communism, on the other hand, necessarily looks outward because it is a failed society and is incapable of engendering a viable one. . . . Democracy tends to ignore, even deny, threats to its existence because it loathes doing what is needed to counter them. It awakens only when danger becomes deadly, imminent, evident. By then, either there is too little time for it to save itself, or the price of survival has become crushingly high. (Jean-Francois Revel, How Democracies Perish, 1983, p. 3.)

In the 1930's the democracies particularly their legislatures, attempted to explain away or ignore Hitler step-by-step pursuit of his nightmarish agenda. Today the Soviet Union pursues the greatest peacetime buildup in history and backs new communist regimes in Afghanistan, Vietnam, Laos, Cambodia, Angola, Mozambique, Ethiopia, Nicaragua, and the Seychelles. Meanwhile, in the past decade the Soviets built over three times as many nuclear missiles as the U.S., over eight times as many surface to air missiles, over three times as many tanks, twice as many submarines, and ten times the number of artillery pieces.

The response by the majority in the House is alarm, not at the Soviet buildup and relentless aggression, but at the President's moderate attempts to respond.

THE BUILDUP

In just one day, May 6, 1987, the House voted against increasing the defense budget, for forcing the U.S. to abide by an unratified arms control agreement that the Soviets are already violating, and against increasing the President's flexibility to respond to Soviet treaty violations of two different treaties. One Congressman, Newt Gingrich, described the day's events this way.

Today I would suggest to you that in four consecutive votes, the base in the Democratic Party—91 percent, 89 percent, 89 percent, 93 percent—voted to weaken America, to unilaterally make it harder to survive, to weaken freedom and adopt a position which has to make the Soviet Union happier.

One might ask, must we continue trying to match this incredible Soviet buildup? Must we continue in an insane "arms race"? I would answer that it is hard to imagine how allowing the Soviet Union to attain military superiority will increase the safety of the free world, or reduce the likelihood of war. History, and common sense, indicates the opposite—that nations are not usually attacked for being too strong, but rather when they are relatively weak.

There is an alternative, however, to joining the Soviets in a race to see who can be in a better position to destroy the other. The alternative is to deter war, not by threatening to kill millions of Russians, but by defending the United States against nuclear attack.

Many Americans would be surprised to find out that with all the technological know-how we have, and all the billions spent on defense, that there is almost nothing the United States can do against a nuclear attack except kill millions of Russians. One Congressman who toured Cheyenne Mountain—site of U.S. nuclear missile command headquarters—and watched a simulation of a Soviet nuclear attack described it thus:

A rocket took off from the Soviet Union, and they knew within seconds what it was, where it was coming from and where it was going, and what its explosive power was. . . . I was amazed at how much we knew and how quickly we knew it. But I was also amazed that we could not do one single thing about it. If those rockets take off, they land on American soil and they kill American people. . . . Our only response is to push a button and kill Russian people.

There is a better way, and that is to build strategic defenses which can shoot down incoming missiles, either when they are over the Soviet Union, in space, or over the United States. This is what President Reagan called the Strategic Defense Initiative, or SDI. The Soviets have been developing such defenses for over twenty years. In the last decade, the Soviets have spent about equal amounts on offensive and defensive systems—about $20 billion per year for each program.

Understandably, if hypocritically, the Soviets strongly oppose the United States developing its own strategic defenses. What is harder to understand is the scathing opposition to SDI in Congress. In May, 1987, over 100 Congressmen (including two Republicans) voted to abolish the SDI office in the Pentagon and prohibit all funding "to develop, test, or deploy an anti-ballistic system or component which is air-based, sea-based, or space-based, or mobile-land based."

Why would Congressmen want to prevent the United States from developing the ability to defend herself, instead of relying solely on massive nuclear retaliation against the Soviet Union? The reasons given are that it will cost too much, that it will start an "arms race in space," that it won't work, or that if the defenses are not perfect they should not be built at all.

Most Americans, I believe, would be willing to spend the fraction of the defense budget necessary to build SDI, if it were shown that this spending would help prevent a nuclear war. Most of those who argue against SDI because of cost wouldn't want SDI even if were free—because they believe it would provoke the Soviets. The Soviets did not need to be "provoked"—they started developing their SDI years before President Reagan launched his initiative.

Whether SDI can work or not depends on the actual goal. When President Reagan said that he wanted to make nuclear weapons "impotent and obsolete," his goal was not necessarily a 100 percent leak proof defense. Even a 90 or 80 or 40 percent effective defense would substantially increase our deterrence against an attack by the Soviet Union. This is because the Soviets would be that much more unsure that a "first-strike"—that is, an attempt to overwhelm our forces and prevent retaliation—would be successful. Thus, even an imperfect defense would drastically reduce the likelihood of a nuclear war, and save millions of lives if, despite all efforts, a nuclear war occurred.

Given the current rapid development of SDI technology, including breakthroughs in computers, lasers, and superconductors, it is ridiculous to assert that no significant level of defense can be achieved. Those who have asserted that different things "could not work" have almost invariably been proven wrong. In 1987 a dollar buys 4 million times the computing power it did in 1962—an advance no one would have predicted then. Consider the remark of President Truman's science advisor, Vannevar Bush, who confidently predicted, "People . . . have been talking about a 3,000 mile rocket going from one continent to another carrying an atomic bomb. . . . I think we can leave that out of our thinking."

The Soviets are trying as hard as they can to prevent the United States from defending herself with a strategic defense system. It is hard to see why they would be so concerned, and why they would spend so much on developing such defenses themselves, if they did not believe that SDI could work.

SOVIET AGGRESSION

The deployment of strategic defenses is one of the basic and necessary steps that must be taken towards preventing nuclear war, and should be pursued despite the opposition of the Soviet Union and much of Congress. But SDI is just the beginning of what must be done to contain the Soviet threat, and to prevent a repetition of the cycle of totalitarian aggression that led to World War II.

The greatest assault on and struggle for human rights and freedom today is occurring in seven recent additions to the Soviet empire: Afghanistan, Nicaragua, Angola, Mozambique, Cambodia, Laos, and Vietnam. These nations are among the most repressive and despised regimes in the world, judging by the number of people who have left them. Never in history has one nation sponsored so many regimes, across cultures and time zones, that have produced so many refugees and so much misery. And never have so many people fought back.

About 350,000 freedom fighters struggle against communism in these seven nations. The resistance movements in these countries have different ideologies, different levels of popular support, different forms of leadership, and different military abilities. All are facing armies that, while having low morale, are generally much larger than the resistance forces, and heavily equipped with Soviet weaponry.

Most of these movements, having experienced communism, greatly admire the United States and claim to seek the establishment of a democratic system. We do not know how many will be successful in building democracy. From a human rights prospective, however, victory for the freedom fighters clearly would be preferable to prolonging the war, or to victory by the communist government.

Four of these movements have received Congressional support for varying enthusiasm—the Afghan mujahadeen, Jonas Savimbi's UNITA, the "contras" in Nicaragua, and non-communist Cambodian resistance—of which the most controversial has been the support for the democratic Nicaraguan resistance, or Contras.

Why has the Congress enthusiastically supported the mujahadeen in Afghanistan—who are on the Soviet border, may not be as democratic as the contras, and may not have as good a chance of winning—and been so indecisive about supporting the Contras, who are fighting communism only one thousand miles from Texas?

Intelligence has shown us that the same Soviet Mi-24 Hind helicopters attack civilians in villages in Afghanistan and Nicaragua. Why would it be moral to help Afghans fight tyranny imposed by Soviet helicopters, but immoral to help Nicaraguans fight the same helicopters?

We must help Nicaraguans fight for their freedom because they are, along with Afghans, Cambodians, Angolans, Mozambicans and others, fighting for our freedom as well. The Soviet Union and its clients are not involved in Nicaragua because they are interested in helping the Nicaraguan people; they are there as part of their not-so-cold war against the United States.

It was twenty years between the establishment of communist governments in Cuba and Nicaragua. If the Nicaraguan democratic resistance is defeated, it will not be twenty years before the fragile democracies in Costa Rica, El Salvador, Honduras, and Guatemala are under siege. Then the communist Sandinistas' revolution without borders" would, with Cuban help, work to destabilize Mexico.

Like England and France in the 1930's, the United States is not being asked to send troops anywhere, or declare war on any nation. All we need to do today to prevent a widening war is to help people who are fighting for their own freedom, people who would deserve our help even if our own security were not at stake.

CONCLUSION

The Congress could play a constructive role by restoring the bipartisan consensus on foreign policy that existed not so long ago. The effect of such a consensus alone, even without any action, would be a tremendous signal to the world that the United States will not stand by as people around the world are slaughtered with Soviet weaponry, as part of the Soviet's war against the United States and the free world.

If the United States, with the support of the Congress, effectively aided anti-communist resistance movements and built a strategic defense system to protect the American people, we might achieve the most stable period in U.S.-Soviet relations since World War II. The longer we wait, the more people will die fighting Soviet client regimes, and the more the Soviet's ability to employ nuclear blackmail will increase.

The cost of taking these basic steps to safeguard our national security is not high. There is no reason to spend a higher portion of our Gross National Product on defense than was spent during peacetime in the 1960's. But unless the Congress becomes a willing partner in providing for our defense, this will not be possible.

Winston Churchill was asked by Franklin Roosevelt what we should call World War II. He replied, "the Unnecessary War." In his history of the era Churchill said,

There could hardly have been a war more easy to prevent than this second Armageddon. I have always been ready to use force to defy tyranny or ward off ruin. But had our British, American, and Allied affairs been conducted with the ordinary consistency and common sense usual in decent households there was no need for Force to march unaccompanied by Law; and Strength, moreover, could have been used in righteous causes with little risk of bloodshed. In loss of purpose, in their abandonment even of the themes they most sincerely espoused, Britain, France, and most of all, because of their immense power and impartiality, the United States, allowed the condition to be built up which led to the very climax they dreaded the most. They have only to repeat the same well meaning, short-sighted behavior towards new problems which in a singular resemblance confront us today to bring about a third convulsion from which none may live to tell the tale. (The Gathering Storm, 1948)

By allowing the Soviet Union to unilaterally build defenses while leaving the United States open to nuclear attack, and by allowing freedom fighters in Soviet client states to languish with meager support, the Congress has turned the dream of "making the world safe for democracy" on its head.

It would be tragic if the Congress would, in its sincere desire for peace, invite war and in its desire for freedom, invite tyranny. We need, now more than ever, Congress to display" the ordinary consistency . . . usual in decend households." Congress can plan a constructive role in foreign policy, but only if it once again lets "politics end at the water's edge" and provides for the defense of this nation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOSCO (at the request of Mr. FOLEY), for November 9 and 10, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. FRANK, at the request of Mr. BURTON of Indiana, for 60 minutes, on November 10.

Mr. DORNAN of California, at his own request, for 5 minutes, on November 10.

(The following Members (at the request of Mr. MCMILLAN of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of New Hampshire, for 60 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, today.

Mr. GINGRICH, for 60 minutes, on November 10.

Mr. PARRIS, for 5 minutes, today.

Mr. PARRIS, for 5 minutes, on November 10.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, on November 10.

Mr. PANETTA, for 5 minutes, today.

Mr. BONIOR of Michigan, for 60 minutes, today.

Mr. VISCLOSKY, for 60 minutes, on November 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDWARDS of California following Mr. STUDDS on H.R. 2583.

(The following Members (at the request of Mr. MCMILLIAN of North Carolina) and to include extraneous matter:)

Mr. SHUETTE.

Mr. SOLOMON in two instances.

Mr. CONTE.

Mr. LAGOMARSINO.

Mr. PORTER.

Mr. HEFLEY in two instances.

Mr. DUNCAN in two instances.

Mr. WORTLEY in two instances.

Mr. PARRIS.

Mr. HYDE.

Mr. MCGRATH.

Mr. DORNAN of California.

Mr. GILMAN in two instances.

Mr. FIELDS.

Mr. DANNEMEYER.

Mr. SHAW.

Mr. HENRY.

Mr. GREEN.

Mr. DIOGUARDI.

Mr. RITTER.

Mr. BADHAM in two instances.

Mr. MOLINARI.

Mr. MCCANDLESS.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. FRANK.

Mr. LAFALCE.

Mr. DE LA GARZA in 10 instances.

Mr. TORRICELLI.

Mrs. COLLINS.

Mr. LANTOS in four instances.

Mr. DORGAN of North Dakota.

Mr. MORRISON of Connecticut.

Mr. MANTON.

Mr. GORDON.

Mr. LIPINSKI in two instances.

Mr. ST GERMAIN.

Mr. BRYANT.

Mr. MARKEY in two instances.

Mr. TORRES.

Mr. TALLON in two instances.

Mr. FEIGHAN.

Mr. RODINO.

Mr. ROE in four instances.

Mr. MARTINEZ.

Mr. CLAY.

Mr. YATRON.

Mr. WISE in three instances.

Mr. SOLARZ.

Mr. LELAND.

Mr. KANJORSKI.

Mr. BROOKS.

Mr. STARK.

Mr. BONKER.

Mr. PANETTA.

Mr. STUDDS.

SENATE JOINT AND CONCURRENT RESOLUTIONS REFERRED

Joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 172. Joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 200. Joint resolution to designate the period commencing on November 8, 1987, and ending November 14, 1987, as "National Food Bank Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 31. Concurrent resolution commending the Czechoslovak human rights organization Charter 77, on the occasion of the 10th anniversary of its establishment, for its courageous contributions to the achievement of the aims of the Helsinki Final Act; to the Committee on Foreign Affairs.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3428. An act to provide for the distribution within the United States of the film entitled "America The Way I See It";

H.J. Res. 368. Joint resolution designating the week of November 8 through November 14, 1987, as "National Food Bank Week"; and

H.J. Res. 394. Joint resolution making further continuing appropriations for the fiscal year 1968, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 442. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

S. 423. An act for the relief of Kil Joon Yu Callahan.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 35 minutes p.m.) under its previous order, the House adjourned until Tuesday, November 10, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2356. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the plan to study the conversion to contractor performance of a commercial activity being performed by Department of Defense employees at the range maintenance and operations function at Fort Hood, TX, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2357. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-95, "Interpreters for Hearing-Impaired and Non-English Speaking Persons Act of 1987", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2358. A letter from the Secretary of Education, transmitting a study of the special problems and needs of American Indians with handicaps both on and off the reservation, pursuant to 29 U.S.C. 752; to the Committee on Education and Labor.

2359. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed license for the export to Switzerland of DVS-87 radar warning systems, spares, and related support and test equipment (Transmittal No. MC-7-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2360. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed license for the export to Peru of an air defense and air traffic control system (Transmittal No. MC-44-87), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2361. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of the proposed approval of a manufacturing license agreement for the manufacture of model H-76 military heli-

copters in the Republic of Korea (Transmittal No. MC-5-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2362. A letter from the Assistant Secretary of State, Legislative and Intergovernmental Affairs, transmitting copies of the report of political contributions by April Catherine Glaspie, of California, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Iraq, and members of her family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2363. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2364. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to remove the requirement that long-distance telephone bills be certified by agency heads; to the Committee on Government Operations.

2365. A letter from the Chairman, National Labor Relations Board, transmitting a report of the Board's compliance with the Government in the Sunshine Act during calendar year 1986, pursuant to 5 U.S.C. 552b(i); to the Committee on Government Operations.

2366. A letter from the Chairman, Consumer Product Safety Commission, transmitting the Commission's annual report on the Government in the Sunshine Act for calendar year 1986, pursuant to 5 U.S.C. 552b(i); to the Committee on Government Operations.

2367. A letter from the Administrator, Environmental Protection Agency, transmitting a report concerning its adoption of the rules and regulations to implement the provisions of the Program Fraud Civil Remedies Act, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

2368. A letter from the Secretary of Agriculture, transmitting notice of two proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2369. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting 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.

2370. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Insular Affairs.

2371. A letter from the Acting General Counsel of the Treasury, transmitting a draft of proposed legislation to amend section 709 of title 18, United States Code, to protect the name of the U.S. Secret Service from commercial exploitation; to the Committee on the Judiciary.

2372. A letter from the Assistant Secretary of State, Legislative and Intergovernmental Affairs, transmitting a draft of proposed legislation to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on the Judiciary.

2373. A letter from the Adjutant General, Military Order of the Purple Heart, transmitting the financial audit of the Order's combined statements as of June 30, 1987 and 1986, pursuant to 36 U.S.C. 1101(31), 1103; to the Committee on the Judiciary.

2374. A letter from the Secretary of Commerce, transmitting the annual report on the administration of the Marine Mammal Protection Act of 1972, pursuant to 16 U.S.C. 1373(f); to the Committee on Merchant Marine and Fisheries.

2375. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting a report on amounts actually deposited in the Panama Canal Commission Fund during fiscal year 1987, pursuant to 22 U.S.C. 3712(c)(2); to the Committee on Merchant Marine and Fisheries.

2376. A letter from the Administrator, General Services Administration, transmitting informational copies of three lease prospectuses and an amended prospectus for the purchase of the Thousand Island Bridge U.S. Border Station complex pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

2377. A letter from the Acting General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930, and for other purposes; to the Committee on Ways and Means.

2378. A letter from the Secretary of Health and Human Services, transmitting the report of the Advisory Committee on Adoption and Foster Care Information on its study regarding an adoption and foster care data collection system, pursuant to 42 U.S.C. 679; to the Committee on Ways and Means.

2379. A letter from the Comptroller General of the United States, transmitting the first annual report which describes the initial efforts to implement and enforce the employer sanctions provisions of the Immigration Reform and Control Act, pursuant to 8 U.S.C. 1324a; jointly, to the Committees on Government Operations and the Judiciary.

2380. A letter from the Secretary of Energy, transmitting notification of his determination that it is in the public interest to conduct a competitive procurement of crude oil for the strategic petroleum reserve that is limited to domestically produced crude oil; jointly, to the Committees on Government Operations and Energy and Commerce.

2381. A letter from the Assistant Secretary of Treasury, transmitting a report concerning the operations and status of the civil service retirement and disability fund during the debt issuance suspension periods of July, August, and September 1987, pursuant to 5 U.S.C. 8348l(i); jointly, to the Committees on Ways and Means and Post Office and Civil Service.

2382. A letter from the Secretary of Energy, transmitting the sixth report on a project negotiated under the Department of Energy's [DOE] Clean Coal Technology Demonstration Program entitled "UCG/Clean Fuels Proof-of-Concept Project", pursuant to Public Law 99-190; jointly, to the Committee on Appropriations, Science, Space and Technology, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of Nov. 5, 1987]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2967. A bill to establish a Nuclear Waste Policy Review Commission, an Office of the Nuclear Waste Negotiator, and for other purposes; with an amendment (Rept. 100-425.) Pt. 1. Ordered to be printed.

[Pursuant to the order of the House on Nov. 5, 1987, the following report was filed on Nov. 6, 1987]

Mr. ST GERMAIN: Committee of conference. Conference report on S. 825 (Rept. 100-426). Ordered to be printed.

[Submitted Nov. 9, 1987]

Mr. HAWKINS: Committee of conference. Conference report on H.R. 1451 (Rept. 100-427). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2752. A bill to encourage the use of program crop acreage for the purpose of creating game and wildlife habitats, feeding areas, and sanctuaries by protecting farm program crop base acreage and program payment yields, with amendments (Rept. 100-428). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTIONS ON A REPORTED BILL SEQUENTIALLY REFERRED

[This action occurred on Nov. 6, 1987]

Under clause 5 of Rule X the following actions were taken by the Speaker:

H.R. 2851. Referral to the Committee on the Judiciary extended for a period ending not later than November 20, 1987. Referred to the Committee on Agriculture for a period ending not later than November 20, 1987, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X.

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. DORNAN of California:

H.R. 3618. A bill to repeal the Williams Act amendments to the Securities Exchange Act of 1934; to the Committee on Energy and Commerce.

By Mr. GALLO:

H.R. 3619. A bill to require that enlarged print voting aids and ballots be made available to visually impaired voters with respect to elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. HUNTER:

H.R. 3620. A bill to amend chapter 73 of title 10, United States Code, to provide a minimum monthly annuity under such chapter; to the Committee on Armed Services.

By Mr. HUNTER (for himself, Mr. PACKARD, and Mr. MCCANDLESS):

H.R. 3621. A bill to declare that certain lands located in California and held by the Secretary of the Interior are lands held in trust for the benefit of certain bands of Indians and to declare such lands to be part of the reservation with which they are contig-

uous; to the Committee on Interior and Insular Affairs.

By Mr. PICKETT (for himself, Mr. DAVIS of Illinois, Mr. MCCLOSKEY, Mr. BUSTAMANTE, Mr. SISISKY, Mrs. SCHROEDER, and Mr. SPRATT):

H.R. 3622. A bill to direct the Secretary of Defense to provide commissary and exchange benefits to certain former spouses of members of the uniformed services; to the Committee on Armed Services.

By Mrs. SAIKI:

H.R. 3623. A bill to amend the Internal Revenue Code of 1986 to exclude certain cost-of-living allowances from gross income; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 3624. A bill to establish a task force to promulgate guidelines for the use of local franchising authorities in prescribing consumer protection standards for service and maintenance of residential cable television systems, and for other purposes; to the Committtte on Energy and Commerce.

By Mr. FIELDS (for himself and Mr. DAVIS of Michigan):

H. Con. Res. 214. Concurrent resolution expressing the sense of the Congress that any freeze or reduction in budget levels which may be imposed by or pursuant to law should not apply to the Panama Canal Commission; to the Committee on Merchant Marine and Fisheries.

By Mr. BONKER:

H. Res. 306. Resolution expressing the sense of the House of Representatives concerning Brazilian trade and investment informatics policies; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

240. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to requiring the U.S. Armed Forces to purchase all steel products from American steel mills; to the Committee on Armed Services.

241. Also, a memorial of the Legislature of the State of Utah, relative to congressional compensation; to the Committee on the Judiciary.

242. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to medical assistance for long-term care of an individual's spouse; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WORTLEY introduced a bill (H.R. 3625) for the relief of Joanne Salyards; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 81: Mr. ACKERMAN, Mr. ESPY, Mr. TOWNS, Mr. CROCKETT, and Mr. DYMALLY.

H.R. 190: Mr. YATES, Mr. FUSTER, and Mr. MORRISON of Connecticut.

H.R. 275: Mr. EVANS and Mr. DEFAZIO.

H.R. 382: Mr. HARRIS, Mr. RAVENEL, and Mr. ATKINS.

H.R. 387: Ms. SLAUGHTER of New York.

H.R. 388: Mr. BRENNAN.

H.R. 592: Mr. MARTIN of New York, Mr. FROST, Mr. FAZIO, Mr. GILMAN, and Mr. SIKORSKI.

H.R. 594: Mr. RIDGE and Mr. ATKINS.

H.R. 637: Mrs. PATTERSON and Mr. WORTLEY.

H.R. 639: Mr. PERKINS, Mr. SENSENBRENNER, Mr. GEJDENSON, and Mr. BEREUTER.

H.R. 640: Mr. NEAL.

H.R. 659: Mr. MOODY.

H.R. 671: Ms. KAPTUR.

H.R. 680: Ms. KAPTUR.

H.R. 759: Mr. PACKARD.

H.R. 792: Mr. BILIRAKIS.

H.R. 813: Mr. CLAY.

H.R. 817: Mr. KYL, Mr. NEAL, Mr. BALLENGER, and Mr. SCHUETTE.

H.R. 901: Mr. GEJDENSON.

H.R. 1016: Mr. BOEHLERT, Mr. BORSKI, Mr. DERRICK, Mr. MARLENEE, Mr. ORTIZ, Mrs. SAIKI, and Mr. SAWYER.

H.R. 1076: Mr. LOTT, Mr. MONTGOMERY, Mrs. MORELLA, Mr. PEPPER, Mr. RINALDO, Mr. ROSE, Mr. SOLARZ, and Mr. WORTLEY.

H.R. 1213: Mrs. ROUKEMA.

H.R. 1228: Mr. MINETA, Mr. GLICKMAN, Mr. FOGLIETTA, Mr. RIDGE, Mr. MCCANDLESS, Mrs. SAIKI, Mr. GARCIA, Mr. VENTO, Mrs. PATTERSON, Mr. ROEMER, Mr. WALKER, Mr. MYERS of Indiana, Mr. SLAUGHER of Virginia, Mr. DAVIS of Illinois, Mr. SCHULZE, Mr. MILLER of Washington, Mr. YOUNG of Alaska, Mr. TAYLOR, Mr. BOEHLERT, Mr. LOWRY of Washington, Mr. DREIER of California, and Mr. LEACH of Iowa.

H.R. 1240: Mr. FISH.

H.R. 1259: Mr. STUDDS.

H.R. 1330: Mr. HILER.

H.R. 1413: Mr. RIDGE.

H.R. 1417: Mr. PEASE, Mr. PORTER, Mr. SIKORSKI, Mr. MCHUGH, Mr. MRAZEK, Mr. FEIGHAN, Mr. OWENS of Utah, Mr. KOSTMAYER, Mr. JEFFORDS, Ms. SLAUGHTER of New York, Mr. EVANS, Mr. KILDEE, Mr. FOGLIETTA, Mr. ROSE, Mr. GUNDERSON, Mr. STAGGERS, Mr. WALGREN, Mr. SCHUMER, Mr. FAZIO, Mr. NOWAK, Mr. BONIOR of Michigan, Mr. COLEMAN of Texas, and Mr. BEILENSON.

H.R. 1428: Mr. HERGER.

H.R. 1437: Mr. SCHUETTE.

H.R. 1438: Mr. SCHUETTE.

H.R. 1481: Mr. RAY and Mr. BOUCHER.

H.R. 1583: Mr. WEISS, Mr. JACOBS, and Mr. SKAGGS.

H.R. 1683: Mr. MCGRATH and Mr. MANTON.

H.R. 1734: Mr. GAYDOS and Mr. HAYES of Illinois.

H.R. 1742: Mr. BEREUTER and Mr. HOWARD.

H.R. 1782: Mr. MANTON, Mr. BURTON of Indiana, Mr. TALLON, Mr. BARTLETT, Mr. FISH, Mr. WORTLEY, Mr. ECKART, and Mr. JENKINS.

H.R. 1832: Mr. FEIGHAN, Mr. BOUCHER, Mr. SHUMWAY, Mr. HASTERT, Mrs. COLLINS, Mr. ECKART, and Mr. FISH.

H.R. 1924: Mr. TOWNS, and Mr. BILIRAKIS.

H.R. 1957: Mr. CONTE, Mr. VANDER JAGT, Mr. VOLKMER, Mr. DYMALLY, and Mr. PACKARD.

H.R. 2048: Mr. GARCIA.

H.R. 2248: Mr. ALEXANDER.

H.R. 2389: Mr. DONNELLY.

H.R. 2433: Mr. SHUMWAY.

H.R. 2482: Miss SCHNEIDER.

H.R. 2605: Mr. DELAY, Mrs. MEYERS of Kansas, Mr. PACKARD, and Mr. HENRY.

H.R. 2634: Mr. DAVIS of Illinois.

H.R. 2745: Mrs. MEYERS, of Kansas, Mr. MARTINEZ and Mr. BROWN of California.

H.R. 2746: Mr. MARTINEZ, Mr. FEIGHAN and Mr. TOWNS.

H.R. 2747: Ms. KAPTUR, Mrs. COLLINS and Mr. MARTINEZ.

H.R. 2793: Mr. ECKART and Mr. STUMP.

H.R. 2870: Mr. DE LUGO.

H.R. 2934: Mr. AKAKA and Mr. DORNAN of California.

H.R. 2953: Mr. SENSENBRENNER, Mr. ROTH, Mr. WILSON and Mr. BORSKI.

H.R. 3005: Mr. ATKINS and Mr. FISH.

H.R. 3067: Mr. HILER.

H.R. 3070: Mr. DEFAZIO, Mr. BATES, Mr. SPRATT, Mr. OWENS of Utah, Mr. ECKART, Mr. MAVROULES and Mr. ACKERMAN.

H.R. 3142: Mr. HUGHES and Mr. WOLPE.

H.R. 3144: Mr. ROBINSON, Mr. ANDREWS, Mr. HAYES of Louisiana, Mr. HUCKABY, Mr. WILSON, Mr. HOLLOWAY, Mr. ORTIZ, Mr. LOTT, Mr. MONTGOMERY, Mr. ARCHER and Mr. ROEMER.

H.R. 3160: Mr. GORDON.

H.R. 3171: Mr. WILLIAMS, Mrs. MORELLA, Mr. HUGHES, Mr. BRENNAN, Mr. ARMEY and Mr. WEISS.

H.R. 3193: Mr. WYDEN, Ms. OAKAR, Mr. UDALL, Mr. TOWNS, Mr. MARKEY, Mr. WEISS, Mr. BATES, Mr. DEFAZIO, Mr. GUNDERSON, Mr. EVANS and Mr. MINETA.

H.R. 3233: Mr. MANTON, Mr. MARTINEZ, Mr. MAVROULES, and Mr. RODINO.

H.R. 3250: Mr. DWYER of New Jersey, and Mr. BROWN of Colorado.

H.R. 3332: Mr. MORRISON of Connecticut, Mr. BONIOR of Michigan, Mr. ROE, Mr. BORSKI, Mr. DWYER of New Jersey, Mr. FEIGHAN, and Mr. DORGAN of North Dakota.

H.R. 3343: Mr. BEILENSON and Mr. DWYER of New Jersey.

H.R. 3377: Mr. DEFAZIO and Mr. DE LUGO.

H.R. 3397: Mr. LAGOMARSINO.

H.R. 3403: Mrs. BENTLEY, Mr. DICKS, Mr. HOCHBRUECKNER, Mr. WEISS, Mr. VENTO, Mr. WOLF, Mr. LOWRY, of Washington, Mr. KONNYU, and Mr. ANDERSON.

H.R. 3433: Mr. WEISS and Mr. DWYER of New Jersey.

H.R. 3440: Mr. RANGEL and Mr. ATKINS.

H.R. 3448: Mr. CARPER, Mr. DEFAZIO, and Mr. HOWARD.

H.R. 3471: Mr. DAVIS of Illinois, Mr. HOWARD, Mr. CHAPMAN, Mr. STUDDS, Mr. ROE, Mr. LEHMAN of California, Mr. FASCELL, Mr. NEAL, Mr. MOLLOHAN, Mr. LENT, Mrs. SMITH of Nebraska, Mr. MARTINEZ, Mr. APPLEGATE, Mr. MRAZEK, Mr. LAGOMARSINO, Mr. BENNETT, Mr. DELAY, Mr. FAZIO, Mr. MADIGAN, Mr. HERTEL, Mr. BROWN of California, Mr. LEVINE of California, Mr. BOULTER, Ms. SLAUGHTER of New York, Mr. PURSELL, Mr. COELHO, Mr. THOMAS A. LUKEN, Mr. SMITH of New Jersey, Mrs. MARTIN of Illinois, Mr. DYSON, Mr. TALLON, Mr. STUMP, Mr. RIDGE, Mr. GRAY of Illinois, Mr. FLORIO, Mr. SMITH of New Hampshire, Mr. WISE, Mr. HAMMERSCHMIDT, Mr. LEATH of Texas, Mr. MCEWEN, Mr. JONTZ, Mr. SCHUETTE, Mr. BOEHLERT, Mr. RAHALL Mr. QUILLEN, Mr. WORTLEY, Mr. KASTENMEIER, Mr. COLEMAN of Texas, Mr. HUGHES, Mr. ENGLISH, Mr. ROWLAND of Connecticut, Mr. ANNUNZIO, Mr. PENNY, Mr. PICKETT, Mr. BADHAM, Mr. HOLLOWAY, Mr. CROCKETT, Mr. DAVIS of Michigan, Mr. SAXTON, Mr. HUTTO, Mr. ROWLAND of Georgia, Mr. HAYES of Illinois, Mr. STANGELAND, Mr. HOCHBRUECKNER, Mr. NICHOLS, Mr. KANJORSKI, Mr. COOPER, Mr. HAWKINS, Mr. KOLTER, Mr. FLIPPO, Mr. CALLAHAN, Mr. MARTIN of New York, Mr. BUSTAMANTE, Mr. TORRES, Mr. FAUNTROY, Mr. BORSKI, Mr. SUNDQUIST, Mr. BLAZ, Mr. FRANK, Mr. CHAPPELL, Mr. YATRON, Mr. ST GERMAIN, Mr. MCDADE, Mr. RANGEL, Mr. FORD of Michigan, Mr. ROEMER, Mr. YOUNG of Florida, Mr. THOMAS of Georgia, Mr. WYLIE, Mr. SOLARZ, Mr. STRATTON, Ms. KAPTUR, Mr. MORRISON of Washington, Mr. BEVILL, Mr. DAUB, Mr. ROBINSON, Mr. SISISKY, Mr. BLILEY, Mr.

GUNDERSON, Mr. WOLPE, Mr. SWINDALL, Mr. WHITTAKER, Mr. OWENS of New York, Mr. MARLENEE, Mr. SLATTERY, Mr. DE LUGO, Mr. CLINGER, Mr. GEPHARDT, Mr. WOLF, Mr. BILBRAY, Mr. MAVROULES, Mr. TORRICELLI, Mr. BRUCE, Mr. ECKART, Mr. UPTON, Mr. DWYER of New Jersey, Mr. MICA, Mr. RINALDO, Mr. DOWDY of Mississippi, Mr. OBERSTAR, Mr. HARRIS, Mr. SHAW, Mr. STENHOLM, Ms. SNOWE, Mr. RODINO, Mr. EVANS, Mr. KLECZKA, Mrs. BYRON, Mr. SCHAEFER, Mr. JEFFORDS, Mr. DONALD E. LUKENS, Mr. WEISS, Mr. LANTOS, Mr. SHAYS, Mr. SKAGGS, Mr. DIOGUARDI, Mr. DEFAZIO, Mr. BAKER, Mr. DERRICK, Mr. LIGHTFOOT, Mr. LEWIS of Florida, Mr. ORTIZ, Mr. EMERSON, Mr. CRAIG, Mr. BRYANT, Mr. BIAGGI, and Ms. PELOSI.

H.R. 3478: Mrs. ROUKEMA.

H.R. 3485: Mr. BUECHNER, Mr. WOLF, Mr. KOLTER, Mr. FAZIO, Mr. FISH, and Mr. OBERSTAR.

H.R. 3503: Mr. RANGEL.

H.R. 3506: Mr. LAGOMARSINO.

H.R. 3509: Mr. SOLARZ, Mr. BERMAN, Mr. LAFALCE, Ms. OAKAR, Mr. FAUNTROY, Mr. LEWIS of Georgia, Mr. MRAZEK, Mr. HAYES of Illinois, Mr. LIPINSKI, Mr. OWENS of New York, Ms. KAPTUR, Mr. HAWKINS, Mr. GOODLING, Mr. MORRISON of Connecticut, Mr. NEAL, Mr. FAZIO, Mr. CLAY, Mr. ATKINS, Mr. GILMAN, Mr. HOYER, Mr. DE LUGO, Mrs. COLLINS, Mr. CROCKETT, and Mr. GEJDENSON.

H.R. 3510: Mr. SOLARZ, Mr. BERMAN, Mr. LAFALCE, Ms. OAKAR, Mr. FAUNTROY, Mr. LEWIS of Georgia, Mr. MRAZEK, Mr. HAYES of Illinois, Mr. LIPINSKI, Mr. OWENS of New York, Ms. KAPTUR, Mr. HAWKINS, Mr. GOODLING, Mr. MORRISON of Connecticut, Mr. NEAL, Mr. FAZIO, Mr. CLAY, Mr. ATKINS, Mr. GILMAN, Mr. HOYER, Mr. DE LUGO, Mrs. COLLINS, Mr. CROCKETT, and Mr. GEJDENSON.

H.R. 3523: Mrs. VUCANOVICH, Mr. BADHAM, and Mr. SKEEN.

H.R. 3553: Mr. BATES, Mr. HUNTER, and Mr. GREEN.

H.R. 3561: Mrs. BENTLEY, Mr. OBERSTAR, Mr. RIDGE, Mr. WEBER, and Mr. WHITTAKER.

H.R. 3565: Mr. FRANK, Mr. WORTLEY, Mr. DORNAN of California, Mr. MCCURDY, Mr. PETRI, Mr. BATES, Mr. VANDER JAGT, and Mr. SYNAR.

H.R. 3573: Mr. LEVIN of Michigan, Mr. MOODY, Mr. COYNE, Mr. RUSSO, and Mrs. KENNELLY.

H.R. 3589: Mr. APPLEGATE.

H.R. 3595: Mr. GUARINI.

H.R. 3598: Mr. ROBERTS, Mr. EMERSON, Mr. BUECHNER, Mr. COLEMAN of Missouri, Mr. TAYLOR, Mr. GLICKMAN, and Mr. MILLER of Washington.

H.R. 3603: Mr. CARR, Mr. FAZIO, Mr. WEISS, Mr. SAWYER, and Mr. FRANK.

H.J. Res. 8: Mr. HUCKABY and Mr. BRENNAN.

H.J. Res. 148: Mr. HARRIS and Mr. LEHMAN of California.

H.J. Res. 227: Mr. EMERSON and Mr. KILDEE.

H.J. Res. 300: Mr. FISH, Mr. LEVIN of Michigan, Mr. MARTINEZ, and Mr. SAWYER.

H.J. Res. 329: Mr. ACKERMAN, Mr. CAMPBELL, Mr. BERMAN, Mr. CARPER, Mr. DELLUMS, Mr. CLAY, Mr. COELHO, Mr. FLAKE, and Mr. ANDERSON.

H.J. Res. 371: Mr. CARPER, Mr. DYSON, Mr. FAZIO, Mr. FROST, Mr. LELAND, Mr. OWENS of Utah, Mr. PANETTA, and Mr. TOWNS.

H.J. Res. 372: Mr. WEISS, Mr. FISH, Mr. MCMILLEN of Maryland, Mr. ROYBAL, Mrs. VUCANOVICH, Mr. MURPHY, Mr. HAYES of Illinois, and Mr. LELAND.

H.J. Res. 373: Mr. BATES, Mr. CARDIN, Mr. HUGHES, Mr. WYDEN, Mr. KOLTER, Mr. DWYER of New Jersey, and Mr. RANGEL.

H.J. Res. 374: Mr. ATKINS, Mr. FROST, Mr. TOWNS, Mrs. PATTERSON, Mr. DE LUGO, and Mr. FISH.

H.J. Res. 383: Mr. HAMILTON, Mr. DORNAN of California, Mr. DEWINE, Mr. PANETTA, Mr. DE LA GARZA, Mr. FISH, Mr. YOUNG of Florida, and Mr. DYMALLY.

H.J. Res. 384: Mr. SKEEN, Mr. DEWINE, Mr. TRAXLER, Mr. PICKETT, Mr. NICHOLS, and Mr. SHUMWAY.

H.J. Res. 385: Mr. BILBRAY, Mr. SCHUMER, and Mr. DWYER of New Jersey.

H.J. Res. 386: Mr. DE LUGO, Mr. GREEN, Mr. HAYES of Illinois, Mrs. KENNELLY, Mr. LEHMAN of California, and Mr. MARKEY.

H. Con. Res. 14: Mr. WAXMAN, Mr. HUGHES, Mr. HYDE, Mr. MCGRATH, Mr. TORRICELLI, Mr. ESPY, Mr. DELAY, and Mr. MOORHEAD.

H. Con. Res. 96: Mr. LIPINSKI.

H. Con. Res. 162: Mr. LIPINSKI.

H. Con. Res. 209: Mr. INHOFE, Mr. BILBRAY, Mrs. MARTIN of Illinois, Mr. WELDON, Mr. BADHAM, Mr. PORTER, Mrs. MEYERS of Kansas, Mr. ACKERMAN, and Mr. HOYER.

H. Res. 188: Mr. COURTER, Mr. SMITH of New Hampshire, Mr. OWENS of Utah, Mr. DREIER of California, Mr. LAGOMARSINO, and Mr. LUNGREN.

H. Res. 225: Mr. DANNEMEYER and Mr. HERGER.

H. Res. 242: Mr. LIPINSKI and Mr. FISH.

PETITIONS, ETC.

Under clause 1 of rule XXII:

96. The SPEAKER presented a petition of the Senate of Australia, Parliament House, Canberra, Australia, relative to the 200th anniversary of the United States; which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 435

By Mr. MCCOLLUM:

(Amendment in the nature of a substitute.)

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

SECTION 1. REPORTING TIME FOR RESULTS OF PRESIDENTIAL GENERAL ELECTIONS IN THE CONTINENTAL UNITED STATES.

Chapter 1 of title 3, United States Code, is amended by—

(1) redesignating section 21 as section 22; and

(2) inserting after section 20 the following new section:

"§ 21 Reporting time for results in continental United States

"(a) No election official shall make any public disclosure of results with respect to a Presidential general election in the continental United States before 9:00 o'clock post meridiem, eastern standard time, on the date of the election.

"(b) As used in this section, the term—

"(1) 'continental United States' means the States of the United States (other than Alaska and Hawaii) and the District of Columbia; and

"(2) 'Presidential general election' means the election for electors of President and Vice President.".

SEC. 2. EXTENDED DAYLIGHT SAVING TIME IN PACIFIC TIME ZONE IN PRESIDENTIAL ELECTION YEARS.

Section 3 of the Uniform Time Act of 1966 (15 U.S.C. 260a) is amended by adding at the end the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, in each year in which a Presidential general election takes place, the period of time during which the standard time shall be advanced with respect to the Pacific time zone shall end at 2:00 o'clock ante meridiem on the first Sunday after the date of that election.

"(2) As used in this subsection, the term 'Presidential general election' means the election for electors of President and Vice President.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—The table of sections for chapter 1 of title 3, United States Code, is amended—

(1) by striking out the item relating to section 21 and inserting in lieu thereof the following: "22. Definitions."; and

(2) by inserting after the item relating to section 20 the following new item:

"21. Reporting time for results in continental United States.".

(b) AMENDMENTS TO UNIFORM TIME ACT OF 1966.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "2 o'clock antemeridian" each place it appears and inserting in lieu thereof "2:00 o'clock ante meridiem".

H.R. 3100

By Mr. BEREUTER:

—Page 247, after line 16, insert the following:

SEC. 1116. COORDINATION OF CONGRESSIONAL POLICY TOWARD ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(A) It is the sense of the Congress that—

(1) at least six Members of the Congress designated as provided for in subsection (B), should meet on an ad-hoc basis for the purpose of developing a coordinated Congressional policy toward assessed contributions to international organizations; and

(2) the Secretary of State should provide such cooperation as may be required by such Members.

(B) The Members described in subsection (a)(1) should be designated as follows:

(1) The Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the House as follows:

(a) one Member of the Committee on Foreign Affairs;

(b) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(c) one Member of the Committee on the Budget.

(2) The President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, should designate at least three Members of the Senate as follows:

(a) one Member of the Committee on Foreign Relations;

(b) one Member of the Committee on Appropriations, from the subcommittee handling activities of the Department of State; and

(c) one Member of the Committee on the Budget.

(C) Not later than March 1, 1988, the Members of the Congress designated under this section shall prepare and transmit to the committees of Congress referred to in subsection (b) a report on the findings and conclusions of the Members made pursuant to this section, together with any recommendations for appropriate action by such committees.

By Mrs. BOXER:

—Page 115, after line 8, insert the following:

(c) ASSASSINATION OF HUMAN RIGHTS COMMISSION PRESIDENT.—

(1) EXPRESSION OF CONCERN.—The Congress expresses its deepest concern at the assassination of Herbert Anaya Sanabria, President of the nongovernmental Human Rights Commission of El Salvador (CDHES). This violent act is in direct contrast to the spirit of reconciliation embodied in the Central American peace agreement signed in Guatemala on August 7, 1987.

(2) UNITED STATES ASSISTANCE FOR INVESTIGATION.—The Congress calls on the President to formally offer to the Government of El Salvador such investigative services by agencies of the United States Government as are permitted by law to assist in identifying and bringing to trial those responsible for the murder of Herbert Anaya Sanabria.

(3) WITHHOLDING OF FUNDS PENDING REPORT TO CONGRESS.—The President shall withhold from obligation 10 percent of the funds allocated for assistance for El Salvador for fiscal year 1988 under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), and 10 percent of the funds allocated for assistance of El Salvador for fiscal year 1988 under chapter 4 of that Act (relating to the economic support fund), until at least 15 days after the President submits to the Congress a report detailing—

(A) the evidence that all reasonable, good faith efforts have been made by the Government of El Salvador to identify and bring to trial those persons responsible for the murder of Herbert Anaya Sanabria, and

(B) the investigative services provided by agencies of the United States Government to support those efforts.

That report and the release of the funds withheld pursuant to this paragraph, shall be considered in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

—Page 115, after line 8, insert the following:

(c) ASSASSINATION OF HUMAN RIGHTS COMMISSION PRESIDENT.—

(1) EXPRESSION OF CONCERN.—The Congress expresses its deepest concern at the assassination of Herbert Anaya Sanabria, President of the nongovernmental Human Rights Commission of El Salvador (CDHES). This violent act is in direct contrast to the spirit of reconciliation embodied in the Central American peace agreement signed in Guatemala on August 7, 1987.

(2) UNITED STATES ASSISTANCE FOR INVESTIGATION.—The Congress calls on the President to formally offer to the Government of El Salvador such investigative services by agencies of the United States Government as are permitted by law to assist in identifying and bringing to trial those responsible for the murder of Herbert Anaya Sanabria.

(3) WITHHOLDING OF FUNDS PENDING REPORT TO CONGRESS.—The President shall withhold from obligation 10 percent of the funds allocated for assistance for El Salvador for fiscal year 1988 under chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), and 10 percent of the funds allocated for assistance of El Salvador for fiscal year 1988 under chapter 4 of part II of that Act (relating to the economic support fund), until at least 15 days after the President notifies Congress that the Government of El Salvador has conducted a thorough investigation of the murder of Herbert Anaya Sanabria and of the earlier threats by members of the Salvadoran security forces against Anaya which were reported by Amnesty International to President Duarte. Such notification shall include a report detailing—

(A) the efforts made by the Government of El Salvador to identify and bring to trial those persons responsible for the murder of Herbert Anaya Sanabria, and

(B) the investigative services provided by agencies of the United States Government to support those efforts.

That notification, and the release of the funds withheld pursuant to this paragraph, shall be considered in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

By Mrs. BYRON:

—Page 121, add the following after line 25:

SEC. 713. CENTRAL AMERICAN PEACE AGREEMENT.

(a) FINDINGS.—The Congress finds that—

(1) the Presidents of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica signed the "Esquipulas II Accord" on August 7, 1987, to establish democracy, end civil strife, and promote economic stability in Central America;

(2) the establishment of democracy, the termination of civil strife, and the promotion of economic stability in Central America is in the national interest of the United States;

(3) the Esquipulas II Accord calls for the signatories "to make dialogue prevail over violence and reason over rancor";

(4) a lasting peace in Central America can only come about through dialogue;

(5) the Governments of El Salvador, Guatemala, and Honduras have entered into direct negotiations with the representatives of both internal opposition organizations and antigovernment insurgent forces to bring about a mutual and verifiable cease fire within those countries and the region as a whole;

(6) the President of Costa Rica and Nobel Laureate Oscar Arias has called for direct negotiations between the Government of Nicaragua and the Nicaraguan Resistance for a mutual and verifiable cease fire;

(7) President Arias stated that a negotiated cease fire between the Government of Nicaragua and the Nicaraguan Resistance is "indespensable if we are to achieve a lasting peace in Central America";

(8) the Presidents of El Salvador, Guatemala, and Honduras have also called upon the Government of Nicaragua to negotiate directly with the Nicaraguan Resistance; and

(9) the President of Nicaragua announced on November 5, 1987, that the Nicaraguan Government would negotiate a cease fire with the Directorate of the Nicaraguan Resistance through an intermediary.

(b) STATEMENT OF CONGRESS.—The Congress urges the Government of Nicaragua to enter into direct negotiations immediately with the Directorate of the Nicaraguan Resistance in order to bring about a mutual and verifiable cease fire and to reach a political settlement with the Nicaraguan Resistance, so that the spirit of the Esquipulas II Accord may be fulfilled and democracy, peace, and economic stability will become reality for Central America.

By Mr. DEWINE:

—Page 121, after line 25, insert the following:

SEC. 713. JANUARY 22 MOVEMENT OF MOTHERS OF POLITICAL PRISONERS AND HUMAN RIGHTS IN NICARAGUA.

(a) FINDINGS.—The Congress finds that—

(1) the January 22 Movement of Mothers of Political Prisoners in Nicaragua has joined forces to draw attention to the plight of relatives incarcerated for supposed violations of security laws;

(2) over 1,500 mothers of political prisoners in Nicaragua, through their strength and resolve, utilize peaceful means to dramatize human rights violations in Nicaragua, describe the Sandinista prison system as "cruel and unjust", and have sponsored assemblies which have drawn hundreds of people despite government efforts to stop the demonstrations;

(3) the participants in the January 22 Movement of Mothers of Political Prisoners risk reprisals against their families and themselves and have suffered cruel and harsh punishment for their activities, including threats, torture, detainment, and further arrest of their family members to coerce an end to their activism for justice;

(4) the January 22 Movement of Mothers of Political Prisoners demand the abolition of the highly political Anti-Somocista Tribunals (TPAs) which operate outside of the existing legal system, enjoy absolute discretion concerning the admissibility of evidence, and fail to recognize basic rights of due process;

(5) the Nicaraguan Constitution, which purports to guarantee basic individual, civil, and political rights, was suspended hours after it was promulgated and a state of emergency, which suspends basic civil rights, was implemented and is still in place; and

(6) the regional peace agreement signed by Nicaraguan President Daniel Ortega in Guatemala on August 7, 1987, which requires the Sandinista government to undertake immediate reforms to democratize Nicaraguan society and end the state of emergency, is consistent with the demands of the January 22 Movement of Mothers of Political Prisoners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the January 22 Movement of Mothers of Political Prisoners should be commended for calling attention to the Sandinistas deplorable human rights record and for demonstrating inspiring courage in working peacefully for the improvement of human rights in Nicaragua;

(2) the January 22 Movement of Mothers of Political Prisoners demonstrates the need for respect for internationally recognized human rights, including respect for freedom of speech, freedom of the press, freedom of assembly, due process of law, the restoration of individual, political, and civil rights, and the lifting of the suspension of constitutional guarantees in Nicaragua, which are required by the Guatemala regional peace agreement;

(3) the Sandinista government should comply with the demands of the January 22 Movement of Mothers of Political Prisoners and issue a decree of amnesty to all political prisoners and undertake efforts to bring about a general improvement in what has been a contemptible record in their treatment of Nicaraguan citizens;

(4) the Sandinista government should issue a total political amnesty, conduct negotiations directly with the resistance, guarantee the freedom and safety of all Nicaraguans from harassment and persecution, and grant full freedom of the press and other internationally recognized rights, which heretofore have been held in disdain by Sandinista authorities; and

(5) the Sandinista government should, in general, undertake all efforts to meet the requirements of the Guatemala regional peace agreement faithfully and completely.

—Page 121, add the following after line 25:

SEC. 713. NON-LETHAL ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE.

(a) ASSISTANCE TO BE PROVIDED.—The Secretary of State (or his designee) shall use funds appropriated pursuant to subsection (c) to provide non-lethal assistance to the Nicaraguan democratic resistance.

(b) NON-LETHAL ASSISTANCE.—As used in this section, the term "non-lethal assistance" means the provision of food, clothing, medicine, and other humanitarian assistance, and does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1988.

By Mr. DORNAN of California:

—Page 228, after line 10, insert the following:

SEC. 1004. PROHIBITION ON PEACE CORPS FUNDING OF ABORTIONS.

Section 3 of the Peace Corps Act is amended by adding at the end the following new subsection:

"(i) None of the funds authorized to be appropriated to carry out the provisions of this Act shall be used to pay for abortions.".

—Page 247, after line 16, insert the following new section:

SEC. 1116. PROHIBITION ON ASSISTANCE TO COUNTRIES RECEIVING SUPERSONIC FIGHTER AIRCRAFT FROM THE SOVIET UNION.

(a) PROHIBITION.—For fiscal years 1988 and 1989, foreign assistance may not be provided to any country which has an agreement with the Soviet Union pursuant to which that country will obtain supersonic fighter aircraft from the Soviet Union.

(b) DEFINITIONS.—As used in this section—

(1) the term "agreement" includes a coproduction agreement; and

(2) the term "foreign assistance" means any assistance under the Arms Export Control Act, the Foreign Assistance Act of 1961 (excluding assistance under chapter 9 of part I, relating to disaster assistance), or the Agricultural Trade Development and Assistance Act of 1954 (excluding emergency food assistance under title II).

By Mr. FASCELL:

—Page 134, line 14, strike out "$16,000,000 for fiscal year 1989" and insert in lieu thereof "$20,000,000 for fiscal year 1989".

By Mr. HYDE:

—Page 247, after line 16, insert the following:

SEC. 1116. EFFECTIVENESS OF UNITED STATES ECONOMIC ASSISTANCE.

(a) REPORTS.—Not later than December 31, 1988, and December 31 of each third year thereafter, the President shall submit to the Congress a report which analyzes, on a country-by-country basis, the impact and effectiveness of the United States economic assistance provided during the preceding 3 fiscal years. Each such report shall include the following for each recipient country:

(1) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. This analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms which were promoted by the assistance. This analysis shall—

(A) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing economic assistance for that country, and

(B) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(2) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(3) A discussion of the commitment of the host government to addressing the country's needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(4) A description of the trends, both favorable and unfavorable, in each development sector.

(5) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(6) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor countries, or nongovernmental organizations.

(b) LISTING OF MOST AND LEAST SUCCESSFUL ASSISTANCE PROGRAMS.—Each report required by this section shall identify—

(1) those countries in which the United States economic assistance has been most successful, and

(2) those countries in which United States economic assistance has been least successful.

For each country listed pursuant to paragraph (2), the report shall explain why the assistance was not more successful and shall specify what the United States has done as a result.

(c) REPORT TO BE A SEPARATE DOCUMENT.—Each report required by this section shall be submitted to the Congress as a separate document.

(d) DEFINITION.—As used in this section, the term "United States economic assistance" means assistance under chapter 1 of part I of Foreign Assistance Act of 1961 (relating to development assistance), chapter 7 of part I of that Act (relating to Africa famine recovery and development), or chapter 4 of part II of that Act (relating to the economic support fund).

By Mr. KOSTMAYER:

—Page 121, line 12, before the period insert "or under chapter 5 of part II of that Act (relating to international military education and training)".

—Page 229, line 3, strike out "which are consistent with the objectives of" and insert in lieu thereof "for which funds authorized to be appropriated to carry out"; and line 5, after "472," insert "would be available".

By Mr. OBEY:

—On page 15 strike lines 22 through 25 and on page 16 strike lines 1 through 7 and insert the following:

The authority contained in the third sentence of section 24(c) of the Arms Export Control Act shall be exercised to the extent necessary in order for the Defense Security Assistance Agency and the Department of Defense to honor their loan guarantee contracts and to make all payments to the Federal Financing Bank required by those contracts according to their original payment schedules.

By Mr. SHAW:

—Page 86, after line 11, insert the following:

SEC. 514. ELIMINATION OF NATIONAL INTEREST WAIVER FOR ASSISTANCE TO MAJOR DRUG PRODUCING AND TRANSITION COUNTRIES.

Section 481(h)(2) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "(2)(A)" and inserting in lieu thereof "(2)";

(2) by striking out "that—" through "(i)" and inserting in lieu thereof "that";

(3) by striking out "; or" at the end of clause (i) and inserting in lieu thereof a period;

(4) by striking out clause (ii) of subparagraph (A); and

(5) by striking out subparagraph (B).

—Page 86, after line 11, insert the following:

SEC. 514. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(7) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

—Page 86, after line 11, insert the following:

SEC. 514. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

—Page 86, after line 11, insert the following:

SEC. 514. WITHOLDING OF UNITED STATES ASSISTANCE TO MAJOR DRUG PRODUCING AND TRANSITING COUNTRIES.

(a) REQUIREMENT TO WITHHOLD ALL ASSISTANCE PENDING CERTIFICATION.—Section 481(h)(1)(A) of the Foreign Assistance Act of 1961 is amended by striking out "50 percent of" and inserting in lieu thereof "all".

(b) CERTIFICATIONS.—

(1) TIME FOR SUBMISSION.—Section 481(h)(2)(A) of that Act is amended by striking out ", at the time of the submission of the report required by subsection (e),".

(2) PERIOD COVERED.—Section 481(h)(2)(A)(i) of that Act is amended by striking out "previous year" and inserting in lieu thereof "the 12 months preceding the certification,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

—Page 86, after line 11, insert the following:

SEC. 514. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;".

By Mr. SOLARZ:

—Page 217, strike out lines 20 and 21 and insert in lieu thereof the following:

(1) by striking out "the date of enactment of this section and ending on September 30, 1987" and inserting in lieu thereof "January 15, 1988, and ending on September 30, 1993";

Page 218, strike out line 20 and all that follows through line 4 on page 219 and insert in lieu thereof the following:

(d) REPORTS ON PAKISTAN'S ENRICHMENT LEVELS.—The President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, periodic reports containing a factual description of the uranium enrichment levels which Pakistan has reached as of the time of the report. These reports shall be submitted—

(1) at the time the waiver authority in section 620E(d)(1) of the Foreign Assistance Act of 1961 (as amended by subsection (b)(1) of this section) is exercised by the President;

(2) not later than July 15, 1988; and

(3) at 6-month intervals after the report is submitted pursuant to paragraph (2), through the end of fiscal year 1993.

These reports shall be unclassified. Supplemental classified reports may be submitted, if necessary.

(e) WITHHOLDING OF ASSISTANCE.—Not more than two-thirds of aggregate amount of the funds authorized to be appropriated by this Act for fiscal year 1988 which are allocated for assistance for Pakistan may be obligated before July 15, 1988.

(f) REPORT ON ILLEGAL NUCLEAR EXPORTS.—Not later than January 1, 1988, the President shall submit to Congress a report detailing—

(1) the degree to which the Government of Pakistan has cooperated in the investigation of the Arshad Pervez case;

(2) what legal action Pakistan has taken against any Pakistanis who are shown to have been involved in this case;

(3) what action Pakistan has taken, and what laws, regulations, or other measures Pakistan has implemented to ensure that no such incident, whether or not undertaken with the support or active assistance of Pakistan Government officials, occurs again; and

(4) the nature of any assurances which the Government of Pakistan has provided against any future procurement which would contribute significantly to the ability of Pakistan to manufacture a nuclear explosive device.

(g) DETERMINATION TO BE INCLUDED IN REPORT.—The report required by subsection (f) shall also include either—

(1) a determination by the President for purposes of section 670(a)(1) of the Foreign Assistance Act of 1961 that, after the date of enactment of the International Security and Development Cooperation Act of 1985, Pakistan exported illegally (or attempted to export illegally) from the United States material, equipment, or technology which would contribute significantly to the ability of Pakistan to manufacture a nuclear explosive device and that that material, equipment, or technology was to be used by Pakistan in the manufacture of a nuclear explosive device; or

(2) a determination by the President that, based on all available evidence, the determination described in paragraph (1) is not justified, with an explanation of the reasons for making that determination rather than the determination described in paragraph (1).

SEC. 925. EFFECTIVENESS OF CERTAIN NUCLEAR-PROLIFERATION WAIVERS CONTINGENT ON DETERMINATION THAT WEAPONS-GRADE NUCLEAR MATERIAL NOT BEING PRODUCED

(a) SUSPENSION OF WAIVER.—During the period beginning 6 months after the date of enactment of this Act and ending September 30, 1993, a waiver by the President of any of the prohibitions contained in section 669 or section 670 of the Foreign Assistance Act of 1961 with respect to a country which is a non-nuclear-weapon state (as defined in section 670(c) of that Act) shall be effective and assistance described in those sections may be provided to that country pursuant to that waiver only if, during the preceding 6 months, the President has determined (on the basis of the best available information) and reported to the Congress that that country is not producing uranium enriched to greater than 5 percent in the isotope 235, uranium 233, or separated plutonium in facilities which are not under the safeguards system of the International Atomic Energy Agency or comparable safeguards.

(b) RESTORATION OF WAIVER.—If a waiver of any of the prohibitions contained in section 669 or section 670 of the Foreign Assistance Act of 1961 is suspended pursuant to subsection (a), that waiver shall become effective thereafter pursuant to that subsection only if the President makes and reports to the Congress the determination specified in that subsection and the Congress enacts a joint resolution approving that determination.

Redesignate existing sections 925 through 929 as sections 926 through 930, respectively.

By Mr. TALLON:

—Page 121, after line 25, add the following:

SEC. 713. PEACE, PLURALISM, AND DEMOCRACY IN NICARAGUA.

(a) FINDINGS.—The Congress finds that—

(1) in signing the Central American peace accord on August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America", the Nicaraguan Government pledged "to promote an authentic democratic, pluralist and participatory process that includes the promotion of social justice [and] respect for human rights"; and

(2) under that accord, Nicaragua is specifically required to establish "complete freedom of press, television and radio" "for all ideological groups" "without prior censorship"; to grant political groupings "broad access to communications media" and full exercise of the rights of association, free speech, and movement; to decree an amnesty guaranteeing "freedom in all its forms"; and to terminate state of emergency laws while reestablishing "the full exercise of all constitutional guarantees".

(b) ACTIONS WHICH SHOULD BE UNDERTAKEN BY NICARAGUA.—It is the sense of the Congress that Nicaragua should undertake the following reforms in order to bring about lasting peace, pluralism, and democracy in Nicaragua:

(1) IN GENERAL.—

(A) Ensure freedoms of expression, association, assembly and movement, religion, and education.

(B) Restore rights to security of person and home and freedom from unjustified arrest.

(C) Stop coercive pressure to join Sandinista party groups.

(D) Stop discriminatory and punitive application of military conscription.

(E) Allow all citizens, including refugees and exiles, to return to Nicaragua.

(F) Reinstate due process and fair trials and release those imprisoned without charge, trial, or due process, including campesinos, Creoles, and Indians.

(G) Abolish extraordinary tribunals and the powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms.

(H) Permit independent human rights observers, including the International Committee of the Red Cross, to meet and travel freely and to visit prisoners, prisons, and tribunals.

(I) End all forms of torture and conditions of confinement which constitute torture and end the practice of holding prisoners incommunicado.

(2) POLITICAL PROCESS REFORMS.—

(A) Allow political parties and the democratic opposition to meet and march publicly, publicize meetings, and meet with and utilize the media.

(B) End jailing of opposition party activists and the drafting of opposition party activists and their children in reprisal for nonviolent political activity.

(C) Abolish the role of the Committees for the Defense of Sandinismo's (CDS) and other party organizations in dispensing rationing cards and government services.

(D) Conduct free and open presidential, legislative, and municipal elections by December 31, 1990, as specified by current Nicaraguan law.

(E) Repeal the suspension provisions of the Nicaraguan constitution.

(F) Separate the armed forces from any political party.

(3) PRESS AND MEDIA RIGHTS.—

(A) Allow an uncensored, free press.

(B) End newsprint restrictions and allow private newsprint sales.

(C) Allow the full spectrum of private television and radio broadcasting.

(4) LABOR RIGHTS.—

(A) Ensure the right to strike and to publish by independent unions.

(B) Release those imprisoned because of non-violent union activities.

(5) RELIGIOUS FREEDOMS.—

(A) Allow the Catholic church to reopen its social welfare, human rights, and publication offices.

(B) Allow Cardinal Obando Y Bravo to resume his televised Sunday mass.

(C) Allow the return of all expelled Catholic priests.

(D) Allow religion courses to be taught in private schools.

(E) Allow Protestant evangelicals to preach and conduct meetings.

(6) CAMPESINO RIGHTS.—

(A) End preventive detention and forcible resettlement of campesinos and allow those who have been displaced to return.

(B) Cease aerial bombing attacks against civilians and their properties.

(C) Cease the destruction of peasant farmlands.

(D) End pressure to join Sandinista farming cooperatives.

(7) INDIAN AND CREOLE RIGHTS.—

(A) Permit Indian and Creole residents to freely travel, assemble, speak, publish, broadcast, and maintain cultural beliefs and practices.

(B) End forcible detention and relocation of Indian and Creole residents and allow them to return to their home communities.

(C) Cease aerial bombings and attacks on Atlantic Coast civilians and their properties.

(D) Allow Indians and Creoles to engage in traditional farming, fishing, hunting, and necessary subsistence activity.

(c) ACHIEVEMENT OF DEMOCRATIC PRINCIPLES AND PROCESSES IN CENTRAL AMERICA.—It is the sense of the Congress that all countries in Central America should continue to work toward achieving the democratic principles and processes specified in the Central American peace accord of August 7, 1987, entitled "Procedure for the Establishment of a Strong and Lasting Peace in Central America".

By Mr. TORRICELLI:

—Page 20, strike out line 17 and all that follows through line 5 on page 23 and insert in lieu thereof the following:

SEC. 206. PURCHASE OF UNITED STATES GOODS AND SERVICES WITH ESF ASSISTANCE.

Chapter 4 of part II of the Foreign Assistance Act of 1961 (as amended by sections 204 and 205) is further amended by adding at the end of the following:

"SEC. 538. PURCHASE OF UNITED STATES GOODS AND SERVICES.

"(a) GENERAL POLICY REGARDING FORMS OF ASSISTANCE.—Assistance under this chapter should be provided principally through commodity import progams, project assistance, sector programs, or the provision of United States goods and services

(b) USE OF CASH TRANSFERS FOR UNITED STATES GOODS AND SERVICES.—Assistance may be provided to a country under this chapter as a cash transfer only pursuant to an agreement requiring that the country spend an amount equal to the amount of the cash transfer to purchase United States goods and services. Nothing in this section, however, shall prevent a country from purchasing, with United States cash transfer assistance, goods and services produced in that country. United States goods purchased pursuant to such an agreement shall be deemed to have been furnished in connection with funds advanced by the United States. The President shall ensure that purchases of United States Goods pursuant to such agreements, and the ports of departure for those goods, are distributed equitably throughout the United States. The United States goods purchased pursuant to such agreements shall be United States goods which are available in the United States at fair prices for such goods.

"(c) GAO AUDITS.—Each agreement pursuant to which cash transfer assistance is provided under this chapter shall include provisions to ensure that representatives of the Comptroller General have the access to records and personnel necessary to carry out such monitoring and auditing as the Comptroller General deems appropriate.

"(d) EXEMPTIONS.—This section shall not apply to any country—

(1) which receives cash transfer assistance under this chapter of less than $10,000,000 for a fiscal year;

"(2) which, as of April 1, 1987, was receiving cash transfer assistance under this chapter and has an agreement with the United States under which the country agrees—

"(A) to spend an amount equal to the amount of the cash transfer on the purchase of the United States goods and services, and

"(B) to carry 50 percent of all bulk shipments of United States grain on 'privately-owned United States-flag commercial vessels', to the extent such vessels are available at fair and reasonable rates for such vessels, except that a country shall be exempted pursuant to this paragraph only so long as the country continues to agree to those conditions; or

"(3) which, as of the effective date of this section, has an agreement with the United States requiring that the country spend an amount equal to the amount of any cash transfer assistance under this chapter to purchase United States goods and services, except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to that condition.

United States goods purchased pursuant to an agreement described in paragraph (3) shall be deemed to have been furnished in connection with funds advanced by the United States, and the last sentence of subsection (b) shall apply with respect to such goods.

"(e) WAIVER.—The President may waive the provisions of this section with respect to a country to the extent the President determines that it is important to the national interest to do so. Any such waiver shall be reported to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(f) DEFINITION OF UNITED STATES GOODS.—For purposes of this section, the term 'United States goods' means goods (including components) and commodities (including agricultural commodities) grown, processed, produced, or manufactured in the United States.".

By Mr. TRAFICANT:

—Page 7, line 11, strike out "$1,033,716,000" both places it appears and insert in lieu thereof "$826,972,800".

—Page 16, line 14, strike out "$3,380,812,000" and insert in lieu thereof "$2,704,649,600"; and line 14, strike out "$3,415,812,000" and insert in lieu thereof "$2,732,649,600".

H.J. RES. 395

By Mr. GRANT:

—Page 25, after line 7, add the following new section:

SEC. 133. (a) None of the funds appropriated by this Act may be used to pay a Member of Congress at a rate of basic pay in excess of the rate which was payable for service as such a Member as of September 30, 1987.

(b) For purposes of this section, the term "Member of Congress" means an individual holding an office or position referred to in section 601(a)(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(1)).