HOUSE OF REPRESENTATIVES—*Sunday, November 21, 1993*

The House met at 2 p.m.

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

From the rising of the Sun until the going down of the same, we are grateful, O God, for the gift of life. As the scriptures have foretold, there are seasons of change—a time to plant and a time to reap, a time to weep and a time to laugh, a time to keep silence and a time to speak, a time to be born and a time to die. We pray, O God, that as we move through these seasons of life, we will be faithful and steadfast in our responsibilities and with joy and gladness, celebrate the blessings of each day. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. SMITH] come forward and lead the House in the Pledge of Allegiance.

Mr. SMITH of Texas led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 3450. An act to implement the North American Free-Trade Agreement.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 783. An act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization;

H.R. 965. An act to provide for toy safety and for other purposes; and

H.R. 1025. An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1025) "An act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. HATCH, and Mr. CRAIG, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167) "An act to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 714) "An act to provide funding for the resolution of failed savings associations, and for other purposes."

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

S. 423. An act to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes;

S. 431. An act to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection;

S. 717. An act to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes;

S. 738. An act to promote the implementation of programs to improve the traffic safety performance of high risk drivers;

S. 778. An act to amend the Watermelon Research and Promotion Act to expand operation of the Act to the entire United States, to authorize the revocation of the refund provision of the Act, to modify the referendum procedures of the Act, and for other purposes;

S. 871. An act for the relief of Nathan C. Vance, and for other purposes;

S. 991. An act to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes;

S. 994. An act to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes;

S. 1059. An act to include Alaska Natives in a program for native culture and arts development;

S. 1457. An act to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II;

S. 1523. An act to reauthorize certain programs under the Stewart B. McKinney Homeless Assistance Act, and for other purposes;

S. 1716. An act to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports;

S. 1761. An act to provide early out authority for Forest Service employees;

S. 1762. An act to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements;

S. 1763. An act to authorize the Secretary of Transportation to convey vessels in the National Defense Reserve Fleet to certain nonprofit organizations;

S. 1764. An act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police;

S. 1765. An act to designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes;

S. 1766. An act to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes;

S. 1767. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes;

S.J. Res. 154. Joint Resolution designating January 16, 1994, as "Religious Freedom Day"; and

S. Con. Res. 36. Concurrent resolution expressing the sense of Congress that United States truck safety standards are of paramount importance to the implementation of the North American Free Trade Agreement.

ADMINISTRATION AND REGULATORY RELIEF

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

Mr. BACCHUS of Florida. Mr. Speaker, in just a few minutes the House will consider H.R. 3474, the community development bill offered by the President of the United States and revised by the

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Committee on Banking, Finance and Urban Affairs on which I have the privilege to serve.

Mr. Speaker, I would like my colleagues in the House to know that this bill also includes the essence of H.R. 962. This is the regulatory relief bill that my friend and colleague, the gentleman from Nebraska [Mr. BEREUTER] from the other side of the aisle and I have introduced that has 272 cosponsors in this House.

President Clinton has made extraordinary advances in terms of administrative and regulatory relief in the first few months of his term. This has helped move a lot of needed credit into the private sector and created a lot of jobs. Our bipartisan effort in moving H.R. 962 through the committee on Banking, Finance and Urban Affairs and to the floor of this House and into law will do even more to add to the advances of the President.

We are very proud of this effort by our Committee on Banking, Finance and Urban Affairs. I am very grateful to the leadership of the committee for its support, and I urge my colleagues to support this bill which will do a lot to help improve our economy, create economic growth, and preserve and create jobs.

TWAS THE RECESS BEFORE CHRISTMAS

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

Mr. SMITH of Texas. Mr. Speaker—

Twas the recess before Christmas, and all through the House,
Clinton's spending cut bill, was the size of a mouse.
The White House had filled, their package with air,
In hopes that the taxpayers, just wouldn't care.
The White House was, all snuggled in bed,
While dreams of new spending danced in their heads.
When outside the beltway, there arose such a clatter,
They ran to the window, to see what was the matter.
Over the hills, the taxpayers they came,
And they shouted and cursed them, and called them by name.
Up Penny, Up Kasich, Down Clinton, Down Gore,
Tax less, spend less, cut more and cut more.
And what to Clinton's, overspent eyes should appear,
But a real spending cut bill, looming so near.
The White House couldn't believe, what they were hearing,
The cut bill they'd promised, could pass they were fearing.
They called on special interests, so sprightly and quick,
Because they knew the time, was so close to the nick.
Penny-Kasich cut 90 billion, this everyone knew,
Clinton only wanted a fraction, so what could he do?
He called off the vote, he chose for delay,
And hoped this silly cut-spending idea, would just go away.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following conference report and statement on the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-404)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167), to extend the emergency unemployment compensation program, to establish a system of worker profiling, 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 Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment numbered 2, insert the following:

SEC. 9. EFFECTIVE DATES.

(a) REPEAL OF DISREGARD OF RIGHTS TO REGULAR COMPENSATION.—Notwithstanding the provisions of section 3(b) of this Act, the repeal made by section 3(a) of this Act shall apply to weeks of unemployment beginning after October 2, 1993, except that such repeal shall not apply in determining eligibility for emergency unemployment compensation from an account established before October 3, 1993.

(b) RAILROAD WORKERS.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 501(b) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended), as amended by section 8(a)(1) of this Act, are each amended by striking "January 1, 1994" and inserting "February 5, 1994".

(2) CONFORMING AMENDMENT.—Section 501(a) of such Emergency Unemployment Compensation Act of 1991, as amended by section 8(a)(2) of this Act, is amended by striking "January 1994" and inserting "February 1994".

(3) TERMINATION OF BENEFITS.—Section 501(e) of such Emergency Unemployment Compensation Act of 1991, as amended by section 8(c) of this Act, is amended—

(A) by striking "January 1, 1994" and inserting "February 5, 1994", and

(B) by striking "March 26, 1994" and inserting "April 30, 1994".

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of Senate amendment numbered 2, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,

From the Committee on Post Office and Civil Service, for consideration of Senate amendment numbered 1, and modifications committed to conference:

BILL CLAY,
FRANK MCCLOSKEY,
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3167), to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment numbered 1 added a provision relating to the reduction of Federal full-time equivalent positions.

The Senate recedes from its amendment numbered 1.

The Senate amendment numbered 2 added a provision relating to limitation in eligibility for emergency unemployment compensation.

The House recedes from its disagreement to the amendment of the Senate numbered 2 with an amendment which is a substitute for the Senate amendment. The differences between the House bill and the Senate amendment, and the substitute amendment agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993 H.R. 3167

I. EMERGENCY UNEMPLOYMENT COMPENSATION (EUC) PROGRAM

Present law

The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and extended most recently by P.L. 103-6 on March 4, 1993. The EUC program, which expired on October 2, provides workers who have exhausted their regular State unemployment benefits (and who began receiving EUC benefits on or before October 2) with 15 weeks of benefits in States with the highest unemployment and 10 weeks of benefits in all other States. States with adjusted insured unemployment rates (the average of the current week and the preceding 12 weeks) of at least 5 percent, or total unemployment rates (6-month moving average) of at least 9 percent, are eligible to pay the higher number of weeks of benefits. At present, only four States (Alaska, California, Rhode Island, and West Virginia) are eligible to provide 15 weeks of benefits.

The statute provides for a decline to 13 and 7 weeks of benefits if the national unemployment rate falls below 6.8 percent for two consecutive months. The rate for the months of August and September was 6.7 percent.

The EUC program expired on October 2. Unless the program is extended, workers who exhaust their regular State benefits after that date will be ineligible for EUC benefits. Workers who began receiving EUC benefits on or before October 2 will be entitled to the full number of weeks of benefits for which they were found eligible. However, no benefits are payable after January 15, 1994.

Individuals who have exhausted their rights to regular State benefits either because their benefit year has expired or because they have received all of the benefits to which they are entitled, may elect to receive either EUC benefits or regular State

benefits under any new benefit year that has been established.

House bill

The EUC program is extended through February 5, 1994. Workers who have exhausted or will exhaust their regular State benefits after October 2 will be eligible for up to 13 weeks of benefits in States with the highest unemployment. In all other States they will be eligible for up to 7 weeks of benefits. Workers who exhaust their regular State benefits after February 5 will not be eligible for EUC benefits. Workers who begin receiving EUC benefits on or before that date will be entitled to the full number of weeks of benefits for which they were found eligible. However, no EUC benefits will be payable after April 30, 1994.

The provision giving individuals the option to choose between EUC benefits and regular State benefits is repealed. After the date of enactment, no new EUC options will be exercised. However, individuals who began or continued EUC based on an option exercised before October 2, 1993, may continue to receive EUC until exhaustion of their EUC account.

Senate amendment

Same as House bill.

Conference agreement

The Conference agreement follows the House bill and the Senate amendment, modified to provide that no new EUC options may be exercised after October 2, 1993.

II. ADDITIONAL UNEMPLOYMENT COMPENSATION FOR RAILROAD WORKERS

Present law

Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under regular State unemployment compensation programs. Railroad workers with under 10 years of railroad service are not eligible for extended benefits. The UC law temporarily provides extended benefits to railroad workers with under 10 years of service and additional weeks of extended benefits to other qualifying railroad workers in order to maintain comparability with the EUC benefits provided to workers in other industries.

House bill

Eligible railroad workers will continue to receive the additional benefits provided under the EUC law for other workers through January 1, 1994.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment and conforms the expiration dates for the authorization of new claims and continued claims for railroad workers to that for other workers, which are February 5, 1993, and April 30, 1994, respectively.

III. WORKER PROFILING AND REEMPLOYMENT ASSISTANCE

Present law

P.L. 103-6, enacted March 4, 1993, directs the Secretary of Labor to establish a program for encouraging the adoption and implementation of State systems of profiling all new claimants for regular unemployment compensation. These systems are to be used to determine which claimants might be most likely to exhaust their regular unemployment compensation benefits and might need reemployment assistance services to make a successful transition to new employment.

House bill

Each State's unemployment agency is required to establish a profiling system as described above, and to refer claimants identified as needing services to reemployment services available under any State or Federal law. The State agency is also required to collect follow-up information relating to the services received by claimants and the employment outcomes for such claimants subsequent to receiving services, and to use this information in making identifications under the profiling system. States that fail to comply substantially with these requirements may be subject to withholding of administrative funds until the Secretary is satisfied that there is no longer any such failure.

In addition, the bill provides that as a condition of eligibility for unemployment compensation benefits, a claimant who has been referred to reemployment services pursuant to the profiling system must participate in these or similar services unless the State agency determines that the claimant has completed such services, or there is justifiable cause for failure to participate.

Reemployment services will include job search assistance and job placement services, such as counseling, testing, and providing occupational and labor market, information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

The Secretary of Labor is directed to provide technical assistance and advice to assist the States in implementing the profiling system, including the development and identification of model profiling systems.

Not later than three years after the date of enactment, the Secretary of Labor is required to report to the Congress on the operation and effectiveness of the profiling system and the participation requirement, with such recommendations as the Secretary determines to be appropriate.

Effective date.—The profiling requirement is effective one year after the date of enactment.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

IV. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND

Present law

The Emergency Unemployment Compensation Act, as amended inadvertently included language amending section 905(b)(1) of the Social Security Act. The language assumes enactment of a provision that had been proposed, but never enacted.

House bill

The bill restores language in section 905(b)(1) of the Social Security Act that was inadvertently changed by P.L. 102-318. This section provides for the transfer of funds to the State administration accounts.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

V. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL

Present law

P.L. 102-164, the Emergency Unemployment Compensation Amendments of 1991, provided for the establishment of a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. The first report is due by February 1, 1994.

House bill

The due date for the first report would be delayed for one year. Subsequent reports would be due the third year following the establishing of the council, rather than the second year.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

VI. INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM

Present law

The SSI program provides Federal benefits to aged, blind, and disabled individuals whose income and resources are below specified amounts. To be eligible, an individual must be either a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Under current law, the income and resources of an alien's sponsor are considered in determining the alien's eligibility for SSI benefits. A sponsor is an individual who has signed an affidavit of support as a condition of the alien's admission for permanent residence in the United States. This "deeming" of income and resources applies for 3 years after the alien's entry into the United States. After the 3 years, the alien's eligibility for SSI is determined without regard to the income and resources of the sponsor. The "deeming" requirement does not apply with respect to an individual who becomes disabled or blind after entering the United States.

House bill

The period during which the sponsor's income and resources would be "deemed" to the alien would be extended from 3 to 5 years.

Effective date.—The provision would be effective January 1, 1994 through fiscal year 1996. The provision would not apply in the case of individuals who are eligible for SSI for December 1993 (or whose eligibility is suspended but not terminated) and whose 3-year deeming period ended prior to January 1994. Thus, individuals who apply for SSI benefits on or after January 1, 1994, and individuals on the SSI rolls (because their sponsors' deemed income and resources do not make them ineligible) whose 3-year deeming period has not ended by January 1, 1994, would come under the 5-year rule.

Senate amendment

Same as House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

VII. INCOME LIMIT FOR RECIPIENTS OF EUC BENEFITS

Present law

Under the permanent Federal-State unemployment insurance program, unemployed individuals who meet eligibility requirements may receive up to 26 weeks of State unemployment benefits without regard to their taxable income. Those individuals who exhaust their regular State benefits, but continue to be unemployed, are eligible to

receive additional weeks of benefits under the temporary emergency unemployment compensation (EUC) program, also without regard to their taxable income.

House bill

No provision.

Senate amendment

Benefits under the emergency unemployment compensation program may not be paid to any individual whose taxable income for 1992 exceeds $120,000.

Conference agreement

The conference agreement follows the House bill, i.e., no provision.

VIII. LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS

Present law

The President and the Congress, through the enactment of appropriation legislation, determine the number of full-time equivalent positions that may be employed by each agency of the Government. In February 1993, the President, by Executive Order, mandated that employment levels be reduced by 100,000 full-time equivalent positions over 3 years. In September 1993, Vice President Gore's National Performance Review recommended that the Federal workforce be reduced by 252,000 full-time equivalent positions.

House bill

No provision.

Senate amendment

The President, through the Office of Management and Budget, shall ensure that the total number of full-time equivalent positions in all agencies of the Government shall not exceed 2,095,182 such positions during fiscal year 1994; 2,044,100 positions during fiscal year 1995; 2,003,846 during fiscal year 1996; 1,963,593 during fiscal year 1997; 1,923,339 during fiscal year 1998; and 1,883,086 during fiscal year 1999.

The Office of Management and Budget, after consultation with the Office of Personnel Management, shall continuously monitor all agencies and determine, on the first date of each quarter of each applicable fiscal year, whether the required limitation on full-time equivalent positions has been met, and shall notify the President and the Congress of any determination that such limitation has been exceeded.

If the Office of Management and Budget determines that the applicable limitation on full-time equivalent positions for any fiscal year has been exceeded, no agency may hire any employee for any position until the total number of full-time equivalent positions for all agencies equals or is less than the applicable limitation.

Any of the provisions in the bill may be waived upon a determination by the President of the existence of war or a national security requirement, or the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

Conference agreement

The conference agreement follows the House bill, i.e., no provision.

From the Committee on Ways and Means, for consideration of Senate amendment numbered 2, and modifications committed to conference:

DAN ROSTENKOWSKI,
HAROLD FORD,

From the Committee on Post Office and Civil Service, for consideration of Senate amendment numbered 1, and modifications committed to conference:

BILL CLAY,
FRANK MCCLOSKEY,
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BOB PACKWOOD,
Managers on the Part of the Senate.

NO MORE SUMMITS

(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, it is another year, it is another trade summit with Japan and China. What will they say this time? More sidebar deals, more assurances, more apologies, more promises? Think about it.

The American worker is tired of their promises, and tired of the summits. We have had more summits than Vesuvius.

The American worker wants Congress to enforce the trade laws, and these people that are ripping us off.

It is not summits, Congress, it is enforcement of the laws we pass and brag about to our working constituents.

ODE TO THE DEMOCRATIC CAMPAIGN FINANCE PLAN

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

Mr. LIVINGSTON. Mr. Speaker, I also am going to be poetic today. I have an ode to the Democratic campaign finance plan.

Rube Goldberg-esque, convoluted
Special interest PAC-polluted
Under-the-table sleight-of-hand
Enactment waits in no-man's land
Until they find a funding source
With taxpayers as the gift horse
Spending limits are a sham
Which contradict Supreme Court's ban
Loopholes you can drive a truck through
While wackos get our tax funds, too.

Let's kill this monster of a plan,
Pass real reform: I know we can.

PENNY-KASICH IS CONGRESS' ONLY OPPORTUNITY TO VOTE ON REAL SPENDING CUTS

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

Mr. LAROCCO. Mr. Speaker, there is one thing that the good people of the First District of Idaho know. They know that we can cut spending in the Federal budget. They know that we should reduce the deficit. They know that there is waste. And they think we ought to do it now. And you know what, I agree with my constituents.

When I came back from a very tough vote on the budget, I went to work with TIM PENNY and JOHN KASICH to do just that, to reduce the deficit, truly reduce the deficit, to cut spending, and to cut waste out of Government. And I am proud to be a part of that bipartisan team. And I want to tell my colleagues that this is going to be the only chance we have between now and the next cycle of the election to vote for true deficit reductions.

Of the plans we have before us, there is only one that is true deficit reduction, the Penny-Kasich bill, and it is just going to slip through our fingers, and the opportunity to really respond to what Americans want, to cut Government, cut spending, reduce Government, will be gone.

Vote "yes" on Penny-Kasich.

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DELAY AND CONQUER

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

Mr. THOMAS of Wyoming. Mr. Speaker, the Democratic leadership has employed a new strategy to kill Penny-Kasich, and that is the amendment that would slice $90 billion in Federal spending. It is called delay and conquer.

By delaying a vote on the consideration of this amendment, the Democrat leadership and the President hope to lobby enough in their party to conquer at least one last attempt at deficit reduction. In exchange for the vote on the largest tax increase in history, the President promised to vote on the deficit package. Of course, his rescission package is a joke which will actually cost the taxpayers a billion dollars.

The only real deficit-cutting alternative that has bipartisan support is Penny-Kasich. This plan will cut one penny on the dollar of Federal spending over 5 years. Let me say that again: 1 penny on every $1 of spending over 5 years. In 5 years we will cut $90 billion out of almost $8 trillion in expenditures. If we cannot do that, my friends on the majority side, then quit talking about controlling spending and just talk about raising taxes, because that is the alternative.

IMMIGRATION POLICY

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

Ms. HARMAN. Mr. Speaker, we are a nation of immigrants, and I am the daughter of immigrants who came to America seeking peace and prosperity and found both. Immigrants built our cities, settled the West, defined our culture and created a nation that values individual freedom and security above all else. Our strength as a country derives, in part, from our diversity.

But our Nation, States, and communities are burdened with an onslaught of illegal immigration that undercuts

our struggling economy and drains vital public resources. It is estimated that 1,000,000 illegal immigrants and their children live in Los Angeles. Governor Pete Wilson estimates that medical, K–12 educational, and law enforcement costs for California's illegal immigrants total nearly $2 billion annually, and that figure is rising. Currently, two-thirds of all the babies born in Los Angeles County public hospitals are born to undocumented immigrants.

My priority in the Congress is to retain and build high-skill, high-wage jobs in the South Bay. I firmly believe that the onslaught of illegal immigration that burdens our community is destructive to our ability to generate those jobs, and the opportunity for all who live in the South Bay—regardless of race or economic circumstance—to fill those jobs.

I believe that to combat the illegal immigration problems that face California and the Nation, we must carry out a three-pronged strategy. We must strengthen our control of our borders, increase enforcement of the laws against employing undocumented workers, and relieve the tremendous burden that illegal immigration imposes on our local, State, and Federal treasuries.

STRENGTHENING BORDER ENFORCEMENT

Our border control problem is more complex than our inability to regulate our shared border with Mexico. Illegal immigrants cross borders into America on the north as well as the south, and arrive by ship and air from all parts of the world at numerous ports and airports.

More than undocumented human beings come to America. In 1990, over 1.5 billion dollars' worth of marijuana and cocaine was seized by the INS, U.S. Customs, and the DEA. Beyond these confiscated quantities, there is no telling how many tons of illegal narcotics escaped detection and made it into the country.

If we are going to enforce the border laws that we have on the books, we must invest in enhanced border enforcement.

That is why I have:

Fought, along with Representatives DUNCAN HUNTER, Republican of California and LYNN SCHENK, Democrat of California, for an extra $60 million to increase the number of border guards to patrol our borders and enforce our customs laws;

Cosponsored legislation with Representative ELTON GALLEGLY, Republican of California, to authorize 2,500 more border agents and to encourage their recruitment from redundant military personnel dislocated due to the downsizing of our Defense budget;

Cosponsored legislation with Representative GALLEGLY to cut off Federal assistance to local governments that refuse to cooperate with the INS in the arrest and deportation of illegal aliens;

Cosponsored legislation with Representative GALLEGLY to upgrade and improve the equipment and training that the INS and the border patrol need to detect and detain illegal immigrants; and

Vowed to use my position on the Armed Services Committee to work with Governor Wilson and Senator BARBARA BOXER to use the California National Guard in any border patrol assignment that would be within the Guard's mission.

ENHANCING WORKPLACE LAWS

Simply enhancing our border patrol is not sufficient. Illegal immigration stems from economic problems. The lure of employment draws undocumented workers to seek employment in our job market. Once employed, these undocumented workers are easy victims for exploitation and often depress wages for all workers. They have an especially negative impact on minorities in the job market who must fight the stigmatization that undocumented workers can bring to every worker of color.

The INS must have the tools and facilities to battle this problem at the workplace. Employers must have the ability to determine which workers are documented so that ignorance cannot be an excuse.

That is why I have:

Cosponsored legislation with Representative GALLEGLY to have the INS issue tamper-proof ID cards to all legal residents eligible to work;

Cosponsored legislation with Representative GALLEGLY to increase the penalties on those who harbor and employ illegal aliens; and

Cosponsored legislation with Representative GALLEGLY to make it a Federal crime to transport illegal immigrants to a job site. The bill authorizes the impoundment of vehicles used for such purposes.

RELIEVING THE FISCAL BURDEN

Our National, State, and city budgets bear a tremendous burden because of our illegal immigration problem. Nowhere is this problem more acute than in California, particularly in Los Angeles.

As of January 1922, the illegal immigrant population in Los Angeles County, nearly 1,000,000 people, is larger than the entire population of Washington, DC. California and Los Angeles County must incur approximately 1.75 billion dollars' worth of costs tending to illegal immigrants' health needs in public hospitals and education needs in public schools. Additionally, the State and county must incur over $300 million processing and incarcerating illegal immigrants in our criminal justice system.

The Federal Government bears responsibility for the illegal immigration problem, and I believe must be liable for the costs.

That is why I have:

Worked with a bipartisan coalition for $487 million in SLIAG funds from the Clinton administration to help California offset the tremendous fiscal burden that immigration has imposed on the State;

Vowed to work with Governor Pete Wilson and the rest of the California delegation on additional Federal assistance to help California offset the burdensome costs that illegal immigration places upon our schools and prisons;

Cosponsored legislation with Representative GALLEGLY to stop the payment of Federal welfare and unemployment benefits to undocumented workers;

Opposed inclusion of illegal aliens in the basic coverage package of any possible health care plan, excluding emergency health services, considered by the Congress; and

Supported the Justice Department's initiative to work with President Salinas of Mexico and other foreign leaders to develop a system so that illegal immigrants who are convicted of felonies in America will serve their sentence in the country where they are a citizen.

Illegal immigration is a problem that both Democrats and Republicans must solve together. In this regard, I salute the very creative work of my California colleagues, including Gov. Pete Wilson, Senators DIANNE FEINSTEIN and BARBARA BOXER and Representatives ELTON GALLEGLY, DUNCAN HUNTER, and LYNN SCHENK.

I especially commend ELTON GALLEGLY, who has developed and put forward many thoughtful proposals before it was popular to do so. California's political leaders have much to contribute to a humane and effective solution to a major human, social, and economic problem affecting our State.

I urge the Congress to act on this important issue when we reconvene in January.

DEL RIO, TX: A GREAT AMERICAN COMMUNITY

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

Mr. BONILLA. Mr. Speaker, I rise today to recognize a great American event occurring at this very moment in Del Rio, TX. It is the first annual Thanksgiving dinner for the entire community.

Right now at the civic center, volunteers are serving food donated by H.E.B. Food Stores to thousands of people less fortunate. This includes the elderly, homebound, and the lonely. Were it not for this event today these people would have had no place to enjoy a meal this Thanksgiving week.

This is happening because of the good hearts, the generosity, and the willingness to take action by the people of Del Rio.

I wish I could be with you today in Del Rio to share this wonderful experience. But since I cannot, I want you to know your spirit is being felt here in Washington today.

God bless you, Del Rio. Once again you are demonstrating why you are a great American community.

A STERN WARNING TO THE EUROPEAN COMMUNITY

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

Mr. BEREUTER. Mr. Speaker, this weekend Secretary of State Christopher issued a stern warning to the European Community that the United States will not renegotiate the previously agreed-upon agriculture accord, the Blair House accord, under the Uruguay round of the GATT talks which have a December 15 deadline. That was the right message and the appropriate doctrine from which to deliver those comments, because the passage of NAFTA plus the APEC conference in Seattle, I should think, would contribute an important and effective warning to France and the European Community.

The United States will not back off from the Blair House accord and the developing communities of the World want us to hold fast. We will not not permit them to blackmail us to renege on their promises by holding the rest of the world hostage to the antics of French farmers.

Half of the world's economy exists today among the APEC countries. If the European Community, bowing to French concerns, wants to stand in the way of the passage of the most important stimulus for the world economy, the Uruguay round, let the damage to the world's economy fall squarely on their shoulders. The European Community will find itself high and dry when the rest of the world expands their trade and as the American focus on trade and international affairs is pushed by European intransigence even more strongly toward the Asian-Pacific region.

REQUESTING FEDERAL INVESTIGATION OF STATE SENTORIAL ELECTION IN PENNSYLVANIA

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

Mr. WELDON. Mr. Speaker, the silence is deafening. Jesse Jackson, Al Sharpton, and the Democratic National Committee and, yes, even President Bill Clinton all came out to condemn the allegations that Ed Rollins had somehow held down black votes in the New Jersey gubernatorial election.

Let us look at what really happened in the senatorial election in Philadelphia which controlled the State senate in our Commonwealth.

The Philadelphia Inquirer, in a 4-part series, including today, has outlined deliberate attempts to distort Latino and Hispanic votes in the city of Philadelphia that actually stole that election and the control of the State senate.

Where is Jesse Jackson? Where is Al Sharpton? And where is Bill Clinton?

Wrong is wrong, only in this case we have evidence. We have hard proof.

I urge my colleagues to join with me in requesting a Federal investigation of the third senatorial district that stole control of the State senate in the Commonwealth of Pennsylvania this past November.

NOTRE DAME WILL RISE AGAIN

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

Mr. KING. Mr. Speaker, with all the events of the last week, NAFTA, the Brady bill, D.C. statehood, allegations of stolen elections, I think it is important we focus on one of the most momentous tragedies of our time, and that was Notre Dame's loss to Boston College yesterday.

As an alumnus of Notre Dame, it pains me to extend congratulations to Congressman BLUTE and Congressman MARKEY for proving that, unfortunately, in this instance God was on the side of Catholic Boston College as opposed to Catholic Notre Dame.

But I wanted to tell them on behalf of my colleagues, Mr. ROEMER, Mr. MAZZOLI, and Mr. MCDADE, that our day will come, and the good Catholics will finally emerge over those of Boston College, and Notre Dame will rise again.

VOTING IRREGULARITIES ALLEGED IN PHILADELPHIA

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

Mr. GINGRICH. Mr. Speaker, there has been a lot of talk about stolen votes and voting irregularities in New Jersey, yet we have facts, absolute facts, that there was vote theft in Philadelphia.

Let me point out this morning's Philadelphia Inquirer, on page 1, "Voters say ballots were forged." "'That is not my handwriting,' say some Second District residents," because in Philadelphia the Democratic machine stole a State senate seat which led to control of the State senate by having the absentee ballots stolen.

I call on the Attorney General to pick up the President's commitment to honest elections and to initiate an investigation into voter fraud in Philadelphia and to recognize that the Philadelphia Inquirer, I think this is its fourth story, is documenting name by name vote theft by the Democratic machine designed to keep control of the Pennsylvania State Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of 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 later today, but no earlier than 4 p.m.

REGULATORY REFORM ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3474

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

TITLE I—REGULATORY REFORM

SEC. 100. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the "Regulatory Reform Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—REGULATORY REFORM

Sec. 100. Short title; table of sections.
Subtitle A—Amendments Relating to the Federal Deposit Insurance Corporation Improvement Act of 1991
Sec. 101. Audit costs.
Sec. 102. 18-month examination rule for certain small institutions.
Sec. 103. Standards for safety and soundness.
Sec. 104. Clarifying amendment relating to data collection.
Subtitle B—General Regulatory Reform
Sec. 111. State regulation of real estate appraisals.
Sec. 112. Collateralization of public deposits.
Sec. 113. Bank Deposit Financial Assistance Program.
Sec. 114. Coordinated and unified examinations.
Sec. 115. Coordination of Federal and State reporting requirements to reduce duplicative efforts.
Sec. 116. Limiting potential liability on foreign accounts.
Sec. 117. Expedited procedures for forming a bank holding company.
Sec. 118. Flexibility in choosing boards of directors.
Sec. 119. Repeal of obsolete requirements for national banks.
Sec. 120. Limited exemption authority.
Subtitle C—Other Regulatory Reform
Sec. 121. Elimination of duplicative disclosures for home equity loans.

Sec. 122. Alternative dispute resolutions.
Sec. 123. Clarification of RESPA disclosure requirements.
Sec. 124. Exemption of business loans from RESPA requirements.
Sec. 125. Expedited procedures for bank holding companies to seek approval to engage in certain activities.
Sec. 126. Waiver of right of rescission for certain refinancing transactions.
Sec. 127. Simplified disclosure for existing depositors.
Sec. 128. Deposit broker registration.
Sec. 129. Agency ombudsman.
Sec. 130. Alternative rules for disclosures for radio advertising of credit transactions, deposit accounts, and consumer leases.
Subtitle D—Reports, Studies, Streamlined Regulatory Requirements
Sec. 131. Study on capital standards and their impact on the economy.
Sec. 132. Study of the consumer credit system.
Sec. 133. Studies on the impact of the payment of interest on reserves.
Sec. 134. Streamlining of regulatory requirements.
Sec. 135. Call report simplification.
Sec. 136. Administrative consideration of burden with new regulations.
Sec. 137. Elimination of duplicative filings.
Sec. 138. Recourse agreements.
Sec. 139. Antitrust reports in connection with merger transactions.
Sec. 140. Bankers' banks.
Sec. 141. Due process protections relating to attachment of assets.
Sec. 142. Time limit on agency consideration of completed applications.
Sec. 143. Timely completion of CRA review.
Sec. 144. Revisions of standards.
Sec. 145. Feasibility study of data bank.

Subtitle A—Amendments Relating to the Federal Deposit Insurance Corporation Improvement Act of 1991

SEC. 101. AUDIT COSTS.

(a) HOLDING COMPANY AUDIT REQUIREMENTS.—Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2) and inserting the following:

"(2) the institution is described in 1 of the following subparagraphs:

"(A) The institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000.

"(B) The institution has—

"(i) total assets, as of the beginning of such fiscal year, of $5,000,000,000 or more and less than $9,000,000,000; and

"(ii) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(C) The institution—

"(i) has—

"(I) total assets, as of the beginning of such fiscal year, of $9,000,000,000 or more; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency; and

"(ii) in the case of an institution which has a CAMEL composite rating of 2, is in compliance with the requirements of subsection (b) (without regard to any exemption such institution may otherwise have under this subsection from the requirements of subsection (b)).

Notwithstanding paragraph (2), the audit committee of the holding company of an insured depository institution that the Corporation determines to be a large institution shall not include any large customers of the institution.".

(b) WRITTEN NOTICE OF REQUIREMENT FOR AUDIT OF QUARTERLY REPORTS.—Section 36(g)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(2)) is amended by adding at the end the following new subparagraph:

"(D) NOTICE TO INSTITUTION.—The Corporation shall promptly notify an insured depository institution, in writing, of a determination pursuant to subparagraph (A) to require a review of such institution's quarterly financial reports.".

SEC. 102. 18-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

(a) IN GENERAL.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

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

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

(b) GUIDELINES REQUIRED.—

(1) IN GENERAL.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(6) STANDARDS FOR DETERMINING ADEQUACY OF STATE EXAMINATIONS.—The Financial Institutions Examination Council shall prescribe guidelines establishing standards for determining whether a State examination carries out the purposes of this subsection for purposes of paragraph (3).".

(2) EFFECTIVE DATE OF INITIAL GUIDELINES.—The initial guidelines required to be issued pursuant to the amendment made by subsection (a) shall be issued and shall take effect before the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 103. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) ELIMINATION OF STOCK VALUATION PROVISION.—Section 39(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(b)(1)) is amended—

(1) in subparagraph (A), by adding "and" at the end; and

(2) by striking subparagraph (C).

(b) HOLDING COMPANIES EXCLUDED FROM SCOPE OF STANDARDS.—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1) is amended—

(1) in subsections (a) and (b), by striking "and depository institution holding companies";

(2) in paragraphs (1)(A) and (2) of subsection (e), by striking "or depository institution holding company"; and

(3) in subsection (e), by striking "or company" each place such term appears.

(c) ESTABLISHING STANDARDS IN GUIDELINES.—

(1) IN GENERAL.—Section 39(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(d)(1)) is amended—

(A) in the 1st sentence, by inserting "or guideline" before the period; and

(B) in the 2d sentence, by inserting "or guidelines" after "Such regulations".

(2) CLERICAL AMENDMENT.—The heading for section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(d)) is amended by striking "by Regulation".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) to section 39 of the Federal Deposit Insurance Act shall take effect as if such amendments had been included in such section as of the effective date of the section.

SEC. 104. CLARIFYING AMENDMENT RELATING TO DATA COLLECTION.

Section 7(a)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(9)) is amended by adding at the end the following new sentence: "In prescribing reporting and other requirements for the collection of actual and accurate information pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution.".

Subtitle B—General Regulatory Reform

SEC. 111. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

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

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize an appraiser who—

"(1) is licensed or certified in 1 State; and

"(2) is in good standing with the State appraiser certifying or licensing agency in such State,

to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(B) by striking "PRACTICE.—A State" and inserting "PRACTICE.—

"(1) IN GENERAL.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 112. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) by striking "CORPORATION.—No agreement" and inserting "CORPORATION.—

"(1) IN GENERAL.—No agreement"; and

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

"(2) PUBLIC DEPOSITS.—An agreement to provide for the lawful collateralization of—

"(A) deposits of a Federal, State, or local governmental entity or any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345 of title 11, United States Code; or

"(C) extensions of credit from any Federal reserve bank or Federal home loan bank,

shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with changes in the collateral made in accordance with such agreement.".

SEC. 113. BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Effective December 19, 1993, section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.—Notwithstanding paragraph (1), funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy shall be separately insured in an amount not to exceed $100,000 for each insured depository institution depositing such funds.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(C)) is amended by striking "section 7(i)(1)" and inserting "paragraph (1) or (2) of section 7(i) or any funds described in section 7(i)(3)".

SEC. 114. COORDINATED AND UNIFIED EXAMINATIONS.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by inserting after paragraph (6) (as added by section 102(b) of this Act) the following new paragraphs:

"(7) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions, each Federal banking agency shall, to the extent practicable and consistent with safety and soundness principles and the public interest—

"(A) coordinate examinations to be conducted by that agency at an insured depository institution and any affiliate of such institution;

"(B) coordinate with the other Federal banking agencies in the conduct of such examinations;

"(C) work to coordinate the conduct of all examinations made pursuant to this subsection with the appropriate State bank supervisor; and

"(D) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor.

"(8) SAFETY AND SOUNDNESS EXAMS.—Notwithstanding any provision of paragraph (7) or any system established pursuant to such paragraph, any appropriate Federal banking agency may conduct a separate examination of an insured depository institution at any time for safety and soundness purposes.".

SEC. 115. COORDINATION OF FEDERAL AND STATE REPORTING REQUIREMENTS TO REDUCE DUPLICATIVE EFFORTS.

(a) STATE ACCESS TO FEDERAL AGENCY REPORTS.—The 1st sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "and, with respect to any State depository institution, any appropriate State bank supervisor for such institution" after "The Corporation".

(b) STATE COORDINATION WITH FEDERAL REPORTING REQUIREMENTS.—The Federal banking agencies and State bank supervisors shall, to the greatest extent practicable—

(1) coordinate the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions and the type and amount of information required to be included in such reports; and

(2) use copies of reports of condition and other reports submitted by such institutions to any such agency or supervisor.

SEC. 116. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"(a) IN GENERAL.—A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances.

"(b) REGULATIONS.—The Board may prescribe such regulations as the Board may determine to be necessary to carry out this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would have been payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action (to which such section would otherwise apply) which arises from events or circumstances that occurred before the date of enactment of this Act.

SEC. 117. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

The 2d sentence of section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking "or (B)" and inserting "(B)"; and

(2) by inserting before the period the following: "; or (C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition—

"(I) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; and

"(II) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act);

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization;

"(iii) the company provides 30 days prior notice to the Board and the Board does not object to such transaction during such 30-day period; and

"(iv) the holding company will not acquire control of any additional bank as a result of the reorganization.".

SEC. 118. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

SEC. 119. REPEAL OF OBSOLETE REQUIREMENTS FOR NATIONAL BANKS.

(a) REPEAL OF PROVISIONS IN THE REVISED STATUTES.—The following sections of the Revised Statutes are hereby repealed:

(1) Section 5170 (12 U.S.C. 28).
(2) Section 5203 (12 U.S.C. 87).
(3) Section 5206 (12 U.S.C. 88).
(4) Section 5196 (12 U.S.C. 89).
(5) Section 5158 (12 U.S.C. 102).
(6) Section 5159 (12 U.S.C. 101a).
(7) Section 5172 (12 U.S.C. 104).
(8) Section 5173 (12 U.S.C. 107).
(9) Section 5174 (12 U.S.C. 108).
(10) Section 5182 (12 U.S.C. 109).
(11) Section 5183 (12 U.S.C. 110).
(12) Section 5195 (12 U.S.C. 123).
(13) Section 5184 (12 U.S.C. 124).
(14) Section 5226 (12 U.S.C. 131).
(15) Section 5227 (12 U.S.C. 132).
(16) Section 5228 (12 U.S.C. 133).
(17) Section 5229 (12 U.S.C. 134).
(18) Section 5230 (12 U.S.C. 137).
(19) Section 5231 (12 U.S.C. 138).
(20) Section 5232 (12 U.S.C. 135).
(21) Section 5233 (12 U.S.C. 136).
(22) Section 5185 (12 U.S.C. 151).
(23) Section 5186 (12 U.S.C. 152).
(24) Section 5160 (12 U.S.C. 168).
(25) Section 5161 (12 U.S.C. 169).
(26) Section 5162 (12 U.S.C. 170).
(27) Section 5163 (12 U.S.C. 171).
(28) Section 5164 (12 U.S.C. 172).
(29) Section 5165 (12 U.S.C. 173).
(30) Section 5166 (12 U.S.C. 174).
(31) Section 5167 (12 U.S.C. 175).
(32) Section 5222 (12 U.S.C. 183).
(33) Section 5223 (12 U.S.C. 184).
(34) Section 5224 (12 U.S.C. 185).
(35) Section 5225 (12 U.S.C. 186).
(36) Section 5237 (12 U.S.C. 195).

(b) REPEAL OF OTHER OBSOLETE PROVISIONS IN BANKING LAWS.—The following provisions of law are hereby repealed:

(1) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c).

(2) Section 12 of the Act entitled "An Act To define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes." and approved March 14, 1900 (12 U.S.C. 101).

(3) Section 3 of the Act entitled "An Act To amend the laws relating to the denominations of circulating notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(4) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(A) Section 5 (12 U.S.C. 105).

(B) Section 3 (12 U.S.C. 121).

(C) Section 8 (12 U.S.C. 126).

(D) Section 4 (12 U.S.C. 176).

(5) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(A) Section 8 (12 U.S.C. 177).

(B) Section 9 (12 U.S.C. 178).

(6) The Act entitled "An Act to amend the national bank act in providing for the redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125).

(7) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153).

(8) The 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418) is amended by striking "the Comptroller of the Currency shall under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall".

(9) The 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419) is amended to read as follows:

"When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.".

(10) The 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420) is amended—

(A) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System".

(11) The 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421) is amended to read as follows:

"The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.".

(c) AMENDMENTS TO OTHER LAWS.—

(1) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve bank notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(A) in the 1st section (12 U.S.C. 121a)—

(i) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(ii) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(B) in section 2 (12 U.S.C. 122a)—

(i) by striking "National-bank notes and"; and

(ii) by striking "national-bank notes and".

(2) The 1st section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875, is amended in the 1st paragraph which appears under the heading "NATIONAL CURRENCY" by striking "Secretary of the Treasury: *Provided*, That" and all that follows through the period and inserting "Secretary of the Treasury.".

(3) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "That the cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(4) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(5) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association".

(6) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the 1st sentence.

(d) AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.—

(1) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(A) in the 2d sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(B) by striking the 3d sentence.

(2) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(A) in the 1st sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b),";

(B) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(C) by striking subsection (c).

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5156 the following new item:

"5156A. Mergers, consolidations, and other acquisitions authorized."; and

(B) by striking the items relating to sections 5141 and 5151.

(2) The table of sections for chapter 2 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5158.
(B) Section 5159.
(C) Section 5160.
(D) Section 5161.
(E) Section 5162.
(F) Section 5163.
(G) Section 5164.
(H) Section 5165.
(I) Section 5166.
(J) Section 5167.
(K) Section 5170.
(L) Section 5171.
(M) Section 5172.
(N) Section 5173.
(O) Section 5174.
(P) Section 5175.
(Q) Section 5176.
(R) Section 5177.
(S) Section 5178.
(T) Section 5179.
(U) Section 5180.
(V) Section 5181.
(W) Section 5182.
(X) Section 5183.
(Y) Section 5184.
(Z) Section 5185.
(AA) Section 5186.
(BB) Section 5187.
(CC) Section 5188.
(DD) Section 5189.

(3) The table of sections for chapter 3 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5193.
(B) Section 5194.
(C) Section 5195.
(D) Section 5196.
(E) Section 5202.
(F) Section 5203.
(G) Section 5206.
(H) Section 5209.
(I) Section 5212.

(3) The table of sections for chapter 4 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5239 the following new item:

"5239A. Regulatory authority."; and

(B) by striking the items relating to the following sections:

(i) Section 5222.
(ii) Section 5223.
(iii) Section 5224.
(iv) Section 5225.
(v) Section 5226.
(vi) Section 5227.
(vii) Section 5228.
(viii) Section 5229.
(ix) Section 5230.
(x) Section 5231.
(xi) Section 5232.
(xii) Section 5233.
(xiii) Section 5237.
(xiv) Section 5243.

SEC. 120. LIMITED EXEMPTION AUTHORITY.

Section 22(h)(5)(C) of the Federal Reserve Act (12 U.S.C. 375b(5)(C)) is amended by striking "subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board" and inserting "subparagraph (A) for—

"(i) member banks with less than $100,000,000 in deposits; and

"(ii) member banks which have—

"(I) total deposits of $100,000,000 or more and less than $250,000,000; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such institution by the Federal Deposit Insurance Corporation or the appropriate Federal banking agency,

if the Board".

Subtitle C—Other Regulatory Reform

SEC. 121. ELIMINATION OF DUPLICATIVE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4(a) of the Real Estate Settlement Procedures Act (12 U.S.C. 2603(a)) is amended by adding at the end the following: "In the case of a federally related mortgage loan extended under an open end credit plan (as defined in section 103(i) of the Truth in Lending Act), disclosures made under section 127A(a) of the Truth in Lending Act may be used in lieu of the disclosures required under this section if—

"(1) the disclosures made pursuant to such section 127A(a) contain all of the information that is required under this section; and

"(2) the information is disclosed in a manner that is no less conspicuous than is required under this section.".

SEC. 122. ALTERNATIVE DISPUTE RESOLUTIONS.

(a) IN GENERAL.—Each Federal banking agency shall develop and implement a program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the "alternative dispute resolution program") if the parties to the dispute, including the agency, agree to such proceeding.

(b) STANDARDS.—Alternative dispute resolution programs shall—

(1) be fair to all interested parties to a dispute;

(2) resolve disputes expeditiously; and

(3) be less costly than traditional means of dispute resolution, including litigation.

(c) IMPLEMENTATION OF PROGRAM.—Each Federal banking agency shall—

(1) within 18 months of the date of the enactment of this Act, establish a pilot alternative dispute resolution program which is consistent with the requirements of the subchapter IV of chapter 5 of title 5, United States Code;

(2) within 24 months of such date, make a written evaluation of the pilot program on the basis of subsection (b); and

(3) within 30 months of such date, implement an alternative dispute resolution program throughout the agency, taking into account the results of the evaluation made pursuant to paragraph (2).

(d) INDEPENDENT EVALUATION.—Before the end of the 30-month period beginning on the date of the enactment of this Act, the Administrative Conference of the United States shall submit to the Congress a report containing—

(1) an evaluation of the pilot programs established under subsection (c)(1);

(2) the extent to which the pilot programs meet the standards established under subsection (b);

(3) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and

(4) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies.

(e) COORDINATION WITH EXISTING AGENCY ADR PROGRAMS.—

(1) EVALUATION REQUIRED.—Any Federal banking agency which, as of the date of the enactment of this Act, maintains an alternative dispute resolution program under any other provision of law shall include such program in the evaluation conducted under subsection (c)(2).

(2) MULTIPLE ADR PROGRAMS.—No provision of this section shall be construed as precluding any Federal banking agency from establishing more than 1 alternative means of dispute resolution.

(f) DEFINITIONS.—For purposes of this section—

(1) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—The term "alternative means of dispute resolution" has the meaning given to such term in section 571 of title 5, United States Code.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency"—

(A) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration.

(3) ISSUES IN CONTROVERSY.—The term "issues in controversy" means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver;

(B) any final action taken by an agency in the agency's capacity as conservator or receiver for an insured depository institution or insured credit union; and

(C) any other issue for which the appropriate Federal banking agency determines that alternative means of dispute resolution would be appropriate.

SEC. 123. CLARIFICATION OF RESPA DISCLOSURE REQUIREMENTS.

Section 6(a)(1)(B) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)(1)(B)) is amended—

(1) by striking "(B) for each of the most recent" and inserting "(B) at the choice of the person making a federally related mortgage loan—

"(i) for each of the most recent";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the left margin of such subclauses (as so redesignated) 2 ems to the right;

(3) by striking "and" at the end of subclause (II) (as so redesignated by paragraph (2) of this section) and inserting "or"; and

(4) by inserting after clause (i) (as so designated by paragraph (1) of this section) the following new clause:

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

SEC. 124. EXEMPTION OF BUSINESS LOANS FROM RESPA REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This Act shall not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 125. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN CERTAIN ACTIVITIES.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(j) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No bank holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in activities described in subsection (c)(8) without providing the Board with written notice of the proposed transaction or activity at least 60 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 60-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 60-day period referred to in clause (i) for an additional 30 days.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for no notice under this paragraph or for a shorter notice period with respect to particular activities or transactions.

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire cr retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) that has not been previously approved by order or regulation, the Board may extend the notice period under this subsection for an additional 90 days.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board may consider the following criteria:

"(i) The managerial resources of the companies involved.

"(ii) The adequacy of the companies financial resources, including capital, giving consideration to the financial resources and capital of others engaged in similar activities.

"(iii) Any material adverse effect on the safety and soundness or financial condition of any insured depository institution affiliate.

"(iv) Whether, performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) REQUIREMENTS FOR DISAPPROVAL.—The Board shall not approve any proposed transaction under this subsection if the Board determines that any insured depository institution subsidiary of the bank holding company is engaging in any unsafe and unsound practice or is in an unsafe and unsound condition.

"(3) PUBLIC NOTICE RELATING TO NEW ACTIVITIES.—

"(A) PUBLICATION AND OPPORTUNITY FOR COMMENT.—The Board shall—

"(i) publish in the Federal Register a notice of the receipt by the Board of a notice under paragraph (1) involving insurance or any other nonbanking activity which has not previously been determined by the Board (by regulation or order) to be closely related to banking as to be a proper incident thereto; and

"(ii) provide a reasonable period for public comment.

"(B) NOTICE OF APPROVAL BEFORE COMMENCEMENT OF ACTIVITY.—The Board shall

issue an order with respect to any such notice before the commencement of the proposed insurance activity or the other new activity.".

SEC. 126. WAIVER OF RIGHT OF RESCISSION FOR CERTAIN REFINANCING TRANSACTIONS.

The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, shall, within 6 months of the date of the enactment of this Act, submit recommendations to the Congress regarding whether a waiver or modification, at the option of a consumer, of the right of rescission under section 125 of the Truth in Lending Act with respect to transactions which constitute a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by a different creditor secured by an interest in the same property would benefit consumers more than existing law.

SEC. 127. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.—

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail within 90 days after June 19, 1994.

"(II) SECOND NOTICE.—Make a 2d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a 3d transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i)(I) which has been signed by the depositor.".

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 128. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized" after "includes any insured depository institution";

(2) by inserting "such" after "any employee of any"; and

(3) by striking "having the same type of charter".

SEC. 129. AGENCY OMBUDSMAN.

(a) ESTABLISHMENT REQUIRED.—Not later than 180-days after the date of the enactment of this Act, each Federal banking agency and the National Credit Union Administration shall appoint an ombudsman.

(b) DUTIES OF OMBUDSMAN.—The ombudsman for any agency shall—

(1) act as a liaison between the agency and any party with respect to the accuracy, consistency, or quality of any examination or regulatory activity of the agency that results in a material supervisory or agency determination rendered by the agency, or may result in an enforcement action by the agency, with respect to such party;

(2) act as a liaison between the agency and any party with respect to any problem such party may have in dealing with the agency; and

(3) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(c) DEFINITIONS.—For purposes of this section—

(1) AGENCY.—The term "agency" means a Federal banking agency or the National Credit Union Administration.

(2) FEDERAL BANKING AGENCY.—The term "Federal banking agency" has the meaning given to such term in section 3(z) of the Federal Deposit Insurance Act.

(3) MATERIAL SUPERVISORY DETERMINATION.—The term "material supervisory determination"—

(A) means a supervisory determination relating to an insured depository institution that the Federal banking agency has determined to be material under guidelines which the agency shall issue; and

(B) does not include a determination by a Federal banking agency to appoint a conservator or receiver for an insured depository institution or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act.

SEC. 130. ALTERNATIVE RULES FOR DISCLOSURES FOR RADIO ADVERTISING OF CREDIT TRANSACTIONS, DEPOSIT ACCOUNTS, AND CONSUMER LEASES.

(a) OPEN END CREDIT PLANS.—Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended—

(1) by striking "No advertisement" and inserting "(a) IN GENERAL.—No advertisement"; and

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

"(b) RADIO ADVERTISEMENTS.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (a) at the option of a creditor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, the extension of consumer credit under an open end credit plan shall be deemed to meet the requirements of subsection (a) if the advertisement, clearly and conspicuously—

"(1) states any periodic rate that may be applied under the plan, expressed as an annual percentage rate;

"(2) states that a variable periodic rate applies under the plan, if such a rate applies; and

"(3) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain the information required under subsection (a) in accordance with subsection (c); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (a); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.

"(c) ESTABLISHMENT OF TOLL-FREE TELEPHONE NUMBER.—

"(1) IN GENERAL.—In the case of an advertisement described in subsection (b) or section 144(e) or 147(b) which includes a referral to a toll-free telephone number in accordance with such subsection or section, a creditor that offers the credit which such advertisement aids, supports, or assists shall—

"(A) establish the telephone number by not later than the date on which any advertisement is broadcast which includes a referral to the number; and

"(B) maintain the telephone number at least until the end of the 7-day period beginning on the date of any such broadcast.

"(2) AVAILABILITY OF INFORMATION.—

"(A) IN GENERAL.—The creditor referred to in paragraph (1) shall provide the information required under subsection (a) with respect to the open end credit plan for which the toll-free telephone line is established to any person who calls such number in response to an advertisement by radio broadcast.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A) may be provided orally or by offering to mail a written copy of such information to such person.".

(b) CREDIT OTHER THAN UNDER OPEN END CREDIT PLANS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended—

(1) in subsection (a) by inserting "APPLICATION GENERALLY.—" before "Except as provided";

(2) in subsection (b) by inserting "LIMITATION ON APPLICATION.—" before "The provisions";

(3) in subsection (c) by inserting "DISCLOSURES REGARDING FINANCE CHARGES.—" before "If any";

(4) in subsection (d) by inserting "OTHER REQUIRED DISCLOSURES.—" before "If any advertisement"; and

(5) by adding at the end the following new subsection:

"(e) RADIO ADVERTISEMENTS.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (d) at the option of the creditor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer credit sale, loan, or other extension of credit subject to this title, other than an open end consumer credit plan, shall be

deemed to meet the requirements of subsection (d) if the advertisement, clearly and conspicuously—

"(1) states the rate of the finance charge, expressed as an annual percentage rate;

"(2) states that the rate of finance charge may be increased after the date on which credit is extended, if such an increase is authorized under the terms of the extension of credit to which the advertisement relates; and

"(3) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain, in accordance with section 143(c), the information required under subsection (d); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (d); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.".

(c) CREDIT PLANS SECURED BY CONSUMER'S PRINCIPAL DWELLING.—Section 147 of the Truth in Lending Act (15 U.S.C. 1665b) is amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

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

"(b) RADIO ADVERTISEMENTS.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (a) at the option of a creditor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, the extension of consumer credit under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling shall be deemed to meet the requirements of subsection (a) if the advertisement, clearly and conspicuously—

"(1) contains the information described in paragraphs (2) and (3) of subsection (a); and

"(2) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain the information required under subsection (a) in accordance with section 143(c); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (a); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.".

(d) DEPOSITS SUBJECT TO TRUTH IN SAVINGS.—Section 263(b) of the Truth in Savings Act (12 U.S.C. 4302(b)) is amended—

(1) by striking "EXCEPTION.—The Board may—" and inserting "EXCEPTION.—

"(1) IN GENERAL.—The Board may"; and

(2) by adding at the end the following new paragraph:

"(2) RADIO ADVERTISEMENTS.—Paragraphs (4), (5), and (6) of subsection (a) shall not apply with respect to an advertisement, announcement, or solicitation (which is otherwise subject to such subsection) by radio broadcast.".

(e) CONSUMER LEASES.—Section 184 of the Truth in Leasing Act is amended—

(1) by redesignating subsection (b) as subsection (d); and

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

"(b) RADIO ADVERTISEMENTS.—In order to provide a practical alternative for complying with the disclosure requirements of subsection (a) at the option of a lessor, an advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to meet the requirements of subsection (a) if the advertisement, clearly and conspicuously—

"(1) states the information described in paragraphs (1) and (2) of subsection (a);

"(2) states the total amount of all payments required under the lease; and

"(3) includes—

"(A) a referral to—

"(i) a toll-free telephone number that may be used by consumers to obtain the information required under subsection (a) in accordance with subsection (c); or

"(ii) an advertisement that—

"(I) appears in a publication in general circulation in the community served by the radio station (on which such advertisement is broadcast) during the period beginning 7 days before the broadcast and ending 7 days after the broadcast; and

"(II) includes the information required to be disclosed under subsection (a); and

"(B) in any case to which subparagraph (A)(ii) applies, the name and date of the publication.

"(c) ESTABLISHMENT OF TOLL-FREE TELEPHONE NUMBER.—

"(1) IN GENERAL.—In the case of an advertisement described in subsection (b) which includes a referral to a toll-free telephone number in accordance with such subsection, a lessor who offers the consumer lease which such advertisement aids, supports, or assists shall—

"(A) establish the telephone number by not later than the date on which an advertisement is broadcast which includes a referral to the number; and

"(B) maintain the telephone number at least until the end of the 7-day period beginning on the date of any such broadcast.

"(2) AVAILABILITY OF INFORMATION.—

"(A) IN GENERAL.—The lessor referred to in paragraph (1) shall provide the information required under subsection (a) with respect to the consumer lease for which the toll-free telephone line is established to any person who calls such number in response to an advertisement by radio broadcast.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A) may be provided orally or by offering to mail a written copy of such information to such person.".

Subtitle D—Reports, Studies, Streamlined Regulatory Requirements

SEC. 131. STUDY ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal banking agencies, shall conduct a study of the effect that the implementation of risk-based capital standards, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions;

(2) the availability of credit, particularly to individuals and small businesses; and

(3) economic growth.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report shall contain any recommendations with respect to capital standards that the Secretary of the Treasury may determine to be appropriate.

(c) DEFINITIONS.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

SEC. 132. STUDY OF THE CONSUMER CREDIT SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, the Administrator of the Small Business Administration, the Secretary of Housing and Urban Development, and the other Federal banking agencies, shall conduct a study of the manner in which and the extent to which credit is made available for consumers and small businesses in order to identify procedures which have the effect of—

(1) reducing the amount of credit available for such purposes or the number of persons eligible for such credit; and

(2) increasing the level of consumer inconvenience, cost, and time delays in connection with the extension of consumer and small business credit without any corresponding benefit with respect to the protection of consumers or small businesses or the safety and soundness of insured depository institutions.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report shall contain any recommendations for administrative action that the Secretary of the Treasury may determine to be appropriate.

(c) DEFINITIONS.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

SEC. 133. STUDIES ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation and the National Credit Union Administration, shall conduct a study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability

of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall each conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

(c) INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term "insured depository institution"—

(1) has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act; and

(2) includes an insured credit union (as defined in section 101 of the Federal Credit Union Act).

SEC. 134. STREAMLINING OF REGULATORY REQUIREMENTS.

(a) REVIEW OF REGULATIONS; REGULATORY UNIFORMITY.—During the 2-year period beginning on the date of the enactment of this Act, each Federal banking agency shall, consistent with principles of safety and soundness and the public interest—

(1) conduct a review of the regulations and written policies of that agency to—

(A) streamline those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act, consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) review what information is collected under the fair housing data system, from which institutions the information is collected, how the information collected is used, and how that information compares with information collected under the Home Mortgage Disclosure Act of 1975.

(b) REVIEW OF DISCLOSURES.—The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, shall—

(1) review the regulations and written policies of the Board with respect to disclosures pursuant to the Truth in Lending Act with regard to variable-rate mortgages in order to simplify the disclosures and make the disclosures more meaningful for consumers; and

(2) implement any regulatory changes, if appropriate, consistent with applicable law.

(c) REPORT TO CONGRESS.—The Federal banking agencies shall submit a joint report to the Congress annually for 3 years following the date of the enactment of this Act detailing the progress of the agencies in carrying out the requirements of subsection (a).

SEC. 135. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of the enactment of this Act, submit a report to the Congress containing recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly to—

(1) adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a);

(2) simplify instructions accompanying such reports and statements; and

(3) provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 136. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

(a) IN GENERAL.—In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions; and

(2) the benefits of such regulations.

(b) ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.—

(1) IN GENERAL.—New regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the 1st day of the calendar quarter which begins at or after the end of the 90-day period beginning on the date the regulations are published in final form unless—

(A) the agency makes a finding that—

(i) an emergency exists which requires the regulation to take effect before the 1st day of such calendar quarter; or

(ii) a delay would have a substantial impact upon the safety and soundness of insured depository institutions;

(B) the regulation is issued by the Board of Governors of the Federal Reserve System in connection with the implementation of monetary policy; or

(C) the regulation is required to take effect on a date other than the date determined under this paragraph pursuant to any other Act of Congress.

(2) EARLY COMPLIANCE.—Any person who is subject to a regulation described in paragraph (1) may comply with the regulation before the effective date of the regulation.

SEC. 137. ELIMINATION OF DUPLICATIVE FILINGS.

The Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act) shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 138. RECOURSE AGREEMENTS.

The Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act) shall jointly—

(1) review the manner in which loans sold with recourse by insured depository institutions are treated under capital standards and other accounting principles applicable with respect to such insured depository institutions; and

(2) revise any such standard or principle in accordance with the findings and conclusions of the agencies pursuant to such review before the end of the 1-year period beginning on the date of the enactment of this Act, except the revision may not be less stringent than generally accepted accounting principles.

SEC. 139. ANTITRUST REPORTS IN CONNECTION WITH MERGER TRANSACTIONS.

(a) BANKING AGENCY REPORTS.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, a banking agency shall not be required to file a report requested by the responsible agency under this paragraph if the other banking agency advises the responsible agency by the applicable date under the preceding sentence that the report is not necessary because none of the effects described in paragraph (5) is likely to occur as a result of the transaction.".

(b) LIMITATION ON DELAY OF CONSUMMATION OF TRANSACTION.—The last sentence of section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end the following :", unless the agency is advised by the other 2 banking agencies before such date that the reports required under paragraph (4) on the anticompetitive effects of the transaction are not necessary because none of the effects described in paragraph (5) is likely to occur as a result of the transaction".

SEC. 140. BANKERS' BANKS.

(a) OWNERSHIP BY DEPOSITORY INSTITUTION HOLDING COMPANIES.—

(1) PROVISION RELATING TO NATIONAL BANK INVESTMENTS.—The 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by inserting "or by depository institution holding companies (as defined in section 3(w) of the Federal Deposit Insurance Act)" after "is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions".

(2) PROVISION RELATING TO NATIONAL BANK CHARTERS.—Section 5169(b)(1) of the Revised Statutes of the United States (12 U.S.C. 27(b)(1)) is amended by inserting "or by depository institution holding companies (as defined in section 3(w) of the Federal Deposit Insurance Act)" after "is owned exclusively

(except to the extent directors' qualifying shares are required by law) by other depository institutions".

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase, for the association's own account, shares of stock of a bankers' bank or holding company described in the 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States or section 5169(b) of such Revised Statutes on the same terms and conditions a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the second sentence.

(2) DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT AMENDMENT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" the 1st place such term appears and all that follows through "the surplus of such other bank; or" and inserting "which is a bankers' bank described in the 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States; or".

(d) SERVICES.—

(1) PROVISION RELATING TO NATIONAL BANK INVESTMENTS.—The 5th proviso of the 7th undesignated paragraph of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking "engaged exclusively in providing services for other depository institutions and their officers, directors and employees" and inserting "engaged exclusively in providing services to or for other depository institutions and their officers, directors and employees and providing correspondent banking services at the request of other depository institutions (any such bank or company is commonly referred to as a 'bankers' bank')".

(2) PROVISION RELATING TO NATIONAL BANK CHARTERS.—Section 5169(b)(1) of the Revised Statutes of the United States (12 U.S.C. 27(b)(1)) is amended by striking "engage exclusively in providing services for other depository institutions and their officers, directors and employees" and inserting "engage exclusively in providing services to or for other depository institutions and their officers, directors and employees and providing correspondent banking services at the request of other depository institutions (any such association is commonly referred to as a 'bankers' bank')".

SEC. 141. DUE PROCESS PROTECTIONS RELATING TO ATTACHMENT OF ASSETS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking subsection (i)(4)(B) and inserting the following new subparagraph:

"(B) STANDARD.—

"(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (A) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought under subparagraph (A) may be requested under the laws of such State."; and

(2) in subsection (b), by adding the following new paragraph:

"(9) STANDARD FOR CERTAIN ORDERS.—No authority under this subsection or subsection (c) to prohibit any institution-affiliated party from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property may be exercised unless the agency meets the standards of Rule 65 of the Federal Rules of Civil Procedure without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.".

SEC. 142. TIME LIMIT ON AGENCY CONSIDERATION OF COMPLETED APPLICATIONS.

(a) IN GENERAL.—Each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall take final action on any application to the agency before the end of the 1-year period beginning on the date a completed application is received by the agency.

(b) WAIVER BY APPLICANT AUTHORIZED.—Any person submitting an application to a Federal banking agency may waive the applicability of subsection (a) with respect to such application at any time.

SEC. 143. TIMELY COMPLETION OF CRA REVIEW.

The comprehensive regulatory review of the Community Reinvestment Act of 1977 that, as of the date of the enactment of this Act, is being conducted by the Federal banking agencies, shall be completed before the end of the 6-month period beginning on such date of enactment.

SEC. 144. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) by striking "and" at the end of subparagraph (A);

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

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

"(C) ensure that such revisions take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 145. FEASIBILITY STUDY OF DATA BANK.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Financial Institutions Examination Council shall study the feasibility, including the costs and benefits to insured depository institutions, of establishing and maintaining a data bank for reports submitted by any depository institution to a Federal banking agency and report the results of such study to the Congress.

(b) ADDITIONAL FACTORS.—The study under subsection (a) shall consider the feasibility of—

(1) permitting depository institutions to file reports directly with the data bank; and

(2) permitting Federal banking agencies, State bank supervisors, and the public to obtain access to any appropriate report on file with the data bank which such agency or supervisor or the public is otherwise authorized to receive.

TITLE II—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

SEC. 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Community Development Banking and Financial Institutions Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE II—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

Sec. 201. Short title; table of contents.
Sec. 202. Findings and purpose.
Sec. 203. Definitions.
Sec. 204. Establishment of National Fund for Community Development Banking.
Sec. 205. Applications for assistance.
Sec. 206. Community development partnerships.
Sec. 207. Selection of institutions.
Sec. 208. Assistance provided by the Fund.
Sec. 209. Capitalization assistance to enhance liquidity.
Sec. 210. Encouragement of private entities.
Sec. 211. Clearinghouse function.
Sec. 212. Training assistance for organizing and operating community development financial institutions.
Sec. 213. Recordkeeping, reports, and audits.
Sec. 214. Investment of receipts and proceeds.
Sec. 215. Enforcement provisions.
Sec. 216. Authorization of appropriations.
Sec. 217. Conforming amendment.
Sec. 218. Appointment of Community Enterprise Assessment Credit Board.
Sec. 219. Community development credit union assistance.
Sec. 220. Insured community development financial institution access to Federal home loan bank advances.
Sec. 221. Community investment program incentives.
Sec. 222. 30 percent lending cap increased.

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban and rural communities and Indian reservations face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to capital and credit for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community;

(3) in many urban and rural communities, low- and moderate-income neighborhoods, and Indian reservations, there is a shortage of capital and credit for business and affordable housing;

(4) access to capital and credit is essential to unleash the untapped entrepreneurial energy of America's poorest communities and to empower individuals and communities to become self-sufficient; and

(5) community development financial institutions have proven their ability to identify and respond to community needs for capital, credit, and development services in the absence of, or as a complement to, services provided by other lenders.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To create a Community Development Banking and Financial Institutions Fund that will support a program for making investments in and providing assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

(2) To enable the Community Development Banking and Financial Institutions Fund to—

(A) provide financial and technical assistance, including training, to community development financial institutions;

(B) serve as a national information clearinghouse; and

(C) be an institutional voice for community development.

(3) To provide for the establishment of, or qualification of existing financial institutions as, community development financial institutions that, with the support of the Community Development Banking and Financial Institutions Fund, will provide capital, credit, and development services to targeted investment areas or populations, and will promote economic revitalization and community development.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) AFFILIATE.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(3) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community development financial institution" means any bank, savings association, depository institution holding company (subject to section 205(d)), credit union, microenterprise loan fund, community development corporation, community development revolving loan fund, minority-owned or other insured depository institution, or nondepository organization that—

(i) has as the institution's primary mission the promotion of community development through the provision of capital, credit, or development services, directly, through an affiliate, or through a community development partner, in the institution's investment areas or to targeted populations; and

(ii) encourages, through representation on the institution's governing board or otherwise, the input of residents in the investment areas or the targeted populations.

(B) GOVERNMENT AGENCIES EXCLUDED.—The term "community development financial institution" does not include any agency or instrumentality of the United States or any agency or instrumentality of any State or of any political subdivision of any State.

(4) COMMUNITY DEVELOPMENT PARTNER.—The term "community development partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(5) COMMUNITY DEVELOPMENT PARTNERSHIP.—The term "community development partnership" means an agreement between a community development financial institution and a community development partner to provide development services and loans or equity investments to an investment area or targeted population.

(6) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the meaning given to such term in section 3(w) of the Federal Deposit Insurance Act.

(7) DEVELOPMENT SERVICES.—The term "development services" means activities conducted by a community development financial institution or community development partner that promote community development by developing, supporting, and strengthening the lending, investment, and capacity-building activities undertaken by institutions, including—

(A) business planning services;

(B) financial and credit counseling services;

(C) marketing and management assistance; and

(D) administrative activities associated with lending or investment.

(8) INDIAN RESERVATION.—The term "Indian reservation" includes public domain Indian allotments, former Indian reservations in the State of Oklahoma, land held by incorporated Native groups, regional corporations and village corporations (as defined in or established pursuant to the Alaska Native Claims Settlement Act), and dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory of the United States and whether within or without the borders of a State.

(9) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(11) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term in section 101(7) of the Federal Credit Union Act.

(12) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c) of the Federal Deposit Insurance Act.

(13) INVESTMENT AREA.—The term "investment area" means an identifiable community, including an Indian reservation, or identifiable communities that—

(A) meet objective criteria of distress, including the number of low-income families, the extent of poverty, the extent of unemployment, the extent of unmet credit needs, the degree of availability of basic financial services, the degree of limited access to capital and credit provided by existing financial institutions, and other factors that the Fund determines to be appropriate; or

(B) are located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

(14) QUALIFIED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "qualified community development financial institution" means a community development financial institution that meets the requirements of paragraphs (2) through (8) of section 205(b).

(15) STATE.—The term "State" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

(16) SUBSIDIARY.—The term "subsidiary" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act, except that a community development institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or bank holding company that controls less than 25 percent of the voting shares of the corporation.

(17) TARGETED POPULATION.—The term "targeted population" means an identifiable group or identifiable groups of low-income or disadvantaged persons that are underserved by existing financial institutions, including an Indian tribe.

SEC. 204. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established a corporation to be known as the Community Development Banking and Financial Institutions Fund (hereafter in this title referred to as the "Fund") that shall have the powers and responsibilities specified by this Act.

(2) SUCCESSION.—The Fund shall have succession until dissolved.

(3) RESERVATION OF POWER OF THE CONGRESS.—The charter of the Fund may be revised, amended, or modified by Congress at any time.

(4) OFFICES.—The offices of the Fund shall be in Washington, D.C.

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Fund shall be vested in a Board of Directors (hereafter referred to in this title as the "Board"), which shall have 15 members.

(2) MEMBERS.—The members of the Board shall consist of the following:

(A) The Secretary of Agriculture.

(B) The Secretary of Commerce.

(C) The Secretary of Housing and Urban Development.

(D) The Secretary of the Interior.

(E) The Secretary of the Treasury.

(F) The Administrator of the Small Business Administration.

(G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and gender diversity, and shall consist of the following individuals:

(i) 2 individuals who are officers of existing community development financial institutions.

(ii) 2 individuals who are officers of insured depository institutions (as such term is defined in section 3 of the Federal Deposit Insurance Act).

(iii) 2 individuals who are officers of national consumer or public interest organizations.

(iv) 2 individuals who have expertise in community development.

(v) 1 individual who has personal experience and specialized expertise in the unique lending and community development issues confronted by Indian tribes on Indian reservations.

(3) CHAIRPERSON.—The President shall appoint from among the members of the Board specified in paragraph (2)(G) a chairperson of the Board, who shall serve at the pleasure of the President for a term of 2 years.

(4) VICE-CHAIRPERSON.—The President shall appoint from among the members specified in paragraph (2) a vice-chairperson who will serve as chairperson in the absence, disability, or recusal of the chairperson. The vice-chairperson shall serve at the pleasure of the President for a term of 2 years.

(5) TERMS OF APPOINTED MEMBERS.—

(A) IN GENERAL.—Each member appointed pursuant to paragraph (2)(G) shall serve at

the pleasure of the President for a term of 4 years, except as provided in subparagraph (C).

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Appointed members may continue to serve following the expiration of their terms until a successor is appointed and qualified.

(C) TERMS.—The terms of the initial appointed members shall be for 4 years and shall begin on the date each member is appointed, except that 2 of the members initially appointed pursuant to paragraph (2)(G) shall be designated to serve at the pleasure of the President for 5 years.

(6) ACTING OFFICIALS.—In the event of a vacancy or absence of the individual in any of the offices described in subparagraphs (A) through (F) of paragraph (2), the official acting in that office shall be a member of the Board.

(7) AUTHORITY TO DELEGATE.—Each member of the Board specified in subparagraphs (A) through (F) of paragraph (2) may designate another official who has been appointed by the President with the advice and consent of the Senate within the same agency to serve as a member in his or her stead.

(8) COMPENSATION.—

(A) GOVERNMENT OFFICERS OR EMPLOYEES.—Members of the Board who are otherwise officers or employees of the United States shall serve without additional compensation for their duties as members, but shall be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with sections 5702 and 5703 of title 5, United States Code.

(B) APPOINTED MEMBERS.—The appointed members of the Board shall be entitled to receive compensation at the daily equivalent of the rate for a position under Level IV of the Executive Schedule under section 5315 of title 5, United States Code, and shall be reimbursed by the Fund for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with sections 5702 and 5703 of title 5, United States Code.

(9) MEETINGS.—The Board shall hold meetings at least quarterly. Special meetings of the Board may be called by the Chairperson or on the written request of 3 members of the Board. A majority of the members of the Board in office shall constitute a quorum.

(c) OFFICERS AND EMPLOYEES.—

(1) CHIEF EXECUTIVE OFFICER.—The Board shall appoint a chief executive officer who shall be responsible for the management of the Fund and such other duties deemed appropriate by the Board.

(2) CHIEF FINANCIAL OFFICER.—The Board shall appoint a chief financial officer who shall oversee all of the financial management activities of the Fund.

(3) INSPECTOR GENERAL.—The Board shall also appoint an inspector general.

(4) OTHER OFFICERS AND EMPLOYEES.—The Board may appoint such other officers and employees of the Fund as the Board determines to be necessary or appropriate.

(5) APPOINTMENT PROVISION AND RATES OF PAY.—The chief executive officer, chief financial officer, and up to 3 other officers of the Fund may be—

(A) appointed without regard to the provisions of title 5 of the United States Code, governing appointments in the Federal service; and

(B) subject to paragraph (6), compensated without regard to chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code,

(6) MAXIMUM RATES OF PAY.—The rate of pay for the chief executive officer shall not exceed the rate for a position under Level II of the Executive Schedule under section 5313 of title 5 of the United States Code and the rate of pay for the remaining 4 officers shall not exceed the rate for a position under Level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

(d) GENERAL POWERS.—In carrying out the Fund's powers and duties, the Fund—

(1) shall have all necessary and proper powers to carry out the Fund's authority under this title;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may sue and be sued in the Fund's corporate name and complain and defend in any court of competent jurisdiction;

(4) may adopt, amend, and repeal bylaws and regulations governing the manner in which the Fund's business may be conducted and shall have power to make such rules and regulations as may be necessary or appropriate to implement the provisions of this title;

(5) may enter into and perform such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this title;

(6) may determine the character of and necessity for its expenditures and the manner in which they shall be incurred, allowed, and paid;

(7) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(8) may execute all instruments necessary or appropriate in the exercise of any of the Fund's functions under this title and may delegate to the members of the Board, to the chief executive officer, or the officers of the Fund such of the Fund's powers and responsibilities as it deems necessary or appropriate for the administration of the Fund.

(e) WHOLLY-OWNED GOVERNMENT CORPORATION.—

(1) IN GENERAL.—The Fund shall be a wholly-owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except to the extent this title provides otherwise.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 9101(3) of title 31, United States Code, is amended—

(A) by redesignating paragraphs (B) through (M) as paragraphs (C) through (N), respectively; and

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

"(B) the Community Development Banking and Financial Institutions Fund.".

(3) Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 207.

(f) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and of the United States Government arising out of any investment in a community development financial institution in accordance with this title shall be limited to the amount of the investment and the Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State. A community development financial institution that receives assistance pursuant to this title shall not be deemed to be an agency, department, or instrumentality of the United States.

(g) PROHIBITION OF ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

SEC. 205. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—

(1) IN GENERAL.—An application for assistance under this title shall be submitted by an applicant in such form and in accordance with such procedures as the Board shall establish.

(2) REGULATIONS.—The Board shall publish regulations with respect to application requirements and procedures not later than 210 days after enactment of this title.

(b) MINIMUM REQUIREMENTS.—Except as provided in section 209, the Board shall require that the application—

(1) demonstrate to the satisfaction of the Board that the applicant is, or upon the receipt of a charter will be, a community development financial institution;

(2) demonstrate that the applicant will serve—

(A) a targeted population; or

(B) an area which is an investment area;

(3) in the case of an applicant that has previously received assistance under this title, demonstrate that the applicant—

(A) has successfully carried out its responsibilities under this title;

(B) has become or is about to become an entity that will not be dependent upon assistance from the Fund for continued viability; and

(C) will expand its operations into a new investment area, offer new services, or will increase the volume of its current business;

(4) in the case of a community development financial institution with existing operations, demonstrate a record of success of serving investment areas or targeted populations;

(5) include a detailed and comprehensive strategic plan for the organization that contains—

(A) a business plan of at least 5 years that demonstrates the applicant is properly managed and has the capacity to form and operate a community development financial institution that is, or will become, an entity that will not be dependent upon assistance from the Fund for continued viability;

(B) a statement that the applicant has, or will have, in its charter or other governing documents a primary commitment to community development, or other evidence of a prior history and a continuing affirmation of a primary commitment to community development;

(C) an analysis of the needs of the investment areas or targeted populations and a strategy for how the applicant will attempt to meet those needs;

(D) a plan to coordinate use of assistance from the Fund with existing assistance programs of the Federal Government, State and local governments, Indian tribes, and government-sponsored enterprises and with private sector financial services;

(E) a statement that the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to the investment areas;

(F) a description of how the applicant will affiliate, network, or otherwise coordinate with a full range of community organizations and financial institutions which provide, or will provide, capital, credit, or secondary markets in order to assure that banking, economic development, investment,

affordable housing, and other related services will be available within the investment areas or to targeted populations; and

(G) such other information as the Board deems appropriate for inclusion in the strategic plan;

(6) demonstrate that the applicant will carry on its activities consistent with the purposes of this title within an investment area or with respect to a targeted population;

(7) include a detailed and specific statement of applicant's plans and likely sources of funds to match the amount of assistance from the Fund with funds from private sources in accordance with the requirements of section 208(e); and

(8) include such other information as the Board may require.

(c) PRE-APPLICATION OUTREACH PROGRAM.—The Fund shall provide for an outreach program to identify and provide information to potential applicants and to increase the capacity of potential applicants to meet the application and other requirements of this title.

(d) CONDITIONS FOR QUALIFICATION OF HOLDING COMPANIES.—

(1) CONSOLIDATED TREATMENT.—A depository institution holding company may qualify as a community development financial institution only if the holding company and the holding company's subsidiaries collectively satisfy the requirements of clauses (i) and (ii) of subparagraph (A) of section 203(3)(A).

(2) EXCLUSION OF SUBSIDIARY FOR FAILURE TO MEET CONSOLIDATED TREATMENT RULE.—No subsidiary of a depository institution holding company may qualify as a community development financial institution if the holding company and the company's subsidiaries collectively do not meet the requirements of clauses (i) and (ii) of subparagraph (A) of section 203(3)(A).

SEC. 206. COMMUNITY DEVELOPMENT PARTNERSHIPS.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community development partner to carry out a community development partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community development partnership application to—

(1) meet the minimum requirements established for community development financial institutions under section 205(b), except that the criteria specified in paragraph (1) and subparagraphs (A) and (B) of paragraph (5) of such section shall not apply to the community development partner;

(2) describe how each coapplicant will participate in carrying out the community development partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) demonstrate that the community development partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community development partnership application based on the selection criteria set out in section 207, except that the criterion specified in subparagraphs (A) and (L) of subsection (a)(2) of such section shall not apply to the community development partner.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community development partner or an affiliate of the partner.

(e) PERFORMANCE GOALS.—The Fund shall negotiate performance goals for each community development partnership in the manner provided in section 208(f)(3)(B). Such performance goals shall be incorporated into the performance goals of the community development financial institution coapplicant.

(f) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community development partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community development partnerships.

SEC. 207. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—

(1) IN GENERAL.—Except as provided in section 209, the Board shall, in the Board's discretion, select applications that meet the requirements of section 205 and award assistance from the Fund in accordance with section 208.

(2) FACTORS TO BE CONSIDERED.—In selecting applications, the Board shall consider applications based on the following factors and such other factors as the Board may determine to be appropriate:

(A) The likelihood of success of the applicant in forming and operating a community development financial institution.

(B) The range and comprehensiveness of the capital, credit, and development services to be provided by the applicant.

(C) The extent of the need, as measured by objective criteria of distress, within the investment areas or targeted populations for the types of activities proposed by the applicant.

(D) The likelihood that the proposed activities will benefit a significant portion of the investment areas or targeted populations or, in the case of a community development financial institution with existing operations, evidence of a record of success in serving investment areas or targeted populations.

(E) The extent to which the applicant will concentrate its activities on serving low and very low-income families.

(F) The evidence of the extent of a broad cross-section of support from the investment areas or targeted populations.

(G) The experience and background of the proposed management team.

(H) The amount of legally enforceable commitments available at the time of application to meet or exceed the matching requirements under section 208(e) and the strength of the plan for raising the balance of the match.

(I) In the case of applicants that have previously received assistance pursuant to this title, the extent to which they have met or exceeded the performance goals established in connection with such assistance.

(J) The extent to which the proposed activities will expand the employment base within the investment areas or the targeted populations.

(K) The extent to which the applicant is, or will be, community-owned or community-governed.

(L) Whether the applicant is, or will become, an insured community development financial institution.

(M) Whether the applicant is, or will be located, in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986 or a rural or urban area which is not an empowerment zone or enterprise community and which has a median income of 80 percent or less of the national median income.

(N) In the case of an institution that is not an insured community development financial institution, the extent to which the institution has or will have the ability to increase its resources through affiliation with a secondary market, insured depository institution, or other financial intermediary in order to multiply the amount of capital or credit available for community development.

(O) In the case of an insured depository institution or insured credit union applicant, whether the institution—

(i) has or will have a substantial affiliation with an entity or network of entities that are community development financial institutions; and

(ii) has a comprehensive plan for providing meaningful financial assistance to such an entity or network of entities.

(b) GEOGRAPHIC DIVERSITY.—

(1) IN GENERAL.—In addition to the above, in making its selections the Board shall seek to fund a geographically diverse group of applicants, which shall include applicants from nonmetropolitan and rural areas and small cities.

(2) GOAL FOR FUNDING.—The Board should seek to provide funding for applicants which are serving nonmetropolitan and rural areas and small cities with no less than one quarter of the funds available to the Board in any year.

(c) PUBLICATION REQUIREMENT.—The Board shall publish regulations with respect to its selection criteria not later than 210 days after the date of the enactment of this title.

SEC. 208. ASSISTANCE PROVIDED BY THE FUND.

(a) PURPOSE OF ASSISTANCE.—

(1) GENERAL PURPOSES.—The Fund shall work to promote an environment hospitable to business formation, economic growth, community development, and affordable housing in distressed communities.

(2) COORDINATION WITH OTHER AGENCIES AND PROGRAMS.—The Fund shall coordinate the Fund's activities with existing Federal and other community and economic development programs.

(3) ASSISTANCE TO INSTITUTIONS AND PARTNERSHIPS.—Assistance may be provided to an existing qualified community development financial institution or community development partnership to—

(A) expand the institution's or partnership's activities in order to serve investment areas or targeted populations not currently served by another qualified community development financial institution or community development partnership receiving assistance under this section;

(B) expand the volume of the institution's or partnership's activities consistent with the purposes of this title;

(C) form a new entity to undertake activities consistent with the purposes of this title; or

(D) assist an existing entity to modify the institution's or partnership's structure or activities in order to undertake activities consistent with the purposes of this title.

(b) TYPES OF ASSISTANCE.—

(1) FINANCIAL ASSISTANCE.—The Fund may provide financial assistance, and make commitments to provide financial assistance, to qualified community development financial institutions or community development

partnerships through equity investments, loans, deposits, membership shares, and grants.

(2) TECHNICAL ASSISTANCE.—The Fund may also provide technical assistance, including training, and grants for technical assistance to qualified community development financial institutions or community development partnerships.

(3) ALLOCATION.—The allocation of awards of assistance between insured and uninsured community development financial institutions shall be in the discretion of the Board.

(4) RULES RELATING TO EQUITY INVESTMENTS.—

(A) LIMITATION ON EQUITY INVESTMENT.—The Fund shall structure financial assistance to a qualified community development financial institution in such a manner that the provision of such assistance does not result in the Fund's—

(i) ownership of more than 50 percent of the equity of such institution; or

(ii) control of the operations of such institution.

(B) FUND DEEMED NOT TO CONTROL.—Notwithstanding any other provision of law, the Fund shall not be deemed to control a qualified community development financial institution by reason of any assistance provided under this title for the purpose of any other applicable law to the extent the Fund complies with paragraph (1).

(C) FORM OF INVESTMENT.—With respect to equity investments, the Fund shall hold only transferable, nonvoting investments, except that such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(5) DEPOSITS NOT SUBJECT TO COLLATERAL OR SECURITY REQUIREMENTS.—Notwithstanding any other provision of law, deposits made pursuant to this section in qualified insured community development financial institutions shall not be subject to any requirement for collateral or security.

(6) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred only to the extent that appropriations of budget authority to cover their costs, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(c) PURPOSE OF FINANCIAL ASSISTANCE.—Financial assistance made available under this title may be used by assisted institutions to develop or support—

(1) commercial facilities that enhance revitalization, community stability, or job creation and retention efforts;

(2) business creation and expansion efforts that—

(A) create or retain jobs for low-income people;

(B) enhance the availability of products and services to low-income people; or

(C) create or facilitate the retention of businesses owned by low-income people or residents of a targeted area;

(3) community facilities that provide benefits to low-income people or enhance community stability;

(4) the provision of basic financial services to low-income people or residents of a targeted area;

(5) the provision of development services;

(6) home ownership opportunities that are affordable to low-income households;

(7) rental housing that is principally affordable to low-income households; and

(8) other activities determined to be appropriate by the Fund.

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Fund may provide—

(A) not to exceed $5,000,000 of assistance per application to any 1 qualified insured community development financial institution, including such institution's affiliate or community development partnership; and

(B) not to exceed $2,000,000 per application to any other qualified community development financial institution, including such institution's affiliate or community development partnership.

(2) EXCEPTION.—In the case of an existing community development financial institution that proposes to serve an investment area or targeted population outside of any State or metropolitan area presently served by the institution, the Fund shall have the discretion to provide assistance in an amount exceeding the maximum amount established in paragraph (1) if—

(A) the additional amount is used to establish affiliates to serve such investment area or targeted population;

(B) the existing community development financial institution is located in a State other than that of the new affiliate; and

(C) no other application for assistance has been submitted to the Board under which the needs of the target community could be met.

(3) AUTHORITY TO SET MINIMUM AMOUNTS OF ASSISTANCE.—The Fund shall have the authority to set minimum amounts of assistance per institution.

(e) MATCHING REQUIREMENTS.—

(1) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS OR PARTNERSHIPS.—Subject to paragraph (3), the Fund may provide no assistance to qualified insured community development financial institutions or community development partnerships unless each dollar provided by the Fund is matched by no less than 1 dollar of equity, deposits or membership shares.

(2) OTHER MATCHING REQUIREMENTS.—Subject to paragraph (3), the Fund shall require a match for all other assistance, the amount and form of which shall be in the discretion of the Fund.

(3) NO MATCHING REQUIREMENTS FOR CERTAIN TYPES OF ASSISTANCE.—The Fund may not establish matching requirements with respect to assistance provided in the form of deposits or membership shares of $100,000 or less, technical assistance, or grants for technical assistance.

(4) LEGALLY ENFORCIBLE COMMITMENTS REQUIRED.—

(A) IN GENERAL.—The Fund shall provide no assistance except technical assistance or grants for technical assistance until a qualified community development financial institution or community development partnership has secured legally enforceable commitments for the entire match required.

(B) COORDINATION WITH FUND AUTHORITY TO MAKE COMMITMENTS.—Subparagraph (A) shall not restrict the authority of the Fund under subsection (b)(1) to make a commitment to provide financial assistance to a qualified community development financial institution or community development partnership to the extent such commitment is contingent on the institution or partnership meeting the requirements of this subsection.

(5) FORM OF PAYMENTS.—Assistance may be provided in 1 lump sum, or over a period of time, as determined by the Fund.

(6) OTHER FEDERAL ASSISTANCE MAY NOT BE TREATED AS MATCHING FUNDS.—No funds or assistance provided to any qualified community development financial institution or community development partnership by any agency or instrumentality of the Federal Government may be taken into account or otherwise treated as matching funds for purposes of this subsection.

(f) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The Fund shall provide assistance authorized under this title in such form and subject to such restrictions as are necessary to ensure that, to the maximum extent practicable—

(A) all assistance granted is used by the qualified community development financial institution or community development partnership in a manner consistent with the purposes of this title;

(B) qualified community development financial institutions or community development partnerships receiving assistance that are not otherwise regulated by the Federal Government or by a State government are financially and managerially sound;

(C) assistance results in a net increase in capital, credit, and development services, both nationally and in the local communities in which assistance is provided; and

(D) assistance is provided in a manner that encourages affiliations and partnerships between insured depository institutions, secondary markets or other sources of credit or leverage and local organizations dedicated to community development.

(2) CONSULTATION WITH BANKING REGULATORS.—Before providing assistance to a qualified insured community development financial institution, the Board shall consult with the appropriate Federal banking agency or, in the case of an insured credit union, the National Credit Union Administration.

(3) ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—The Board shall impose restrictions on the use of assistance through a stock purchase agreement, share purchase agreement, or through a contract entered into in consideration for the provision of assistance.

(B) PERFORMANCE GOALS.—

(i) REQUIRED.—Any agreement or contract referred to in subparagraph (A) shall require institutions assisted under this title to comply with performance goals.

(ii) NEGOTIATION OF GOALS.—The performance goals shall be negotiated between the Board and each qualified community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 205(b)(5).

(iii) RENEGOTIATION.—The performance goals may be renegotiated jointly as necessary or appropriate, subject to subparagraph (C) of this section.

(iv) CONSULTATION WITH BANKING AGENCIES.—Activity levels for insured community development financial institutions shall be determined by the Board in consultation with the appropriate Federal banking agency or, in the case of an insured credit union, with the National Credit Union Administration.

(C) CONTRACT SANCTIONS.—

(i) IN GENERAL.—Any agreement or contract referred to in subparagraph (A) shall specify sanctions available to the Board, in the Board's discretion, in the event of noncompliance with the purposes of this title or the terms of the agreement or contract.

(ii) CERTAIN SANCTIONS AVAILABLE.—The sanctions may include revocation of approval of the application, terminating or reducing future assistance, requiring repayment of assistance, and requiring changes to the performance goals imposed pursuant to subparagraph (B) or to the strategic plan submitted pursuant to section 205(b)(5).

(iii) CONSULTATION WITH BANKING AGENCIES.—In the case of an insured community development financial institution, the Board shall consult with the appropriate Federal banking agency or, in the case of an insured

credit union, the National Credit Union Administration, before imposing sanctions pursuant to this paragraph.

(4) REVIEW.—

(A) IN GENERAL.—At least annually, the Fund shall review the performance of each assisted qualified community development financial institution or community development partnership in carrying out the institution's or partnership's strategic plan and performance goals.

(B) CONSULTATION WITH TRIBAL GOVERNMENTS.—In reviewing the performance of any assisted qualified community development financial institution whose investment area includes an Indian reservation, the Board shall consult with, and seek input from, any appropriate tribal government.

(5) REPORTING.—The Board shall require each qualified community development financial institution receiving assistance to submit an annual report to the Fund on the institution's activities and financial condition, the institution's success in meeting performance goals, and the institution's compliance with the other requirements of this title.

(g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Board shall have the authority at any time to sell its investments and loans and may, in its discretion, retain the power to enforce limitations on assistance entered into in accordance with the requirements of this title.

(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.—No provision of this title shall affect any authority of the appropriate Federal banking agency or, in the case of an insured credit union, the National Credit Union Administration, to supervise and regulate an insured community development financial institution.

SEC. 209. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding the provisions of section 208, the Fund may provide assistance for the purpose of providing capital to organizations that will purchase loans or otherwise enhance the liquidity of community development financial institutions if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than $1 for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization which receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 205(b) and 207, as appropriate.

(c) AMOUNT OF ASSISTANCE.—

(1) MAXIMUM AMOUNT LIMITATION.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization under this section during any 3-year period.

(2) FORM OF PAYMENT.—Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—

(1) IN GENERAL.—Organizations that receive assistance from the Fund in accordance with this section shall—

(A) submit to the Fund not less than once in every 18-month period, financial statements audited by an independent certified public accountant;

(B) submit an annual report on its activities; and

(C) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(2) ACCESS.—The Fund shall have access, on demand and for the purposes of determining compliance with this section, to any records of such organizations.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liability that may be imposed on controlling or principal shareholders by any Federal law or the law of any State.

(2) LIABILITY OF GOVERNMENT.—

(A) NO OBLIGATION TO PROVIDE FUNDS.—This section shall not be construed as obliging the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization.

(B) NO FULL FAITH AND CREDIT.—This section shall not be construed to imply that any such organization or any obligation or security of any such organization is backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans to an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 210. ENCOURAGEMENT OF PRIVATE ENTITIES.

The Board may cause to be incorporated, or encourage the incorporation of, private nonprofit and for-profit entities that will complement the activities of the Fund in carrying out the purposes of this title. The purposes of any such entities shall be limited to investing in and assisting community development financial institutions in a manner similar to the activities of the Fund under this title. Any such entities shall be managed exclusively by private individuals who are selected in accordance with the laws of the jurisdiction of incorporation.

SEC. 211. CLEARINGHOUSE FUNCTION.

The Fund shall establish and maintain an information clearinghouse in coordination with the Departments of Agriculture, Commerce, and Housing and Urban Development, the Small Business Administration, other Federal agencies, and community development financial institutions—

(1) to cause to be collected, compiled, and analyzed information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving these institutions; and

(2) to cause to be established a service center for comprehensive information on financial, technical, and management assistance, case studies of the activities of community development financial institutions, regulations, and other information that may promote the purposes of this title.

SEC. 212. TRAINING ASSISTANCE FOR ORGANIZING AND OPERATING COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

(a) ASSISTANCE TO ESTABLISH AND OPERATE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The Fund shall carry out a program under this subsection to provide training assistance in establishing and operating community development financial institutions, which shall include the following activities:

(1) Educating organizations, financial institutions, and other entities and persons in low-income neighborhoods and elsewhere regarding the need for, and the capabilities, functions, and organization of, community development financial institutions.

(2) Educating and training organizations, depository and other financial institutions, and other entities and persons in organizing community development financial institutions.

(3) Recruiting, and assisting organizations, and other entities and persons to recruit existing organizations, depository and other financial institutions, and other entities and persons to establish community development financial institutions.

(4) Assisting entities and persons interested in establishing qualified community development financial institutions in identifying community lending needs.

(5) Educating and training regarding management and operation of community development financial institutions, including—

(A) designing and utilizing lending practices to target credit to low-income families and neighborhoods;

(B) complying with requirements regarding financial and managerial soundness pursuant to section 208(f)(1)(B) and any recordkeeping requirements pursuant to section 213(a)(1).

(C) Implementing effective asset management and fund development techniques; and

(6) Collecting and disseminating information from various qualified community development financial institutions regarding successful management and operation techniques, lending practices, and lending activities.

(b) PROVISION OF ASSISTANCE.—The Fund may provide training assistance under this section directly or through public or private organizations pursuant to contracts with such organizations.

(c) ADMINISTRATION.—The Fund may require—

(1) that training assistance provided under this section to qualified community development lenders and other applicants that receive assistance under section 208 be made available pursuant to a request for such assistance in an application under section 205;

(2) the selection of the application for the award of assistance; and

(3) the inclusion of terms in the agreement or contract for assistance under section 208(f)(3).

SEC. 213. RECORDKEEPING, REPORTS, AND AUDITS.

(a) RECORDKEEPING.—

(1) MAINTENANCE BY INSTITUTION.—A qualified community development financial institution receiving assistance from the Fund shall keep such records as may be reasonably necessary to disclose the disposition of any assistance under this title and to ensure compliance with the requirements of this title.

(2) FUND ACCESS TO RECORDS.—The Fund shall have access, for the purpose of determining compliance with this title, to any books, documents, papers, and records of a qualified community development financial

institution receiving assistance from the Fund that are pertinent to assistance received under this title.

(b) REPORTS.—

(1) ANNUAL REPORT.—The Fund shall conduct an annual evaluation of the activities carried out pursuant to this title and shall submit a report on the Fund's findings to the President within 120 days of the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (c).

(2) INSTITUTIONAL VOICE FOR COMMUNITY DEVELOPMENT.—

(A) ONGOING STUDY.—The Fund shall conduct, or cause to be conducted, an ongoing study to identify and evaluate the most effective and financially sound policies and practices for encouraging investment in distressed communities, including small business and commercial lending, business formation and expansion, community and economic development, commercial real estate and multi-family housing, and home mortgages.

(B) ADDITIONAL FACTORS.—In addition to the factors described in subparagraph (A), the Fund may study, or cause to be studied, (in connection with the study conducted pursuant to such subparagraph) related matters, such as identification of sources of and access to capital and loans for community investment, development of secondary markets for economic and community development, small business and commercial loans, and home mortgage loans and investments, and methods to involve all segments of the financial services industry in community development.

(C) STUDY OF BANKING PRACTICES ON INDIAN RESERVATIONS.—In addition to the study required under subparagraph (A), the Fund shall conduct a separate and thorough study of banking practices on Indian reservations that specifically addresses the unique lending issues with respect to Indian reservations such as lending with respect to trust lands, Indian headrights, or other trust property, availability of collateral, and related issues.

(D) CONSULTATION.—In the conduct of the studies required under subparagraphs (A) and (C), the Fund shall consult, or cause consultation with, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Farm Credit Administration, the Director of the Office of Thrift Supervision, the National Credit Union Administration, Indian tribal governments, community reinvestment, civil rights, consumer and financial organizations, and such representatives of agencies or other persons as the Fund may determine.

(E) REPORTS.—

(i) PRELIMINARY REPORT.—Within 270 days after the date of the enactment of this title, the Fund shall submit a report to the President containing the Fund's initial findings and recommendations regarding the matters set forth in subparagraphs (A) and (C).

(ii) SUBSEQUENT REPORTS.—The Fund shall submit an annual report to the President containing the Fund's findings and recommendations regarding the matters set forth in subparagraph (A) with the annual report required by subsection (b)(1).

(3) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—

(A) STUDY REQUIRED.—Before the end of the 6-year period beginning on the date of the enactment of this title, the Fund, in accordance with the procedures described in subparagraphs (A) and (B) of paragraph (2), shall conduct a study evaluating the structure, governance, and performance of the Fund.

(B) REPORT.—A report on the study conducted pursuant to subparagraph (A) shall be submitted to the President.

(C) EVALUATION AND RECOMMENDATIONS.—The report submitted pursuant to subparagraph (B) shall include—

(i) an evaluation of the overall performance of the Fund in meeting the purposes of this title;

(ii) any recommendation of the Fund for—

(I) restructuring the Board:

(II) altering procedures under which the Fund is governed; or

(III) the future role of the Fund in addressing community development; and

(iii) an assessment of the ability of the Fund to become a private, self-sustaining entity capable of fulfilling the purposes of this title.

(c) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in accordance with section 9105 of title 31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 214. INVESTMENT OF RECEIPTS AND PROCEEDS.

Any dividends on equity investments and proceeds from the disposition of investments, deposits, or membership shares that are received by the Fund as a result of assistance provided pursuant to section 208 or 209 shall be deposited and accredited, subject to amounts approved in appropriation Acts, to an account of the Fund established to carry out the authorized purposes of this title. Upon request of the chief executive officer, the Secretary of the Treasury shall invest amounts deposited in such account in public debt securities with maturities suitable to the needs of the Fund, as determined by the chief executive officer, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

SEC. 215. ENFORCEMENT PROVISIONS.

(a) REGULATIONS.—

(1) IN GENERAL.—The Board shall prescribe such regulations as may be necessary to carry out the requirements of this Act.

(2) REGULATIONS REQUIRED.—The regulations prescribed under paragraph (1) shall include regulations to—

(A) prevent conflicts of interest on the part of directors, officers, and employees of qualified community development financial institutions as the Board determines to be appropriate; and

(B) establish such standards with respect to loans by a qualified community development institution to any director, officer, or employee of such institution as the Board determines to be appropriate, including loan amount limitations.

(b) ADMINISTRATIVE ENFORCEMENT.—

(1) IN GENERAL.—The provisions of this Act, and regulations prescribed under and agreements entered into under this Act, shall be enforced under section 8 of the Federal Deposit Insurance Act by—

(A) the appropriate Federal banking agency, in the case of an insured community development financial institution; and

(B) the Board, in the case of a community development financial institution which is not an insured community development financial institution.

(2) APPLICABILITY OF SECTION 8 TO BOARD.—For purposes of applying section 8 of the Federal Deposit Insurance Act to the provisions of this Act in accordance with paragraph (1)—

(A) a violation of this Act, or any regulation prescribed under or any agreement entered into under this Act, shall be treated as a violation of the Federal Deposit Insurance Act; and

(B) the Board shall be treated as an appropriate Federal banking agency.

(c) CRIMINAL PROVISION.—Section 657 of title 18, United States Code, is amended by inserting "or any qualified community development financial institution receiving financial assistance under the Community Development Banking and Financial Institutions Act of 1993," after "small business investment company,".

SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Fund, to remain available until expended, $60,000,000 for fiscal year 1994, $104,000,000 for fiscal year 1995, $107,000,000 for fiscal year 1996, and $111,000,000 for fiscal year 1997, or such greater sums as may be appropriated, to carry out the purposes of the title.

(b) AVAILABILITY FOR FUNDING BEA.—Not less than 33⅓ percent of the amounts appropriated to the Fund for any fiscal year pursuant to the authorization in subsection (a) shall be available for use in carrying out sections 232 and 233 of the Bank Enterprise Act and the amendments made by such sections to other provisions of law.

(c) ADMINISTRATIVE EXPENSES.—The Fund may set aside up to $10,000,000 each fiscal year to pay administrative costs and expenses.

(d) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under subsection (a) may be used as provided in section 209.

SEC. 217. CONFORMING AMENDMENT.

Section 8F(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App. 8F(a)(2)) is amended by inserting "the Community Development Banking and Financial Institutions Fund," immediately following "the Commodity Futures Trading Commission,".

SEC. 218. APPOINTMENT OF COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.

The President shall appoint the members of the Community Enterprise Assessment Credit Board described in section 233(d)(2)(D) of the Bank Enterprise Act before the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 219. COMMUNITY DEVELOPMENT CREDIT UNION ASSISTANCE.

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—In addition to the amounts appropriated to the Community Development Credit Union Revolving Loan Fund pursuant to section 101(j) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes" and approved October 12, 1979, there is authorized to be appropriated to the National Credit Union Administration Board for purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $3,000,000 for fiscal year 1994;

(2) $4,000,000 for fiscal year 1995;

(3) $4,000,000 for fiscal year 1996; and

(4) $4,000,000 for fiscal year 1997.

(b) INVESTMENT OF FUNDS.—The National Credit Union Administration Board may invest any moneys in the Community Development Credit Union Revolving Loan Fund which are not needed for current expenditures in United States Treasury securities.

Any interest accrued on such securities shall, subject to amounts approved in appropriation Acts, be deposited into and accredited to the Fund.

(c) AUTHORITY.—Notwithstanding any other provision of law, the National Credit Union Administration Board may exercise the authority granted to the Board by the Community Development Credit Union Revolving Fund Transfer Act, including any additional appropriations made and earnings accrued, subject only to this section and to regulations prescribed by the Board.

SEC. 220. INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION ACCESS TO FEDERAL HOME LOAN BANK ADVANCES.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end the following new subsection:

"(k) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION ACCESS TO ADVANCES.—Any insured community development financial institution (as defined in section 3(e) of the Community Development Banking and Financial Institutions Act of 1993) which meets the requirements of subparagraphs (A) and (B) of section 4(a)(1) may obtain advances from the appropriate Federal home loan bank in accordance with this section in the same manner and to the same extent as members of such bank without regard to any stock purchase requirement imposed on members under this Act.".

SEC. 221. COMMUNITY INVESTMENT PROGRAM INCENTIVES.

(a) ASSETS DERIVED FROM CIP ADVANCES INCLUDIBLE WITHOUT LIMITATION FOR PURPOSES OF QTL TEST.—Section 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the end the following new subclause:

"(VII) Loan assets derived from the proceeds of an advance made to the savings association from a Federal home loan bank under the community investment program of such bank.".

(b) AUTHORITY TO WAIVE FHLB STOCK PURCHASE REQUIREMENT IN CONNECTION WITH A CIP ADVANCE.—Section 6(b) of the Federal Home Loan Bank Act (12 U.S.C. 1426(b)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CIP ADVANCES.—A Federal home loan bank may waive the requirement that advances to such member from the bank's community investment program be taken into account in determining the amount of aggregate outstanding advances to the member from the bank for purposes of this subsection.".

(c) TREATMENT OF ECONOMIC DEVELOPMENT LOANS AND ASSETS DERIVED FROM CIP ADVANCES AS COLLATERAL FOR ADDITIONAL FHLB ADVANCES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraph (5) as paragraph (6);

(2) in paragraph (6) (as so redesignated), by striking "(1) through (4)" and inserting "(1) through (5)"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) Economic development loans derived from the proceeds of an advance made to a member from a Federal home loan bank under the community investment program of such bank.".

SEC. 222. 30 PERCENT LENDING CAP INCREASED.

Paragraph (2) of the 1st subsection (e) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking "30 percent" and inserting "40 percent".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

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

□ 1420

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

Mr. Speaker, many Members of this House are familiar with community development banks, the thousands of organizations that build affordable housing, help small businesses get off the ground and provide essential basic financial services to distressed neighborhoods across our country.

Right here in Northeast Washington, for example, the Marshall Heights Community Development Organization is trying to bring its neighborhood back from fleeing homeowners, deteriorating buildings and rising crime. The group bought and refurbished the largest strip shopping center in ward 7. Through their work, the center both turns a profit and is nearly 100 percent leased. Marshall Heights also runs a small business center to help community entrepreneurs with office overhead costs, business assistance and small loans to cultivate new enterprises.

CDFI's like Marshall Heights achieve miraculous results on shoestring budgets because most are run by knowledgeable, qualified managers. They make loans based on hardnosed estimates of the borrowers' likelihood of repayment. And they fill real needs for financial and development services in areas that other banks pay little attention to, or completely ignore. Imagine, Mr. Speaker, what CDFI's could do with a few more resources. The bill before us today takes a small step to provide that support.

By itself, H.R. 3474 certainly cannot solve the pressing problems confronting our cities. With more funding, the program could help more CDFI's. With more support from the banking industry, communities could access all the credit and financial services they need. Nevertheless, this program shows promise. So I urge my colleagues to pass this legislation and try it out.

In addition to the President's community development bank proposal, this legislation contains a package of regulatory reforms that should eliminate some needless paperwork for sound, well-run institutions. It does so while preserving crucial protections enacted in the Federal Deposit Insurance Corporation Improvement Act of 1991, and without attacking any of the protections consumers now enjoy. The principal sponsors of H.R. 962, Congressman LEACH, Chairman NEAL and I worked diligently to craft these changes. The provisions of this title represent balanced approach to streamlining regulation, and merit approval by the House.

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

Mr. LEACH. Mr. Speaker, I yield myself 15 seconds in order to simply thank the chairman, the gentleman from Texas [Mr. GONZALEZ] for his leadership on this issue and express appreciation on behalf of the minority for allowing so many minority amendments to be considered in this bill.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER] who has led this Congress in deregulation efforts in the banking area.

Mr. BEREUTER. I thank the gentleman for yielding this time to me and for his comments.

Mr. Speaker, this Member rises in support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993 and urges its adoption.

This Member would like to sincerely thank the chairman of the Banking Committee, the chairman of the Financial Institutions Subcommittee, and their staff, for their willingness and assistance in adding a regulatory relief title to H.R. 3474, and bringing the measure to the floor today.

In addition, this Member would like to especially thank, for his especially strong support and assistance, the ranking member of the committee, the distinguished gentleman from Iowa [Mr. LEACH] and agreement from the ranking member of the Financial Institutions Subcommittee, the distinguished gentleman from Florida [Mr. MCCOLLUM], and their staff, for their cooperation and work to produce a meaningful regulatory relief title.

Finally, in a list of compliments, I must express sincere appreciation for my cohort in the battle against undue regulatory burdens, the distinguished gentleman from Florida [Mr. BACCHUS], for his absolutely crucial role in our joint effort on bringing a regulatory burden-relief bill to the House floor today.

At the beginning of this session, this Member introduced two comprehensive bills to reduce regulatory burdens on financial institutions:

H.R. 59, the Depository Institution Burden-Relief Act of 1993; and

H.R. 962, the Economic Growth and Financial Institutions Regulatory Paperwork Reduction Act of 1993, introduced February 18, along with my colleague, JIM BACCHUS of Florida.

This Member is pleased to say that H.R. 962 had 272 cosponsors.

This Member has sought a legislative remedy based on two principles: First, to provide regulatory relief only for those institutions which are—according to accepted and existing criteria—safe, financially sound, and prudently managed; and second, to require the regulators to discard obsolete or unnecessary regulations, but of course in

a manner that does not affect bank regulators' authority to ensure that a financial institution is operating in a sound and lawful manner.

REGULATION VERSUS STATUTORY CHANGE

This Member, along with a great many of the other 272 cosponsors of H.R. 962, I believe it is fair to say, are skeptical that the administrative and regulatory steps announced over the last several months will have the actual desired impact on bank examiners in the field.

Changes are proposed by the regulatory agency leadership in Washington, DC, but frequently they are intentionally ignored or inadequately implemented by examiners and other regulators in the field. Now, this Member, assuredly, is aware that examiners are often put into difficult positions. When they use discretion or common sense, they are making themselves vulnerable to criticism by the many people looking over their shoulders. Therefore, it is usually the statutes under which the examiners operate that must be changed in order to actually get the results Congress, and our constituents, both want to reduce the costs of unnecessary or inappropriate regulation—in other words, to achieve regulatory burden relief.

It is apparent that the small amount of leeway granted by the administration's regulatory efforts will be small comfort to the banker in California who has experienced examiners that all too often have replaced a banker's credit judgment with disclosure requirements, ratios, and formulas. This will be small comfort to the banker in Nebraska, in a very small, homogeneous community. That bank, to use a real example, has only $16 million in defaults, but it was subjected to a week-long CRA examination with six examiners. This will be small comfort to bankers around the country that are now spending money on hiring compliance officers rather than hiring new loan officers and other truly necessary employees.

It is time for statutory changes to reduce the mounting regulatory burdens which also are having a negative impact on bank customers—both businesses and individual borrowers. The impact on consumers or large customers comes in several forms, either: Additional—and often confusing paperwork—which they must complete; a reduction in the types of bank services offered; or higher fees for the services.

In March, Federal Reserve Chairman Alan Greenspan, testifying before the Small Business Committee indicated that "the scale and sheer detail of * * * recent legislation have, I believe, played an important role in constraining small business credit flows."

The regulators have even testified that in our effort to regulate financial institutions, we may have gone too far in the other extreme—we are now seeing that regulators no longer examine the financial condition of the institution, but are now directed by regulation or driven by zeal to examine a bank's basic, day-to-day business decisions. The bureaucratic over-reach has resulted in tons of needless paperwork for banks, and thousands of wasted hours for banks and their employees each year. Small banks, in particular, simply can't afford to hire the employees necessary to meet the unnecessary paperwork burden.

Poorly conceived statutory requirements, often resulting in unnecessarily burdensome regulation, impose a very high price in all financial institutions and the people who would use their services and loan funds. It diminishes earnings and lending capacity, impairs the ability of banks to raise capital, impedes product innovation, and makes it harder for them to attract and retain competent directors. It also reduces the responsiveness of the banking industry to meet changing customer needs. To date, 17 separate organizations representing a variety of businesses that rely on bank credit—manufacturers, builders, convenience store operators—supported legislation, like H.R. 962, and therefore title I of this legislation, to eliminate regulatory roadblocks to increased lending.

Title I of H.R. 3474 is regulatory relief, not deregulation.

The regulatory relief title found in H.R. 3474 will not deregulate the financial industry or to accord depository institutions special privileges. The bill specifically calls for retaining all regulations that ensure consumer protection, proper law enforcement and to assist in monitoring domestic monetary policy.

Nor does the bill water down the relevant portions of the 1991 banking bill, the Federal Deposit Insurance Corporation Improvement Act [FDICIA], which established a number of regulatory reforms to ensure adequate supervision of financial institutions, such as: risk-based insurance premiums for banks; continued annual supervisory examinations for troubled institutions; strong capital requirements; continued annual audits for institutions subject to the requirement; additional authority to close or restrict the activities of troubled institutions; and the 1991 bank bill's [FDICIA] strong supervisory sanctions.

MEANINGFUL REGULATORY RELIEF

In addition to a number of studies and directives to reduce regulation, title I of H.R. 3474 includes specific provisions, originally found in H.R. 962. These threshold provisions are important to any meaningful regulatory burden reduction. With the addition of these provisions, the bill goes farther than the regulatory relief measure reported out of the Banking Committee in the other body.

The most significant aspects of the regulatory relief title include the following:

Streamline regulatory requirements: Federal regulators are required to conduct a review of the agency's regulations and written policies and report to Congress on their progress annually, for 3 years. Must also review real estate loan standards and review what information is collected under the fair housing data system. The Federal Reserve Board must review disclosures for adjustable rate mortgages required by regulation for the purpose of making them more meaningful and simpler. Directs the regulators to implement any regulatory changes, if appropriate.

Reducing audit costs: The fundamental purpose of the proposed change is simple; it is meant to provide some flexibility for institutions, particularly in those rural areas, in meeting audit requirements, which include finding qualified persons to serve on audit committees.

Reinstating due process protections: Affords greater protection for individuals relating to attachment of assets.

Establishing regulatory appeals process and agency ombusdsmen: establishes an office of the ombudsman within each agency to examine complaints and disputes and also requires each regulator to implement a program for using alternative means of dispute resolution of issues if the parties agree.

Changing aggregate limits on insider lending: Increases the level for Federal Reserve exemption from aggregate lending limits of $250 million/CAMEL 1 and 2 rated institutions. Aggregate loans to insiders are limited to 2 times capital.

Removal of regulatory micromanagement: Exempts bank holding companies from section 132 of FDICIA—section 39 of FDIAct—which requires the regulators to set specific standards for banks. Repeals the requirement that regulators set stock value standards. Allows the regulators to issue guidelines, instead of regulations, to implement section 39.

Assurance of adequate transition period for new regulations: Establishes timeframe for new regulations that impose major disclosure requirements on banks. Regulators also require to take into consideration administrative burdens and benefits.

Requirement of more cooperation of examinations and providing examination relief for small banks: Allows an 18-month examination schedule for banks under $250 million. Also requires State regulators to issue guidelines and establish a certification process which would set standards for a suitable State examination which could be used by Federal agencies.

Establishment of expedited procedures for bank holding companies: Allows for expedited procedures of banks into bank holding companies with certain conditions. Also allows expedited

approval for banks seeking to engage in new permissible activities.

Setting a deadline on regulators' reports on proposals to reform CRA—due 6 months after date of enactment.

Mr. Speaker, this Member urges passage H.R. 3474, and for the record, this Member would include for the RECORD a more detailed list of the regulatory provisions found in H.R. 3474 as follows:

The summary of the major provisions of the bill is as follows:

SUMMARY OF MAJOR PROVISIONS OF THE GONZALEZ-BEREUTER REGULATORY REFORM ACT OF 1993

1. Audits: relaxes independent audit requirements imposed by the 1991 banking bill, the Federal Deposit Insurance Corporation Enhancement Act (FDICIA).

2. Examination: allows an 18-month examination schedule for banks under $250 million. Also requires state regulators to issue guidelines and establish a certification process which would set standards for a suitable state examination which could be used by Federal agencies.

3. Eliminates Micro-management: exempts bank holding companies from Section 132 of FDICIA (Section 39 of FDIAct) which requires the regulators to set specific standards for banks. Repeals the requirement that regulators set stock value standards. Allows the regulators to issue guidelines, instead of regulations, to implement section 39.

4. Minimize CALL Report Changes: requires the FDIC to minimize the regulatory burden on insured depository institutions making statement of condition (CALL) reports to the agencies. FDIC must consider the benefits of continually changing the required information.

5. Real Estate Appraisals: encourages states to develop reciprocity agreements and generally prohibits state licensing agencies from imposing excessive fees or burdensome requirements for temporary practice.

6. Coordinated Examinations: directs each Federal regulator, to the extent possible, to coordinate state and Federal examinations. Agencies are permitted to conduct separate exams if necessary for safety and soundness purposes.

7. Reduce Regulatory Burdens: provides state bank regulators with access to Federal exams for use as substitutes; requires state-Federal regulatory agency coordination in the types of reports they require of institutions.

8. Expedited BHC Procedures: allows for expedited procedures of banks into bank holding companies with certain conditions. Also allows expedited approval for banks seeking to engage in new permissible activities.

9. Flexibility in Choosing Boards of Directors: reduces to one-half the number of members of the board of directors, of a national bank, which need to be residents of the state in which the bank is located.

10. Repeal Obsolete Laws: repeals obsolete laws applicable to national banks.

11. Aggregate Limits on Insider Lending: increases the level for Federal Reserve exemption from aggregate lending limits to $250 million/CAMEL 1 and 2 rated institutions. Aggregate loans to insiders are limited to 2 times capital.

12. Elimination of duplicative disclosures for home equity loans.

13. Establishes an office of the ombudsman within each agency to examine complaints and disputes and also requires each Federal banking agency to implement a program for using alternative means of dispute resolution of issues if the parties agree.

14. Clarifies RESPA disclosure requirements—permits a lender to provide a statement that the lender has previously assigned or transferred the servicing of loans instead of providing the schedule.

15. Exempts from RESPA business, commercial and agricultural loans and loans to government or government agencies.

16. Requires the Federal Reserve Board to submit recommendations to the Congress regarding whether an optional waiver of the right of rescission when refinancing a home mortgage, where no advances are being made, would be of benefit to consumers.

17. Simplifies disclosures for deposits that are not Federally-insured for existing depositors.

18. Brokered deposit rule clarification: exempts well-capitalized institutions from requirement that they register as deposit brokers since such institutions are permitted to solicit brokered deposits under current law. For purposes of determining whether an institution is soliciting brokered deposits, the regulators should look at prevailing rates offered by other institutions (not just those of the same charter) in the market area.

19. Amends Truth-in-Savings, Truth-in-Lending and Consumer Leasing Acts to modify disclosure requirements for radio broadcasts.

20. Studies: (1) on capital standards and their impact on the economy; (2) on credit availability for consumers and small businesses in order to identify those procedures which have become impediments to making credit available; (3) on the impact of the payment of interest on sterile reserves.

21. Streamline Regulatory Requirements: Federal regulators are required to conduct a review of the agency's regulations and written policies and report to Congress on their progress annually, for 3 years. Must also review real estate loan standards and review what information is collected under the fair housing data system. The Federal Reserve Board must review disclosures for adjustable rate mortgages required by regulation for the purpose of making them more meaningful and simpler. Directs the regulators to implement any regulatory changes, if appropriate.

22. CALL Report simplification: agencies must: (1) jointly develop a system to permit institutions to file CALL reports electronically and make such reports available to the public, electronically; (2) adopt a single form for filing core information; and (3) review the information required to be filed to eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

23. Establishes timeframe for new regulations that impose major disclosure requirements on banks. Regulators also required to take into consideration administrative burdens and benefits.

24. Recourse Agreements: agencies to jointly review the amount of capital, that insured depository institutions must hold against loans sold with recourse, and issue any appropriate revisions within 365 days.

25. Due Process Protections: Affords greater protection for individuals relating to attachment of assets.

26. Timely Completion of CRA Review: directs the regulators to complete their comprehensive review of CRA within 6 months after enactment.

27. Provides that revisions to risk-based capital standards must take into account the size and activities of the institutions and the reporting burdens.

28. The Federal Financial Institutions Examination Council must study the feasibility of establishing a data bank for reports submitted by institutions to a Federal banking agency.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER], the distinguished chairman of the Democratic caucus.

□ 1430

Mr. HOYER. Mr. Speaker, I thank the committee chairman for yielding me this time. I am now chairing a caucus and I appreciate the gentleman allowing me to go ahead.

I want to congratulate the chairman of the subcommittee, the gentleman from North Carolina [Mr. NEAL] and the gentleman from Iowa [Mr. LEACH] as well for bringing this legislation to the floor.

Mr. Speaker, I rise in strong support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993. I am very pleased to see that nearly 28 of the 38 provisions in H.R. 962—which provides regulatory relief to the banking industry—were included in title 1 of H.R. 3474.

For the past 2 years, all of us in Congress have spoken to businesses in our districts who complained about the credit crunch. They have been unable to secure the loans they needed to keep their businesses afloat and their employees employed.

There were many factors contributing to the credit crunch, including: the Federal Reserve's conservative monetary policy, the downturn in our business cycle, and overly strict bank regulation.

However, in the past year we have seen monetary policy loosen up, and we are currently witnessing what we all hope is the beginning of an upturn in our business cycle as several of our leading economic indicators nose up. However, up until now, we still have not provided the banking industry the regulatory relief they need to fuel the engine of our economy: small business.

In fact, Alan Greenspan, the Federal Reserve Board Chairman, stated that American banks still find themselves in a regulatory straitjacket. The inflexibility of current banking regulations and the demands of regulatory agencies have made lending institutions averse to business loans, or buried too deep in paperwork to help their local communities.

Today we start to change that. From lengthening examination periods to removing statutory micromanagement, H.R. 3474 helps our banks get back into the business of banking. I urge my colleagues to support this bill and to help bring financial opportunity back to their communities. Let us pass H.R. 3474.

Mr. LEACH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. RIDGE],

who has led this body in so many ways on inner-city economic growth issues.

Mr. RIDGE. Mr. Speaker, this bill is the result of broad agreement among Democrats and Republicans on two important banking matters.

First, we have agreed to remove regulatory constraints that neither improve the soundness of banks nor protect consumers. All these provisions have done is contribute to the recent job-killing credit crunch.

The doomsday predictions that the banking world would collapse have not come to pass. Fortunately, the banks never did need the standby taxpayer moneys provided by the 1991 bank bill. While all is not well in the banking industry—market share continues to decline as competitors grab more opportunities away from banks—short-term profits have restored and the bank insurance fund and protected taxpayers. So we should continue to monitor closely the weakest banks, but allow healthy banks to manage their own affairs as they know best.

Again, the regulations we are removing in this bill have succeeded in just one area: preventing small business and other borrowers from expanding and creating jobs for Pennsylvania's families.

Second, the bill incorporates the President's community development banking legislation, as amended by FLOYD FLAKE, JIM LEACH, and others in committee. By a vote of 36 to 14, the committee decided that one-third of the funds should go to implement the Bank Enterprise Act, a law on the books since 1991.

Let me till you what the Bank Enterprise Act does. It will provide incentives for mainstream banks to send more capital to community development lenders. In other words, we will be encouraging the private sector to evaluate the risk of specialty lenders, and capitalize those which possess a good track record. Under the Bank Enterprise Act, Washington's role will be to provide a helping hand, using public dollars to leverage private investment, to spur more private lending and job-creation activity in our distressed urban and rural neighborhoods.

The bill also provides incentives for mainstream banks to increase their direct lending to impoverished areas. Federal policy here currently relies exclusively on mandates, and a largely punitive approach as with the Community Reinvestment Act. A bipartisan coalition has voted overwhelmingly to try a set of incentives to pursue the goal or more bank lending.

This incentive approach avoids the centralized, top-down methods so often associated with past Federal efforts. When Government becomes too directly involved in problem-solving, often its heavy foot deadens initiative for both financial firms and the people who badly need job creation and neighborhood redevelopment.

But under the Bank Enterprise Act, the best minds in the private sector will find ways to empower people who are ready and willing, if only given the chance, to better their lives by their own hands.

This is my vision for the Bank Enterprise Act and this community development bill: new businesses nourished with private capital in North Philadelphia; rural homes rebuilt to keep out the rain in the Pennsylvania hill countries of Washington and Greene; working capital loans to expand startup plastics firms in Erie. In Hazleton, PA, a multibank community lending corporation will have more capital to continue renovating a downtown struggling to be reborn, and in Pittsburgh, our growing banks will search for new local partnerships to complete a transition from the days of steel to high-technology manufacturing.

The Bank Enterprise Act will do this not by asking the Federal Government to send us lots of money and bureaucrats, but by leveraging the will, talent, and financial resources of private mainstream banks, local residents, and the specialized lenders advocated by the President. My partner, FLOYD FLAKE, and I have pursued this new method for two years, and I thank him for his friendship and compliment him for his hard work and dedication.

The Bank Enterprise Act is supported by Chicago activist Gail Cincotta and her Neighborhoods First organization. The Consumer Federation of America worked on behalf of its initial authorization, and has backed it since 1991. It is supported by the Consumer Bankers' Association. It is also endorsed by the National Association of Homebuilders.

Mr. Speaker, I urge support for this bill.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. NEAL], ranking majority member of the Committee on Banking, Finance and Urban Affairs.

Mr. NEAL of North Carolina. Mr. Speaker, I rise today in strong support of the community development and regulatory reform legislation now before the House.

First let me compliment the chairman and the ranking member of the Banking Committee, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Iowa [Mr. LEACH], for their leadership on these issues. I would also like to salute the gentleman from New York [Mr. FLAKE] for his work on the community development component of this legislation, and the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Florida [Mr. BACCHUS] for their efforts on the regulatory reform issue.

Mr. Speaker, if we are to rebuild our cities and other communities throughout the country, we must channel more capital into those areas. Without capital, businesses can neither open their doors nor expand, and so cannot create the jobs needed to reinject a sense of hope into downtrodden areas in America.

The community development component of this legislation makes modest but important headway in this direction. It creates a community development fund to provide loans, grants, and technical assistance to community development organizations dedicated to developing low-income and disadvantaged communities.

It is fiscally responsible, leveraging scarce Federal dollars by requiring other sources to match Federal contributions dollar for dollar.

Significantly, this bill also seeks to harness the expertise and resources of banks and other financial institutions for community development purposes.

Under an amendment I offered during committee action, partnerships between banks and other financial institutions on the one hand and community development agencies on the other would be eligible to receive grants from the newly established community development fund.

In addition, thanks to the work of Mr. FLAKE and Mr. RIDGE, one-third of the money authorized by this bill will be used to carry out the Bank Enterprise Act, which provides banks with incentives to make more loans in low-income and other underserved areas.

Mr. Speaker, the regulatory reform provisions of this bill are equally important. Two months ago, the administration unveiled its proposals for reinventing Government, with the goal of reshaping the Federal Government to make it more effective yet less burdensome on those it regulates.

Today's legislation applies the spirit of that initiative to Federal regulation of insured depository institutions. It also incorporates several regulatory reform proposals that grew out of hearings the Subcommittee on Financial Institutions, which I chair, held earlier this year on these issues.

Most important, it seems to me, it reduces the paperwork burden on banks, customers, regulators and reduces duplication in regulation and supervision. Mr. Speaker, we have all heard horror stories about burdensome and useless paperwork—paperwork no one reads. This bill will reduce it.

The bill also requires the regulators to establish alternative dispute resolution systems to streamline procedures for dealing with disputes over regulatory decisions. It also requires ombudsmen in the agencies, to give bankers and the general public someone at the agencies to handle complaints.

The bill includes a provision to make most changes in banking regulations effective on one of four days throughout the year, to simplify the task of bankers trying to stay abreast of

changes in compliance requirements. Though there is much more that needs to be done in this area of regulatory reform, this legislation is a good early step and deserves our support.

Mr. Speaker, taken together, the two main components of this bill will increase the flow of credit to businesses across the country. The community development component of this bill will help ensure that Americans in downtrodden communities have access to more of the opportunities the rest of us take for granted. The regulatory reform provisions will ensure that bankers can spend less time completing regulatory paperwork and more time making loans. These are important changes, and I encourage all Members to join with me in supporting this bill.

Mr. LEACH. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM], one of the distinguished leaders of the minority.

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

First of all, I want to pay tribute and thanks to the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Florida [Mr. BACCHUS] for their efforts to put together the regulatory burden relief that is in this bill. It is very positive. It is something that is long overdue. It is something that I think will be of great help to our banking community in establishing their better ability to operate and to relieve them of a lot of the burdens that have been discussed already by some of my colleagues out here today.

□ 1440

However, I have some very grave misgivings about the bill as a whole. This regulatory burden relief was tied on as the honey of the sweetener to a community development bank bill which, although improved considerably by the amendment offered by the gentleman from Pennsylvania [Mr. RIDGE], which I am very appreciative of—and I also wish to compliment the gentleman from Pennsylvania for that—this basic concept I have trouble with, and I certainly do not think it was structured, even in the final product that is out here today, in the way that was most efficient and best to provide the kind of services to the low-income areas of our country that really need to be served by this.

Let me, first of all, say that it seems to me that to set up a new agency at all is unnecessary, that to use any taxpayer dollars, and there are $382 million in this bill, is unnecessary to accomplish the objectives of providing relief in the banking area to the low-income areas of the United States, and especially in our urban areas.

What really needs to be provided is not in this bill, is an incentive for the existing traditional banking institutions to go out and invest in those low-income areas, an incentive that is lacking and could have been there had we only been willing to use the already existing Community Reinvestment Act laws in order to say, "OK, if you as a banker wish to provide x amount of capital into that area to either fund existing community development banks or to start new ones, or do certain other things, then you are going to get, if not a safe harbor for CRA, you are at least going to get a credit for the Community Reinvestment Act." That does not exist in this bill, and I think that it is an unfortunate feature that today we are called upon, under a suspension of the rules provision, to vote on a bill that does not provide the methodology that would be most efficient for the American taxpayer to get this job done.

Consequently, I have very grave difficulty in voting for this, but I would also like to make a couple of other points. Had we gone the other route, had we gone the route of trying to provide these incentives, I think we could have raised a lot more capital, maybe $5 to $12 billion in capital through the process of incentives instead of the relatively small and meager amount this bill is going to actually produce for the low-income families and the low-income communities that are there.

Let me jump for a minute to the regulatory burden area that is in the bill that I do like. It is fine. It is just not all that should be out here. There are two major areas of reform and regulatory burden relief that are not addressed, two really major areas, and I know that the gentlemen who authored the regulatory area of relief both consider these things important, but they were not able to accomplish them in the negotiations with the majority working on this who are leading this charge.

One of them is the very thing that I have been talking about. We need some further relief in the Community Reinvestment Act. That is the most singularly burdensome thing on commercial banks today, all the paperwork that they have to do, all the little technicalities they have to follow to comply.

There is no CRA relief in this bill today, not any incentive for community development investment and not any relief in the CRA area, and second, what is missing from this regulatory burden relief that is very important is relief for officers and directors for liability. Today we have gone with the pendulum and swing it too far over after the advent of the savings and loan crisis, and we have lots of officers and directors today who are afraid to make character loans, who are afraid to take the risk that normal bankers should be taking in order to finance the community interests we have around the country.

What we need to do is to set up a series of affirmative defenses that clearly set forth those cases where they exercise prudent business judgment where they are relieved from that responsibility for simple negligence of making judgment calls that do not pan out down the road where they really were not grossly negligent, really were not at fault, really did not make any underhanded secondary dealings of some sort. That is not in here.

I am going to offer a bill in the next few days that will relieve that area. But in the meantime I am disappointed in this, but I am happy with the regulatory relief portion that is in this bill.

Mr. Speaker, I thank the gentleman for having yielded to me.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I rise in strong support of the legislation.

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

Mr. KENNEDY. Mr. Speaker, I rise today in support of H.R. 3474, legislation to establish a community development financial institution.

Now we hear an awful lot of speeches made on the House floor about supports we must provide to the inner city people of color and the poor of America. But the fact is what the people of this country need and want are good jobs. They want to be able to own assets. Right now it is very difficult for someone in the inner city, someone, a person of color, to be able to own an asset, to be able to own their own home and go out and purchase their own small business simply because there are no financial institutions that exist in those communities.

I say to my colleagues, "You don't need a social studies program to be able to understand it. All you have to do is get in your car, and drive through any urban ghetto of America, and find that there is one thing that is missing in every one of them, and that's a bank, and what this legislation does is say that the Federal Government is going to support the efforts of financial institutions to go into those communities and make loans available to people of color, make loans available to the poor of America, so that they, too, can go out and have the opportunity of home ownership, and they, too, can go out and have the opportunity to establish small businesses which will allow them to grow and prosper, and allow this country to relieve some of the burdens that this place puts on them."

Mr. Speaker, I rise in support of H.R. 3474, legislation to establish community development financial institutions, and to institute regulatory reforms for banks. I want to congratulate Chairman GONZALEZ for putting together a good bill that deserves bipartisan support.

In January of this year, the Subcommittee on Consumer Credit and Insurance, which I am privileged to chair, held the first hearing in the Congress on community development

banking. The legislation we consider today represents the combined efforts of the subcommittee, the administration, and others who know only too well that community development lenders are key components of any strategy to revitalize our cities and poor rural areas. I want to particularly recognize the contributions of Mr. FLAKE, who sits on the subcommittee and chairs the oversight subcommittee, Mr. RUSH, Ms. WATERS, and Ms. VELAZQUEZ.

This legislation is modest in size but ambitious in concept. It recognizes that the promise of capitalism remains elusive for millions of Americans who live in our cities, on our Indian reservations, and in our rural communities. The banking system of this country has a proven record of neglecting the needs of people who live in these areas. They have closed branches, and ignored the demand for banking services. As a result, millions of hard-working men and women can't get the credit they need to start a business, buy a home, or send a child to college. The American dream has drifted further and further from their reach.

In a number of communities, home-grown lending institutions have sprouted up and try to fill the gap left by mainstream lenders. They can't do it entirely, but they have succeeded beyond anyone's expectations. I need only point to the record of Chicago's Shorebank, which has helped to revitalize a community that many had written off as hopelessly blighted. The same quiet revolution of hope is taking place in neighborhoods and villages throughout the country.

The organizations dedicated to community development need our help, and this legislation gives it to them. By providing funds for technical assistance, capital, and other purposes, it will help leverage hundreds of millions of dollars of affordable home and business loans to poor and working families.

This is the best kind of new government program. It is cost-effective. It is creative. And, most importantly, it rewards the energy and initiative of men and women who are succeeding against tremendous odds.

H.R. 3474 also takes steps to reduce any excessive regulatory burdens on mainstream banks. I have long supported reasonable reform that will help to alleviate the credit crunch, which has hit especially hard on my home State of Massachusetts. Banks are the engines of our economy, and too many of them are stalled. They're buying T-bills instead of making loans to home buyers and entrepreneurs.

Several of the provisions of H.R. 3474 will help banks get back into the banking business. Several, however, will not. For instance, the bill loosens the restrictions on insider lending, despite the fact that insider lending is a proven cause of bank instability and failure. That's a reform that lenders want; but it's not one that they need, or that taxpayers can afford. Nevertheless, Chairman GONZALEZ has succeeded in crafting bipartisan legislation that will stop lenders from stream rolling important safety and soundness protections. His efforts deserve our support, and I urge passage of this bill.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Louisiana [Mr. BAKER].

Mr. BAKER of Louisiana. Mr. Speaker, I thank the gentleman from Iowa [Mr. LEACH] for yielding this time to me.

Mr. Speaker, there are many achievements contained in this legislation, and I certainly have enjoyed the opportunity of working with the leadership on both sides with important reform. I wish to address only one narrow element of the bill before us relating to the enhancement of the Federal home loan bank system. That bank system incorporates $100 billion in assets nationally in extending credit to many in rural and inner-city communities. The provision included in this particular legislation enables the bank participants in that system, as well as thrift members, to engage even more actively in lending for those inner-city and rural needs.

To put this in proper perspective, the legislation before us will create a community development bank system, on the one hand a government agency which will have about $40 million only in this bill in the current coming year, and the Bank Enterprise Act, which is the Flake-Ridge proposal, which will have only about $20 million in it for the coming year. By comparison, the Federal home loan bank system last year extended through its community investment program over $100 million—excuse me; $1.2 billion—in community investment loans across the Nation. So, by comparison the Federal home loan bank system is engaged in dramatic enhancements in community development lending. It is an important step. I hope we do more in the next session to make a good system work better.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 3474. I would like to commend Chairman GONZALEZ for bringing this legislation to the floor today.

Passage of this legislation fulfills one of President Clinton's most promising campaign pledges.

Our communities cry out for opportunity. Inner-city and poor rural areas are desperate for change. This legislation offers them hope.

As the author of one of the first community development banking bills in this Congress, I have been following this legislation for some time. I worked closely with the Clinton administration to fashion this proposal and am generally pleased with this bill.

I would be remiss, however, if I did not express regret at the funding restrictions of this program. There have been very few economic development initiatives this year. The community development banking program is one that has great promise. Capital formation in low-income areas may be the greatest single antipoverty program there is.

Unfortunately, due to budget constraints—constraints that are crippling this Congress' ability to make real strides anywhere in the economy—this bill only authorizes $360 million over the next 4 years.

I hope this program can be greatly expanded. There are creative forces out there waiting for just a nudge.

Hundreds of entrepreneurs in low-income areas could benefit from a program like the one we will pass today. It must be our goal to empower all those who are prepared to contribute to the rebuilding of this country's economic backbone. I urge support for this legislation.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I rise today in support of H.R. 3474, the Community Development Banking and Financial Institutions Act and to take note of two critical components of this legislation. I also commend the gentlemen, Mr. LEACH, Mr. BEREUTER, Mr. RIDGE, and Mr. FLAKE, who worked so diligently to make a number of substantial improvements to this legislation.

H.R. 3474 makes a number of significant regulatory reforms that will cut redtape and administrative burdens in the banking industry. These reforms will not mitigate safety in the banking industry. These reforms will not mitigate safety and soundness in the banking industry. Rather, they will help bankers cut their overhead costs which will ultimately enable bankers to strengthen their capital position which will strengthen the safety and soundness of the system and potentially make more capital available to the bank's community.

For example, H.R. 3474 calls for Federal and State banking regulators to coordinate their examinations and reporting requirements, which will help to minimize the interruptions and costs of bank examinations. Additionally, this legislation eliminates the duplicative disclosures for home equity loans. Having recently gone through this process with my local banker, I can safely say that the paperwork requirements involved with these transactions are great.

Additionally, Congressmen RIDGE, FLAKE, and LEACH were successful in adding a provision to this legislation that will allow one-third of the funds authorized in this legislation to leverage capital in the private sector for community development activities. The so-called Flake-Ridge-Leach provision will enable existing financial institutions to stretch the funds authorized in this legislation making more capital available in economically distressed areas which will result in greater economic development and growth.

□ 1450

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Speaker, they said it could not be done, but we did it.

Today, the House will vote on H.R. 3474, a bill that includes not only President Clinton's proposal for community development financial institutions, but also a substantial set of regulatory burden relief measures that will help all financial institutions squander less time, waste less paper, and loan more money to families and small businesses.

These provisions of the Regulatory Reform Act of 1993, were carefully crafted to draw a distinction between burdensome paperwork and legitimate safety and soundness issues.

No one wants to put the taxpayers at risk for a bailout of the bank insurance fund. On the other hand, stacks of forms are not always the best defense against bad banking practices.

In the 102d Congress, the Banking Committee made substantial progress in protecting taxpayers by instituting risk-based bank insurance fund premiums and revising requirements for reserve capital.

As Members know, it is a bank's own reserved capital that forms the first line of defense against taxpayer bailouts. Capital is formed when banks are allowed to make money.

By contrast, capital reserves are reduced when banks are forced to waste money complying with ill-conceived paperwork requirements.

The House Banking Committee has taken a good bite out of some bad regulations.

There are a few more regulatory issues that I believe deserve scrutiny, and I am sure that the committee will take an equally open-minded look at additional regulatory burden issues in 1994.

Mr. Speaker, in conclusion, I would like to express my thanks to the prudent bankers of Idaho for helping educate me on these issues, and to my chairman, Mr. GONZALEZ, and my colleagues Mr. BACCHUS, Mr. BEREUTER, and Mr. LEACH for their hard work on this legislation.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate the gentleman's yielding me the time.

Mr. Speaker, I rise in support of the bill because it provides much needed regulatory reform that will serve to strengthen our economy. But this bill has some elements of a troubling trend developing in this Congress, and we need to talk about that.

We need to have a discussion about what we think the banking industry will look like over the next 10 to 20 years. Do we want a competitive private sector system, or do we want a Federal system of government-sponsored banks? Do we want banks to continue to be in the private sector, or do we want them to become another type of Federal agency?

This bill is an example of a more federalized system. Nobody argues against the aim, of course, of this legislation, but we can accomplish these goals entirely within the private sector at reduced cost to the taxpayer and with better results.

It is vital to reduce the regulatory burden, and this bill takes a significant step in that direction. I am pleased about that and will vote for the bill, but I do hope that we will have a dialog in this Congress about the future shape of the banking industry and how it fits in the private sector.

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

Mr. SCHUMER. Mr. Speaker, I thank the committee chairman for yielding this time to me, and I want to compliment all of my colleagues for their work on this bill, including the chairman of the committee and the head of the subcommittee. The gentleman from New York [Mr. FLAKE] worked very hard and made good additions to the bill, and overall I am supportive of the bill and will vote for it because we do need funds going into the inner city. I do want to make the one comment about this: There is a part of the bill that troubles me, and I am hopeful we can look at this in conference. That is the so-called regulatory relief package. The regulatory relief undoes some of the provisions in FIRREA. Some of them I could live with, although I do not like undoing very many of them. But some are pretty severe, and I would point out one in particular to my colleagues—the insider lending restrictions.

Lending money to people on the boards of the banks is one of the things that caused many of the problems during the S&L crisis. There has been a rule that you could do it up to your capital, so a bank was trading its own capital. I even thought that was too lenient. Then we are going to say that the bank has no capital for any failure that is not insider trading. But this bill doubles it for small institutions between $100 and $250 million.

Mr. Speaker, that is a mistake. I hope it will come out. We will regret the day that we passed something like this.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. GRAMS].

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

Mr. Speaker, I rise today in support of H.R. 3474.

I support this measure because it provides much-needed relief from the regulatory burden currently facing our Nation's lenders and borrowers. By incorporating large parts of H.R. 962, introduced this year by my friend, DOUG BEREUTER, H.R. 3474 will help reverse the credit crunch caused by Congress when it passed the 1989 FIRREA and 1991 FDICIA legislation.

And during the disastrous flooding in the Midwest, I worked with Chairman GONZALEZ and DOUG BEREUTER to pass DIDRA'93, which provided regulatory relief in federally declared disaster areas. Today, I'm proud to vote for legislation which will extend additional relief to lenders and borrowers throughout the country.

I do not, however, support this bill unconditionally. For example, I believe that community development lending can be better enhanced through market incentives rather than through Federal programs. And I hope in the future, Congress will address those provisions of H.R. 962 which were not included in today's bill.

These objections notwithstanding, I congratulate Chairman GONZALEZ, DOUG BEREUTER, JIM LEACH, and all those who have worked so hard to make regulatory relief a reality, and I urge my colleagues to support this legislation.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Mr. Speaker, I rise in strong support of this legislation.

By far, the best way possible to create economic growth and thereby create jobs is to get credit out into the private sector for purposes of investment and free private enterprise. This bill helps to do that.

I strongly support the President's proposal for Community Development Financial Institutions. Moreover, I want to echo the words of my colleague and friend, the gentleman from Nebraska [Mr. BEREUTER], in reminding our colleagues that this bill includes the vast majority of our bill, H.R. 962, providing for regulatory relief. I want to thank the gentleman from Nebraska [Mr. BEREUTER] for his stalwart companionship throughout this ordeal, and I look forward to our next future endeavor.

I also want to thank the gentleman from Florida [Mr. MCCOLLUM] and the gentleman from Iowa [Mr. LEACH], and especially the committee chairman, the gentleman from Texas [Mr. GONZALEZ], for their strong support. This is an excellent piece of legislation. I especially want to thank the 270 Republicans and Democrats in the House who cosponsored H.R. 962 and made it possible for us to have this great victory for the American people and American jobs and American economic growth.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CASTLE].

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

Mr. Speaker, I rise in support of H.R. 3474, the Community Development and Financial Institutions Act. As my colleagues know, this legislation represents a number of compromises that have enabled the Banking Committee to advance the President's proposal to create community development banks, and to provide regulatory relief desparately needed by existing financial institutions. The bill contains most of the provisions of H.R. 962, Congressman BEREUTER's excellent bank regulatory relief bill. This legislation is strongly supported by the banking community in my State of Delaware.

While I have reservations over the community development bank proposal to authorize $382 million in Federal funding for new community development banks, this legislation has been improved by the inclusion of the bank enterprise provisions offered by my colleagues FLOYD FLAKE, TOM RIDGE, and JIM LEACH. I congratulate them on their good work.

I want to thank the chairman and Congressman LEACH for agreeing to include the Radio Consumer Information Act as part of H.R. 3474 in addition to the Community Development Banks and regulatory aspects. The Radio Consumer Information Act, H.R. 3102, was introduced by Congressman LAROCCO and me in an effort to address a problem which has been unfairly damaging radio broadcasters' ability to compete for advertising for automobiles and other consumer products involving loans and leases.

The Radio Consumer Information Act will modify the Truth in Lending and Consumer Leasing Acts to allow radio stations to provide more effective consumer leasing and loan advertisements. Under current law, radio cannot compete with television or print publications for ads that require extensive disclosure of loan and lease terms.

Our legislation will allow radio to provide loan and lease information through a toll-free number or other means prior to the sale. The Federal Reserve will establish reasonable regulations for this procedure.

The legislation will protect the consumers right to complete information on the terms of a loan or lease before agreeing to a purchase.

H.R. 3474 represents the type of workable compromise which can enable our committee to improve the banking laws of this Nation and I recommend its passage.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELAZQUEZ. Mr. Speaker, I rise today in strong support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993. This landmark legislation addresses one of the most vital issues determining the future of our inner cities and the future of poor urban communities—economic empowerment. This legislation will greatly improve access to credit and capital for poor communities and people of color that have been undeserved by the existing financial services industry. By doing so, H.R. 3474 offers a hand up instead of a hand out to these communities.

Of the approximately $4 trillion circulating through commercial lending institutions in this country, very little seems to trickle down to our poor and minority communities. This lack of credit and capital has impeded these communities' ability to create business ventures, finance affordable housing, and provide basic lending and savings services for consumers.

President Clinton and I, along with many of my colleagues in the Congress, believe that one of the solutions to this complex problem rests in the creation and evolution of institutions whose sole mission is to serve needy communities. We already have many shining examples of these institutions. In my home city of New York, the Community Capital Bank of Brooklyn and the recently established Central Brooklyn Federal Credit Union have been paving the way. I also wish to acknowledge the great work of the National Federation of Community Development Credit Unions, and in particular thank the federation for its technical assistance and support to the Lower East Side People's Federal Credit Union, located in my congressional district. But these existing and prospering institutions need assistance with raising capital and we must replicate their success in many more neighborhoods. The legislation before us today plants the seeds which will blossom in new and energized community development lending institutions throughout the country.

H.R. 3474, establishes a fund, called the Community Development Banking and Financial Institutions Fund, to provide technical and financial assistance to community development financial institutions, also known as CDF's. The fund will be a wholly-owned government corporation, governed by a board of directors which will include representatives from the executive agencies and private citizens. The selection of these citizens will take into account geographic representation as well as diversity of race, ethnicity, and gender. The bill authorizes $382 million for the fund for the years 1994 through 1997, with $60 million in authority for fiscal year 1994.

Organizations that have community development as their goal will be eligible for participation. Other organizations could participate through a community partnership, or joint venture, in applying for assistance. The bill specifies that financial assistance would be used for commercial facilities that enhance community revitalization or stability, business creation and expansion, community facilities, home ownership opportunities for low-income households, and low-income rental housing. The fund could provide assistance to community institutions in the form of equity capital, loans, deposits, membership shares, grants, and other forms.

During Banking Committee consideration of this bill, an amendment was offered and approved directing one-third of the funds appropriated to the CDFI Fund to be diverted, in accordance with the Bank Enterprise Act, to give conventional financial institutions discounts on their deposit insurance premiums for providing banking services in distressed neighborhoods.

I must state my strong opposition to this provision. First, I regret that any of the few funds authorized for the CDFI's will be diverted to other institutions. Second, I believe that conventional financial institutions should not be granted the incentives provided in this provision for doing merely what they should be doing under existing law. Under the Community Reinvestment Act, banks are already required to invest back into those communities from which they draw funds. Third, the original bill created the fund to provide seed capital to CDFI's because these institutions face difficulties raising these essential funds. However, to suggest, as this provision does, that large, healthy, conventional banks should receive Federal funds to raise capital defies logic. These institutions have much capital at their disposal and can raise capital at the drop of a hat. They do not need Uncle Sam and taxpayers to assist them with raising money. However, this provision is now part of the legislation so we must live with these requirements.

The legislation before us also makes several changes in banking and financial regulations in order to reduce paperwork. It coordinates Federal and State reporting requirements and examinations, and repeals numerous obsolete requirements in banking law.

Mr. Speaker, this legislation will help shatter the chains of economic disenfranchisement which bind our poor communities. This legislation will provide long overdue economic empowerment to these communities. This legislation deserves the overwhelming support of this Congress. I urge my colleagues to approve H.R. 3474.

□ 1500

Mr. GONZALEZ. Mr. Speaker, I yield I minute to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Speaker, I rise today to offer my strong support for the bill now before the House, H.R. 3474, the Community Development Banking/

Regulatory Reform bill. This important legislation has been received with overwhelming support from community development leaders and organizations across the Nation. It represents one of President Clinton's leading priorities toward the reinvestment in our Nation's inner-city communities.

I would like to take this opportunity to express my sincere gratitude to the chairman of the full Banking Committee, Mr. GONZALEZ, and to others on the committee from both sides of the aisle who have offered their support to this bill.

I believe that by passing this bill, we in the Congress can begin the process of reinvesting in our cities by providing much-needed capital for credit-starved communities like Illinois First Congressional District. These communities have been unduly overlooked in the past, and I welcome this administration's willingness to correct this unfairness.

Mr. Speaker, I strongly urge my colleagues on both sides to vote for this important bill.

Mr. LEACH. Mr. Speaker, I yield 1 minute to my thoughtful colleague, the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend, the gentleman from Iowa, for yielding.

Mr. Speaker, I am very much in favor of this legislation, and I congratulate the chairman of this committee and the ranking member and the members of the Committee on Banking, Finance and Urban Affairs for their insight.

This is not only a bill that is going to reduce regulation, but it is going to save some $10 billion for consumers and for people in the industry. So I congratulate the people who had the foresight to bring this legislation before us.

Mr. Speaker, when we debated NAFTA, and we are going to have a debate here in a short while on competitiveness, what really makes our business and industry noncompetitive is all these Lilliputians, these regulations, holding down our Gulliver, our strong economy. And rather than say that this is going to be a panacea, which it is not, this should just be the first step in cutting back the size of our regulations.

It is going to help our banks, especially our smaller banks, be more competitive. It is going to help in the area of real estate appraisals. It is going to help in the area of closings. If you have ever been to a real estate closing when you buy a house, all of you have had that experience, you see nothing but a lot of forms.

Mr. Speaker, what I want to just quickly add is this: that today we are correcting the mistakes that this Congress made in the past by putting on all these regulations. Today we are taking some of these regulations off. This should be a metaphor for things to come, if we want to have a strong competitive economy.

Mr. LEACH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first let me just say I would be remiss in particular if I did not thank, on the majority side, the gentleman from New York [Mr. FLAKE] and the gentlewoman from California [Ms. WATERS] for their efforts in community development banking, and the gentleman from Florida [Mr. BACCHUS] for his leadership on deregulation.

Mr. Speaker, while the country's economy is slowly improving, pockets of America are islands of hopelessness which society ignores at its peril. This bill is designed to target aid, and most of all hope, to these areas. In addition to unequal economic opportunities, the Nation's banking infrastructure has been suffering from unnecessary micro regulation. An increase in burdensome regulation appears to have caused a counterproductive effect on the economy. Having gone from a period in which a yellow light on safety and soundness concerns has led to a redlight on lending, the primary financial challenge of the next decade is to give our institutions in the finance area a green light to lend.

Mr. Speaker, this bill is designed to unleash private sector capital so the economy can continue to grow, and at the same time ensure that all Americans are given a fair and equal chance at the American dream. I urge its adoption.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from the great State of Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, they say politics is the art of compromise, and this bill is the result of the skillful leadership of the chairman and ranking minority member in bringing about a balance between those who want banks to extend their capital and their risk into neighborhoods that need it the most, and those who firmly believe that banks cannot profitably operate in the regulatory environment in which they are thrust today, primarily by FIREA legislation.

I agree very strongly that banks suffer from overregulation today, that there is no way that they can compete with the other financial institutions and financial instruments that take people's money and lend it out without anywhere near the kind of regulatory requirements that banks must exist under today.

This goes part of the way to enabling them to play on a more level playing field with other financial institutions and financial instruments. Just the fact that you do not have to duplicate the regulation between States and the Federal Government goes a long way. I hope we will go further in the year ahead.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of this legislation and commend the chairman for bringing it to the floor today.

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

Mr. Speaker, it only remains for me to thank all of my colleagues and persons like the gentleman from the State of Virginia [Mr. MORAN] who were formerly members of the Committee on Banking, Finance and Urban Affairs, and were very strong participants in the deliberations of the committee for their support.

Mr. Speaker, I urge my colleagues to approve this measure, H.R. 3474.

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

Mr. ORTON. Mr. Speaker, as a member of the House Banking Committee, I am very pleased to see the House acting today on H.R. 3474, the community development banking and regulatory relief bill.

I believe this bill is good for the country and good for my home State of Utah. By eliminating a number of senseless regulatory burdens on insured financial institutions, more financial resources should be available for loans to consumers, businesses, and affordable housing. By enacting these community development banking provisions, new resources should be made available to those people who lenders sometimes ignore—women, minorities, and the poor.

Two years ago, practically to this day, we enacted FDICIA, a comprehensive bank reform bill designed to meet the crisis of a bank insurance fund potentially running out of money. Some of the reforms we enacted were sensible—including higher capital standards and prompt corrective action. However, in the rush to pass legislation, we added on many provisions which serve no purpose—either for safety and soundness or for consumer protection. Today we are recognizing that we went too far 2 years ago and are restoring balance to the process of bank regulation. For example, a more balanced approach will be taken with respect to exam schedules, aggregate limits on insider loans, brokered deposits, and audits. We are also reducing unnecessary paperwork, in such areas as call reports, RESPA requirements, and duplicative disclosures for home equity loans.

Enactment of regulatory reform measures represents a hard-fought victory for those of us who have been working for sensible reform of our banking laws. There are many in the House who have forcefully opposed any changes in our regulations, warning in apocalyptic terms of a new round of banking solvency problems. In contrast, there are many more who are probably disappointed today that we did not achieve more.

I believe that the results we have achieved today, though not as extensive as I might have preferred, represent a great improvement. In fact, we have worked through a process that I have strongly advocated since the beginning of year—recognizing that it was not

realistic to pass all of H.R. 962, prioritizing those regulatory relief provisions that are most important, and working diligently of their enactment.

The result, I believe, is not just a victory for banks and other regulated financial institutions, but for the economy as a whole. As we have struggled through a sluggish economy for many years, it is clear that a lack of credit availability has been a significant factor in slowing down our growth. While the changes we are making today are not a panacea, they clearly ought to improve credit availability.

This is important for everyone—for borrowers, for the economy, and ultimately for the taxpayer. As we struggle this weekend with spending cut proposals, we should not forget that the most important step we can take to close the deficit is to improve economic growth. Every new job means more tax revenues, fewer Federal support payments, and ultimately a smaller deficit. That is why I hope we can move quickly to a conference and final enactment of this bill.

The other major part of the legislation we are voting on today is the administration's community development bank legislation. I commend the administration for addressing the issue of credit availability for those in our society who don't enjoy the same access to our traditional lending institutions. A few months ago, a subcommittee field hearing was held in my congressional district on the subject of credit availability. At this hearing, we received testimony clearly indicating that women, minorities, and lower-income individuals feel there is a void in lending sources available to them.

The bill we are voting on today—while not perfect—offers a number of different ways to address this problem. The main feature, the administration's funding proposal for community development banks, certainly deserves the chance to succeed. However, in the Banking Committee, we added two alternative methods which I believe should also be given a chance.

The first is the Bank Enterprise Act approach, so ably advanced by Representatives FLAKE, RIDGE, and LEACH. This approach recognizes the value of working more with traditional financial institutions, through incentives which could provide great leverage for new community lending. The other approach involves an increase in the funding levels for the Community Development Credit Union Revolving Loan Fund—an amendment I was proud to have successfully offered.

Of course, we must recognize that the House bill we are voting on today differs from the Senate bill in many respects. Much work lies ahead in conference to agree upon a mutually acceptable bill.

For example, while there is much overlap in the regulatory provisions of the two bills, they are not identical. Without addressing the specifics of these proposals, I feel very strongly that the conferees should not reduce the level of regulatory relief from the provisions currently found in both the House and Senate bills. The record clearly indicates that a substantial majority of both Houses want meaningful regulatory relief.

Second, I believe that the two additional community development provisions that we added in the House Banking Committee should be included in a final bill. It is my belief that alternative approaches should be given an opportunity to succeed, so that we can later adjust funding to promote those approaches that are doing the best job.

Finally, I would like to point out that unlike the Senate banking bill, the House bill does not include changes to promote secondary markets. This does not mean that no such proposal exists in the House. In fact, under the capable leadership of Representative PAUL KANJORSKI, the House Economic Growth and Credit Formation Subcommittee passed a good secondary market bill. Even though the bill we are considering today does not contain the secondary market provisions, and the Senate bill does, there is one major imperfection in the Senate-passed bill. The Kanjorski bill contains secondary market provisions for commercial real estate, including affordable rental housing, which the Senate bill does not incorporate.

It is my hope that the conference committee can agree on a secondary market provision which include both (small) business loans, multifamily housing loans, and commercial real estate. I believe this represents a dynamic long-term opportunity to increase credit availability to important sectors of our economy.

In conclusion, I would like to acknowledge the hard work of the many individuals who contributed to the passage of H.R. 3474 together. Everyone worked together to pass a sensible bill. We in the House should do the same today.

Mr. POMEROY. Mr. Speaker, I rise today in strong support of the community development legislation before the House. This bill is critical for a number of reasons. But most importantly, it included provisions that provide regulatory relief for banks.

I firmly believe regulations have overburdened sound, safe, and properly managed banks. I have spent time at banks to see firsthand how employees and consumers must wade through stacks of paperwork and unnecessary Government redtape. At one of the banks I visited a customer informed me that while refinancing his home he made between 8 and 10 trips to the bank to sign at least 39 forms.

Bankers and consumers are justifiably frustrated by the excessive Government redtape they must wade through on a daily basis to conduct business. I believe, as do many of my colleagues, that burdensome bank regulations have severely restricted small business loans and impeded our country's progress toward economic recovery. I became a cosponsor of H.R. 962, the Economic Growth and Financial Institutions Regulatory Paperwork Reduction Act of 1993, because I believe sound and stable banks should be relieved from these overburdensome and unnecessary regulations.

I have been active in the fight to bring about this much needed regulatory relief to banks. Along with over 20 of my freshman Democratic colleagues, I sent a letter to the chief sponsor of H.R. 962, Mr. BACCHUS, offering him our support in bringing this legislation to the floor before the end of the year.

Mr. BACCHUS should be commended for his hard work on this matter. Much of what we hoped to accomplish with H.R. 962 can be done with the regulatory relief provisions included in H.R. 3474. I am pleased that we were able to help him in this regard. I urge my colleagues to support this legislation.

Ms. FURSE. Mr. Speaker, I rise before you today in support of H.R. 3474, and to bring to the attention of my colleagues certain provisions of the Community Development Banking and Financial Institutions Act of 1993 that will assist American Indian tribes in fostering desperately needed economic development on Indian reservations. I am proud to say that this legislation will bring an infusion of scarce capital, credit, and technical assistance to many underserved communities throughout the United States, including Indian country. For too long, Federal economic initiatives have excluded America's poorest rural communities—the American Indian population. The average unemployment rate on Indian reservations stands at 56 percent as compared to 7 percent for the rest of the country. Per capita income ranks the lowest for American Indians as compared to the rest of the U.S. population. In addition, the lack of financial infrastructure and even basic banking services make it virtually impossible for tribes to create new jobs, revitalize their communities, and enhance local business development.

For example, the Navajo Nation, the largest American Indian tribe in the United States, with a land base approximately the size of West Virginia, has only three banks operating to serve reservation residents. One of the primary reasons for this lack of investment is that banks are reluctant to grant loans to reservation residents and businesses because reservation lands are held in trust by the U.S. Government. Because of this, these dismal conditions are likely to continue unless we provide the leadership and assistance to reverse these trends.

I am pleased to say that such assistance, while not the cure, is made available through components of the bill we are considering today. First, the legislation includes Indian reservations as a targeted investment area. This will enable financial institutions, primarily serving American Indian communities, to become eligible for financial services provided by the Community Development Financial Institutions Fund. Second, the bill provides for greater input and involvement of tribal governments in establishing attainable lending goals of the Community Development Financial Institutions Fund. This will ensure that financial institutions, located on or near Indian lands, will coordinate with tribal governments and that these institutions will extend their services to these communities. Third, the measure states that the fund will provide for a comprehensive study of the unique lending issues in Indian country. The House Subcommittee on Consumer Credit and Insurance of the Committee on Banking, Finance and Urban Affairs heard testimony from the Navajo Nation about the reticence of lending institutions to lend in Indian country. This study will provide for more insight and knowledge that should help diminish fears of lending in Indian communities. Finally, the legislation also provides that an individual with expertise in banking practices of Indian reservations will be appointed as one of the private citizens of the Board of Directors of the Community Financial Institutions Fund.

The intent is to ensure that the views of those doing business on, or knowledgeable about, Indian reservations are included.

Finally, I would like to emphasize that this legislation will benefit all Indian tribes. I encourage my colleagues to help enact this much needed legislation into law.

Mr. SAM JOHNSON of Texas. Mr. Speaker, first, I must say that I fully support the regulatory relief provisions contained in this bill.

However, I must express my disgust with the way in which this measure was brought to the floor.

Bringing this measure to the floor under suspension of the rules violates long-standing Democratic caucus rules. If there is a rule that prohibits consideration of bills under suspension with costs over $100 million, then we should abide by it.

The leadership of both parties should be ashamed that they have accepted this path and totally disregarded the spirit of this long-standing rule.

I understand that we are trying to pass as many bills as possible before the recess, but that is not an excuse to break rules—especially ones that ultimately hurt the taxpayers. And this bill will cost the taxpayers $382 million in new borrowed money. Instead of decreasing the deficit, this bill increases the Federal debt.

I oppose the way this bill has been maneuvered through the process and hope that in the future both sides will stand up for what is right and defend the integrity of adopted rules.

Mr. FINGERHUT. Mr. Speaker, I rise in support of H.R. 3474, the Community Development Banking and Financial Institutions Act of 1993 and urge its adoption.

I commend my colleagues on the Banking Committee for their hard work on this legislation. I am especially pleased that the provisions of a bill I cosponsored, H.R. 962, the Economic Growth and Financial Institutions Regulatory Paperwork. Reduction Act of 1993, were included in H.R. 3474. This bill provides regulatory relief for financial institutions that are financially sound, and it requires regulators to discard obsolete or superfluous regulations. Over the past several months, many of my constituents have brought to my attention on very dramatic ways the unacceptable amount of paperwork that banks are required to generate in order to comply with unnecessary regulations. This bill will ease their burden, and therefore make capital more affordable and available to foster economic growth.

This bill also includes the President's community development bank legislation, as amended by my colleagues FLOYD FLAKE and JIM LEACH. I commend them for the substantial improvements they made to the bill—improvements that I supported in the Banking Committee. The Flake-Ridge-Leach provision will enable existing financial institutions to use the funds authorized in this legislation making more capital available in economically distressed areas which will result in greater economic development and growth.

I am pleased to be able to support this bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 3474, 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. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3474, the bill just passed.

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

There was no objection.

AMENDMENTS TO THE COMPETITIVENESS POLICY COUNCIL ACT

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2960) to amend the Competitiveness Policy Council Act to provide for reauthorization, to rename the Council, and for other purposes.

The Clerk read as follows:

H.R. 2960

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

SECTION 1. REAUTHORIZATION.

Section 5209 of the Competitiveness Policy Council Act (15 U.S.C. 4808) is amended—

(1) by striking "1991 and 1992" and inserting "1993, 1994, 1995, and 1996"; and

(2) by striking "$5,000,000" and inserting "$2,500,000".

SEC. 2. RENAMING OF COUNCIL.

The Competitiveness Policy Council Act (15 U.S.C. 4801 et seq.) is amended as follows:

(1) In the subtitle heading—

(A) insert "National" before "Competitiveness"; and

(B) strike "Policy Council" and insert "Commission".

(2) In section 5201—

(A) insert "National" before "Competitiveness"; and

(B) strike "Policy Council" and insert "Commission".

(3) In section 5202(b)(2)—

(A) insert "National" before "Competitiveness"; and

(B) strike "Policy Council" and insert "Commission".

(4) In section 5203—

(A) in the section caption, strike "COUNCIL" and insert "COMMISSION";

(B) insert "National" before "Competitiveness";

(C) strike "Policy"; and

(D) strike "Council" each place it appears and insert "Commission".

(5) In section 5204—

(A) in the section caption, strike "COUNCIL" and insert "COMMISSION"; and

(B) strike "Council" and insert "Commission".

(6) In sections 5205 through 5208, strike "Council" each place such term appears and insert "Commission".

(7) In section 5207, in the section caption, strike "COUNCIL" and insert "COMMISSION".

(8) In section 5210—

(A) in paragraph (1)—

(i) insert "National" before "Competitiveness";

(ii) strike "Policy"; and

(iii) strike "Council" each place it appears and insert "Commission"; and

(B) in paragraph (2)—

(i) insert "National" before "Competitiveness"; and

(ii) strike "Policy Council" and insert "Commission".

SEC. 3. DUTIES OF THE COMMISSION.

Section 5204 of the National Competitiveness Commission Act (15 U.S.C. 4803) is amended by striking paragraphs (11) and (12) and inserting the following:

"(11) prepare, publish, and distribute reports that—

"(A) contain the analysis and recommendations of the Commission; and

"(B) comment on the overall competitiveness of the United States economy, including the report described in section 5208; and

"(12) submit an annual report to the President and to the Congress on the activities of the Commission."

SEC. 4. EXECUTIVE DIRECTOR AND STAFF OF COMMISSION.

Section 5206 of the National Competitiveness Commission Act (15 U.S.C. 4805) is amended—

(1) in subsection (a)(1), by striking "GS–18 of the General Schedule" and inserting "the maximum rate payable under section 5376 of title 5, United States Code";

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting before paragraph (3), as redesignated, the following:

"(1) FULL-TIME STAFF.—The Executive Director may appoint such officers and employees as may be necessary to carry out the functions of the Commission in accordance with the Federal civil service and classification laws, and fix compensation in accordance with the provisions of title 5, United States Code.

"(2) TEMPORARY STAFF.—The Executive Director may appoint such employees as may be necessary to carry out the functions of the Commission for a period of not more than 1 year, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, at rates not to exceed the maximum rate payable under section 5376 of title 5, United States Code."; and

(3) in subsection (c), by striking "GS–16 of the General Schedule" and inserting "the maximum rate payable under section 5376 of title 5, United States Code.".

SEC. 5. POWERS OF THE COMMISSION.

Section 5207 of the National Competitiveness Commission Act (15 U.S.C. 4806) is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

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

"(g) CONTRACTING AUTHORITY.—Within the limitation of appropriations to the Commission, the Commission may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of carrying out its duties under this subtitle.".

SEC. 6. REPORTING REQUIREMENTS.

Section 5208 of the National Competitiveness Commission Act (15 U.S.C. 4807) is amended—

(1) by striking the caption and inserting the following:

"SEC. 5208. ANNUAL PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.";

(2) in subsection (a)—

(A) by striking the subsection heading and inserting "(a) PUBLICATION OF ANALYSIS AND RECOMMENDATIONS.—; and

(B) by striking "on" and inserting "not later than"; and

(3) by adding at the end the following:

"(d) OTHER REPORTS.—The Commission may submit to the President and the Congress such other reports containing analyses and recommendations as the Commission deems necessary.".

SEC. 7. REFERENCES IN FEDERAL LAW.

(a) COMPETITIVENESS POLICY COUNCIL.—Any reference in Federal law to the Competitiveness Policy Council shall be construed to be a reference to the National Competitiveness Commission.

(b) COMPETITIVENESS POLICY COUNCIL ACT.—Any reference in Federal law to the Competitiveness Policy Council Act shall be construed to be a reference to the National Competitiveness Commission Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KANJORSKI].

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

Mr. Speaker, the Competitiveness Policy Council was created in the Omnibus Trade and Competitiveness Act of 1988. The Competitiveness Policy Council was founded in 1991 and is charged with recommending policies to restore U.S. competitiveness in the world economy.

The Competitiveness Policy Council is a bipartisan group of 12 high-caliber and nationally recognized professionals organized to resolve one of the most serious problems plaguing our country today. These professionals share the common goal of helping the United States return to preeminence as a world economic power. The Council members are chosen by the administration and the bipartisan leadership of the Congress, and they represent equally the viewpoints of business, Government, labor, and the public interest.

The Competitiveness Policy Council has formed eight subcouncils, or task forces, to specifically examine what is needed to return the United States to a nation of strength in the global market. These subcouncils investigate areas such as the Nation's education system, training resources, critical technologies, corporate governance and financial markets, trade policy, manufacturing, public infrastructure, and capital formation.

In just the past 2 years, the Education Subcouncil has issued recommendations for building a standards-based school system in the United States; the Training Subcouncil has drafted a list of suggestions for creating high-performance workplaces and considered strategies for improving school and work integration; the Critical Technologies Subcouncil has written a report detailing their view of the need for national investment in civilian and dual-use research and development, as well as the need for commercialization of strategic technology; and the Subcouncil on Corporate Governance and Financial Markets has advocated that the focus of corporate boards of directors, shareholders, and managers alike in this country needs to be on long-term corporate performance.

The Trade Policy Subcouncil has published a report listing 10 points to be used for making a trade policy for a more competitive America; the Manufacturing Subcouncil, in addition to its regular meetings, has sponsored a workshop on removing barriers to effective defense-commercial industrial transition; the Public Infrastructure Subcouncil has issued recommendations for improving our national transportation system and has considered what the future of telecommunications may mean for U.S. competitiveness; and the Capital Formation Subcouncil has examined the link between productivity and capital investment, as well as the link between capital investment and national saving, and has set a national capital formation agenda.

Although the Competitiveness Policy Council has been in existence for only 2 years, already the recommendations made by the Manufacturing Subcouncil have been adopted by President Clinton in policies he has articulated for a more competitive America. It should be noted that the Chair of the President's Council of Economic Advisors, Laura D'Andrea Tyson, is a member of the Manufacturing Subcouncil.

I would like to commend the gentleman from New York, Chairman LAFALCE, for his excellent foresight in recognizing the need for an intellectual body such as the Competitiveness Policy Council. Chairman LAFALCE is the author of the original enacting legislation responsible for the creation of this Council, and is also the sponsor of H.R. 2960.

It is clear that the work of the Competitiveness Policy Council has just begun. On November 9, 1993, my Subcommittee on Economic Growth and Credit Formation received testimony from Dr. C. Fred Bergsten, chairman of the Competitiveness Policy Council, at a hearing I held on the reauthorization of funds for the Council. I was very impressed by the ground that they have covered in 2 short years. It is a credit to the Council that their authorization bill passed out of subcommittee unanimously and without amendment. Authorizing funds to facilitate the Council's effort is clearly a sound and low-cost investment in America's future.

I urge my colleagues to support passage of H.R. 2960, the authorization of the Competitiveness Policy Council for fiscal years 1994, 1995, and 1996.

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

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

Mr. RIDGE. Mr. Speaker, I am pleased to support H.R. 2960, which reauthorizes and renames the Competitiveness Policy Council. This legislation, originally sponsored by Representative LAFALCE, was passed as part of the Omnibus Trade and Competitiveness Act of 1988, with the Council beginning operations in 1991.

The Council is charged with investigating the state of our manufacturing competitiveness and recommending ways to improve it. My understanding is that the Council has done its work well, and some of the Councils' recommendations have been endorsed by the current President, such as placing greater emphasis on dual-use research and development for defense spending, and having a permanent R&D tax credit that I recommended to my colleagues. The Council continues to advocate a compelling idea that I recommend to my colleagues. Our overweight Federal budget ought to be divided into an investment side and a consumption side. In this manner Congress and the voters could evaluate our national priorities between spending for ourselves versus investing for our children.

This bill would cut authorizations in half, from $5 million annually to $2.5 million annually; it would reauthorized the Council for 4 years, and it would rename it the National Competitiveness Commission.

I am pleased to support this measure, and I urge its passage.

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

Mr. KANJORSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE], the original author of this legislation.

Mr. LAFALCE. Mr. Speaker, I rise in strong support of this bill. I am very, very proud of the work that the Competitiveness Policy Council has done, and I look forward to its continued great work so that we can, in fact, enhance the industrial competitiveness of all American industries.

Mr. Speaker, I rise to strongly endorse H.R. 2960, a bill to reauthorize the Competitiveness Policy Council [CPC] and amend the Competitiveness Policy Council Act. As author of the legislation that created the Council, I am proud to urge its continuation.

This Council and its efforts on behalf of U.S. competitiveness are the culmination of over a decade's efforts by me and others who have long urged pushing the competitiveness issue to the front of our national agenda. Now that we have finally made a start, it is essential that we keep pushing forward.

I have been gratified by the aggressive approach the Council has taken in analyzing the competitiveness challenges facing the United States and recommending policies to meet those challenges. However, there remains much to do, and the task ahead has been magnified by the many years preceding formation of the Council in which we had no competitiveness strategy.

A decade ago, in 1983, as chairman of the Banking Subcommittee on Economic Stabilization, I held an extensive series of hearings on the competitiveness problems facing the United States. At that time, I said, "America's predominant economic position in the world is in jeopardy, and the consequences of continued decline in our industrial competitiveness will mean a permanently dislocated work force and reduced standard of living for most Americans." I also noted then that "the last decade has sent an unmistakable message. It is now time—in fact, past time—to respond. If we sit back and do little but rely on truisms that ignore the current realities of global competition, then foreign industries and workers will continue to enjoy a critical advantage."

The result of those hearing was a report entitled "Forging an Industrial Competitiveness Strategy" that included in its recommendations establishment of a Council on Industrial Competitiveness. In 1984, the Industrial Competitiveness Act included as title I a Council on Industrial Competitiveness. The legacy of these early efforts is today's Competitiveness Policy Council.

The statements I made in those early hearings ring as true today as they did 10 years ago. In fact, the message today is even more urgent as we see restructuring and downsizing of our prominent corporations, persistent unemployment, and conversion of our defense industries to operations appropriate for a non-cold-war environment.

We waited too long to develop a strategy that could have produced a strong growth-oriented economy. For too long, policymakers refused to tackle our competitive problems for fear of being labeled advocates of industrial policy, engaged in picking winners and losers. As a result, we are now in the unenviable position of having to turn around our economy, halt the downward slide of our manufacturing base, and pull our economy back to an upward, productive path.

When I held the hearings on U.S. competitiveness 10 years ago, there was a core group of people who were worried, as I was, about the economic direction of the United States. They testified before my committee. They included then-Gov. Bill Clinton, Laura D'Andrea Tyson, Robert Reich, Ira Magaziner, and Lester Thurow. These same people are now actively shaping a real competitiveness strategy for this country, and the CPC is a central part of that effort. It is a testament to the administration's commitment to such a strategy that it has offered its full support to reauthorization of the Council.

The Council began its operations in June 1991. Since then, it has issued three reports to the President and the Congress. "Building a Competitive America" diagnosed the underlying causes of America's competitiveness problem and identified six priority issues on which policymakers should focus: Savings and investment; education; technology; corporate governance and financial markets; health care costs; and trade policy. For action based on a strategy that would address the underlying weaknesses in the economy, while at the same time promoting short-term recovery.

The Council's second report to the President and Congress, "A Competitiveness Strategy for America," reported the recommendations of eight subcouncils of public and private leaders who analyzed the competitiveness issues identified in the first report. These subcouncils—Manufacturing, of which I was a member; Critical Technologies; Education; Training; Capital Formation; Public Infrastructure; Trade Policy; and Corporate Governance—developed specific recommendations intended to turn around U.S. performance in these areas.

I am pleased to note that many of the Manufacturing Subcouncil's recommendations already have been incorporated into President Clinton's announced policies for a more competitive America. Such ideas as a permanent research and experimentation tax credit, a national network of manufacturing extension centers, greater emphasis on dual-use research and development for military/civilian technology, and a shift in the ratio of Federal funding between military and civilian/dual use research to 50:50 all were proposed by our subcouncil and were adopted by President Clinton.

The Council's third report, "Enhancing American Competitiveness," assessed the progress in implementing its recommendations as well as other administration competitiveness efforts. The Council also is beginning to examine new issues—creating high-performance workplaces, capital allocation, tort reform, and social problems.

It is clear that the Council's work is far from complete. It is also clear that Council recommendations are helping to shape new policies that can move our economy forward. This Nation has made only a dent in correcting the fundamental problems that continue to erode our economic competitiveness and pull down our living standards and productivity. We must continue to forge ahead guided by the expertise and advice from the Competitiveness Policy Council. That is why I introduced H.R. 2960, to reauthorize the Council and allow it to continue the excellent work it has begun.

First, the bill reauthorizes the Council for 4 years rather than the original 2. Second, it changes the Council's name to National Competitiveness Commission. This change is primarily intended to prevent confusion with past and present competitiveness councils. Third, the bill reduces the original annual authorization funding from $5 million to $2.5 million in line with a recommendation made by the administration and Senate last year. Finally, various technical amendments clarify the Council's authority with respect to specific activities.

Mr. Speaker, I have no doubt that continuation of the Competitiveness Policy Council is in the best interests of the United States. The Council should be allowed to maintain the momentum it has developed in encouraging public debate, dialog, and understanding of the economic challenges we face, and in devising new policies to meet those challenges. It is the Council's job to keep our eye on the ball, to keep us focused, and to guide us as we define our policy goals.

I urge the Congress to act favorably on H.R. 2960 and to give the Competitiveness Policy Council the authority to carry on the important work of making this country competitive again.

Mr. KANJORSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding time to me. I wanted to commend him on his leadership of this subcommittee, together with our ranking member, my neighbor from just across the border, the gentleman from Pennsylvania [Mr. RIDGE], and particularly the author of the legislation that created this body and, of course, the author of this reauthorizing legislation, the gentleman from New York [Mr. LAFALCE], whose farsighted leadership on this issue is critical.

Mr. Speaker, when those of us who are new to this body were running for office, we envisioned that the Congress would be a place where we would debate the critical issues facing the economic future of our constituents. Those critical issues, I think we would all agree, are: How can we enact those public policies that will build upon and maintain our competitiveness in the world and to, frankly, understand and experience those policies, evaluate those policies that we currently pursue, and reject those that are not adding to our competitiveness and implement those new that should be?

It is in the subcommittee, Mr. Speaker, and to a great extent in the work of this Competitiveness Council that I have had the chance to pursue these issues more than any other place in this Congress. I thank the gentleman and I commend him for that.

In the testimony by the Competitiveness Council in support of this reauthorization, I had the chance to review their work and to debate, in fact, with them to some great extent these issues. I would like to say what an addition, a very positive addition to this national dialog this Commission is.

Therefore, I strongly support its reauthorization. I wanted to make reference to the same issue that the gentleman from Pennsylvania [Mr. RIDGE] identified. That is the very strong recommendation of the Competitiveness Council to separate out our Federal budgeting between those items that would be identified as consumption for today's use and those items that would be identified as investment for the future. I would like to particularly stress the fact that in the dialog that we had with them, they indicated their willingness to evaluate specific proposals that are before the Congress on how to proceed to make this distinction in our Federal budgeting and then also their further willingness to help us evaluate which efforts, which items of our Federal budget should properly be placed in each category.

I simply want to say today, in the course of reauthorizing, that we encourage those efforts. I would like to add that the chairman and I have authored a letter together to the chairman of the Competitiveness Council asking that they do, in fact, follow up on this issue that we have raised.

Again, I thank the chairman for his interest in this issue. It has really been an outstanding experience to serve on this committee and discuss these issues. I thank the gentleman from New York [Mr. LAFALCE] for his interest in this issue and also my neighbor, the gentleman from Pennsylvania [Mr. RIDGE].

Mr. Speaker, I include for the RECORD the letter to which I referred.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 19, 1993.

Dr. C. FRED BERGSTEN,
Chairman, Competitiveness Policy Council, Washington, DC.

DEAR DR. BERGSTEN: We would like to commend you for the excellent testimony you provided to the subcommittee last week during consideration of the reauthorization of the Competitiveness Policy Council. Your presentation was quite interesting on several levels, and prompted some serious thinking on our parts about the direction of the Competitiveness Policy Council.

We support strongly the work of the Competitiveness Policy Council. You will recall that during the hearing, you stated that the Congress is ill-served because there is no agreed-upon distinction between two fundamental components of economic activity—consumption and investment. Thus, it is difficult for us to make judgments as to what share of total government spending can and does go for long-term investment purposes.

First, we need to agree upon some definitions and decide which categories of spending go under consumption and which under investment. Then, once we agree upon some explicit definitions, we need your guidance and expertise in identifying those elements of federal spending which we could cut without damaging our competitive status or our own economy and potential for future growth.

We were interested to note that the Council has previously reviewed specific revenue measures and their impact upon U.S. competitiveness. It would be useful for the Council also to consider making recommendations for legislative or administrative actions that would bring about federal budgetary savings in such a way as to not reduce the competitiveness of U.S. industries. We feel that this is well within your charter as you are charged with developing long-range strategies to address economic problems inhibiting the competitiveness of U.S. agriculture, business and industry.

Thank you for your assistance in this undertaking. We will welcome the opportunity to discuss the possible scope of such a Council undertaking once you have reviewed other analyses which have been made by other organizations in this area.

Sincerely yours,

ERIC D. FINGERHUT,
Member of Congress.

PAUL E. KANJORSKI,
Member of Congress.

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

I would like to compliment our last speaker and member of my subcommittee, the gentleman from Ohio [Mr. FINGERHUT]. He has been an outstanding contributor in this particular area of competitiveness and economic growth generally.

He has been just faithful to the subcommittee hearings and meetings. He has helped us have some of those around the country. If he is representative of the new class of Members that have come to this House, I can think, indeed, his constituents and the citizens of the United States can be, indeed, proud of the new class of Members of Congress that have started in the 103d Congress.

Also I would be remiss if I did not compliment my friend, the gentleman from Pennsylvania [Mr. RIDGE]. He has been an outstanding ranking member of my subcommittee. I have had just such an enjoyable time over the last year working with him. He has been a great contributor. Always out there is the forethought of economic development and growth for the United States.

I look forward to continuing our fine relationship, at least to the end of this Congress, because I know the talents of the gentleman from Pennsylvania [Mr. RIDGE] may go to higher and more important areas. But his work with us has been really most rewarding, and I think his presence on the committee has proven that there is not any gridlock in the Congress of the United States across the aisles. We can work together for economic growth in America. I thank him for his efforts in this effort.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KANJORSKI] that the House suspend the rules and pass the bill, H.R. 2960.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within 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 Pennsylvania?

There was no objection.

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

Mr. KENNEDY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3548) to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the memorial, and the Women in Military Service for America Memorial, and for other purposes.

The Clerk read as follows:

H.R. 3548

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

TITLE I—THOMAS JEFFERSON COMMEMORATIVE COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Jefferson Commemorative Coin Act of 1993".

SEC. 102. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 600,000 one-dollar coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the coins issued under this title shall be emblematic of a profile of Thomas Jefferson and a frontal view of his home Monticello. On each coin there shall be a designation of the value of the coin, an inscription of the year "1993", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 104. SELECTION OF DESIGN.

Subject to section 102(a)(2), the design for the coins authorized by this title shall be—

(1) selected by the Secretary after consultation with the Executive Director of the Thomas Jefferson Memorial Foundation and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Advisory Committee.

SEC. 105. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this title shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this title.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this title during the period beginning on May 1, 1994, and ending on April 30, 1995.

SEC. 106. SALE OF COINS.

(a) SALE PRICE.—The coins authorized under this title shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (c) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(c) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

All surcharges received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary—

(1) in the case of surcharges received in connection with the sale of the first 500,000 coins issued, to the Jefferson Endowment Fund, to be used—

(A) to establish and maintain an endowment to be a permanent source of support for Monticello and its historic furnishings; and

(B) for the Jefferson Endowment Fund's educational programs, including the International Center for Jefferson Studies; and

(2) in the case of surcharges received in connection with the sale of all other such coins, to the Corporation for Jefferson's Poplar Forest, to be used for the restoration and maintenance of Poplar Forest.

SEC. 109. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 108, as may be related to the expenditures of amounts paid under section 108.

SEC. 110. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE II—U.S. VETERANS COMMEMORATIVE COINS

SEC. 201. SHORT TITLE.

This title may be cited as the "United States Veterans Commemorative Coin Act of 1993".

SEC. 202. COIN SPECIFICATIONS.

(a) ONE-DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue one-dollar coins of 3 different designs, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGNATION OF VALUE AND INSCRIPTIONS.—On each coin there shall be a designation of the value of the coin, an inscription of the year "1994", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(3) DESIGN OF 3 COINS.—

(A) PRISONER-OF-WAR COMMEMORATIVE COIN.—1 type of coin issued under this title shall be a prisoner-of-war commemorative coin the design of which shall be emblematic of the experience of Americans who have been prisoners-of-war.

(B) VIETNAM VETERANS MEMORIAL COMMEMORATIVE COIN.—1 type of coin issued under this title shall be a Vietnam Veterans Memorial commemorative coin the design of which shall be emblematic of the Vietnam Veterans Memorial.

(C) WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL COMMEMORATIVE COIN.—1 type of coin issued under this title shall be Women in Military Service for America Memorial commemorative coin the design of which shall be symbolic of women's service in the Armed Forces of the United States.

(4) MAXIMUM NUMBER FOR COINS OF EACH DESIGN.—The Secretary shall issue no more than 500,000 coins of each design.

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 203. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 204. SELECTION OF DESIGN.

Subject to section 202(a)(3), the design for the coins authorized by this title shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts and—

(A) in the case of the coin described in section 202(a)(3)(B), the Vietnam Veterans Memorial Fund; and

(B) in the case of the coin described in section 202(a)(3)(C), the Women in Military Service for America Memorial Foundation, Incorporated; and

(2) reviewed by the Citizens Commemorative Advisory Committee.

SEC. 205. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins issued under this title before the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales of coins issued under this title shall include a surcharge of $10 per coin.

SEC. 206. ISSUANCE OF THE COINS.

(a) COMMENCEMENT OF ISSUANCE.—The coins minted under this title may be issued beginning May 1, 1994.

(b) TERMINATION OF AUTHORITY.—The coins authorized under this title may not be minted after April 30, 1995.

(c) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(d) 3-COIN SETS.—

(1) IN GENERAL.—In addition to any other manner and form of sales of coins minted under this title, the Secretary shall make a portion of such coins available for sale in 3-coin sets containing 1 of each of the 3 designs of coins required pursuant to section 202(a)(3).

(2) NUMBER OF SETS.—The number of 3-coin sets made available pursuant to paragraph (1) shall be at the discretion of the Secretary.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) PRISONER-OF-WAR COMMEMORATIVE COINS.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of prisoner-of-war commemorative coins described in section 202(a)(3)(A) shall be promptly paid by the Secretary in the order that follows:

(1) AMOUNTS TO BE MADE AVAILABLE FOR CONSTRUCTION OF MUSEUM.—The Secretary of the Treasury shall make available to the Secretary of the Interior the first $3,000,000 of such surcharges for the construction of the Andersonville Prisoner-of-War Museum in Andersonville, Georgia.

(2) AMOUNTS TO BE PAID TO ENDOWMENT FUND.—After payment of the amount required by paragraph (1), the Secretary of the Treasury shall pay 50 percent of the remaining surcharges to the endowment fund established pursuant to section 209(a).

(3) AMOUNTS TO BE PAID TO MAINTAIN NATIONAL CEMETERIES.—After payment of the amount required by paragraph (1), the Secretary shall pay 50 percent of the remaining surcharges to the Secretary of Veterans Affairs for purposes of maintaining national cemeteries pursuant to chapter 24 of title 38, United States Code.

(b) VIETNAM VETERANS MEMORIAL COMMEMORATIVE COINS.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of Vietnam Veterans Memorial commemorative coins described in section 202(a)(3)(B) shall be promptly paid by the Secretary to the Vietnam Veterans Memorial Fund to assist the Fund's efforts to raise an endowment to be a permanent source of support for the repair, maintenance, and addition of names to the Vietnam Veterans Memorial.

(c) WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL COMMEMORATIVE COINS.—Except as provided in subsection (d), an amount equal to the surcharges received by the Secretary from the sale of Women in Military Service for America Memorial commemorative coins described in section 202(a)(3)(C) shall be promptly paid by the Secretary to the Women in Military Service for America Memorial Foundation, Inc., for the purpose of creating, endowing, and dedicating the Women in Military Service for America Memorial.

(d) SURCHARGES FROM 3-COIN SETS.—In the case of surcharges derived from the sale of 3-coin sets pursuant to section 206(d)—

(1) ⅓ of such amount shall be distributed as provided in subsection (a);

(2) ⅓ shall be distributed as provided in subsection (b); and

(3) ⅓ shall be distributed as provided in subsection (c).

SEC. 209. ANDERSONVILLE PRISONER-OF-WAR MUSEUM ENDOWMENT FUND.

(a) ESTABLISHMENT.—There is hereby established in the Department of the Interior an endowment fund (hereinafter in this section referred to as the "fund") to be administered by the Secretary of the Interior and to consist of the amounts deposited under subsection (b).

(b) DEPOSIT INTO FUND.—

(1) DEPOSIT FROM SURCHARGES.—There shall be deposited into the fund such amounts that are paid by the Secretary under section 208(a)(2).

(2) INVESTMENT.—The Secretary of the Interior shall have the authority to invest the portion of the fund that is not, in the determination of such Secretary, required to meet the current needs of the fund, in obligations of the United States or in obligations guaranteed as to the principal and interest by the United States. In making such investments, the Secretary of the Interior shall select obligations having maturities suitable to the needs of the fund.

(c) EXPENDITURES.—The Secretary of the Interior may use the amounts deposited in the fund under this title to pay for the maintenance of the Andersonville Prisoner-of-War Museum in Andersonville, Georgia.

SEC. 210. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the entities specified in section 208, as may be related to the expenditures of amounts paid under section 208.

SEC. 211. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE III—REFORM OF COMMEMORATIVE COIN PROGRAMS

SEC. 301. SENSE OF CONGRESS RESOLUTION.

(A) FINDINGS.—The Congress hereby makes the following findings:

(1) Congress has authorized 18 commemorative coin programs in the 9 years since 1984.

(2) There are more meritorious causes, events, and people worthy of commemoration than can be honored with commemorative coinage.

(3) Commemorative coin legislation has increased at a pace beyond that which the numismatic community can reasonably be expected to absorb.

(4) It is in the interests of all Members of Congress that a policy be established to control the flow of commemorative coin legislation.

(b) DECLARATION.—It is the sense of the Congress that the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate should not report or otherwise clear for consideration by the House of Representatives or the Senate legislation providing for more than 2 commemorative coin programs for any year, unless the committee determines, on the basis of a recommendation by the Citizens Commemorative Coin Advisory Committee, that extraordinary merit exists for an additional commemorative coin program.

SEC. 302. REPORTS BY RECIPIENTS OF COMMEMORATIVE COIN SURCHARGES.

(a) QUARTERLY FINANCIAL REPORT.—

(1) IN GENERAL.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a quarterly financial report to the Director of the United States Mint and the Comptroller General of the United States describing in detail the expenditures made by such person from the proceeds of the surcharge.

(2) INFORMATION TO BE INCLUDED.—The report under paragraph (1) shall include information on the proportion of the surcharges received during the period covered by the report to the total revenue of such person during such period, expressed as a percentage, and the percentage of total revenue during such period which was spent on administrative expenses (including salaries, travel, overhead, and fund raising).

(3) DUE DATES.—Quarterly reports under this subsection shall be due at the end of the 30-day period beginning on the last day of any calendar quarter during which any surcharge derived from the sale of commemorative coins is received by any person.

(b) FINAL REPORT.—Each person who receives, after the date of the enactment of this Act, any surcharge derived from the sale of commemorative coins under any Act of Congress shall submit a final report on the expenditures made by such person from the proceeds of all surcharges received by such person, including information described in subsection (a)(2), before the end of the 1-year period beginning on the last day on which sales of such coins may be made.

SEC. 303. GAO REPORTS TO CONGRESS.

Before the end of the 1-year period beginning on the last day on which sales of commemorative coins may be made under the Act of Congress which authorized such coins, the Comptroller General of the United States shall submit a financial accounting statement to the Congress on the payment of any surcharges derived from the sale of such coins and the use and expenditure of the proceeds of such surcharges by any recipient (other than a recipient which is an agency or department of the Federal Government) based on the reports filed by such recipient with the Comptroller General in accordance with section 302 and any audit of such recipient which is conducted by the Comptroller General with respect to the use and expenditure of such proceeds.

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). Pursuant to the rule, the gentleman from Massachusetts [Mr. KENNEDY] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. KENNEDY].

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

Mr. Speaker, I am honored to offer H.R. 3548 with some of the most distinguished Members of this House: the gentleman from Texas [Mr. GONZALEZ], the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Michigan [Mr. BONIOR], the gentleman from Florida [Mr. PETERSON], the gentleman from Virginia [Mr. PAYNE], the gentlewoman from California [Ms. WATERS], and the gentleman from Pennsylvania [Mr. RIDGE].

I also wanted to thank in particular the gentleman from California [Mr. MCCANDLESS] for all of the help and support that he has been and the tremendous leadership that he has shown on the Subcommittee on Consumer Credit and Insurance of the Committee on Banking, Finance and Urban Affairs. I want to thank him very much for all the support that he has provided us over the last several months on a number of different issues.

Mr. Speaker, this carefully crafted piece of legislation authorizes the minting of coins to honor the men and women who have valiantly served our country in times of war, and to commemorate the achievements of Thomas Jefferson. It also institutes several much-needed reforms in the way that commemorative coin programs are currently conducted. I will leave it to other speakers to describe the important causes this bill serves.

The four commemorative programs contained in this legislation were introduced earlier in this session as separate bills. Each received well in excess of the 218 signatures needed for consideration by the Subcommittee on Consumer Credit and Insurance, which I chair. A hearing on the bills was held earlier this month.

Let me briefly describe this legislation in more detail. First, it commemorates the heroic sacrifices made by our Nation's prisoners of war by allowing the proceeds of coin sales to be used to build and maintain a Prisoner-of-War Museum in Andersonville, GA. I want to acknowledge the efforts and vision of Mr. PETERSON to bring this legislation before the House today. He has distinguished himself not only as a Member of Congress, but as a decorated veteran and former prisoner of war.

Second, it brings some much-deserved and long-overdue recognition to the 1.8 million women veterans of America. It is an unfortunate fact of our Nation's history that the achievements of women veterans are only now beginning to get the recognition they deserve. This legislation will take a small but important step toward correcting the historical record. Coin sale proceeds will be used to help build a women's veterans memorial in Arlington National Cemetery, so that this and future generations will recall the contributions made by women to protecting our democratic way of life. I want to express my thanks to Chairman MONTGOMERY, who is the principal sponsor of this legislation. I also want

to commend Ms. WATERS, who has been a passionate advocate for this memorial on the Banking Committee.

Third, this bill helps to preserve and maintain the Vietnam Veterans Memorial. This memorial is the single most visited monument in Washington. It is an extraordinary place of remembrance, where the people our Nation come to recall and come to terms with the pain and loss of the Vietnam war. The memorial is in serious need of repair, and this legislation will raise funds needed to preserve the power of its impact for decades to come. I want to offer thanks to Mr. BONIOR and Mr. RIDGE for their efforts to preserve this important symbol of our Nation's history.

Fourth, H.R. 3548 commemorates the achievements of the genius of our democracy, Thomas Jefferson. Funds raised will help restore and preserve Monticello, Jefferson's home located in Charlottesville, VA. This building is the only home in America ever named to UNESCO's World Heritage List, which includes such treasures as the Taj Mahal, Versailles, and the Great Wall of China. It is a priceless piece of our heritage, and H.R. 3548 will ensure that it is preserved for generations to come.

Mr. Speaker, during my brief service as chairman of the subcommittee that is responsible for coinage matters, I have learned more than I ever thought there was to learn about coins. Thanks to the efforts of the coin collecting community, I have become aware of the need to reform the commemorative coin process. This legislation attempts to respond to their concerns. It expresses the sense of the Congress that no more than two coin programs should be enacted in any one year. This limit will help to ensure that the coin market does not become saturated, so that coins like the ones we are voting on today will continue to be bought by coin collectors, who purchase an average of 90 percent of all commemorative coins. In addition, the bill requires organizations receiving the proceeds of coin sales to submit quarterly financial reports to the mint and the General Accounting Office, and to submit themselves to GAO audits. These organizations are currently subject to little, if any, Government oversight. Recent news reports have revealed that one foundation—established to build a memorial to the Battle of Normandy—has spent 90 percent of its money on travel, entertainment, fundraising, and personal expenses. At this point, it may never build the Normandy Memorial. H.R. 3548 will prevent this kind of abuse, and ensure that the money raised from coins is used for the purposes intended. I want to particularly thank Mr. MCCANDLESS, the ranking member of the Consumer Subcommittee, for his input into these reform provisions.

In closing, let me say that this legislation will not cost taxpayers a dime. In fact, I expect that the coins will sell out completely, in which case a share of the profits will go toward reducing the national debt. I urge my colleagues to support this legislation.

□ 1520

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

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

Mr. Speaker, as the ranking Republican member of the Subcommittee on Consumer Credit and Insurance, which has jurisdiction over commemorative coinage issues, I would like to say a few words about the Commemorative Coin Act of 1993.

I will not use my time to comment on titles I and II of the bill other than to say that they authorize the mint to strike four commemorative coins:

A coin to commemorate the 250th anniversary of the birth of Thomas Jefferson;

A coin to commemorate Americans who have been prisoners of war;

A coin to commemorate the 10th anniversary of the Vietnam Veterans Memorial; and

A coin to commemorate the Women in Military Service for America Memorial.

Since I know that my colleagues will address the specifics of each of the four commemorative coins, I will limit my remarks to title III of the bill.

The provisions of title III are absolutely essential to ensuring the continued success of commemorative coin programs.

First, title III includes a sense of the Congress resolution that Congress should not pass enabling legislation for more than two commemorative coin programs per year unless otherwise advised by the Citizens Commemorative Coin Advisory Committee. The committee was established in the 102d Congress to comment on the selection of subjects and designs for commemorative coins. This provision recognizes the limited manufacturing capability of the mint and the limited purchasing power of those who are interested and purchase commemorative coins.

Second, title III of the bill will require those organizations who benefit from the sale of commemorative coins to submit quarterly financial statements and a final report to the mint. This provision will ensure that the purposes for which enabling legislation is passed are realized.

Finally, title III will require the General Accounting Office to submit to Congress a final review of a recipient organization's financial activities. Like the one to require quarterly financial statements, this provision is necessary to ensure that moneys generated through the sale of commemorative coins are not squandered.

Mr. Speaker, I know that some of my colleagues are anxious to talk about the merit of the four commemorative coins that this bill authorizes.

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

Mr. KENNEDY. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. MONTGOMERY], to talk about the Women's Memorial. I just want to say to the gentleman from Mississippi how much we appreciate all of his help and hard work and that of his staff in helping to put this memorial together. I also want to say to the gentleman how much we appreciate the contributions of Gen. Wilma Vaught, who has been so tremendously helpful in bringing this issue before the Congress of the United States.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentleman from Massachusetts for his kind remarks.

Mr. Speaker, I rise in strong support of H.R. 3548. I want to thank my friend, the gentleman from Massachusetts [Mr. KENNEDY] chairman of the Subcommittee on Consumer Credit and Insurance, for his role in getting this important measure to the floor. Joe is also a member of the Veterans' Affairs Committee and a strong advocate for veterans and their families. I also want to thank the gentleman from California [Mr. MCCANDLESS], ranking minority member, for his support.

I am especially pleased that Mr. KENNEDY'S bill, of which I am a proud cosponsor, includes several provisions which authorize the minting of coins in commemoration of the deeds of U.S. veterans. The bill contains a measure I introduced which would direct the Secretary of the Treasury to issue coins symbolic of women's service in the Armed Forces. The sale of these coins will be crucial in the effort to raise funds to build a long overdue memorial to all women who have served America in uniform.

Mr. Speaker, the Women in Military Service for America Memorial, which will be constructed at the main gate of Arlington National Cemetery and dedicated in 1996, will recognize the patriotism and courage of the 1.8 million women who have served our country in Somalia, the Persian Gulf, Vietnam, Korea, World Wars I and II, and United States conflicts dating back to the American Revolution, as well as those who have served in peacetime.

The Congress authorized the memorial in 1986 in Public Law 99-610, and the Women in Military Service for America Memorial Foundation was designated as administrator of this project. Under the outstanding leadership of Gen. Wilma Vaught, the foundation has been working to educate the public about the role of women in the military and has taken actions necessary to construct the memorial. The Federal approval agencies have all unanimously and enthusiastically approved the design. The proceeds from

the sale of these coins will help assure funding to construct the memorial.

Both the memorial and the coins will be tangible reminders to this and future generations of the contributions that women have made in defending and serving our country. Women have served the cause of freedom under difficult and dangerous circumstances as nurses, scouts, couriers, switchboard operators, stenographers, translators, pilots, and gunner's mates. A number have been highly decorated, including combat-related awards, some were prisoners of war, and some remain buried in U.S. cemeteries overseas. They all have been important to both wartime and peacetime efforts. We owe them a great debt for their contributions. The women who have served in our Armed Forces have earned a special place of distinction in our history and our hearts. I urge favorable consideration of H.R. 3548, to commemorate the proud tradition of service rendered by women in the military.

I also want to express my support for the other veteran-related coin provisions in this bill. I commend the distinguished gentleman from Florida [Mr. PETERSON], for his efforts to commemorate the experiences of Americans who have been prisoners of war. Having been a prisoner of war in Vietnam for 6½ years, PETE understands, all too well, the sacrifices these courageous individuals have made in service to their country.

I am also pleased to see in this bill a provision authorizing the minting of a coin in observance of the 10th anniversary of the Vietnam Veterans' Memorial. As you know, Mr. Speaker, the Vietnam Veterans' Memorial, often referred to as the wall, is the most visited monument in Washington, with more than 2.5 million visitors annually. The wall has had a profound effect in healing the wounds of controversy and bitterness caused by the Vietnam war.

Mr. Speaker, I commend the gentleman from Massachusetts [Mr. KENNEDY], the Banking Committee, and the authors of these coin provisions.

I urge my colleagues to support the bill's passage.

Mr. MCCANDLESS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. RIDGE].

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

Mr. Speaker, I rise in strong support of H.R. 3548. I would like to commend JOE KENNEDY and AL MCCANDLESS, respectively the chairman and ranking minority member of the Subcommittee on Consumer Credit and Insurance, for moving this bill so expeditiously.

This bill authorizes the Secretary of the Treasury to establish two commemorative coin programs. One that would honor Thomas Jefferson and the second to recognize three deserving veterans' groups—former prisoners of war, Vietnam veterans, and women who have served in military service. All those that this legislation commemorates are in one way or another representative of the principles that this country was not only founded upon, but continues to promote.

No one in this body has to be reminded of the contributions that Thomas Jefferson made in creating America's democratic system of government. His ideals and beliefs have reached far beyond America's border, even before we had a free-trade agreement with our neighbors.

But the beliefs and values that Thomas Jefferson promoted could not have continued to grow and flourish in this country and throughout the world, as they have, if it was not for those Americans that serve in this country's military. The provision regarding the Vietnam Veterans Memorial, in this bill, is the same as the language of H.R. 1608, the 1994 Vietnam Veterans Memorial Commemorative Coin Act, which DAVID BONIOR and I introduced earlier this year.

I strongly believe that the Vietnam Veterans Memorial, commonly known as the Wall, is deserving of such commemoration. Vietnam was the longest war in the history of our Nation, lasting from July 1957 to May 1975. Each of the 2.5 million men and women who served in the military in Vietnam endured a unique experience and each remembers in an individual and personal way that experience 20 years later—myself included.

The wall welds these experiences together to remind all Americans of who can be lost when a country goes to war. It allows all Americans to remember and pay their respects to over 58,000 men and women that died in service to their country. It is also a reminder to us that there are still 2,266 persons listed as mission in action.

A coin commemorating the Vietnam Veterans Memorial will once again recognize these brave soldiers and the ultimate sacrifice they have made for their country. This legislation will also be an opportunity for the United States Government to pay special tribute to those that wore the country's uniform during the Vietnam-era.

The wall is the most visited memorial in the United States. Many of these visitors leave personal mementos at the base of the memorial in remembrance of those who were killed in the war. In this way, the Wall helps to heal the wounds caused by the Vietnam war. Now it is time for us to help the Vietnam Veterans Memorial.

The wall was built by Vietnam veterans who raised the funds entirely from private sources. Current expenses for the Memorial's upkeep continue to be the responsibility of the Vietnam Veterans Memorial Fund [VVMF]. In 1992 alone, the VVMF spent $200,000 to repair the memorial. H.R. 3548 would raise private money for this purpose and permanently endows a trust to do so.

Mr. Speaker, I once again would like to thank Chairman KENNEDY for bringing this bill to the floor today. Not only because of recognition it gives to Vietnam veterans, but also because it honors Thomas Jefferson, it honors the brave Americans that are former prisoners of war, and it honors the women that have contributed to and sacrificed for our country through their service in the Armed Forces.

I urge all of my colleagues to support this bill.

□ 1530

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

Mr. Speaker, I would just like to say on behalf of all of those who worked so hard on behalf of this coin, as the gentleman from Michigan [Mr. BONIOR] is well aware, Jan Scruggs deserves a great deal of credit for the steadfast commitment that he has shown to Vietnam veterans throughout the last dozen years of his life and particularly for the fine job he has done in making the memorial a reality. We very much appreciated his efforts.

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

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

Mr. RIDGE. I certainly wanted to be associated in a public way with the gentleman's recognition of Jan's efforts, not only in founding and getting the coalition together to create the memorial but his continuing effort to see that we can maintain it.

I thank the gentleman.

Mr. KENNEDY. He is a terrific fellow.

Mr. Speaker, I yield 3½ minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Pennsylvania [Mr. RIDGE] for all of the diligence and effort on behalf of the Commemorative Coins Act and particularly the legislation that deals with the Vietnam Veterans Memorial.

Mr. Speaker, I rise in strong support of the Commemorative Coins Act.

This legislation directs the Secretary of the Treasury to mint four coins to commemorate Vietnam veterans, women in military service, prisoners-of-war, and Thomas Jefferson.

It also follows the Mint's recommendation that the three coins honoring military service, prisoners-of-war, and Thomas Jefferson.

It also follows the Mint's recommendation that the three coins honoring military service be marketed together as a three coin set, but allows them to be sold individually.

I believe this is a reasonable approach and commend Chairman KENNEDY and ranking member MCCANDLESS for their leadership.

Each of these commemorative coin bills benefits a project that is in urgent need of assistance. We must pass this legislation through both chambers this year to ensure a minting date of 1994.

While each project is worthwhile and stands on its own merits, I would like to speak briefly about the Vietnam Veterans Memorial.

When I first came to Congress in 1977, I joined with several of my colleagues in founding the Vietnam-era veterans in Congress.

We believed that we must heal the wounds of the Vietnam war and bring torn generations together.

We were dedicated to building a memorial in the Nation's Capital for Vietnam veterans. Today, the Vietnam Veterans Memorial, built and maintained by private donations, is the most visited memorial in the country. Every person who visits the wall, young or old, leaves with an awareness that history books can never teach.

Most importantly, the wall was built to heal.

Mr. Speaker, I had the honor of participating in the Memorial Day services at the wall this year. I heard nurse Janis Nark struggle to hold back the tears as she told of how the memorial helped her get over the painful wounds of war.

I heard all-pro football player Derek Thomas who did not want to leave the podium on this, his first visit to the wall talk proudly of his father whose name is engraved there.

Through the years we have seen the memorial help do what we set out to do—help to heal the wounds of a divisive war.

Now the wall needs our help. A June 1990 report by Carla Corbin of the American Institute of Architects identified cracks on 19 of the panels, chips on four panels, and many other panels nicked and permanently scratched.

Mr. Speaker, the Vietnam Veterans Memorial Coin Act will provide a permanent maintenance endowment for the memorial to ensure that the wall will be standing for generations to come.

More importantly, the coin itself will help in the healing process. While many coin collectors will purchase the coin, the market is much larger. Think of the Vietnam veterans, their friends and families who will buy these coins to support the wall, and help them ensure that their children and grandchildren never forget the Vietnam war.

The remarkable men and women who served our country can teach each of us about bravery, sacrifice, and courage. We must make sure that our children and our Nation always remember them, because, in the end, that is the highest tribute we can pay.

And that is why, Mr. Speaker, 321 of my colleagues in the House and 71 Members of the Senate support a commemorative coin for the Vietnam Veterans Memorial. I urge my colleagues in both bodies to pass this bill before we adjourn this first session of Congress, and give the wall that heals the help it needs.

Mr. Speaker, again, I thank my friend, the gentleman from Massachusetts [Mr. KENNEDY], and the gentleman from California [Mr. MCCANDLESS], the gentleman from Pennsylvania [Mr. RIDGE], Jan Scruggs, and the gentleman from Florida [Mr. PETERSON], and all the people who participated for their help in this endeavor.

Mr. MCCANDLESS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BISHOP].

Mr. BISHOP. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me rise in strong support of H.R. 3548, and let me take this opportunity to commend the chairman of the subcommittee, the ranking member, the chairman of the V.A. Committee, the gentleman from Florida [Mr. PETERSON], for the hard work they put into this legislation. Let me also thank a lot of other individuals who have contributed greatly to this, the veterans' service organizations from across this country, and many, many veterans have worked hard to see that our prisoners of war are given an appropriate museum commemorating all of the prisoners of war in this country's history.

One of the groups that is selected to be honored through this commemorative resolution are the POW's at the Andersonville POW Museum in Andersonville, GA.

I want to thank the Chamber of Commerce of Americus and Sumter Counties, and I would like to thank all of the veterans' service organizations who have contributed so much.

The Aviation Museum at Warner Robins, the Infantry Museum at Fort Benning, GA, will now be joined by the Andersonville POW Museum in Andersonville, Ga.

We want to thank all of those who have helped, and we certainly urge all of our colleagues to support this legislation.

Mr. KENNEDY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. PETERSON].

Mr. Speaker, I just want to say to the gentleman from Florida [Mr. PETERSON] how delighted I was to work with Bill and Ethel Bearisto of Massachusetts who have done yeoman's work in advocating for this coin, and I should acknowledge the efforts of the gentleman from Florida [Mr. PETERSON] and the gentleman from Georgia [Mr. BISHOP] in being very, very strong advocates of pursuing this coin. I thank them very much for their help.

Mr. PETERSON of Florida. Mr. Speaker, I rise today in strong support of H.R. 3548. I would like to thank the chairman of the Committee on Banking, Housing and Urban Affairs, Mr. GONZALEZ, ranking member Mr. MCCANDLESS, and the chairman of the Subcommittee on Consumer Credit and Insurance, Mr. KENNEDY for working so hard to bring this legislation to the floor today.

I introduced the Prisoner of War [POW] Commemorative Coin Act in the 102d and 103d Congresses on behalf of our Nation's POW's of all wars. It was my intent to create a permanent physical symbol in honor of these brave men and women who served their Nation under severe duress and pain.

It is unusual for our Nation to not adequately acknowledge the sacrifices of these heroes in a permanent symbolic manner. My bill will correct that oversight and recognize the sacrifices of those Americans who survived the ordeal of captivity in a foreign prison and those who died there giving of themselves the supreme sacrifice in the defense of their country.

While the primary purpose of the POW coin is to serve as the Nation's symbol of gratitude to our POW's; proceeds from its sale will also serve as a funding vehicle to complete construction on the National POW Museum located at the Andersonville National Historic Site in Georgia. The completion of this museum will allow all Americans to better understand the sacrifices of our POW's and provide a depository for historical data related to their experience.

Because there have been several coins introduced this year honoring military service, Chairman KENNEDY in coordination with the U.S. Mint has determined that it would be best to combine the three veterans coins—the Prisoner of War commemorative coin, the Vietnam Veterans Memorial commemorative coin, and the Women In Military Service For America Memorial commemorative coin—together as a three-coin set. By marketing the coins as a set, we will prevent a glut of coins into the market at one time. The legislation also allows each coin to be sold individually, permitting individual organizations to purchase, in quantity, the coin that represents their special interest. The Thomas Jefferson commemorative coin, which is also included in this bill, will be marketed separately.

My POW coin which has 253 cosponsors has strong bipartisan support in both bodies as well as the public support of the American Ex-Prisoners of War, Defenders of Bataan and Corregidor, Korean Ex-Prisoners of War, NAM-POWs, League of Families, and other individual unit organizations.

Mr. Speaker, although each coin was originally introduced as separate legislation, I believe combining the coins

into one bill is an excellent compromise. I urge my colleagues to vote "yes" on this important legislation today.

□ 1540

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

Mr. KENNEDY. Mr. Speaker, I yield 2 minutes to the gentleman from the great State of Virginia [Mr. PAYNE]. I also want to thank Mr. PAYNE for bringing in a fine individual, Dan Jordan, from Monticello, who has been doing tremendous work on behalf of the Thomas Jefferson Memorial.

Mr. PAYNE of Virginia. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of H.R. 3548. Mr. Speaker, I want to give special thanks to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. KENNEDY], whose efforts have made this coin bill a reality.

I also want to thank the gentleman from California [Mr. MCCANDLESS] for his fine work on this bill.

Mr. Speaker, I am particularly pleased to endorse title I of the bill, which was originally introduced as H.R. 789, and authorizes the minting of a coin commemorating 1993 as the 250th anniversary of Thomas Jefferson's birth.

H.R. 789 was carefully drafted to ensure a successful sales program at no cost to the U.S. Treasury. Proceeds from the $10 surcharge per coin will be used to support two important Jeffersonian properties, Monticello and Poplar Forest.

Monticello is the only American home ever named to UNESCO's World Heritage List. Monticello's share of the proceeds will fund its first general endowment and advance its primary mission of education and preservation. The endowment will support structural repairs to the property itself, acquisition of Jefferson's personal possessions and educational scholarships.

Poplar Forest was designed and built by Thomas Jefferson as his personal retreat. It was struck twice by fire and underwent renovations that changed its style and appearance. Painstaking research was required to establish exactly what the House looked like in Jefferson's time. Now supporters are in a race against time to proceed with restoration before the building suffers irreparable structural damage. The proceeds from the sale of this coin will provide an invaluable boost to the private fundraising effort supporting this project.

Mr. Speaker, Mr. Jefferson's monumental achievements are well known to all of us here. Fifty years ago when this Nation commemorated the 200th anniversary of Thomas Jefferson's birth, Congress passed legislation authorizing the construction of the Jefferson Memorial here in Washington. I believe authorizing the minting of a commemorative coin in his honor, whose proceeds will help restore and preserve the homes he designed and treasured, is an appropriate way for Congress to honor the 250th anniversary of his birth.

I urge my colleagues to support this legislation.

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

Mr. KENNEDY. Mr. Speaker, I yield the final 2 minutes to a gentlewoman who always speaks with a strong mind and a strong voice, the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in support of H.R. 3548, the Commemorative Coins Act. I congratulate the chairman of the Veterans Affairs Committee, Mr. MONTGOMERY, as well as the chairman of the Subcommittee on Consumer Credit and Insurance, Mr. KENNEDY, for bringing this legislation to the floor.

All of the projects supported by these coins; are special and important—however, I would like to focus my comments on one particular coin—the Women in Military Service Commemorative Coin—that is authorized by this legislation. In 1986, Congress passed legislation authorizing the construction of a monument in honor of all women who have served in the military—from the time of the Revolutionary War to the days of Desert Storm. Fourteen million dollars is needed before the ground can be broken for the memorial. So far only $1.5 million has been raised.

The surcharge from the sale of these commemorative coins will go to the Women's Memorial Building Fund. An enormous amount of work has gone into raising funds for the memorial, as well as collecting signatures in support of the coin. It is crucial that the memorial receive the moneys which will be generated by the sale of these coins this year so that construction of the memorial can begin on time.

Mr. Speaker, this memorial will not be an ordinary one. It will tell the story of what these brave women have done. The memorial will house an educational center with a computer containing a register—complete with the pictures and stories of women who have served the U.S. Military. To date, nearly 100,000 women veterans have come forward to share their stories and memories for inclusion in the memorial's computer data base.

There are currently 1.2 million living women veterans and 400,000 women on active duty in the Guard and the Reserves. An estimated 100,000 to 200,000 women have died for this country since the Revolutionary War. For too long we have ignored their legacy and their example. It is long past time that they stand recognized alongside their brothers-in-arm.

Mr. Speaker, I urge my colleagues to join me in honoring the service of these brave women and to preserve their legacy by voting to pass H.R. 3548, the Commemorative Coins Act.

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from Massachusetts [Mr. KENNEDY] has expired.

The question is on the motion offered by the gentleman from Massachusetts [Mr. KENNEDY] that the House suspend the rules and pass the bill, H.R. 3548.

The question was taken.

Mr. KENNEDY. 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.

□ 1550

NATIONAL NARCOTICS LEADERSHIP ACT AMENDMENTS OF 1993

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1926) to amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy as amended.

The Clerk read as follows:

H.R. 1926

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Narcotics Leadership Act Amendments of 1993".

SEC. 2. IMPLEMENTATION OF NATIONAL DRUG CONTROL STRATEGY.

Section 1003(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)) is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) The Director may require the inclusion, in the budget submission to the Office of Management and Budget by any National Drug Control Program agency, of funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and certifications made pursuant to paragraph (3).".

SEC. 3. REPORT ON REPROGRAMMING; OFFICE PERSONNEL RESTRICTION.

(a) REPORT ON REPROGRAMMING.—Section 1003(c)(7) of the National Narcotics Leadership Act of 1988, as redesignated by section 2(1) of this Act, is amended to read as follows:

"(7) The Director shall report to the Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated funds in an amount greater than $5,000,000 for National Drug Control Program activities.".

(b) OFFICE PERSONNEL RESTRICTION.—Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended by adding at the end the following:

"(f) PROHIBITION ON POLITICAL CAMPAIGNING.—A Federal officer in the Office of National Drug Control Policy who is appointed by the

President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such an official is not prohibited by this subsection from making contributions to individual candidates.".

SEC. 4. NATIONAL DRUG CONTROL STRATEGY OUTCOME MEASURES.

Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended—

(1) in paragraph (2)(A) by inserting "and the consequences of drug abuse" after "drug abuse"; and

(2) by amending paragraph (4) to read as follows:

"(4) The Director shall include with each National Drug Control Strategy an evaluation of the effectiveness of Federal drug control during the preceding year. The evaluation shall include an assessment of Federal drug control efforts, including—

"(A) assessment of the reduction of drug use, including estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(i) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, and probationers, and juvenile delinquents; and

"(ii) drug use in the workplace and the productivity lost by such use;

"(B) assessment of the reduction of drug availability, as measured by—

"(i) the quantities of cocaine, heroin, and marijuana available for consumption in the United States;

"(ii) the amount of cocaine and heroin entering the United States;

"(iii) the number of hectares of poppy and coca cultivated and destroyed;

"(iv) the number of metric tons of heroin and cocaine seized;

"(v) the number of cocaine processing labs destroyed;

"(vi) changes in the price and purity of heroin and cocaine;

"(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(viii) the effectiveness of Federal technology programs at improving drug detection capabilities at United States ports of entry;

"(C) assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(i) burdens drug users placed on hospital emergency rooms in the United States, such as the quantity of drug-related services provided;

"(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other communicable diseases as a result of drug use;

"(iii) the extent of drug-related crime and criminal activity; and

"(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States; and

"(D) determination of the status of drug treatment in the United States, by assessing—

"(i) public and private treatment capacity within each State, including information on the number of treatment slots available in relation to the number actually used, including data on intravenous drug users and pregnant women;

"(ii) the extent, within each State, to which treatment is available, on demand, to intravenous drug users and pregnant women;

"(iii) the number of drug users the Director estimates could benefit from treatment; and

"(iv) the success of drug treatment programs, including an assessment of the effectiveness of the mechanisms in place federally, and within each State, to determine the relative quality of substance abuse treatment programs, the qualifications of treatment personnel, and the mechanism by which patients are admitted to the most appropriate and cost effective treatment setting.

"(5) The Director shall include with the National Drug Control Strategy required to be submitted not later than February 1, 1994, and with every second such strategy submitted thereafter—

"(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at-risk for drug use;

"(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B); and

"(D) identification of the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals.

"(6) Federal agencies responsible for the collection or estimation of drug-related information required by the Director shall cooperate with the Director, to the fullest extent possible, to enable the Director to satisfy the requirements of sections 4 and 5.

"(7) By June 1, 1994, and with each National Drug Control Strategy submitted thereafter, the Director shall report to the President and the Congress on the Director's assessment of drug use and availability in the United States, including an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect in the preceding year in reducing drug use and availability.".

SEC. 5. DIRECTOR AS A MEMBER OF THE NATIONAL SECURITY COUNCIL.

Section 402(a)(7) of title 50, United States Code, is amended by—

(1) striking "and" after the semicolon in paragraph (6);

(2) redesignating paragraph (7) as paragraph (8); and

(3) inserting after paragraph (6) the following:

"(7) the Director of the Office of National Drug Control Policy; and".

SEC. 6. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) DRUG ABUSE ADDICTION AND REHABILITATION CENTER.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a(c)(1)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) identify and support, through interagency agreements or grants that are subjected to peer review by independent advisory boards, the application of technology to expanding the effectiveness or availability of drug treatment;".

(b) ASSISTANCE FROM THE ADVANCED RESEARCH PROJECT AGENCY.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a) is amended by adding at the end the following:

"(f) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Director of the Advanced Research Project Agency shall, to the fullest extent possible, render assistance and support to the Office of National Drug Control Policy and its Director.".

(c) REPEAL AND REDESIGNATION.—The National Narcotics Leadership Act of 1988 is amended by—

(1) repealing section 1008 (21 U.S.C. 1505), as in effect on the date of the enactment of this Act;

(2) redesignating section 1003A, as amended by subsection (b) of this section, as section 1008; and

(3) moving such section, as redesignated, so as to follow section 1007.

SEC. 7. PAYING CERTAIN NECESSARY EXPENSES FOR STRATEGY CONSULTATION.

Section 1005(a)(3) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)(3)) is amended by adding at the end the following:

"(C) The Director may pay for the necessary and appropriate expenses for assemblages of individuals providing consultation to the Director in developing the National Drug Control Strategy.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking "$3,500,000" and all that follows through "years," and inserting "such sums as may be necessary for fiscal year 1994,".

SEC. 9. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1994".

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

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

Mr. Speaker, H.R. 1926 reauthorizes the Office of National Drug Control Policy for fiscal year 1994, and in addition makes several substantive changes to the authorities and responsibilities of that office.

The Committee on Government Operations has conducted extensive oversight of ONDCP and how it has operated during the 5 years since it was created. That oversight has raised important questions about the ability of the office to direct the Nation's Federal counternarcotics efforts.

H.R. 1926 addresses many of these questions. It makes several changes that will strengthen the Director of National Drug Control Policy in his ability to provide effective leadership, while requiring greater accountability for counternarcotics programs.

The bill authorizes ONDCP to require agencies to include specific initiatives consistent with the National Drug Control Strategy in their budget proposals to OMB. Such authority will help ensure that all Federal agencies are working with, and not counter, to that strategy.

H.R. 1926 also requires the thorough evaluation of all domestic and international counternarcotics programs. These evaluations will provide crucial information about the programs that we fund. Previous evaluations of our counternarcotics efforts have focused on casual drug use, amounts of drugs

seized, and other measures that do not go to the heart of hardcore drug use. These requirements will finally provide meaningful information on how effective we have been in reducing drug use, in reducing the availability of drugs, and in developing successful drug treatment programs.

In addition, H.R. 1926 makes the Director a member of the National Security Council. This will enhance the Director's ability to develop national and international efforts to counter the drug threat.

I would like to thank the ranking Republican on the Legislation and National Security Subcommittee, the gentleman from California [Mr. MCCANDLESS], for his hard work on this legislation. I would also like to thank the ranking Republican of the full committee, the gentleman from Pennsylvania [Mr. CLINGER], for his assistance, and wish him well in recovering from surgery.

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

Mr. Speaker, the Committee on Government Operations recently completed a series of hearings on reauthorization of the Office of National Drug Control Policy. Those hearings supplement dozens of similar oversight hearings held by the committee to discuss national drug policy. The recurring message heard throughout our hearings was that ONDCP is broken, and that it needs to be fixed.

Government officials, outside auditors, independent reviewers, and knowledgeable citizens all spoke of an office with high hopes, but limited effectiveness. It was even clearer that an office somewhat weak during previous administrations has suffered enormous setbacks under the Clinton Presidency. Witness after witness testified to a lack of commitment on the part of this administration to tackling the tough issues involving illegal substance abuse. Examples of recent actions which indicate this administration's lack of commitment to ONDCP include: the President's reduction of office staffing from 147 employees to a mere 25, and the demotion of the war on drugs from among the top three issues on the National Security Council's priority list to number 29 on a list of 29. In fact, Chairman CONYERS and I have had numerous discussions on whether or not the office should even be saved.

After careful consultation with both the members of my committee and with ONDCP Director Lee Brown himself, I have decided to support H.R. 1926, even recognizing its weaknesses. Following the enactment of this single year reauthorization, the drug czar will still lack the authority to direct Federal agencies to include drug-related initiatives in their OMB submissions. He will still lack the authority to require ONDCP sign-off of an agency's drug-related legislative, regulatory, or policy proposals. And he will still lack the authority to prohibit agency heads from changing drug control programs without prior ONDCP approval.

Yet the bill does provide modest improvements to ONDCP's existing powers. It will give the Director the authority to reconfigure intra-agency drug budget submissions. It will make the Director a member of the National Security Council. And together with the new Executive orders, it will provide the Director with greater leverage in resolving interagency disputes.

For these reasons, I will support this 1-year reauthorization, with the following caveat. If, at the end of this trial year, we have not seen a marked change in this administration's attitude toward national drug policy, and a substantial improvement in the workings of ONDCP, I will vote to eliminate the office. While I believe that drug abuse remains a top national concern deserving of concentrated high-level attention, I will not provide indefinite cover to a policy devoid of substance, and an office lacking in credibility.

With those words of caution, Mr. Speaker, I support adoption of this bill.

Mr. MCCANDLESS. Mr. Speaker I yield 5½ minutes to the gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise in reluctant support of H.R. 1926, the National Narcotics Leadership Act of 1993, and I commend the gentleman from Michigan [Mr. CONYERS], the distinguished chairman of the Committee on Government Operations; the gentleman from Michigan [Mr. CONYERS], and the distinguished ranking member of the Committee on Government Operations, the gentleman from California [Mr. MCCANDLESS] for their efforts in bringing this measure to the floor before adjournment.

Having long been involved in our Nation's narcotics problem and the need for strong U.S. leadership in dealing with the scourge of narcotics, it is extremely important that we reauthorize the Office of National Drug Control Policy [ONDCP].

My concern, however, is the level at which this appropriations committee has funded that office. From a budget level of nearly $100 million, we are now providing this vital office with only $11.6 million.

This cut in ONDCP follows earlier reductions this year in international narcotics control programs administered by the State Department, the Drug Enforcement Administration's budget, and funds available for domestic treatment programs.

I am concerned with the negative signals that these cuts are sending both at home and abroad with regard to our commitment to continue the struggle against illegal drugs.

Cuts in both domestic and international programs during this year's appropriations process have lead our allies to believe—mistakenly, in my opinion—that we no longer care about drugs. While cutting the drug control program budgets, the administration has also significantly reduced the staff of the Office of National Drug Control Policy.

Consistently and constantly, I have voiced opposition to either budget or staff cuts in our drug control efforts. The only winners in such reductions are the drug traffickers.

Over the past few months, I have heard from several of our overseas allies in the fight against narcotics of their concern about our lack of commitment, particularly at a time we have engaged them in a common counternarcotics struggle.

Enactment of the National Narcotics Leadership Act clearly states that we are not ending either our efforts or our leadership. This should reassure our allies and continue to put the traffickers on notice that we remain serious in reducing and, ultimately, in eliminating their insidious trade.

H.R. 1926 also sends an important signal to the American people. President Clinton, as with President Bush before him, has defined the narcotics threat as an essential element of our national security strategy. Accordingly, I firmly support making the Director of the Office of National Drug Control Policy a member of the National Security Council.

I am concerned, however, that while we are elevating this important office and its responsibilities, we are acquiescing in its staff reductions. How do we expect the office and its Director, Dr. Lee Brown, to do more and more, when we are authorizing fewer and fewer resources? If drugs is a national security priority—and I know my colleagues believe it is—then let's provide an authorization that reflects that view.

Mr. Speaker, I have been critical of both the administration's and Congress' apparent lack of interest in continuing an aggressive and comprehensive counternarcotics programs. This act is not a solution; but it is a step in the right direction. I hope that with ONDCP's reauthorization, we can now turn to giving ONDCP Director Lee Brown the staff and tools he needs to perform his job.

I commend the distinguished chairman and ranking Republican member of the Government Operations Committee for moving this bill before we adjourn. I encourage our Government Operations Committee to provide oversight during the next session to see that the drug czar's office has the resources to perform its job effectively. If that office needs more, many of my colleagues are ready to work with them to see that those resources will be made available.

Given the importance of the Office of National Drug Control Policy to our overall counternarcotics efforts, I urge my colleagues to support this measure.

□ 1600

Mr. MCCANDLESS. Mr. Speaker, we have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 1926, 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 amend the National Narcotics Leadership Act of 1988 to extend and authorize appropriations for the Office of National Drug Control Policy, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. 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 Michigan?

There was no objection.

HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS OF 1993

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2178) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, as amended.

The Clerk read as follows:

H.R. 2178

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

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1993".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hazardous Materials Transportation Act.

SEC. 2. REGISTRATION.

Section 106(c) (49 U.S.C. App. 1805(c)) is amended by adding at the end the following:

"(16) AUTHORITY OF SECRETARY TO WAIVE MANDATORY FILING REQUIREMENT.—The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.".

SEC. 3. TIME FOR SECRETARIAL ACTION.

(a) SECTION 107.—Section 107(a) (49 U.S.C. App. 1806(a)) is amended by inserting at the end the following: "The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days of the first day of the month following the date of the filing of such application or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the exemption is delayed with an estimate of the additional time necessary before the decision is made."

(b) SECTION 112.—Section 112(c)(1) (49 U.S.C. App. 1811(c)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a decision on an application for a determination within 180 days of the date of the publication of the notice of having received such application or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed with an estimate of the additional time necessary before the decision is made."

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 115(a) (49 U.S.C. App. 1812(a)) is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated for carrying out this title (other than sections 117, 117A, 118, and 121) not to exceed $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997.".

SEC. 5. TRAINING.

(a) SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.—Section 117A (49 U.S.C. App. 1815) is amended by adding at the end the following:

"(j) SUPPLEMENTAL TRAINING GRANTS.—

"(1) IN GENERAL.—In order to further the purposes of subsection (b), relating to training public sector employees to respond to accidents and incidents involving hazardous materials, the Secretary shall make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

"(2) USE OF FUNDS.—Funds granted to an organization under this subsection may be used—

"(A) to identify regions or locations in which fire departments are in need of hazardous materials training;

"(B) to prioritize such needs and develop a means for evaluating specific training needs;

"(C) to train instructors to conduct hazardous materials response training programs and evaluate the efficacy of such training programs;

"(D) to purchase training equipment for such training programs; and

"(E) to disseminate on a nationwide basis the data developed, and the findings derived from projects carried out, under this subsection.

"(3) USE OF TRAINING COURSES.—The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to use in such fiscal year—

"(A) a course or courses developed or identified under section 117A(g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials.

"(4) TERMS AND CONDITIONS.—The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

"(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal years 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 118 for fiscal years 1995 and 1996. Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of employees trained under the grant programs, and an evaluation of the efficacy of training programs carried out.".

(b) FUNDING.—Section 117A(i)(2) is amended—

(1) by inserting "(A) GENERAL PROGRAM.—" before "There";

(2) by indenting subparagraph (A), as so designated, and moving subparagraph (A) 2 ems to the right; and

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

"(B) SUPPLEMENTAL PROGRAM.—

"(i) FROM FEES.—There shall be available to the Secretary for carrying out subsection (j), from amounts in the account established pursuant to subsection (h), $250,000 per fiscal year for each of fiscal years 1995, 1996, 1997, and 1998.

"(ii) FROM GENERAL REVENUES.—In addition to amounts made available under clause (i), there is authorized to be appropriated to the Secretary for carrying out subsection (j) $1,000,000 per fiscal year for each of fiscal years 1995, 1996, 1997, and 1998.".

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—Section 118 is amended—

(1) in subsection (a) by striking "may" and inserting "shall, subject to the availability of funds under subsection (d),";

(2) in subsection (b) by striking "National" and all that follows through "Labor" and inserting "Secretary";

(3) in subsection (c) by inserting "hazmat employee" after "nonprofit"; and

(4) by striking subsection (d) and inserting the following:

"(d) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $3,000,000 per fiscal year for each of fiscal years 1995, 1996, 1997, and 1998.".

(d) CONFORMING AMENDMENTS.—Section 117A(h) is amended—

(1) in paragraph (2)(H) by striking "and section 118";

(2) in paragraph (6)(B)(i) by striking "and section 118"; and

(3) in paragraph (6)(B)(iii) by striking "and section 118".

SEC. 6. COMPUTERIZED TELECOMMUNICATION DATA CENTER PILOT PROJECTS.

(a) GRANTS.—The Secretary of Transportation may make grants to 1 or more persons, including a State or local government or department, agency, or instrumentality thereof, to carry out a pilot project to demonstrate the feasibility of establishing and operating computerized telecommunications

emergency response information technologies that are used—

(1) to identify the contents of shipments of hazardous materials transported by motor carriers;

(2) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(3) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(4) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(b) SELECTION OF CARRIERS.—The pilot project to be carried out under this section must involve 2 or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less than truck-load shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(c) TERMS AND CONDITIONS.—The Secretary may impose such terms and conditions on grants to be made under this section as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this section.

(d) COORDINATION.—To the maximum extent practicable, the Secretary of Transportation shall coordinate a pilot project to be carried out under this section with any existing Federal, State, and local government projects and private projects which are similar to the pilot project to be carried out under this section. The Secretary may require that a pilot project under this section be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

(e) FEDERAL SHARE.—The Federal share of the cost of a pilot project carried out under this section shall be 100 percent, unless the grantee selected to carry out such project agrees to a lower Federal share.

(f) REPORT.—Not later than December 31, 1997, the Secretary of Transportation shall transmit to Congress a report on the results of pilot projects carried out under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1995 and 1996. Such sums shall remain available until expended.

SEC. 7. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary's recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 8. USE OF FIBER DRUM PACKAGING.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 105(a) of the Hazardous Materials Transportation Act as they pertain to openhead fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) LIMITATIONS.—

(1) LIMITATION ON APPLICABILITY.—The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under the Hazardous Materials Transportation Act.

(2) LIMITATION OF STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

SEC. 9. BUY AMERICA.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this Act may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made In America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) RECIPROCITY.—

(1) GENERAL RULE.—Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this Act to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2) EXCEPTIONS.—

(A) WAIVER AUTHORITY.—The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

(B) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

SEC. 10. TECHNICAL AMENDMENTS.

(a) PACKAGING.—

(1) Sections 103(5)(B), 103(6)(A)(iii), and 109(c) (49 U.S.C. App. 1802(5)(B), 1802(6)(A)(iii), 1808(c)) are each amended by striking "packages" and inserting "packaging".

(2) Sections 105(a)(3), 105(a)(4)(B)(v), 110(a)(1), and 120 (49 U.S.C. App. 1804(a)(3), 1804(a)(4)(B)(v), 1809(a)(1), 1818) are each amended by striking "a package or container" and inserting "packaging and a container".

(3) Section 106(c)(1)(B) (49 U.S.C. App. 1805(c)(1)(B)) is amended by striking "a bulk package" and inserting "bulk packaging" and by striking "the package" and inserting "the bulk packaging".

(b) OTHER.—Section 105(a)(3) (49 U.S.C. App. 1804(a)(3)) is amended by inserting "hazardous materials" after "shipped" and section 105(e)(1) (49 U.S.C App. 1804(e)(1)) is amended by inserting ", or a component of a container or package," after "package".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, I would first like to express my appreciation to the Committee on Energy and Commerce which shares jurisdiction with the Committee on Public Works and Transportation over this legislation.

The two committees reported out different versions of legislation to reauthorize the Hazardous Materials Transportation Act, and I am pleased to note that we have managed to reconcile the measures and that the product we bring to the floor today has the bipartisan support of the leadership of both committees.

The Hazardous Materials Transportation Act provides the Secretary of Transportation with the regulatory and enforcement authority to protect the Nation against the risk to life and property that is inherent in the transportation of hazardous materials.

In light of the fact that 3 years ago Congress passed the first major rewrite of the act since it was first enacted in 1975, the primary purpose of the pending bill is to reauthorize the act through fiscal year 1997. The bill also makes a number of technical and conforming amendments requested by the Transportation Department.

In addition, the bill contains four other initiatives that were advanced by the Committee on Public Works and Transportation.

First, it modifies the training grant programs of the act. Currently, the act provides for two types of training grants: Under section 117A for training public sector hazmat employees like firefighters and police through grants to the States, and under section 118 for training private sector hazmat employees, such as truckers.

With respect to the section 117A State grant program, the committee has received testimony that these grants are of an insufficient amount to provide for adequate training, and, that they are not always used by the States to train the public sector employee group that is in the front line in responding to hazardous material incidents: firefighters.

For this reason, the bill proposes a supplemental program under which the Secretary may make grants to organizations engaged solely in fighting fires for the purpose of training fire fighting personnel to respond to hazardous materials accidents and incidents.

Further, the bill would expand the current authorization for the section 118 grants used for training of hazmat employees engaged in the loading, unloading, handing, storage, and transportation of hazardous materials and emergency response.

In my view, the existing authorization is simply inadequate to provide proper training for the thousands upon thousands of employees involved with hazardous materials in the motor carrier, railroad, airline, and maritime industries.

Second, the bill contains what I will term the "Applegate provision" after the gentleman from Ohio who has been the leader in drawing the committee's attention to the need to consider automated information and tracking systems for hazardous materials in transportation.

Under the bill, a pilot project would be authorized to demonstrate the feasibility of establishing such a system using at least two motor carriers.

Third, the bill contains a provision sponsored by Representative CLINGER directing the DOT to conduct a study on the safety considerations of transporting hazardous materials by motor carrier in close proximity to Federal prisons.

And fourth, the bill would require the DOT initiate a rulemaking to examine whether fibre drums for the domestic transportation of liquid hazardous materials can comply with statutory safety standards, and provide an equal or greater level of safety, than the regulations promulgated by DOT which take effect on October 1, 1996.

Finally, the bill contains a highly commendable provision advanced by the Committee on Energy and Commerce that provides time frames for Secretarial action on exemption applications.

Mr. Speaker, I would note that the pending bill does not contain two provisions that were originally approved by the Committee on Public Works and Transportation.

The two excluded provisions related to clarifying congressional intent in enacting the scenic byways program as part of the Intermodal Surface Transportation Efficiency Act of 1991; and a study on radio and microwave technologies.

These provisions have been excluded without prejudice, and are absent from this measure due to jurisdictional concerns raised by the Committee on Energy and Commerce.

With respect to the scenic byways program provision in particular, while it is not in the pending legislation, this should not be construed in any way as diminishing my commitment to gaining its enactment in the future.

For this reason, by way of background, I would note that ISTEA added a provision to the Highway Beautification Act, codified in section 131 of title 23, United States Code, that provides for the control of outdoor advertising which generally prohibits the erection of new billboards along scenic byways.

Recently, however, some question has been raised as to whether this provision overrides other provisions of the Highway Beautification Act for the control of billboards that permit the erection of billboards in commercial and industrial areas. The confusion over this matter is due to what can only be called faulty drafting of the ISTEA provision.

While each State has the authority to designate scenic byways, it was never intended, nor was the possibility ever discussed during consideration of the legislation that was enacted as ISTEA, that a State could designate a scenic byway through a nonscenic area—in other words, a commercial or industrial area—and thereby prohibit new billboards where billboards have always been allowed under the act subject to State discretion.

The provision in the bill that would have clarified this situation by permitting States to allow billboards to be erected in commercial and industrial areas, as provided by the Highway Beautification Act, that may be part of a scenic byway.

At the same time, the State would still have the option to pass legislation or utilize zoning ordinances to prohibit billboards in these areas.

I would note that even the author of the scenic byways provision in ISTEA, the distinguished gentleman from Minnesota [Mr. OBERSTAR] agrees with the clarifying language that the committee has sought to advance. In addition, the committee's strong position on this matter is reflected by the fact that an amendment to delete the provision offered during committee consideration was defeated by a vote of 50 to 14.

In this matter, let me be crystal clear that this legislation would not have allowed new billboards to be erected on scenic portions of State designated scenic byways, and in this regard, I am disappointed that groups like Scenic America have chosen to advertise it as doing so.

They have alleged that this legislation would have allowed billboards to be erected anywhere on a scenic byway, that this legislation guts the act, and that simply is not true.

So I would say to my friends in the environmental community, and they are my friends, that if you want to debate this matter, then let us debate the issue and not engage in the type of emotional rhetoric that I have seen reflected in mailings on this matter in recent days.

In fact, in response to one of these ill-advised tactics, on November 12, 1993, the Deputy State Historic Preservation Officer of the State of West Virginia wrote a letter to the executive director of the National Conference of State Historic Preservation Officers in which he stated with respect to the legislation:

> In my view this moves the signage issue into a workable compromise. My office opposes billboards along scenic and historic routes. I do feel, however, that a local Dairy Queen should be able to advertise its existence to potential customers lured by the scenic quality of the area.

In response to the type of rhetoric the organization Scenic America was apparently using, the Deputy State Historic Preservation Officer concluded this letter as follows:

> Lastly, I am growing a bit apprehensive about the use of the term outraged.' Folks need to get some perspective and should also be careful about word hierarchies. I get outraged about things like the holocaust and murder in the streets. Billboard amendments and TV preachers are further down the scale.

Mr. Speaker, the bottom line is that the legislation would have made it clear that, pursuant to the Highway Beautification Act, billboards could only be erected in commercial or industrial areas that a State may designate as part of a scenic byway.

Further, nothing in the legislation would prevent a State from prohibiting new billboards in these areas, either by State law or through zoning.

This gentleman from West Virginia has a long history of support in preserving the scenic areas of this Nation. I vote for every wilderness bill, every park bill, every wild and scenic river bill that comes before the Natural Resources Committee and that comes before the House.

I am a leader in preservation matters in my own State as well, having authored the legislation that created just about every unit of the National Park System in West Virginia.

My preservation credentials, my voting record on these matters, are one of the best in the House.

And so I would say to my friends who support scenic byways, that I am a proponent of this program as well.

But I would also say that the economic benefits of designating scenic byways, of providing for a more diversified economy through tourism in many rural and depressed areas, will not occur if we do not allow businesses in commercial and industrial areas to advertise themselves.

For these reasons, I would urge the proponents of the Scenic Byways Program to work in good faith with the committee to resolve this issue, because while it remains outstanding, I find that my enthusiasm for considering any legislation they may advance in the future involving this program will be greatly diminished.

That concludes my explanation of the pending matter.

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

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

Mr. Speaker, H.R. 2178, as amended, will provide for a 4-year reauthorization of the Hazardous Materials Transportation Act. This is a relatively simple reauthorization, with no extensive or comprehensive policy changes or initiatives included in the bill.

H.R. 2178 clarifies the use of the term "packaging" under the act, provides timeframes for Secretarial action on certain exemption applications, and provides the Secretary with the discretion to waive filing requirements for foreign shippers if the shipper's country does not impose such requirements on U.S. shippers.

Section 5 of H.R. 2178 expands current employee training programs by creating a supplemental grant for firefighters under the section 117–A public sector grant program and expands the current section 118 training grants for private sector employees.

I want to thank the gentleman from West Virginia [Mr. RAHALL] for agreeing to my request to include reporting requirements in regard to the use and effectiveness of these training grants.

Also included in the bill is a small-scale pilot project to determine the feasibility of establishing a tracking system for motor carrier shipments.

I want to make it clear that the Public Works Committee is not endorsing any particular technology and intends to give the Secretary wide latitude in carrying out this section. A similar rail project is now underway in Houston, and a motor carrier pilot project has been recommended in a recently submitted report by the National Academy of Sciences.

Finally, two other provisions provide for a study on the transportation of hazardous materials near prisons and a review of the use of open head fiber drums for domestic shipments of certain hazardous materials.

I want to commend Chairman RAHALL, along with full committee Chair MINETA and ranking Republican member BUD SHUSTER, for moving this legislation through the Public Works Committee. I also want to recognize the cooperation of our colleagues on the Energy and Commerce Committee which was necessary in order to bring H.R. 2178 before the House today.

Mr. Speaker, we have an outstanding safety record in regard to hazardous materials transportation and passage of H.R. 2178 will allow us to continue to safely transport hazardous materials in the United States.

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

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of this legislation to amend the Hazardous Materials Transportation Act to authorize appropriations through fiscal year 1997. This legislation is the result of successful and amicable negotiations between the Energy and Commerce and the Public Works and Transportation Committees. I want to especially thank Chairman MINETA, Chairman SWIFT, Chairman RAHALL, and their excellent staffs as well. I would also like to thank Mr. MOORHEAD, Mr. OXLEY, Mr. SHUSTER, and Mr. PETRI. I appreciate the opportunity for us to work out our differences in a constructive and fruitful manner.

The transportation of hazardous materials is a matter of great public concern. Because of the serious threat presented to the public, property, and the environment, there is an increasing awareness of the legal and regulatory issues relating to the transportation of hazardous materials. The Department of Transportation estimates that over 500,000 movements of hazardous materials occur each day in the United States, with over 4 billion tons moving each year.

This is a good bill and it begins to address some problems which earlier legislation did not. We look forward to working with the Public Works Committee in the future to deal with these and other issues.

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

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, this hazardous materials transportation bill has been an excellent example of how this place should work. Everyone involved in this should be very proud of their work, and I thank the gentleman from Michigan [Mr. DINGELL] for having yielded to me.

Mr. Speaker, this hazardous materials transportation bill is a compromise package put together by the Energy and Commerce Committee and the Public Works Committee. As we worked on this reauthorization, I think both committees discovered that the major changes we made in this legislation 3 years ago are being implemented very successfully. The brevity of this reauthorization legislation is a testament to that success and an acknowledgment that relatively few changes need be made at this time. In the end, we will move a step closer in protecting our workers and our communities from the dangers of hazardous materials transportation.

As I have mentioned, this bill makes only a few substantive changes, each of which will serve to build on the solid foundation that is already in place. I will mention only those within Energy and Commerce's rail jurisdiction, leaving the motor carrier provisions to the Public Works Committee.

First, this bill establishes important programs for the training of both hazardous materials employees and the emergency responders that handle the unfortunate aftermath of accidents.

Next, it allows the Secretary of Transportation to exempt foreign offerors of hazardous materials from the registration requirements under the act. This was in response to concerns expressed by the administration that foreign governments would begin to impose registration requirements on U.S. companies that offer hazmat shipments overseas that might be far more expensive and cumbersome than our own. This could significantly hamper U.S. participation in foreign markets. In addition, the beneficiaries of this program—that is, the States, Indian Tribes, and local governments—are already exempted from these fees. It would be inequitable to require foreign governments to register when the beneficiaries of the program do not have to. Take note that foreign carriers operating in the United States will still have to register.

Next, this legislation establishes time limits for the administration to respond to requests for preemption determinations and exemption applications. Until now, no limits have been in place and there has been concern that these administrative determinations were not being considered in a timely fashion.

Finally, this legislation asks the Department of Transportation to determine if open-head fiber drums can be safely used for domestic transport of liquid hazmat. I am confident that the solution in this bill does not undermine the Department's significant move toward performance standards, yet will help to determine if a product is being unfairly kept out of the hazmat transportation market.

In processing the 1990 hazmat legislation, this committee developed an excellent working relationship with Public Works. I am extremely pleased that this relationship continued this time around. Their subcommittee chairman, Mr. RAHALL, and their full committee chairman, Mr. MINETA, dealt with Energy and Commerce in a spirit of cooperation that was greatly appreciated. In addition, I greatly appreciate the input and cooperation of the minority on both committees in crafting this legislation and bringing it to the floor. In the end, I believe we produced an excellent product that will help us move closer to the safe transportation of hazardous materials.

Mr. RAHALL. Mr. Speaker, I thank the distinguished gentleman from Washington [Mr. SWIFT] for his comments and wish to commend him, as well, for his help on this legislation.

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

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 2178, a bill to amend the Hazardous Materials Transportation Act to provide for authorizations for fiscal years 1994 through 1997.

The Congress last dealt with the transportation of hazardous materials in 1990, when it adopted the most comprehensive revision of the act since it was first enacted in 1974. That revision, known as the Hazardous Materials Transportation Uniform Safety Act of 1990, made many important regulatory changes, including a number of them in the area of training. The provisions of those 1990 amendments are in various stages of implementation at the Department of Transportation.

H.R. 2178 includes several provisions for fine tuning of the act. It also adds several program changes which add more strength to the act's training programs for both public sector emergency responders and for transportation employees of private business concerns who handle hazardous materials and who respond to incidents or accidents involving the transportation of hazardous materials.

I want to thank our subcommittee chairman, NICK RAHALL, the ranking member of our committee, Congressman SHUSTER, and the ranking subcommittee member, Mr. PETRI, for the fine work they performed on this legislation. I also want to thank Chairman DINGELL, Chairman SWIFT, and Congressmen MOORHEAD and OXLEY for their cooperation and leadership in bringing this bill to the floor.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in strong support of this legislation to reauthorize the hazardous materials safety activities of the Department of Transportation. This bill represents a strong bipartisan effort of the two committees of jurisdiction—Energy and Commerce, and Public Works and Transportation. The final version we are considering today is in essence a combination of the reauthorization bills approved by these two committees.

We could not have achieved this strong bipartisan consensus without the very diligent efforts of the leaders on both committees. I want to recognize specifically the efforts of Mr. MINETA, the Public Works chairman, Mr. SHUSTER, the ranking member of Public Works, Mr. RAHALL, the Surface Transportation Subcommittee chairman, and Mr. PETRI, the ranking member of that subcommittee. On the Energy and Commerce side, I commend Chairman DINGELL, our ranking member, Mr. MOORHEAD, and our Transportation Subcommittee chairman, Mr. SWIFT.

H.R. 2178 is in effect a renewal with minor midcourse corrections of the hazardous materials legislation approved in 1990. At that time, the Congress substantially revised and strengthened almost all major aspects of DOT's hazardous materials safety programs. The rulemakings, studies, and other efforts to implement the 1990 legislation are just now being completed. As a result, today's bill makes only relatively small changes in the existing laws to clarify certain points and eliminate ambiguities that have arisen since 1990. I strongly commend both committees for maintaining their focus on this important but limited purpose of the legislation.

All Americans have a stake in the safe transportation of hazardous materials. We use products every day that require hazardous materials ingredients. We live and work near factories and transportation facilities that send, use, and receive shipments of hazardous materials. Thus, the very existence of our modern civilization exposes us to potential hazardous materials accidents, and gives us a vital stake in successful safety programs. I am glad to be a part of this legislation to renew and strengthen those programs.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 2178, with amendments, the Hazardous Materials Transportation Act Reauthorization Amendments of 1993. This bill reauthorizes the Hazardous Materials Transportation Act and makes certain additional, necessary changes to the existing bill.

I want to congratulate my colleagues from the Public Works and Transportation Committee, Chairman MINETA, Surface Transportation Subcommittee Chairman RAHALL, and ranking member Mr. PETRI for their hard work on this important bill. I also want to thank Energy and Commerce Committee Chairman DINGELL and ranking member MOORHEAD for their hard work and cooperation in producing this legislation.

Our two committees worked hard together to enact a law in 1990 that made major changes to the Hazardous Materials Transportation Act [HMTA] which governs the transportation of hazardous materials in this country. Because the 1990 law was so comprehensive and has been so successful, the reauthorization bill this year is straightforward and does not make any major changes to the HMTA.

Hazardous materials transportation in this country has never been safer. We enjoy a tremendous safety record while transporting over one-half million shipments per day of hazardous materials—materials necessary for our industries and from which we all benefit. Our two committees' stringent oversight of the program has helped to achieve that safety record and I am sure that our actions today will serve to continue our enviable record.

H.R. 2178, as amended, reauthorizes the Hazardous Materials Transportation Act for 4 years, makes some technical clarifications, imposes a reciprocal registration fee waiver to foreign shippers and provides for certain training and studies for hazardous material related issues. I urge my colleagues to support H.R. 2178.

I also want to note that a provision to clarify a section of the Highway Beautification Act was dropped out of H.R. 3460, the bill reported by the Public Works and Transportation Committee, due to a jurisdictional conflict with the Energy and Commerce Committee. I have a commitment that this issue will be dealt with at the first appropriate opportunity.

The provision in question is section 13 of H.R. 3460 as reported by the Public Works and Transportation Committee. This provision made a technical correction to section 131(s) of the Highway Beautification Act, as added by the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], that prohibits new billboards on scenic byways.

The purpose of the ISTEA provision was to protect truly scenic areas. All discussion of that provision related to scenic values, and the understanding of the Members during consideration of that provision was that it related solely to roads in scenic areas.

The Federal Highway Administration interpreted that provision to override other provisions of the Highway Beautification Act that permit the erection of billboards in commercial and industrial areas. Under the FHWA interpretation, the new ISTEA provision applies to commercial and industrial areas that may be designated as part of a scenic byway, for the purposes of connecting scenic areas.

A State that has a scenic byway program will in most cases want to designate continuous scenic byway routes. That is, a scenic route that traverses mostly rural areas may pass through towns and cities. The advantages of continuous scenic byways are numerous, particularly concerning mapping and notice to motorists.

What the FHWA interpretation means is that if a State designates a segment of road that runs through a commercial and industrial area as part of a scenic byway for the purpose of connectivity, that segment of road would be subject to the new billboard prohibition—no matter how urban or blighted that commercial or industrial area might be, and even if the State does not want to change its billboard regulation in commercial and industrial areas.

The Public Works and Transportation Committee believes that the FHWA interpretation of section 131(s) is not the best reading of the section. The last sentence of section 131(s) reads as follows: "Control of any sign, display, or device on such a highway shall be in accordance with this Section." This section includes subsection (d), the commercial and industrial exemption. The Congress intended by this sentence that the scenic byway provisions would be subject to all the other provisions of the Highway Beautification Act.

In addition, if Congress had intended to override other longstanding provisions of the act, it would have explicitly done so. A basic feature of the Beautification Act is to permit States to allow billboards to remain in industrial and commercial areas. Congress would not have relied on inference to make such a drastic change in the law. Indeed, the conferees on ISTEA never discussed the possibility of overturning the commercial and industrial exemption.

The anomaly of the FHWA interpretation is that it preempts States in an area where they have never been preempted under the Highway Beautification Act. Under the act, a State

may ban new billboards anywhere in the State, including commercial and industrial zones. The State may also choose to continue the Federal commercial and industrial exemption. The FHWA interpretation tells the State that if it designates a continuous scenic byway, it may not—as a matter of Federal law—continue the commercial and industrial exemption even in the most blighted areas.

The FHWA interpretation may have the perverse result of providing a disincentive to the designation of scenic byways. A State that wants to designate a continuous route, but does not want to change billboard regulation in commercial and industrial areas, is prevented from doing so.

Again, it is very important to emphasize that States have complete authority to ban new billboards and that authority would have continued under section 13 of H.R. 3460 as reported by the Public Works and Transportation Committee. The purpose of the technical amendment in section 13 of H.R. 3460 was to ensure that the designation of a scenic byway does not, by itself, change billboard regulation in commercial and industrial areas. States should continue to have the discretion as to whether or not to ban billboards in commercial and industrial areas.

I would simply note in conclusion that a great deal of misinformation has been disseminated with regard to this provision. The opponents have led people to believe that it would allow billboards to be placed anywhere on scenic byways. This is simply untrue. We will continue our efforts to make sure that this technical amendment is passed.

Mr. MOORHEAD. Mr. Speaker, I strongly support this bipartisan legislation to reauthorize the hazardous materials transportation programs of the Department of Transportation. Those of us in California have become even more conscious of the importance of safe practices in the transportation of hazardous materials, in the wake of some major accidents of this type in the last several years.

The bill we are considering today is basically a fine tuning of the comprehensive revision of the Hazardous Materials Transportation Act enacted in 1990. For that reason, H.R. 2178 is deliberately and appropriately limited in scope. It is oriented primarily toward clarifying and correcting some minor problems and ambiguities that have arisen since the enactment of the 1990 law.

We could not have produced such a constructive bill without the diligent bipartisan efforts of both of the committees involved. On the Public Works and Transportation Committee, I want to note the outstanding efforts of Chairman MINETA, ranking member SHUSTER, Surface Transportation Subcommittee Chairman RAHALL, and ranking subcommittee member PETRI. On our own Energy and Commerce Committee, I commend our chairman, JOHN DINGELL, our subcommittee chairman, AL SWIFT, and our ranking subcommittee member, MIKE OXLEY. Without the efforts of all of these gentlemen, we could not have produced a timely bill of this quality. I urge its approval by the House. Thank you, Mr. Speaker.

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise in support of H.R. 2178, the hazardous materials transportation authorization. Although there are many important changes contained in this legislation, I would like to bring to my colleagues attention one provision of particular importance to my home State of New Jersey.

This provision addresses the problem created by the Department of Transportation rule HM–181 regarding open-head fibre drums. Simply put, this provision would allow the continued authorization of open-head fibre drums for the domestic transportation of a limited number of materials. Furthermore, this provision only allows such authorization pending further examination by the Research and Special Programs Administration [RSPA]. Considering the excellent safety record of fibre drums, I believe that putting a brake on RSPA's regulatory zeal by giving that agency time to review this matter is a reasonable solution. Additionally, this provision will save jobs by allowing fibre drums to continue to be used by industry. Sonoco Products of Carteret, NJ, estimates that it would have to lay off up to 100 workers if this provision is not passed.

As a member of the House Public Works and Transportation Committee, I was pleased to play a role in ensuring that this provision was included as part of the final bill. Mr. Speaker, I urge a "yea" vote on H.R. 2178.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 2178, 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 amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997 and for other purposes.".

A motion to reconsider was laid on the table.

DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3216) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances such as methcathinone and methamphetamine, and for other purposes as amended.

The Clerk read as follows:

H.R. 3216

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 "Domestic Chemical Diversion Control Act of 1993".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33), by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters," before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified"; and

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38), by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v), by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title III based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40), by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(42) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(43) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of that portion relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B), by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D), by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1), by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e), by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State, and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b), by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f), by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2), by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2), by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3), by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6), by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e), by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h), by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by amending paragraphs (6) and (7) to read as follows:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III;

"(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title or title III or, in the case of an exportation, in violation of this title or title III or of the laws of the country to which it is exported;";

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

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

"(9) to distribute, import, or export a list I chemical without the registration required by this title or title III.".

SEC. 4. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 5. EXEMPTION AUTHORITY; ANTI-SMUGGLING PROVISION.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1505(a) of this Act, is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 4(b) of this Act, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

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

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 6. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B), by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C), by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 7. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 8. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 9. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 10. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

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

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 the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, I want to point out to the Members that H.R. 3216 makes important changes in the Controlled Substances Act and in the Controlled Substances Import and Export Act.

Mr. Speaker, the purpose of H.R. 3216 is to assist the Drug Enforcement Administration in the identification of manufacturers of ephedrine that may be supplying illicit drug traffickers in Michigan and surrounding States. Ephedrine is the key ingredient used in production of a powerful and illicit stimulant known as CAT. The legislation before us closes a dangerous loophole in the Controlled Substances Act that provides an unlimited exemption from record keeping requirements for manufacturers of FDA approved drugs sold over-the-counter.

The legislation enjoys the strong support of the Drug Enforcement Administration. In a letter to the committee the DEA indicated that passage of H.R. 3216 will be critical to strengthening Federal chemical control law. The agency writes:

> This legislation will greatly increase our ability to deny clandestine laboratory operators access to the chemicals which they need to synthesize illicit controlled substances.

Mr. Speaker, this legislation would not have been possible without the leadership of the bill's able author, the gentleman from Michigan Mr. STUPAK. It is no easy task to expedite passage of legislation late in the session. The gentleman saw a serious drug abuse crisis emerging in his district and worked with DEA and the committee to develop a solution. I commend him for this effort and initiative.

I urge support for the legislation.

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Mr. Speaker, I want to congratulate the author of this bill, the gentleman from Michigan [Mr. STUPAK], and thank him for his help on this much needed legislation. I yield 1 minute to the gentleman from Michigan.

Mr. STUPAK. Mr. Speaker, the legislation before us, the Domestic Chemical Diversion Act of 1993, is much needed legislation to help stop the spread of CAT, a highly addictive stimulant that is reaching epidemic proportions in Michigan's upper peninsula.

Methcathinone, or CAT, is spreading across northern Michigan and has recently penetrated, Wisconsin, Illinois, and Indiana. CAT is easily made in a laboratory, garage, basement, apartment, or back woods. CAT, resembles crack cocaine in appearance but is even more potent than crack. CAT is easily made in crude laboratories by combining household ingredients such as drain cleaner, epsom salts, battery acid, with ephedrine. Each ingredient, individually, is legal to possess and obtain. When combined, however, these ingredients produce the illegal substance CAT.

CAT is spreading rapidly from Michigan's upper peninsula across this Nation—CAT laboratories have been seized as far away as Indianapolis, Seattle, and Los Angeles. Two weeks ago, a CAT lab exploded and injured five people in Craig, CO. Each CAT lab seizure has a tie back to northern Michigan. While this drug is still regional, it promises to plague this Nation.

The key ingredient in making CAT is ephedrine, which can be obtained over the counter in tablet form. This legislation gives the Drug Enforcement Agency the tools it needs to identify manufacturers of ephedrine who may be supplying illicit drug traffickers. This legislation will close a loophole in the Controlled Substances Act that exempts ephedrine from recordkeeping requirements of the Food, Drug, and Cosmetic Act.

This legislation also allows the Attorney General, on a case-by-case basis, to remove exemptions for other chemicals beyond ephedrine that are being used in the production of illicit drugs like CAT.

Additionally, I want to note that this legislation will be helpful in preventing the spread of methamphetamine, or speed which is rampant in parts of California.

I want to thank Chairman DINGELL, Chairman WAXMAN, Chairman BROOKS, Mr. MOORHEAD, Mr. BLILEY and Mr. UPTON for their hard work on this legislation. By Passing this bill, the House will take an important step in stopping a looming CAT epidemic.

I urge swift passage of H.R. 3216.

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

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

Mr. Speaker, ephedrine is the active ingredient in multiple over-the-counter [OTC] drugs, used primarily for the treatment of asthma. Ephedrine is also the primary precursor used in the clandestine production of methamphetamine, commonly known as speed, and methcathinone, commonly known as CAT, in the United States.

Ephedrine has been a listed chemical under the provisions of the Chemical Diversion and Trafficking Act [CDTA] since 1988. The CDTA provides the Drug Enforcement Administration [DEA] with a system of recordkeeping and reporting requirements to track the domestic and international movement of listed chemicals. However, the CDTA does not regulate ephedrine in tablet form or when combined with another substance as an FDA approved product.

The purpose of H.R. 3216 is to subject FDA approved products to these recordkeeping and reporting requirements when the Attorney General has evidence that the product is being diverted for use in the production of illegal controlled substances.

It is important to point out that the exemption for combination ephedrine products is retained. These widely advertised, brand name products have not been associated with the diversion of listed chemicals. Therefore, no drug control purpose is served by requiring the manufacturers of such products to maintain extensive records. The bill does provide the Attorney General the authority to remove the exemption if there is evidence that an exempt product is being diverted for use in the illegal production of a controlled substance.

Mr. Speaker, very similar provisions have been included in the crime bill since 1991 and have passed the House twice. The DEA has been seeking this legislation since 1991 in order to obtain another weapon that it can use in the fight against illegal drug abuse.

I urge my colleagues to join me in supporting this legislation.

Mr. DINGELL. Mr. Speaker, H.R. 3216 makes important changes in the Controlled Substances Act and in the Controlled Substances Import and Export Act. These changes will allow the Drug Enforcement Administration to identify unscrupulous manufacturer who are supplying illicit drug traffickers with legal products that are then being converted into dangerous illegal drugs.

The legislation is needed because of a loophole in current law which essentially allows this practice to continue without appropriate law enforcement recourse. This loophole provides an unlimited exemption from recordkeeping and reporting requirements for manufacturers of over-the-counter drugs manufactured according to Food and Drug Administration requirements.

I want to commend my colleague from Michigan, Mr. STUPAK, for his recognition of the tragic effects of this despicable activity in the State of Michigan.

The legislation particularly deals with the control of the chemical ephedrine, the key ingredient in a powerful illegal stimulant called methcathinone, or cat. The sale and abuse of cat, a substance similar to methamphetamine, has reached literally epidemic proportions on the Upper Peninsula of Michigan. The tragic impact of this drug abuse is especially seen in populations of vulnerable young people.

My able colleague from Michigan, Mr. STUPAK, identified this problem and immediately went to work on a solution. This legislation would not have been possible without his efforts, and his close work with the DEA in developing an appropriate legislative solution.

The DEA strongly supports this legislation. In a letter to the committee, DEA indicated that enactment of H.R. 3216 is critical to strengthening Federal chemical control law. The agency stated:

> This legislation will greatly increase our ability to deny clandestine laboratory operators access to the chemicals which they need to synthesize illicit controlled substances.

Mr. Speaker, I want particularly to acknowledge the cooperation and good will of the Judiciary Committee, which worked closely with us on this legislation. Without the assistance and commitment of both the gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice, and the gentleman from Texas [Mr. BROOKS], chairman of the committee, we would not have been able to bring this significant and important bill to the House floor.

I want to thank my colleagues from the Judiciary Committee for their cooperation, and for the hard and cooperative efforts of their staff, especially Marie McGlone.

Mr. ROTH. Mr. Speaker, I rise in support of this legislation. It is desperately needed to curtail the availability of a new and dangerous drug sweeping the Midwest—a drug known as cat.

Several years ago police, health officials, and the media were warning America about a dangerous new drug. This new drug could be manufactured easily from cocaine and sold cheaply and at a high profit. It was so addictive that users would kill and rob to support their habit.

Tragically, we were unsuccessful in stopping this new drug known as crack. Everyone knows the devastating result. Crack has destroyed the lives of thousands of Americans.

Mr. Speaker, today we are seeing history repeat itself. A new drug, cat, has taken hold in the Upper Peninsula of Michigan and is spreading to northeast Wisconsin, Minnesota, and other States in the Midwest. Cat is a highly addictive stimulant and is very dangerous.

Moreover, just as with crack cocaine, when cat moves from one community to the next, a wave of crime follows. In their desperation to support an expensive habit, people who are addicted to this new drug cat, steal to buy their daily fix. We must stop this new drug epidemic now, in its early stages, before we face another nightmare as dangerous as crack.

This bill will give law enforcement the tools they need to shut down the cat trade. It will cut off the availability of ephedrine, cat's key ingredient, now easily available in over-the-counter diet pills. By limiting the amount of ephedrine that can be purchased over the counter, this bill gives law enforcement officials the ability to shut down cat laboratories.

Mr. Speaker, I am pleased that Congress is acting on this bill before adjournment. Every day we delay allows the menace of cat to spread and destroy more lives. I urge the immediate adoption of this legislation.

Mr. MOORHEAD. Mr. Speaker, although ephedrine and the illegal production of methcathinone, or CAT, is a serious problem in the Midwest and particularly in Michigan, the use of ephedrine and the illegal production of methamphetamine, or speed, is an equally serious problem in California.

California has passed legislation to try to control this problem. However, the creativity of drug dealers in devising a means to circumvent the State law, demonstrates the need for Federal legislation.

California passed a law which became effective January 1, 1993, which controls the solid dosage form of ephedrine where ephedrine is the only active ingredient. If there is another active ingredient in the product, it is not controlled and can still be sold over the counter. Under this law, single-entity ephedrine products can not be distributed without a State registration and distributors must submit a report to the California Department of Justice.

Since the passage of this legislation, however, tablets containing ephedrine and guafenesin have emerged in an effort to circumvent the single-entity product distribution restrictions.

H.R. 3216 would provide for regulations of this new product. I urge my colleagues to join me in supporting this bill.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3216, 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.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1993

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3505) to amend the Developmental Disabilities Assistance and Bill of Rights Act to modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3505

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 "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993".

SEC. 2. TITLE AND PART HEADINGS.

(a) TITLE.—The heading of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended to read as follows:

"PART A—GENERAL PROVISIONS".

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in critical areas;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports; and

"(9) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society;

in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities and capabilities of each individual.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy (consistent with section 101(c)(2)), a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection, and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and the provision of services, supports and other assistance can improve such individuals' ability to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged and any assistance should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;

"(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) communities accept and support individuals with developmental disabilities and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(6) individuals with developmental disabilities have opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 4. TECHNICAL AMENDMENTS.

(a) PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—The heading of part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) SYSTEM REQUIRED.—Section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042) is amended by adding at the end the following subsection:

"(i) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report. The results of such reviews shall be distributed to the Governor of the State and to other interested public and private parties.".

(c) DEFINITION REGARDING UNIVERSITY AFFILIATED PROGRAMS.—The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended—

(1) in section 102(1)—

(A) by inserting ", except as provided in section 155," before "includes"; and

(B) by inserting "the Commonwealth of" before "Puerto Rico"; and

(2) by adding at the end of part D the following section:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.".

SEC. 5. AUTHORIZATIONS OF APPROPRIATIONS.

(a) PLANNING OF PRIORITY AREA ACTIVITIES.—Section 130 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6030) is amended by striking "$77,400,000" and all that follows and inserting the following: "$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(b) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 143 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6043) is amended by striking "$24,200,000" and all that follows and inserting the following: "$24,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(c) UNIVERSITY AFFILIATED PROGRAM.— Section 154 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making grants under subsections (a) through (e) of section 152, there are authorized to be appropriated $19,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

(d) PROJECTS OF NATIONAL SIGNIFICANCE.—Section 163(a) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6083(a)) is amended by striking "$3,650,000" and all that follows and inserting the following: "$4,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

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

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative day in which to revise and extend their remarks on the bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 3505 reauthorizes the Development Disabilities and Bill of Rights Act. The DD Act authorizes a number of programs that help people with development disabilities live safe and productive lives in both communities and institutions. These programs include the State Developmental Disabilities Councils, the Protection and Advocacy Programs, the University Affiliated Programs, and the Project of National Significance.

The legislation updates the findings and purposes sections of the act, makes several technical changes, and reauthorizes the programs for 3 years. The programs are authorized at $117 million for fiscal year 1994, which is the amount of appropriations for this year.

This legislation reflects the concerns of parents of children residing in institutions and contains language that was developed together with the Voice of the Retarded. The minority has participated in this process, and I know of no objections to the bill.

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

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

Mr. Speaker, H.R. 3505 reauthorizes the Development Disabilities Assistance and Bill of Rights Act. It makes minor modifications. Specifically, the bill updates the findings, purposes, and policies section.

Mr. Speaker, I yield such time as he may consume to the ranking member of the Committee on Energy and Commerce, the gentleman from California [Mr. MOORHEAD]

Mr. MOORHEAD. Mr. Speaker, I am very pleased that H.R. 3505 includes language responsive to the concerns of the Voice of the Retarded. I am also pleased that the committee report explicitly states that in passing this legislation, it is not the intent of Congress to eliminate the option of institutional care for severely disabled individuals.

The Voice of the Retarded is a national, nonprofit organization representing the families of mentally retarded persons. Their concerns involve the Senate-passed bill, S. 1284, and are related primarily to maintaining the involvement of parents and retaining the option of institutionalization in addition to community living arrangements for severely disabled individuals.

A key provision of H.R. 3505, section 101(c) highlight that the unique capabilities of individuals and their families need to be recognized in providing

assistance, and that individuals and their families are the primary decisionmakers regarding the services their family receives.

In preliminary discussions with the Senate, they have expressed a willingness to agree to this language. I intend to closely follow this bill to ensure that the language added to address the concerns of the V-O-R does in fact remain through conference.

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

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the very distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, H.R. 3505 reauthorizes programs under the Developmental Disabilities Assistance and Bill of Rights Act. They include State development disabilities councils, protection and advocacy programs, university affiliated programs, and projects of national significance.

I am certain all of my colleagues in the House are well aware that these programs provide significant support and assistance to individuals with developmental disabilities, and to their families, as they work to achieve their maximum potential and to live safely, productively, and happily.

I have heard loudly and clearly from the programs in my own State of Michigan that this reauthorization is critically important so that they can continue and enhance services and support to individuals with disabilities and to their families and other caregivers.

H.R. 3505 updates the findings and purposes sections of the act, makes several technical changes, and reauthorizes the programs for 3 years.

For fiscal year 1994, the authorization levels are consistent with current appropriations for the programs, a total of $117 million.

This bill reflects concerns expressed to us by parents of children living in institutions. In particular, the bill includes language that was developed together with the Voice of the Retarded.

We have worked closely with the Republican members of the Energy and Commerce Committee and its Health Subcommittee on this legislation. I want to thank my colleagues Mr. MOORHEAD and Mr. BLILEY for their assistance and that of their extremely able staff.

I addition, I want to thank the gentleman from Michigan [Mr. FORD], chairman of the Education and Labor Committee, and the gentleman from New York [Mr. OWENS], chairman of the Subcommittee on Select Education and Civil Rights, for their cooperation in arranging for the re-referral of the counterpart Senate bill, S. 1284.

Mr. Speaker, I know of no objections to this bill.

Mr. WAXMAN. 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 California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3505, 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.

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. 1284) to amend the Development Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1284

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. Title and part headings.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Federal share.
Sec. 105. Records and audits.
Sec. 106. Recovery.
Sec. 107. State control of operations.
Sec. 108. Reports.
Sec. 109. Responsibilities of the Secretary.
Sec. 110. Employment of handicapped individuals.
Sec. 111. Rights of the developmentally disabled.

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 201. Part heading.
Sec. 202. Purpose.
Sec. 203. State plans.
Sec. 204. Habilitation plans.
Sec. 205. Councils.
Sec. 206. State allotments.
Sec. 207. Federal share and non-Federal share.
Sec. 208. Payments to the States for planning, administration, and services.
Sec. 209. Withholding of payments for planning, administration, and services.
Sec. 210. Nonduplication.
Sec. 211. Appeals by States.
Sec. 212. Authorization of appropriations.
Sec. 213. Review, analysis, and report.

TITLE III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Sec. 301. Part heading.
Sec. 302. Purpose.
Sec. 303. System required.
Sec. 304. Authorization of appropriations.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Sec. 401. Part heading.
Sec. 402. Purpose.
Sec. 403. Grant authority.
Sec. 404. Applications.
Sec. 405. Grant awards.
Sec. 406. Authorization of appropriations and definition.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

Sec. 501. Part heading.
Sec. 502. Purpose.
Sec. 503. Grant authority.
Sec. 504. Authorization of appropriations.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. TITLE AND PART HEADINGS.

(a) TITLE.—The heading of title I of the Act is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS".

SEC. 102. FINDINGS AND PURPOSES.

Section 101 (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals with developmental disabilities to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities and their families often require specialized lifelong assistance, provided in a coordinated and culturally competent manner

by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play a central role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports; and

"(9) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy, a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection, and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and the provision of services, supports and other assistance can improve such individuals' ability to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(3) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) communities accept and support individuals with developmental disabilities and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(6) individuals with developmental disabilities have opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 103. DEFINITIONS.

Section 102 (42 U.S.C. 6001) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"For purposes of this title:

"(1) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian Consortium' means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

"(2) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

"(3) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of such individual in such individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, the family of an individual with a developmental disability; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

"(4) CHILD DEVELOPMENT ACTIVITIES.—The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(5) COMMUNITY LIVING ACTIVITIES.—The term 'community living activities' means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

"(6) COMMUNITY SUPPORTS.—The term 'community supports' means activities, services, supports, and other assistance designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

"(B) develop local networks that can provide informal support; and

"(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(7) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the individual attains age 22;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity—

"(i) self-care;

"(ii) receptive and expressive language;

"(iii) learning;

"(iv) mobility;

"(v) self-direction;

"(vi) capacity for independent living; and

"(vii) economic self-sufficiency; and

"(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that are of lifelong or extended duration and are individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

"(8) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means services provided to infants, toddlers, young children, and their families to—

"(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

"(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

"(9) EMPLOYMENT ACTIVITIES.—The term 'employment activities' means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

"(10) FAMILY SUPPORT SERVICE.—The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

"(11) FEDERAL PRIORITY AREAS.—The term 'Federal priority areas' means community living activities, employment activities, child development activities, and system coordination and community education activities.

"(12) INDEPENDENCE.—The term 'independence' means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

"(13) INDIVIDUAL SUPPORTS.—The term 'individual supports' means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

"(A) enable such individual to control such individual's environment, permitting the most independent life possible;

"(B) prevent placement into a more restrictive living arrangement than is necessary; and

"(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

"(14) INTEGRATION AND INCLUSION.—The term 'integration and inclusion', with respect to individuals with developmental disabilities, means—

"(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

"(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

"(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

"(D) having friendships and relationships with individuals and families of their own choosing.

"(15) NONPROFIT.—The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(16) OTHER ORGANIZATIONS.—The term 'other organizations' means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

"(17) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

"(18) PREVENTION.—The term 'prevention' means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

"(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

"(19) PRODUCTIVITY.—The term 'productivity' means—

"(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

"(B) engagement in work that contributes to a household or community.

"(20) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.

"(21) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(22) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(23) SERVICE COORDINATION ACTIVITIES.—The term 'service coordination activities' (also referred to as 'case management activities') means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

"(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

"(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

"(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

"(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

"(24) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

"(25) STATE DEVELOPMENTAL DISABILITIES COUNCIL.—The term 'State Developmental Disabilities Council' means a Council established under section 124.

"(26) STATE PRIORITY AREA.—The term 'State priority area' means priority area activities in an area considered essential by the State Developmental Disabilities Council.

"(27) SUPPORTED EMPLOYMENT.—The term 'supported employment' means competitive work in integrated work settings for individuals with developmental disabilities—

"(A)(i) for whom competitive employment has not traditionally occurred; or

"(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(28) SYSTEM COORDINATION AND COMMUNITY EDUCATION ACTIVITIES.—The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

"(C) enhance individual, family, and citizen participation and involvement; and

"(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

"(29) SYSTEMIC ADVOCACY.—The term 'systemic advocacy' means activities that identify, support, and recommend improvements in the planning, design, redesign, structure, delivery, or funding of generic or specialized services and supports.

"(30) UNIVERSITY AFFILIATED PROGRAM.—The term 'university affiliated program' means a university affiliated program established under section 152.".

SEC. 104. FEDERAL SHARE.

Section 103 (42 U.S.C. 6002) is repealed.

SEC. 105. RECORDS AND AUDITS.

(a) SECTION HEADING.—Section 104 (42 U.S.C. 6003) is amended—

(1) by striking "SEC. 104."; and

(2) in the section heading, by striking "RECORDS AND AUDIT" and inserting the following new section heading:

"SEC. 104. RECORDS AND AUDITS.".

(b) RECORDS AND AUDITS.—Section 104 (42 U.S.C. 6003) is amended—

(1) in subsection (a)—

(A) by striking "Each" and inserting "RECORDS.—Each";

(B) by striking "including" and inserting "including—";

(C) by realigning the margins of subparagraphs (A), (B), and (C) of paragraph (1) so as to align with the margins of subparagraphs (A) and (B) of paragraph (27) of section 102;

(D) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (30) of section 102;

(E) in paragraph (1), by striking "disclose" and inserting "disclose—"; and

(F) by striking the comma each place such appears and inserting a semicolon; and

(2) in subsection (b), by striking "The Secretary" and inserting "ACCESS.—The Secretary".

SEC. 106. RECOVERY.

Section 105 (42 U.S.C. 6004) is repealed.

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 106 (42 U.S.C. 6005) is amended—

(1) by striking "SEC. 106.";

(2) in the section heading, by striking "STATE CONTROL OF OPERATIONS" and inserting the following new section heading:

"SEC. 106. STATE CONTROL OF OPERATIONS.";

and

(3) by striking "facility for persons" and inserting "programs, services, and supports for individuals".

SEC. 108. REPORTS.

(a) SECTION HEADING.—Section 107 (42 U.S.C. 6006) is amended—

(1) by striking "SEC. 107."; and

(2) in the section heading, by striking "REPORTS" and inserting the following new section heading:

"SEC. 107. REPORTS.".

(b) REPORTS.—Section 107 (42 U.S.C. 6006) is amended—

(1) in subsection (a)—

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

(i) by striking, "By January" and inserting "DEVELOPMENTAL DISABILITIES COUNCIL REPORTS.—By January";

(ii) by striking "the State Planning Council of each State" and inserting "each State Developmental Disabilities Council";

(iii) by striking "a report concerning" and inserting "a report of"; and

(iv) by striking "such report" and inserting "report";

(B) in paragraph (1), by striking "of such activities" and all that follows through "from such activities" and inserting "of activities and accomplishments";

(C) in paragraph (2)—

(i) by striking "such accomplishments" and inserting "accomplishments"; and

(ii) by striking "by the State";

(D) in paragraph (4)—

(i) by striking "Planning" and inserting "Developmental Disabilities";

(ii) by striking "each" each place such term appears;

(iii) by striking "report" and inserting "reports";

(iv) by striking "1902(a)(31)(C)" and inserting "1902(a)(31)";

(v) by striking "plan" and inserting "plans"; and

(vi) by striking "; and" and inserting a semicolon;

(E) by striking paragraph (5); and

(F) by adding at the end the following new paragraphs:

"(5) a description of—

"(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, including individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(C) a summary of actions taken to improve access and services for unserved and underserved groups;

"(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

"(7) a description of the method by which the State Developmental Disabilities Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.";

(2) in subsection (b)—

(A) by striking "By January" and inserting "PROTECTION AND ADVOCACY SYSTEM REPORTS.—By January"; and

(B) by inserting before the period ", including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used"; and

(3) in subsection (c)—

(A) by realigning the margins of subparagraphs (A) and (B) of paragraph (1) so as to align with the margins of subparagraph (C) of such paragraph;

(B) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (1) of subsection (a);

(C) by striking "(c)" and inserting "(c) SECRETARY REPORTS.—";

(D) by striking "(1) By" and inserting the following:

"(1) IN GENERAL.—By";

(E) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "integration" each place such term appears and inserting "integration and inclusion"; and

(II) by striking "persons" and inserting "individuals";

(ii) by striking subparagraph (C) and inserting the following new subparagraph:

"(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, including individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(iii) a summary of actions taken to improve access and services for unserved and underserved groups;"; and

(iii) in subparagraph (D), by striking "persons" and inserting "individuals"; and

(F) in paragraph (2)—

(i) by striking "use and include" and inserting "include and analyze"; and

(ii) by striking "to the Secretary".

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

(a) SECTION HEADING.—Section 108 (42 U.S.C. 6007) is amended—

(1) by striking "SEC. 108."; and

(2) in the section heading, by striking "RESPONSIBILITIES OF THE SECRETARY" and inserting the following new section heading:

"SEC. 108. RESPONSIBILITIES OF THE SECRETARY.".

(b) RESPONSIBILITIES.—Section 108 (42 U.S.C. 6007) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "REGULATIONS.—The Secretary"; and

(2) in subsection (b)—

(A) by striking "Within ninety" and inserting "INTERAGENCY COMMITTEE.—Within 90"; and

(B) by striking "Administration for Developmental Disabilities" and inserting "Administration on Developmental Disabilities,".

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

(a) SECTION HEADING.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "SEC. 109."; and

(2) in the section heading, by striking "EMPLOYMENT OF HANDICAPPED INDIVIDUALS" and inserting the following new section heading:

"SEC. 109. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.".

(b) EMPLOYMENT.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "handicapped individuals" and inserting "individuals with disabilities";

(2) by striking "Act of" and inserting "Act of 1973"; and

(3) by striking "which govern" and all that follows through "subcontracts." and inserting the following: "that govern employment—

"(1) by State rehabilitation agencies and community rehabilitation programs; and

"(2) under Federal contracts and subcontracts.".

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

(a) SECTION HEADING.—Section 110 (42 U.S.C. 6009) is amended—

(1) by striking "SEC. 110."; and

(2) in the section heading, by striking "RIGHTS OF THE DEVELOPMENTALLY DISABLED" and inserting the following new section heading:

"SEC. 110. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.".

(b) RIGHTS.—Section 110 (42 U.S.C. 6009) is amended—

(1) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(2) in paragraph (1), by striking "Persons" and inserting "Individuals";

(3) in paragraph (2)—

(A) by striking "a person" and inserting "an individual";

(B) by striking "the person" and inserting "the individual"; and

(C) by striking "the person's" and inserting "the individual's";

(4) in paragraph (3), by striking "persons" each place such term appears and inserting "individuals";

(5) in paragraph (4), by striking "persons" each place such term appears and inserting "individuals"; and

(6) in the matter after subparagraph (C), by striking "persons" each place such term appears and inserting "individuals".

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. PART HEADING.

The heading of Part B of title I of the Act is amended to read as follows:

"PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS".

SEC. 202. PURPOSE.

Section 121 (42 U.S.C. 6021) is amended to read as follows:

"SEC. 121. PURPOSE.

"The purpose of this part is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy, the development of a consumer and family-centered, comprehensive system and a coordinated array of services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.".

SEC. 203. STATE PLANS.

Section 122 (42 U.S.C. 6022) is amended to read as follows:

"SEC. 122. STATE PLAN.

"(a) IN GENERAL.—Any State desiring to take advantage of this part shall have a State plan submitted to, and approved by, the Secretary under this section.

"(b) PLANNING CYCLE.—The plan under subsection (a) shall be reviewed annually and revised at least once every 3 years.

"(c) STATE PLAN REQUIREMENTS.—In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

"(1) STATE COUNCIL.—The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 124 and describe the membership of such Council.

"(2) DESIGNATED STATE AGENCY.—The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 124(d).

"(3) COMPREHENSIVE REVIEW AND ANALYSIS.—The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

"(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

"(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

"(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

"(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

"(iii) consideration of the report conducted pursuant to section 124(e);

"(iv) consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act;

"(v) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

"(vi) an analysis of existing and projected fiscal resources;

"(vii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

"(viii) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (v) for all subpopulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

"(4) PLAN OBJECTIVES.—The plan shall—

"(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

"(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy agenda in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

"(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

"(5) ASSURANCES.—The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

"(A) USE OF FUNDS.—With respect to the funds paid to the State under section 125, the plan shall provide assurances that—

"(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

"(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

"(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

"(iv) part of such funds will be made available by the State to public or private entities;

"(v) not more than 25 percent of such funds will be allocated to the agency designated under section 124(d) for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

"(vi) not less than 65 percent of the amount available to the State under section 125 shall be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area; and

"(vii) the remainder of the amount available to the State from allotments under section 125 (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 124(c).

"(B) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

"(C) CONFLICT OF INTEREST.—The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

"(D) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

"(E) PROGRAM STANDARDS.—The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

"(F) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities and capabilities of an individual.

"(G) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 110 (relating to rights of individuals with developmental disabilities).

"(H) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

"(I) INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SURVEY REPORTS.—The plan shall provide assurances that the State will provide the State Developmental Disabilities Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

"(J) VOLUNTEERS.—The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(K) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community

living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(L) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State.

"(M) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council.

"(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(d) PUBLIC REVIEW, SUBMISSION, AND APPROVAL.—

"(1) PUBLIC REVIEW.—The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation.

"(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

"(3) PLAN APPROVAL.—The Secretary shall approve any State plan and annual updates of such plan that comply with the provisions of subsections (a), (b), and (c). The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State.".

SEC. 204. HABILITATION PLANS.

Section 123 (42 U.S.C. 6023) is repealed.

SEC. 205. COUNCILS.

Section 124 (42 U.S.C. 6024) is amended to read as follows:

"SEC. 124. STATE DEVELOPMENTAL DISABILITIES COUNCILS AND DESIGNATED STATE AGENCIES.

"(a) IN GENERAL.—Each State that receives assistance under this part shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the 'Council') to conduct systemic change, capacity building, and advocacy activities on behalf of all individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c).

"(b) COUNCIL MEMBERSHIP.—

"(1) COUNCIL APPOINTMENTS.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council shall coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

"(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor and the Secretary, and the Secretary shall contact the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

"(3) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D, the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

"(A) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

"(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 122(c)(5)(C).

"(4) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 50 percent of the membership of each Council shall consist of individuals who are—

"(A)(i) individuals with developmental disabilities;

"(ii) parents or guardians of children with developmental disabilities; or

"(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

"(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under this part.

"(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (4)—

"(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

"(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), or immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

"(C) one-third shall be a combination of individuals described in paragraph (4)(A).

"(6) INSTITUTIONALIZED INDIVIDUALS.—Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

"(c) COUNCIL RESPONSIBILITIES.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

"(1) SYSTEMIC CHANGE, CAPACITY BUILDING, AND ADVOCACY.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 121.

"(2) EXAMINATION OF PRIORITY AREAS.—Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families, pursuant to section 122.

"(3) STATE PLAN DEVELOPMENT.—The Council shall develop and submit to the Secretary the State plan required under section 122 after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

"(4) STATE PLAN IMPLEMENTATION.—The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 102, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

"(A) DEMONSTRATION OF NEW APPROACHES.—The Council may conduct, on a time-limited basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this part, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

"(B) OUTREACH.—The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

"(C) TRAINING.—The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

"(D) SUPPORTING COMMUNITIES.—The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals

and their families access, resources, and opportunities.

"(E) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

"(F) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may conduct activities to enhance coordination with—

"(i) other councils or committees, authorized by Federal or State statute, concerning such individuals with disabilities (such as the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973, the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act and other similar councils or committees);

"(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

"(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

"(G) BARRIER ELIMINATION, SYSTEMS DESIGN, AND CITIZEN PARTICIPATION.—The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

"(H) PUBLIC EDUCATION AND COALITION DEVELOPMENT.—The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

"(I) INFORMING POLICYMAKERS.—The Council may provide information to Federal, State, and local policymakers, including the Congress, the Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

"(J) PREVENTION.—The Council may conduct prevention activities as defined in section 102.

"(K) OTHER ACTIVITIES.—The Council may conduct other systemic change, capacity building, and advocacy activities to expand and enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

"(5) STATE PLAN MONITORING.—Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

"(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the appropriateness of the designated State agency and make any recommendations for change to the Governor.

"(7) REPORTS.—The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities under this part including—

"(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

"(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies that negatively affect the provision of staff support of the Council; and

"(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

"(9) STAFF HIRING AND SUPERVISION.—A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be for cause only, based on documented performance evaluations and consistent with State law and personnel policies. Council directors and staff who are exempt from State personnel policies may be dismissed based only on documented performance criteria.

"(10) STAFF ASSIGNMENTS.—The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

"(11) CONSTRUCTION.—Nothing in this part shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

"(d) DESIGNATED STATE AGENCY.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall designate the State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993, any designation of a State agency shall be made in accordance with the requirements of this subsection.

"(2) DESIGNATION.—

"(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

"(i) the Council if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

"(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

"(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination at the discretion of the Governor (or legislature as the case may be) shall consider the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an advocate for individuals with developmental disabilities.

"(C) REVIEW OF DESIGNATION.—After October 1, 1993, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

"(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

"(3) RESPONSIBILITIES.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (A) through (F).

"(A) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

"(B) FISCAL RESPONSIBILITIES.—The designated State agency shall—

"(i) receive, account for, and disperse funds under this part based on the State plan required in section 122; and

"(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper dispersement of, and accounting for, funds paid to the State under this part.

"(C) RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

"(D) NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 125A(c).

"(E) ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

"(F) MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

"(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

"(A) NECESSARY EXPENDITURES OF STATE DESIGNATED AGENCY.—At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

"(B) CONDITION FOR FEDERAL FUNDING.—Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

"(C) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

"(e) 1990 REPORT.—Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

"(1) COMPREHENSIVE REVIEW AND ANALYSIS.—Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) CONSUMER SATISFACTION.—Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individual's families.

"(3) PUBLIC REVIEW AND COMMENT.—Each Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) BASIS FOR STATE PLAN.—Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 206. STATE ALLOTMENTS.

(a) SECTION HEADING.—Section 125 (42 U.S.C. 6025) is amended—

(1) by striking "SEC. 125."; and

(2) in the section heading, by striking "STATE ALLOTMENTS" and inserting the following:

"SEC. 125. STATE ALLOTMENTS.".

(b) ALLOTMENTS.—Section 125 (42 U.S.C. 6025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A), (B), and (C) so as to align with the margin of subparagraph (A) of paragraph (4); and

(ii) by realigning the margin of the matter following subparagraph (C) so as to align with the margin of paragraph (3);

(B) by striking "(a)(1) For" and inserting the following:

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—For";

(C) in paragraph (2)—

(i) by striking "(2) Adjustments" and inserting the following:

"(2) ADJUSTMENTS.—Adjustments";

(ii) by striking "may be" and inserting "shall be"; and

(iii) by striking "not less" and inserting "and the percentage of the total appropriation for each State not less";

(D) in paragraph (3)—

(i) by striking "(3)(A) Except" and all that follows through "September 30, 1990." and inserting the following:

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $210,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i), may not be less than the greater of—

"(I) $400,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).."; and

(ii) by striking "(B) Notwithstanding" and inserting the following:

"(B) REDUCTION OF ALLOTMENT.—Notwithstanding";

(E) in paragraph (4), to read as follows:

"(4) MAXIMUM ALLOTMENT.—

"(A) IN GENERAL.—In any case in which amounts appropriated under section 130 for a fiscal year exceeds $75,000,000, the allotment under this section for such fiscal year—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $220,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i) may not be less than the greater of—

"(I) $450,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).

"(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).";

(F) in paragraph (5)—

(i) by striking "In determining" and inserting "STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining"; and

(ii) by striking, "section 122(b)(2)(C)" and inserting "section 122(c)(3)(A)"; and

(G) in paragraph (6), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(2) in subsection (b), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(3) in subsection (c), by striking "Whenever" and inserting "COOPERATIVE EFFORTS BETWEEN STATES.—Whenever"; and

(4) in subsection (d), by striking "The amount" and inserting "REALLOTMENTS.—The amount".

SEC. 207. FEDERAL SHARE AND NON-FEDERAL SHARE.

Part B of title I of the Act is amended by inserting after section 125 (42 U.S.C. 6025) the following new section:

"SEC. 125A. FEDERAL AND NON-FEDERAL SHARE.

"(a) AGGREGATE COSTS.—The Federal share of all projects in a State supported by an allotment to the State under this part may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

"(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

"(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

"(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 122, the Secretary shall not consider—

"(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 125; and

"(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(c) NON-FEDERAL SHARE.—

"(1) IN KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project assisted by a grant or an allotment under this part may be provided in kind.

"(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS, PUBLIC, OR PRIVATE ENTITIES.—

"(A) IN GENERAL.—Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this part.

"(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 124(d)(4), may be counted as part of such State's non-Federal share of allotments under this part.

"(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required on a grant-by-grant basis may vary.".

SEC. 208. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 126 (42 U.S.C. 6026) is amended—

(1) by striking "SEC. 126." and inserting "(a) STATE PLAN EXPENDITURES.—";

(2) in the section heading, by striking "PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following:

"SEC. 126. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

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

"(b) SUPPORT SERVICES.—Payments to States for support services provided by the designated State agency pursuant to section 124(d)(4) may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.".

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 127 (42 U.S.C. 6027) is amended—

(1) in the matter preceding paragraph (1), by striking "SEC. 127.";

(2) in the section heading by striking "WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following:

"SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) in paragraph (1), by striking "sections" and inserting "section".

SEC. 210. NONDUPLICATION.

Section 128 (42 U.S.C. 6028) is repealed.

SEC. 211. APPEALS BY STATES.

Section 129 (42 U.S.C. 6029) is amended—

(1) by striking "SEC. 129."; and

(2) in the section heading, by striking "APPEALS BY STATES" and inserting the following:

"SEC. 129. APPEALS BY STATES.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

Section 130 (42 U.S.C. 6030) is amended—

(1) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(2) by striking "years 1992 and 1993" and inserting "years 1995 and 1996".

SEC. 213. REVIEW, ANALYSIS, AND REPORT.

(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental Disabilities Assistance and Bill of Rights Act prior to the date of enactment of this Act, including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act.

(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act.

(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

TITLE III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 301. PART HEADING.

The heading of part C of title I of the Act is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 141 (42 U.S.C. 6041) is amended—

(1) by striking "SEC. 141.";

(2) in the section heading, by striking "PURPOSE" and inserting the following:

"SEC. 141. PURPOSE.";

(3) by striking "system" and inserting "Protection and Advocacy system (hereafter referred to in this part as the 'system')"; and

(4) by striking "persons" and inserting "individuals".

SEC. 303. SYSTEM REQUIRED.

(a) SECTION HEADING.—Section 142 (42 U.S.C. 6042) is amended—

(1) by striking "SEC. 142."; and

(2) in the section heading, by striking "SYSTEM REQUIRED" and inserting the following:

"SEC. 142. SYSTEM REQUIRED.".

(b) SYSTEM.—Section 142 (42 U.S.C. 6042) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "SYSTEM REQUIRED.—In order";

(B) in paragraph (1), by striking "persons" and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) in subparagraph (A), by striking "minority" and inserting "underserved geographical areas and ethnic and racial minority";

(iii) by striking subparagraph (C);

(iv) in subparagraph (E), by striking "Planning Council" and inserting "Developmental Disabilities Council authorized under part B";

(v) in subparagraph (F), by striking "and" at the end thereof; and

(vi) in subparagraph (G)—

(I) in clause (i), by striking "person" each place such term appears and inserting "individual";

(II) in the matter preceding subclause (I) of clause (ii), by striking "person" and inserting "individual";

(III) in clause (ii)(I), by striking "by reason of the mental or physical condition of such person" and inserting "by reason of such individual's mental or physical condition";

(IV) in clause (ii)(III), by striking "person" and inserting "individual";

(V) in clause (iii), by realigning the margins of subclauses (I), (II), and (III) so as to align with the margins of subclauses (I), (II), and (III) of clause (ii);

(VI) in clause (iii), by striking "(iii) any" and inserting the following:

"(iii) any"; and

(VII) in clause (iii)(III), by striking "person" and inserting "individual";

(D) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (I), respectively;

(E) by inserting after subparagraph (B) the following new subparagraphs:

"(C) on an annual basis, develop a statement of objectives and priorities for the system's activities; and

"(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—

"(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and

"(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and with other related programs, including the Parent Training and Information Centers, education ombudsman programs and assistive technology projects;";

(F) by inserting after subparagraph (G), as so redesignated in subparagraph (D), the following new subparagraph:

"(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident;";

(G) by adding at the end the following new subparagraphs:

"(J) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such State shall not apply hiring freezes, reductions in force, or other policies that negatively affect the provision of staff support to the system, or restrict

travel to training and technical assistance activities funded under this Act;

"(K) have the authority to educate policymakers; and

"(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;"

(H) by striking paragraphs (3) and (5);

(I) in paragraph (4)—

(i) by striking "the State" and all that follows through "provided with" and inserting "the State must provide to the system";

(ii) by striking "1902(a)(31)(B)" and inserting "1902(a)(31)"; and

(iii) by redesignating such paragraph as paragraph (3); and

(J) by adding at the end the following new paragraph:

"(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.";

(2) in subsection (b)—

(A) by striking "(b)(1) To" and inserting the following:

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—To";

(B) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A) and (B) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(ii) in subparagraph (A), to read as follows:

"(A) the total amount appropriated under section 143 for a fiscal year is at least $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $107,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $200,000; or

"(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).."; and

(iii) in subparagraph (B), to read as follows:

"(B) the total amount appropriated under section 143 for a fiscal year is less than $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $80,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $150,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(C) by realigning the margins of subparagraphs (A) and (B) of paragraph (2) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(D) by realigning the margins of paragraphs (2) through (4) so as to align with paragraph (4) of subsection (a);

(E) in paragraph (2), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(F) in paragraph (3), by striking "A State" and inserting "MONITORING THE ADMINISTRATION OF THE SYSTEM.—A State";

(G) in paragraph (4), by striking "Notwithstanding" and inserting "REDUCTION OF ALLOTMENT.—Notwithstanding"; and

(H) by inserting at the end the following new paragraph:

"(5) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which amounts appropriated under section 143 for a fiscal year exceeds $24,500,000, the Secretary shall—

"(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach $24,500,000) to eligible systems with respect to activities carried out under this title; and

"(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortiums to provide protection and advocacy services.";

(3) in subsection (c), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "In States" and inserting "GOVERNING BOARD.—In States";

(B) in paragraph (1), by inserting before the semicolon "and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals"; and

(C) by adding at the end the following new paragraph:

"(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—

"(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

"(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals.";

(5) in subsection (e) by striking "As used" and inserting "RECORDS.—As used";

(6) in subsection (f)—

(A) by striking "If the" and inserting "ACCESS TO RECORDS.—If the"; and

(B) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(7) in subsection (g)—

(A) by striking "(g)(1) Nothing" and inserting the following:

"(g) LEGAL ACTION.—

"(1) IN GENERAL.—Nothing";

(B) in paragraph (1), by striking "persons" and inserting "individuals"; and

(C) in paragraph (2), by striking "(2) Amounts" and inserting the following:

"(2) USE OF AMOUNTS FROM JUDGMENT.—Amounts";

(8) in subsection (h), by striking "Notwithstanding" and inserting "PAYMENT TO SYSTEMS.—Notwithstanding";

(9) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(10) by inserting after subsection (a) the following new subsection:

"(b) AMERICAN INDIAN CONSORTIUM.—Upon application to the Secretary, an American Indian consortium, as defined in section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium shall coordinate activities with existing systems."; and

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

"(j) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this Act, the Secretary shall not require a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(k) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 143 (42 U.S.C. 6043) is amended—

(1) by striking "SEC. 143.";

(2) in the section heading, by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting the following:

"SEC. 143. AUTHORIZATION OF APPROPRIATIONS.";

(3) by striking "$24,200,000 for fiscal year 1991" and inserting "$29,000,000 for fiscal year 1994"; and

(4) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

SEC. 401. PART HEADING.

The heading of part D of title I of the Act is amended to reads as follows:

"PART D—UNIVERSITY AFFILIATED PROGRAMS".

SEC. 402. PURPOSE.

Section 151 (42 U.S.C. 6061) is amended to read as follows:

"SEC. 151. PURPOSE AND SCOPE OF ACTIVITIES.

"The purpose of this part is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities

through the provision of the following activities:

"(1) Interdisciplinary preservice preparation of students and fellows, including the preparation of leadership personnel.

"(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

"(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities.".

SEC. 403. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 152 (42 U.S.C. 6062) is amended—

(1) by striking "SEC. 152."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following:

"SEC. 152. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 152 (42 U.S.C. 6062) is amended—

(1) in subsection (a)—

(A) by striking "From appropriations" and inserting "ADMINISTRATION AND OPERATION.—From appropriations"; and

(B) by striking "102(18)." and inserting "151. Grants may be awarded for a period not to exceed 5 years.";

(2) in subsection (b), to read as follows:

"(b) TRAINING PROJECTS.—

"(1) IN GENERAL.—From amounts appropriated under section 156(a), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

"(2) ELIGIBILITY LIMITATIONS.—A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

"(A) such program has operated for at least 1 year; or

"(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

"(3) AREAS OF FOCUS.—Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging national significance described in subparagraphs (A) through (G).

"(A) EARLY INTERVENTION.—Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

"(B) AGING.—Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

"(C) COMMUNITY SERVICES.—Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community members, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

"(D) POSITIVE BEHAVIORAL SUPPORTS.—Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

"(i) address ethical and legal principles and standards, including the role of personal values in designing assessments and interventions;

"(ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;

"(iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;

"(iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;

"(v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;

"(vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and

"(vii) address techniques for evaluating the outcomes of interventions.

"(E) ASSISTIVE TECHNOLOGY SERVICES.—Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(F) AMERICANS WITH DISABILITIES ACT.—Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

"(G) OTHER AREAS.—Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

"(4) COURSES, TRAINEESHIPS AND FELLOWSHIPS.—Grants under this subsection may be used by university affiliated programs to—

"(A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and

"(B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(5) PROHIBITED ACTIVITIES.—Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a).

"(6) CRITERIA.—Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

"(A) APPLICATION.—An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

"(i) competency and value based;

"(ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

"(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

"(B) GENERAL PROJECT REQUIREMENTS.—Training projects under this subsection shall—

"(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(ii) be conducted in consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(iii) be integrated into the appropriate university affiliated program and university curriculum;

"(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(v) to the extent practical, be conducted in environments where services are actually delivered;

"(vi) to the extent possible, be interdisciplinary in nature; and

"(vii) to the extent possible, address the unique needs of individuals with developmental disabilities from ethnic, cultural, and linguistic minority backgrounds.";

(3) in subsection (c)—

(A) by striking "From amounts appropriated under section 154(b)" and inserting "SUPPLEMENTAL AWARDS.—From amounts appropriated under section 156(a)";

(B) in paragraph (1)—

(i) by striking "service-related training to persons" and inserting "interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals";

(ii) by striking "integration into the community of persons with developmental disabilities" and inserting "integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b)"; and

(iii) by striking "persons" each place such term appears and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "(A) the" and inserting "the";

(ii) by striking "persons" and inserting "individuals";

(iii) by striking "(B) the" and inserting "the"; and

(iv) by striking "parents" and inserting "family members";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "(e) From amounts appropriated under section 154(a)" and inserting "(d) FEASIBILITY STUDIES.—From amounts appropriated under section 156(a)"; and

(B) by striking "or a satellite center" each place such term appears; and

(6) by striking subsections (f) and (g).

SEC. 404. APPLICATIONS.

(a) SECTION HEADING.—Section 153 (42 U.S.C. 6063) is amended—

(1) by striking "SEC. 153."; and

(2) in the section heading, by striking "APPLICATIONS" and inserting the following:

"SEC. 153. APPLICATIONS.".

(b) APPLICATIONS.—Section 153 (42 U.S.C. 6063) is amended—

(1) in subsection (a)—

(A) by striking "Not later than six" and inserting: "STANDARDS.—Not later than 12";

(B) by striking "Act of 1984" and inserting "Assistance and Bill of Rights Act Amendments of 1993";

(C) by striking "persons" and inserting "individuals"; and

(D) by striking "section 102(18)" and inserting "section 151";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "No grants" and all that follows through "Such an application" and inserting "ASSURANCES.—The application under subsection (a)";

(B) in paragraph (1), by striking "grant will" and all that follows through "level of such funds;" and inserting the following: "grant will—

"(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

"(B) be used to supplement and, to the extent practicable, increase the level of such funds;";

(C) in paragraph (2), by striking "subsection (a)" each place such term appears and inserting "subsection (b)";

(D) in paragraph (3)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) by striking "treatment, services, or habilitation" and inserting "services"; and

(iii) by striking "the developmentally disabled" and inserting "individuals with developmental disabilities"; and

(E) in paragraph (5)—

(i) by striking "Planning" and inserting "Developmental Disabilities"; and

(ii) by striking "or the satellite center is or will be located";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (a), (b), and (e) as subsections (b), (c), and (f), respectively;

(5) by inserting after the section heading the following new subsection:

"(a) IN GENERAL.—No grants may be made under section 152(a) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.";

(6) by inserting after subsection (c), as so redesignated by paragraph (4), the following new subsections:

"(d) CONSUMER ADVISORY COMMITTEE.—The Secretary shall only make grants under section 152(a) to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of any project to be provided through grants under this part may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

"(2) PROJECT EXPENDITURES.—For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this part.";

(7) in subsection (f), as so redesignated by paragraph (4)—

(A) by striking "(f)(1) The Secretary" and inserting the following:

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary";

(B) in paragraph (1), by striking "Such peer review" and all that follows through "152(b)(1)(D)";

(C) in paragraph (2)—

(i) by striking "(2) Regulations" and inserting the following:

"(2) REGULATIONS.—Regulations"; and

(ii) by striking "experience or training" and inserting "experience and training";

(D) in paragraph (3), to read as follows:

"(3) APPROVAL.—

"(A) IN GENERAL.—The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) APPLICABILITY.—This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.";

(E) in paragraph (4)—

(i) by striking "(4) The Secretary" and inserting the following:

"(4) ESTABLISHMENT OF PEER REVIEW GROUPS.—The Secretary"; and

(ii) by realigning the margins of subparagraphs (A) and (B) so as to align with the margin of subparagraph (A) of paragraph (3); and

(F) in paragraph (5), by striking "(5) The Secretary" and inserting the following:

"(5) WAIVERS OF APPROVAL.—The Secretary"; and

(8) by adding at the end the following new subsection:

"(g) REVIEW BY OTHER FEDERAL AGENCIES.—The Secretary shall establish such a process for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.".

SEC. 405. GRANT AWARDS.

Section 154 (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. PRIORITY FOR GRANT AWARDS.

"(a) IN GENERAL.—In awarding and distributing grant funds under this part, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

"(1) EXISTING STATE UNIVERSITY AFFILIATED PROGRAMS.—First priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to an existing State university affiliated program that meets the requirements under section 153.

"(2) UNSERVED STATES.—Second priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to a university or public or nonprofit entity associated with a college or university that desires to establish a university affiliated program in a State that is unserved by a university affiliated program as of the date of enactment of the Developmental Assistance and Bill of Rights Act Amendments of 1993.

"(3) TRAINING PROJECTS IN ALL UNIVERSITY AFFILIATED PROGRAMS.—Third priority shall be given, with respect to the provision of grant awards, to each university affiliated program that receives funding under section 152(a) and that meets the eligibility limitations under section 152(b) to the establishment of training projects under section 152(b) in the amount of $90,000 in each such program.

"(4) INCREASED FUNDING FOR TRAINING PROJECTS.—Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 152(b) to $100,000.

"(5) INCREASED FUNDING FOR UNIVERSITY AFFILIATED PROGRAMS.—Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university affiliated program grant award under section 152(a) to $250,000.

"(6) ADDITIONAL TRAINING.—Sixth priority shall be given, with respect to the provision of grant awards, to an existing university affiliated program in a State that is served by such program under section 152(a) to provide additional training under subsection (b) or (c) of section 152 within such State or other

geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university affiliated program within such State under section 152(a). All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university affiliated program in the State (if applicable) and in consultation with the State Developmental Disabilities Council.

"(b) ADDITIONAL PROGRAMS.—For purposes of making grants under subsection (a)(6), the Secretary shall consider applications for grants for university affiliated programs—

"(1) for States that are currently underserved by a university affiliated program; and

"(2) that are in addition to the total number of university affiliated programs receiving grants under this subsection for the preceding fiscal year.

"(c) SINGLE APPLICATION.—When every State is served by a university affiliated program under section 152(a) in the amount of $200,000 and every such program has been awarded a training grant under section 152(b) in the amount of $90,000, the Secretary may accept applications under such sections in a single application.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Part D of title I (42 U.S.C. 151 et seq.) is amended by adding at the end the following new sections:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"SEC. 156. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of making grants under subsections (a), (b), (c), and (d) of section 152, there are authorized to be appropriated $21,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) LIMITATION.—With respect to peer review or other activities directly related to peer review, the Secretary may not use—

"(1) for fiscal year 1994, more than $300,000 of the funds made available under subsection (a) for such review or such other activities;

"(2) for any succeeding fiscal year, more than the amount of the funds made availabe under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities.".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

The heading of part E of title I of the Act is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

SEC. 502. PURPOSE.

Section 161 (42 U.S.C. 6081) is amended to read as follows:

"SEC. 161. PURPOSE.

"The purpose of this part is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

"(1) data collection and analysis;

"(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

"(A) technical assistance for the development of information and referral systems;

"(B) educating policymakers;

"(C) Federal interagency initiatives;

"(D) the enhancement of minority participation in public and private sector initiatives in developmental disabilities; and

"(E) special pilots and evaluation studies to explore the expansion of programs under part B to individuals with severe disabilities other than developmental disabilities.".

SEC. 503. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 162 (42 U.S.C. 6082) is amended—

(1) by striking "SEC. 162."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following:

"SEC. 162. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 162 (42 U.S.C. 6082) is amended—

(1) in subsection (a), to read as follows:

"(a) IN GENERAL.—The Secretary—

"(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

"(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of State Developmental Disabilities Councils under part B, protection and advocacy systems under part C, and university affiliated programs under part D, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under parts B, C, and D; and

"(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

"(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families and improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

"(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

"(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families; and

"(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are traditionally unserved or underserved (including individuals of ethnic and racial minority groups, and individuals from underserved geographical areas) including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under parts B, C, and D, and increase the involvement of students and professionals of such groups in the provision of services to, supports to, and advocacy for, individuals with developmental disabilities.";

(2) in subsection (b), to read as follows:

"(b) APPLICATION AND OTHER GRANT REQUIREMENTS.—No grant may be made under subsection (a) unless—

"(1) an application has been submitted to the Secretary in such form, in such manner, and containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

"(2) each State in which the applicant's project will be conducted has a State plan approved under section 122;

"(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this part will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities); and

"(4) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application.";

(3) in subsection (c), by striking "Not later" and inserting "PRIORITIES FOR GRANTS.—Not later";

(4) in subsection (d)—

(A) by striking "Payments under" and inserting "GRANT PAYMENTS.—Payments under"; and

(B) by inserting before the period in the second sentence ", except as otherwise provided under section 163";

(5) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(6) by inserting after subsection (a) the following new subsection:

"(b) INVESTIGATIONS.—

"(1) IN GENERAL.—Not later than October 1, 1993, there shall be a special initiative to support grants to investigate the expansion of part B activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

"(A) A national study of State Developmental Disabilities Councils that are currently mandated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

"(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers, opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

"(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

"(2) APPLICATION.—No grant may be made under this subsection unless an applicant

submits to the Secretary an application, and meets the additional application requirements, under subsection (c)."; and

(7) by adding at the end thereof the following new subsection:

"(f) LIST OF RECIPIENTS.—Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b), including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 163(a) (42 U.S.C. 6083(a)) is amended—

(1) by striking "$3,650,000" and inserting "$4,000,000";

(2) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(3) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

(b) LIMITATIONS.—Section 163(b) (42 U.S.C. 6083(b)) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) PROJECTS OF NATIONAL SIGNIFICANCE.—At least 8 percent, but in no event less than $300,000, of the amounts appropriated pursuant to subsection (a) shall be used to carry out the provisions of section 162(a)(1)(B).

"(2) INVESTIGATIONS.—

"(A) IN GENERAL.—The additional authority to fund projects under section 162(b) shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

"(B) TIME LINE FOR FUNDING.—If amounts are available to carry out subparagraphs (A), (B), and (C) of section 162(b)(1), the Administration shall provide funding to carry out such paragraphs not later than May 1 of the fiscal year in which such funds become available.

"(3) PROGRAMMATIC REVIEWS OR OTHER ADMINISTRATIVE ACTIVITIES.—The Secretary may not use the funds made available under subsection (a) for programmatic reviews as prescribed by regulation or other administrative activities under parts B, C, and D.

"(4) TECHNICAL ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—If technical assistance to improve the effectiveness of protection and advocacy systems under part C is provided under section 142(c)(5)—

"(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this part; and

"(B) the amount set aside for technical assistance under section 162(a)(1)(B) shall be proportionally reduced.".

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike all after the enacting clause of the Senate bill, S. 1284, and to insert in lieu thereof the provisions of H.R. 3505, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read:

A bill to amend the Development Disabilities Assistance and Bill of Rights Act to modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3505) was laid on the table.

NEW COLUMBIA ADMISSION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 316 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 51.

□ 1618

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, with Mr. MFUME in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Saturday, November 20, 1993, the gentlewomen from the District of Columbia [Ms. NORTON] had 15 minutes of debate remaining, and the gentleman from Virginia [Mr. BLILEY] had 15 minutes of debate remaining.

The Chair recognizes the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, my hometown is San Jose, CA. It's a little larger in population than Washington, DC, and I know how my people in San Jose would feel if they weren't allowed to send voting representatives to the House of Representatives and the Senate.

When I was sworn in in January 1963, the people of Washington, DC, referred to their city as a plantation. It was run by the chairman of the House District of Columbia Committee, Chairman, JOHN MCMILLAN.

Since then Washington has come a long way as Congress grudgingly gave them home rule.

The right to vote is an important civil right. The people of Washington, DC, are denied that civil right when they are not allowed to vote to send fully empowered representatives to the House of Representatives and the Senate.

Mr. Chairman, it's time to get rid of the last remnants of the plantation.

Vote "yes" for statehood.

□ 1620

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, today I rise in support of District of Columbia statehood and in support of this bill. I rise in support of what is fair, what makes sense, and what is right.

Almost 30 years ago on a Sunday afternoon just like today, in a little town called Selma in the heart of the Black Belt of Alabama, some of us were beaten with billy clubs and bullwhips, bloodied and trampled upon by horses. We wanted to march across the Edmund Pettus Bridge, the Alabama River, on our way to Montgomery. We wanted to dramatize to the Nation that people of color could not register and vote. We had one simple message: one man, one vote.

What happened that bloody Sunday was shown on televisions all over the world. Our Nation was shocked, embarrassed, moved.

A few days later, President Johnson went on national television and said that what had happened in Selma was wrong.

He announced that he would push for voting rights legislation; and he did. the result was the Voting Rights Act of 1965.

What people all over this country are seeing on television today ought to embarrass us, ought to move us. It is not right that we have to be here in 1993 debating whether to give American citizens living right here in the shadow of the Capitol the right to be represented in Congress. It is not right. You know it. And, I know it.

It is not right that there are still Americans for whom one-man, one-vote is still a dream. It is not right that there are still Americans for whom democracy is not a reality. It is not right that there are still Americans who face taxation without representation.

Many of us have risen on this floor to speak in support of these principles—in Russia, Haiti, China, Somalia, and South Africa. We have cast dozens of votes supporting democracy in other countries.

The time is long overdue to extend these same principles to the people of the District of Columbia. The time is now to do what is fair, what is right and what is just. I urge you to support H.R. 51.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I have heard a great deal of talk about civil rights. I have supported every single civil rights measure that has passed this Congress since 1955, and I was a cosponsor of almost all of them. I believe very strongly in civil rights. But I think we need to look at the situation before us.

The Congress of the United States was driven out of Philadelphia just prior to the time that the Constitution was adopted. As a result of that, to protect the Congress and the interests and

the concerns of all the people, the Congress was given plenary legislative jurisdiction in article I of the U.S. Constitution over the seat of Government, the District of Columbia. That is to protect the Congress in its deliberations. It is to protect all of the people of the United States.

The citizens of the District of Columbia have all rights of any other citizen. They are assured of protection of each and every constitutional right. There is only one which they complain they do not have, and that is the right to vote for a Member of Congress or for a Member of the Senate.

Residents of the District of Columbia, by the Constitution, have the right to vote for the President of the United States. And, indeed, if this legislation passes, we will give them two votes for the President of the United States, not one, because of the 23d amendment. Imagine then a State which is going to have not one, but two votes for the President of the United States, as opposed to what every other State has.

Mr. Chairman, this is a blessed place. The District of Columbia knows very little hardship. The District of Columbia has $4.92 returned to it for every $1 that is paid in taxes to the Federal Government. This is not an area which is hurting. The principal industries are provided by the Federal Government: government, lobbying, entertainment, and tourism. These enterprises provide prosperity and security for all of the people of Washington, DC.

There is no citizen in Washington who is chained to the pillars of the Capitol or the Washington Monument. They can leave any time they are so minded. I urge Members to reject this legislation.

Ms. NORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE], the last State to be admitted to the Union.

Mr. ABERCROMBIE. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, as a Representative from the last State to be admitted into the Union, in 1959, I want to point out what happened with some of the other States. Alaska; the arguments against were the population was too small for statehood, resources of revenue uncertain, 99 percent of the land federally owned. Arizona; violence, territory lacks resources to sustain a State government. Colorado: State had a disproportionate share of influence in the Congress and the population of the territory was not stable. Florida; population too small. We get to Hawaii, we get to South Dakota, the territories had a disproportionate share of influence in the Congress and the populations were not large enough.

These are the kinds of arguments that are being brought up today. This is the kind of prejudice that was held. Violence and racism was at the root of trying to stop almost every bid for statehood from every State that has existed. New Mexico, Arizona, all the western States.

Mr. Chairman, what we ask for today is the justice for the people of the District of Columbia that you gave to us in Hawaii.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I am happy to join my colleague. There is absolutely no reason on Earth that the citizens of the District of Columbia cannot be given the same privileges of every other citizen in this Nation. They can vote for the President. There is no reason why they cannot have full recognition in the Congress of the United States. To afford them that, they must become a State.

All the arguments that were used to prevent statehood for Hawaii have been used against the people of the District of Columbia. It is time to make history today. Vote for the bill, H.R. 51, and make the District of Columbia the 51st State in the Nation.

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

Mr. DELAY. Mr. Chairman, I rise in strong opposition to statehood for the District of Columbia. We ought to be debating on this floor whether we ought to be taking home rule away from the District and take over the city.

In my opinion, the District has not even shown the ability to govern itself as a city, much less a State. The District's hug-a-thug attitude on violent crime and the continued misuse of the city's police department is one example that clearly demonstrates the fact that the District is not a State and should not be considered for statehood.

What is a hug-a-thug attitude? The Wall Street Journal reported earlier this month that Washington has more police per capita than any other city in America.

□ 1630

However, qualification requirements for D.C. cops are lax. In May 1985, a recruit to the police academy could be expelled for failing two exams; 7 months later the same recruit had to fail six exams to be sent packing. Finally, in 1988, after 40 percent of graduating recruits failed the final comprehensive exam, the police academy abolished the test. Did this have an impact on District cops? You bet it did. Mike Hubbard, a detective who spend 5 years training recruits states, "I saw people who were practically illiterate. I have seen people diagnosed as borderline-retarded graduate from the police academy." This is absurd. Is this an indication that the District is ready for statehood?

Wait, there is more.

Former Washington cop Montague Holmes states that because of the lax hiring procedures "a lot of people who were in the drug rackets joined the police department. Some of them went straight when they joined the department, some of them didn't." The Journal reports that last year, 36 officers were indicted on charges such as dope dealing, sexual assault, murder, sodomy, and kidnaping. In another incident, thousands of confiscated weapons being stolen from a police warehouse by employees. At least one of these weapons was later used in a murder. Finally, just last Friday, the D.C. corrections chief stated that 1,530 halfway house residents escaped and over 900 are still at large.

Folks, let us get one thing straight. The District, a liberal bastion of corruption and crime has yet to come even close, in this Member's eyes, to deserving the awesome privilege and responsibility of statehood.

This House would be better off considering a provision I and many of my colleagues support, the repeal of home rule. The Constitution dictates that we have a Federal City. Let us take it back and clean it up.

The CHAIRMAN. The Chair wishes to advise those Members controlling debate time that the gentlewoman from the District of Columbia [Ms. NORTON] has 11 minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 10 minutes remaining.

Ms. NORTON. Mr. Chairman, I ask that in light of the remarks just made that this vote be decided on the basis of democratic principles and not District bashing.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. STARK], chairman of the Committee on the District of Columbia.

Mr. STARK. Mr. Chairman, the action of the House this weekend is the culmination of a process that began long ago. It would be impossible to thank all of those who have contributed to the statehood debate. I particularly want to recognize the commitment of the many citizens, organizations, and public officials to this issue. My thanks to the committee staff—both current employees and those who served under my predecessor as chairman, RON DELLUMS—who have worked diligently to help us arrive at this defining moment.

I would be remiss if I did not acknowledge my colleagues on the Committee on the District of Columbia, including those on the minority side. Although the minority members oppose statehood, I commend them, particularly the ranking member on the committee, TOM BLILEY, for their thoughtful and respectful approach to this issue.

Mr. Chairman, as I indicated in my opening statement yesterday, Congress

has considered D.C. statehood legislation for nearly 30 years. This is the first time the measure has been brought to a vote on the floor of this great Chamber. I want to express my utmost admiration to my colleague, ELEANOR HOLMES NORTON, a respected member of our committee and this House, for living up to her commitment to advance consideration of statehood to this point.

As the debate proceeded yesterday, I asked my colleagues to consider whether any objection raised by statehood opponents was significant enough to continue denying democracy to 600,000 American citizens. Nothing we heard yesterday justifies continuing this insult to freedom and justice.

Mr. Chairman, my colleague from Virginia, Mr. BLILEY, kept claiming yesterday that the bill before us is fatally flawed. He kept pointing to an elaborate street map, and complaining that certain Senate office buildings would be located in the State of New Columbia. Well, my colleagues, I submit to you that the only map that really matters in this debate is this one: the United States Constitution. In its Preamble it states quite eloquently:

> We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common Defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

My colleagues, the real fatal flaw in this debate is our failure to follow this map; to follow these basic constitutional principles; to follow the direction of the Declaration of Independence that governments derive their just powers from the consent of the governed.

I say to my colleagues, let us not be detoured from the road to democracy. Vote for justice. Vote for D.C. statehood.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state it.

Mr. BLILEY. Mr. Chairman, who has the right to close?

The CHAIRMAN. The right to close debate is reserved by the committee. That time is controlled by the gentlewoman from the District of Columbia [Ms. NORTON].

Mr. BLILEY. I thank the Chair.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. SAXTON], a member of the committee.

Mr. SAXTON. Mr. Chairman, it has been said here many times that two of the main questions which must be answered for the District of Columbia to achieve statehood are: First, is it within the realm of reason, given the provisions of the U.S. Constitution, for the District of Columbia to become a State, and, second, is it reasonable to expect that the new State would be able to manage its affairs as a State, financial and otherwise.

The answer to the constitutional question is clearly expressed in article I, section 8, clause 17:

> Congress shall have the power to exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of Government of the United States * * *.

We all know that we cannot change that language in the Constitution with H.R. 51.

And, the answer to the second question pertaining to D.C.'s ability to manage its own affairs is, at best, in great question.

I today renew my pledge and my commitment to the gentlewoman and her constituents to work with her to achieve our shared goal, an improved position relative to representation for those who live in the world's seat of democracy, Washington, DC.

Ms. NORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, today we are faced with making a decision that requires us to choose among two alternatives, neither of which is perfect. We can vote to grant, or to deny, statehood to the District of Columbia.

We have never had city-States in our country. In the 200 years of our Nation's history, we have never granted statehood to a city. To vote to do so today might appear to set a bad precedent, to be irresponsible, to be frivolous.

But, as a democracy that stands for all that we stand for in the United States, we cannot continue to deny the full rights of citizenship to the more than 600,000 people who reside in the District of Columbia. Thousands of men and women have died to preserve and protect our constitutional liberties. And many of those who have given their lives have come from the District of Columbia. In fact, the District of Columbia ranks third among the States in military service to our Country. Men and women from the District of Columbia have given their lives to protect liberties they themselves have never been granted.

Even so, it can be convincingly argued that there are other ways to grant those liberties. The city of the District of Columbia could be given back to the State of Maryland. But, that will not happen; only 7 of the 189 legislators in the State of Maryland support retrocession.

The people of the District of Columbia pay more Federal taxes per person than the people of 48 States, including my home State of Indiana. If we do not choose to grant statehood to the District of Columbia, then we choose to continue to deny full rights to the people who live there. We choose to continue to subject them to taxation without representation. And we choose to tell them "they may not enjoy the same constitutional rights as the rest of us."

It may not seem right to grant statehood to a city. Making a city a State is not a perfect solution. But it is the only viable solution. And it is a solution that reflects the rights and liberties that are the foundation of our great Nation.

Ms. NORTON Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. EVANS.]

Mr. EVANS. Mr. Chairman, I also rise in strong support of this resolution.

Mr. Chairman, I can think of 56,700 reasons why the District of Columbia should become a State: 56,700 represents 52,900 veterans who live in the District and 3,800 D.C. residents who have died in foreign wars in this century.

The 56,700 also incorporates the 3,100 District citizens who served us so well in the Persian Gulf war. The District sent proportionately more troops off to that war than many States. Yet, when Congress debated sending troops off to the gulf, the District had no vote in the House or the Senate. With its 600,000 residents, it has a larger population than three States.

Vote to give the District statehood so it can have a vote in such important matters; 56,700 reasons compel us to do so.

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

Ms. NORTON. Mr. Chairman, I appreciate the groundbreaking opportunity that was granted to the people of the District of Columbia yesterday afternoon and today. For the first time in more than 200 years, the House considered the civic and political status of the District of Columbia.

I appreciate the strong support the Committee on the District of Columbia chairman, the gentleman from California [Mr. STARK], has given to H.R. 51 and to me throughout this process.

□ 1640

I appreciate as well the work of the gentleman from California [Mr. DELLUMS], whose valiant work for almost 15 years as chairman of the Committee on the District of Columbia helped prepare for this day.

I thank the House leadership for the respect they have shown to District residents, the only Federal taxpaying Americans without full representation in this body. I thank the many Members who spoke for the District yesterday, despite the long wait, and the many others who submitted statements for the RECORD.

I thank my opponents, led by my friend and colleague, the gentleman from Virginia, TOM BLILEY, the ranking member of the Committee on the District of Columbia. The gentleman from Virginia [Mr. BLILEY] and his colleagues deserve credit for the seriousness and respect with which they have conducted their opposition in committee and pursued debate on the floor yesterday.

Finally, I thank the President of the United States, who worked with me in an effort to rally Members and committed his top staff as well. I remind

Members that in a recent letter to Members, President Clinton said, "I urge Members to vote in favor of H.R. 51 as a matter of principle," and I ask that that letter and editorials as well in support be included for the RECORD.

The letter referred to follows:

THE WHITE HOUSE,
Washington, November 18, 1993.

Hon. ELEANOR HOLMES NORTON,
House of Representatives, Washington, DC.

DEAR ELEANOR: I understand that the House will soon consider H.R. 51 to give statehood to the District of Columbia. I urge members to vote in favor of H.R. 51 as a matter of principle.

As you know, I strongly support statehood for the District of Columbia. It is fundamentally unfair that the residents of the District are denied full representation and participation in our national life. It is equally unfair that they are denied the self-government enjoyed by the fifty states and four territories. The residents of the District have long served this country in many ways, including defending the United States and its democratic values with honor, valor, and sacrifice. Justice demands that the people of the District at long last be accorded full political equality.

I am deeply committed to the goal of statehood for the District of Columbia. I urge Congress to recognize that fairness and democracy require this goal and to take all necessary steps to achieve it.

Sincerely,

BILL.

Ms. NORTON. Mr. Chairman, I, too, ask for the Members' vote as a matter of principle. This is what this vote is about this afternoon. It is not about the themes of the opposition. Their argument that H.R. 51 is unconstitutional has already been laid to rest by this body and the courts. The Congress may reduce the size of the District, as it has done twice before, once to preserve the institution of slavery in Virginia. This action was tested in the courts and the Supreme Court allowed it to stand.

Our opponents claim that the District clause in the Constitution allows them to do as they please with the people of the District. Precedents in the House and the Senate and the courts make clear that they can do the same with the lands that form the District.

H.R. 51 may be unusual, it is surely unprecedented, but my colleagues, it is not unconstitutional. H.R. 51 is about the basics of democracy.

This bill is about this chart entitled "D.C.'s Total Tax Burden for 1992." The bars of this graph depicting eight States rise until they reach the District of Columbia. Our tax burden is greater than Wyoming, North Dakota, South Dakota, Vermont, Montana, Alaska, and Idaho. Except for counterfeit constitutional arguments, our opponents have not taken on the basics because there are no acceptable responses. Instead, they have trivialized statehood by pretending that the boundaries will produce absurd results. Yet, they can find no fault with the language of the bill on boundaries, and the bill provides for the specifications to be drawn and corrected, as is typically done in statehood admission bills.

Our opponents have raised chicken little arguments as well, but Mr. Chairman, the sky will not fall if the District becomes a State. The argument that there will be no law and no police was particularly absurd. I will detail a response in extended remarks in the RECORD.

Make no mistake, Mr. Chairman, our chief opponents do not oppose statehood. They oppose greater self-government, and have so voted on every measure that has come before the Committee on the District of Columbia.

Our opponents have opposed home rule for the same reasons they oppose statehood. They want the right to overturn District law and attach amendments to its budget.

Mr. Chairman, Members will shortly be summoned to the floor for a historic vote. Out of respect for the only Americans who live in our country but outside of its democratic protections, I ask Members to vote aye. I have asked my colleagues to vote with us, regardless of their prognosis for passage. Many have in fact committed to do so. Their constituents will understand that their vote was but a symbol of respect for the only Americans to whom the slogan "no taxation without representation" still applies.

Under the terms that H.R. 51 has come to the floor, the Members' vote will be a vote for the principle of self-government and representative democracy. Please join the many who have already committed. Please vote aye on H.R. 51.

Mr. Speaker, I include for the RECORD articles and editorials from newspapers and periodicals regarding the question of statehood for residents of the District of Columbia:

[From the Washington Post, Nov. 20, 1993]

THE D.C. STATEHOOD VOTE

Today the House of Representatives begins debate on whether the District of Columbia should become a state. The deliberation is historic, as will be the vote expected to follow this weekend. The issue is not the fate of statehood legislation this year: Supporters concede they have little chance of winning. It is whether a lopsided defeat will ultimately cost or break political ground for statehood. D.C. Delegate Eleanor Holmes Norton contends that even in defeat, a vote "would give the undemocratic treatment of the District the serious national attention it would never attract in any other way." If that is the outcome, the statehood debate will be a milestone.

There is, after all, a historic wrong to be set right. The tax-paying, war-fighting citizens of the District, unlike citizens in the 50 states, have no control over their own governmental affairs. As residents of the nation's capital, they are denied voting representation in the Congress, final word on the budgets and laws they enact, the ability to appoint their own prosecutors and judges and the ability to work out reciprocal taxing arrangements with neighboring jurisdictions. They are at all times subject to the whims of Congress.

We had hoped a way could be found for citizens here to enjoy the full political participation that is their due and still have their city remain the seat of the national government. But the defeat of a proposed constitutional amendment that would have given the District full congressional representation, and congressional inaction on other political reforms, made that outcome impossible. It became apparent that these goals could only be achieved in the context of statehood—but statehood that fulfilled certain clearly understood conditions.

As we said earlier this year, there are critical issues to be faced to make statehood feasible and desirable. We refer to a prenegotiated agreement or understanding with suburban representatives for a limited commuter tax, resolution of the congressionally created unfunded pension liability problem that threatens the District's financial solvency and a predictable, stable and guaranteed payment to the new state.

Of the three issues, today's statehood proposal addresses only the payment question. It eliminates the federal payment and replaces it with a payment in lieu of taxes arrangement that mirrors the funding scheme for other states with federal property within their borders. The merits of that alternative, as well as Congress's role in addressing the other issues that could threaten the new state's fragile viability, ought to receive a thorough airing this weekend. If a consensus can be reached on how best to approach those outstanding issues, this unprecedented debate, whatever the vote, will take statehood to a new and better place.

[From the Washington Post, Jan. 13, 1993]

D.C. STATEHOOD

"It is time to right a great historic wrong. Since 1800, the residents of Washington, D.C., have been the only tax paying U.S. citizens denied representation in Congress. With the election of Bill Clinton, it has become politically possible to give them the status that is their due. We believe now is the time to begin defining and then putting in place an arrangement that puts District residents on an equal footing with all Americans.

"It has long been our preference to have this city remain the seat of the national government with increased municipal powers, which, taken as whole, would give residents the same democratic rights enjoyed by other citizens. The goals have included full voting representation in the House and the Senate, complete independence from Congress on budget and legislative matters, control over the local court system including the appointment of judges, an automatic and predictable federal payment formula and the ability to negotiate reciprocal income tax arrangements with neighboring jurisdictions. Achieving each, as a strategy was far more important than what the final package ended up being called. As a step toward that end, Congress passed a proposed constitutional amendment 15 years ago that would have given the city full congressional representation. Only 16 of the required 38 states ratified the proposal, mostly for partisan reasons. Republican lawmakers wanted no more democrats in Congress (and, as some suspect, many legislators wanted no more blacks there as well). The only achievable alternative, if citizens here are to enjoy the full political participation that is there due, is statehood. * * *

"Denying District residents the right to send people to Congress who can vote on taxes or decide questions of war and peace while at the same time expecting them to

shoulder the burdens of citizenship—including the obligation to pay taxes and to fight and die for their country—is wrong. Forcing local officials to perform their duties under today's restrictive conditions is no better. * * *

"Congress at its whim passes laws regulating purely local matters, including the spending of local tax money. Even the city's own elected delegate to the House of Representatives can't vote on final passage of any legislation, including District-only matters. * * *

"Statehood opponents argue that the voteless status of the District descends directly from the intent of the Framers of the Constitution-from Washington, Madison and their peers. True, the constitution calls for a federal district (and the statehood proposal allows for one, leaving the "federal seat of government" to consist of the mall, monuments and principal U.S. government buildings). At the same time the government of the United States moved here in 1800, the largest city, New York, had a population of little more than 60,000. What would Washington and Madison say about a voteless city 10 times larger than that? We know what they said in 1776 in behalf of a colonist population only four times larger that today's Washington, D.C. They wanted to be among those who governed themselves. So do the citizens of Washington today. * * *

[From the New York Times, Oct. 30, 1993]

TAX FAIRNESS FOR D.C.

With a population of nearly 600,000, the District of Columbia has more people than Vermont, Wyoming or Alaska. Yet its Mayor and City Council have limited power. And the District is denied a voting representative in the same Congress that rules on its affairs.

The colonial character of this arrangement was underscored this week when Congress voted on the Washington D.C. budget, and grandstanding politicians from other places tried to deny its citizens the right to spend their own money as they see fit.

The District's budget totaled $3.7 billion. The $3 billion came from District citizens in taxes; all but a tiny fraction of the rest is what the Federal Government pays for occupying 41 percent of the District's land, on which it pays no taxes. The Federal payment is a miserly sum, given that the Government presence costs the District $2 billion a year in lost tax revenues.

Still, many in government see the District as a pawn in a political game. George Bush once vetoed the city budget, forcing the District to ban the use of even locally raised tax revenues to furnish abortions for impoverished women. C-Span's broadcast of the District's budget vote showed the latest act in this political amateur hour.

Representative Dan Burton, Republican of Indiana, seemed not to have read the budget bill but that didn't deter him. He questioned the salaries of the District's City Council members, and condemned District voters who chose to return the former Mayor to office as a Councilman. He picked out random lines in the budget and asked the sponsors to explain them. This nitpicking came at the end of a tortuous 18-month process that the District suffers to get its budget.

Congress as usual? Perhaps. But imagine yourself a citizen of the District, with no voting representative in Congress, watching as Congressmen questioned not just the vote you had cast in your city, but your entitlement to tax dollars that you had paid to local government for local use. How angry would you be?

Mr. Burton rationalized his antics by contending that Federal tax dollars were at stake. But the bulk of the budget is D.C. tax money. The Federal payment that makes up the rest is rent, and skimpy rent at that. Congress oversteps in trying to control how its bargain-basement rent is spent. Mr. Burton was performing for the people back home. But what people in Indiana need to see is that their Congressman is trampling on the rights of citizens just like them, all for a little time on camera. No wonder Congress was besieged by District demonstrators agitating for statehood.

It's hypocrisy that America champions democracy abroad while refusing fair political treatment to the citizens of its own capital.

[From the New York Times, July 21, 1992]

THE STATE OF MISGOVERNMENT

Representative Eleanor Holmes Norton's speech to the Democratic Convention gave fresh evidence of how the Federal Government treats Washington, D.C.: like a plantation.

The District's elected officials have only token power. They can't pass a budget or even reschedule garbage collection without groveling before Congress. The District has 608,000 people, more than Alaska, Wyoming or Vermont. Yet Representative Norton is denied a vote in the Congress that runs her city. As she told the Democrats, "It is too late in the century for Americans to accept colonial rule at the very seat of government."

The remedy is to admit the District as the 51st state, as called for in the Democratic platform. Congress can do its part by passing the New Columbia Statehood Admission Act, which Ms. Norton introduced more than a year ago.

The hardships the District of Columbia endures are evident in the annual budget process. Congress can prevent the District from spending even locally raised revenues in ways that citizens see fit. During budget hearings, members of Congress grandstand on municipal issues and meddle with the city's finances on behalf of special interests. Extortionate threats to hold up budget passage are common.

The need for autonomy was highlighted in a recent encounter between Mayor Sharon Pratt Kelly and Representative Thomas J. Bliley of Virginia, the ranking Republican on the House committee that supervises the District. Mr. Bliley berated Mayor Kelly for what he said was foot-dragging on crime.

He is in no position to criticize. He is currently in court challenging a District law intended to reduce the number of weapons on the streets. The law imposes "strict liability" for semiautomatic rifles and pistols, allowing victims to recover damages from manufacturers and dealers even though they had nothing to do with gun crimes.

Assault weapons are sold legally in Mr. Bliley's state. And Virginia is a main source of origin for guns confiscated in the District. Mr. Bliley forced the District's City Council to repeal the law by threatening to block Federal aid. When voters reinstated the law, Mr. Bliley brought his suit. The suit was dismissed; Mr. Bliley has appealed. In essence, this suit argues that Congress's control supersedes the right to self-government.

The citizens of Washington, D.C., deserve relief from this kind of imperial arrogance. Statehood is the way to provide it.

[From the New York Times, Nov. 25, 1991]

THE D.C. PLANTATION: FREEDOM SOON?

The effort to grant statehood to Washington, D.C., could well become a campaign issue in 1992.

A bill that would admit the District to the Union as New Columbia, the 51st state, was introduced in the Senate on Thursday. And hearings on the House version of the bill saw a welcome burst of enthusiasm. Three Democratic Presidential candidates testified in favor of statehood and others sent messages of support.

That's as it should be. The District's treatment is a scandal, albeit one with a long history. The Federal Government runs the city like a plantation, denying it a voting representative in Congress, forbidding it even rudimentary self-rule and limiting severely its ability to raise revenue.

President Bush favors keeping the District on its knees. But Gov. Bill Clinton of Arkansas, Gov. Douglas Wilder of Virginia and Senator Tom Harkin of Iowa testified before Congress that the District deserved to become a full partner in the Union. The three were on the mark.

Washingtonians have long been denied rights that the rest of us take for granted. They weren't allowed to vote in Presidential elections until 1964. And it was not until the Home Rule Act of 1973 that they could elect a mayor and city council; both had previously been appointed.

The Home Rule Act left the Federal Government's dictatorial powers intact. Congress can overturn any law the District council passes. A powerful senator can throw some cash to friends by attaching amendments to the city's budget bill. And one meddlesome Congressman can by himself trigger bearings on any law by simply raising an objection to it.

The Federal Government is not above extortion. Mr. Bush recently vetoed the city budget, forcing the District to ban the use of locally raised tax revenues to furnish abortions for impoverished women. And Congress used similar blackmail to force repeal of a law that made gun dealers and manufacturers liable for injuries from assault weapons. The citizens have reinstated the measure; gun-lobbying senators may yet thwart it. The District's non-voting representative, Eleanor Holmes Norton, spends much of her time fending off odious infringements like these.

Fiscal restrictions abound. The Federal Government's real estate is exempt from taxation; the city is forbidden to tax the earnings of commuters, most of whom are Federal employees. District officials say these restrictions cause the city to forgo $1.9 billion in revenues per year. Last year the Federal Government paid a paltry $430 million in return. Denied sources of revenue, the city levies some of the highest taxes in the nation.

Those who oppose statehood typically offer weak constitutional arguments against it. It seems fairly clear, however, that Republicans who oppose statehood do so because the District would send two more Democrats to the Senate.

But most Americans understand democracy well. The issue of statehood for the District raises an obvious question: How can we justify championing democracy abroad while inflicting second-class citizenship in the nation's capital? The answer is obvious, too: We can't.

[From the New York Times, Oct. 6, 1991]

FREE THE GOVERNMENT'S PLANTATION

Washington, D.C., with a population of 607,000, has more people than Alaska, Wyoming or Vermont. But its elected officials have no real power and the city is denied a

voting representative in Congress. The Federal Government treats the District as a colony, controlling local policy on issues ranging from sanitation to abortion and undermining the city's ability to raise revenues.

Washingtonians deserve self-government no less than other Americans. A bill pending in Congress, H.R. 2482, would admit Washington to the union as New Columbia, the 51st state. The bill deserves attention and a vote of approval in the House. But that won't happen until languid Democrats schedule hearings. The legislators need to provide more than lip service they've given to statehood in recent years. Even if statehood fails, debate could suggest intermediate solutions. The current arrangement is more suited to a dictatorship than a democracy.

Washingtonians have suffered long under second-class citizenship. They were first allowed to vote in Presidential elections in 1964. Permission to elect local officials followed slowly: in 1968, the school board; in 1971, a non-voting delegate to the House of Representatives; and in 1973, the mayor and the city council.

The Home Rule Act of 1973, which granted limited self-rule, contained dictatorial restrictions. The city cannot so much as reschedule garbage collection without groveling before Congress, which has 30 days in which to disapprove. Nor can the city determine its own budget or set independent policies. President George Bush recently forced the District to disallow the use of *local tax revenues* to furnish abortions for impoverished women. His weapon: vetoing the city budget. Impoverished victims of rape and incest will be denied a choice available to American women elsewhere.

The Federal presence harms the city fiscally. The District is forbidden to tax nonresidents, many of them Federal workers, who comprise about 60 percent of the work force. Federal properties are also exempt from real estate taxes. The city calculates that all taxing restrictions combined cost it $1.9 billion a year in revenues.

An ill-informed Mr. Bush said last year that he opposed statehood because the city's funds "come almost exclusively from the Government." That's wrong. The Federal contribution at that time was about 14 percent of the city budget, the Government gave a paltry $430 million in lieu of lost tax revenues. The cost of municipal services provided to the Government is difficult to calculate but potentially worrisome.

Those who oppose statehood often claim that the Constitution forbids creation of a state in the District. That claim is without merit. The Constitution says only that Congress will exercise exclusive legislative control over a seat of Government that does not exceed 10 miles square. A state could be created that reduce the size of the Federal enclave but not eliminate it.

The real objections to statehood are political. When Mr. Bush opposes statehood, he is opposing the creation of two additional Democratic Senators, one of whom would surely be Jesse Jackson, now an unpaid lobbyist, or "shadow senator," who represents Washington in the Senate. The Democrats also have acted spinelessly, giving statehood little more than token support.

How can the United States champion democracy abroad while it disenfranchises District citizens who die in wars and pay taxes the same way other Americans do? There is every reason for Democrats to gather courage, convene hearings and then bring the issue to the floor. Sooner or later, Congress will realize it has more important tasks than overseeing schedules for garbage collection.

[From the Boston Globe, Dec. 2, 1992]

STATEHOOD FOR THE DISTRICT OF COLUMBIA

It has a larger population than three states and is nearly as large as three more. Its citizens pay among the highest federal income taxes in all states. It has no power to tax those who work within its borders but take their pay home to states with which it has no reciprocal tax agreements. It is subject to the legislative-decisions of a body on which it has no voting representation.

It is the nation's capital, and its citizens want and deserve a better break, one possible only through direct participation in federal government. As the most outspoken champion of statehood for Washington, D.C., Rev. Jesse Jackson plans to hold President-elect Clinton to his promise to make it a state, because only with that status can the district end the worst anomalies of its politically segregated condition.

When the Constitution provided for a federal district, it assigned full legislative control to Congress when few envisioned the capital becoming a major city with a population larger than that of any state at the time.

Congress has long kept the city in a degree of thralldom that suited the convenience of representatives and senators, who legislate matters as trivial as taxicab rules. The problem was exacerbated by longtime bigotry against the city's large black population from a Congress often dominated by members from the Old South.

Congress has partly acknowledged the inequity by granting citizens of the district a nonvoting member of the House and by allowing D.C. residents to vote in presidential elections. The district has three electoral votes—exactly what it would have if it were a full-fledged state with two senators and a member of the House.

The political question of D.C. statehood has been complicated by its predominantly Democratic voter registration, making the matter unpalatable for Republicans when the balance of power could hinge on just a few votes. That is a weak excuse for perpetuating political inequity in a country launched on a cry of "no taxation without representation." Make the district a state.

[From the Oregonian, Apr. 15, 1992]

GRANT D.C. RESIDENTS FULL RIGHTS

Congress can right an old and grievous wrong in coming weeks. It should pass the District of Columbia statehood bill to grant district residents the same citizenship rights enjoyed by all other Americans.

The measure to create the state of New Columbia recently passed the House District of Columbia Committee. The bill should reach the House floor by late May or June.

While the new state would be—unlike any other—entirely a city, the continued subjugation of district residents to a paternalistic Congress is a travesty of democratic justice.

Eleanor Holmes Norton, the district's nonvoting representative, points out that Washingtonians not only have fewer rights than those in the 50 states, but fewer rights than those in the territories of Guam, Puerto Rico, the Virgin Islands and American Samoa, which at least have local self-governance.

Limited home rule has been a hollow promise. All laws passed by the district's city council must be approved by Congress. An assualt-weapons referendum overwhelmingly approved by city residents is being challenged by Rep. Dana Rohrabacher, R-Calif. The district can't even change garbage-collection days without clearance on the Hill.

D.C. residents pay U.S. taxes without representation and serve in the military with no voice in choosing those who put their lives at risk.

The unique creation of a city-state has led some opponents to suggest joining most of the district to neighboring Maryland. That, however, runs counter to the will of district residents and those of Maryland.

The district meets three traditional statehood tests: Statehood reflects the will of the people; they have agreed to adhere to a representative form of government; and there are enough people and resources to ensure economic viability.

The district's 608,000 residents outnumber the populations of three states. D.C. households have an average income of $32,106. The district raises 84 percent of its $3.8 billion budget through income, property and sales taxes.

No compelling argument against statehood has been advanced, and no acceptable alternative has been offered. To continue second-class citizenship for D.C. residents is inconsistent with and offensive to democratic principles. It is unworthy of this republic.

[From the Minneapolis Star and Tribune, June 27, 1987]

STATEHOOD FOR THE DISTRICT OF COLUMBIA

Walter Fauntroy, nonvoting delegate who represents Washington, D.C., in the House, seeks to transform the District of Columbia into the state of New Columbia. Fauntroy's quest is a long shot, despite support from such prominent Democrats as House Speaker Jim Wright and Majority Leader Tom Foley. Yet he deserves to succeed because his cause is just.

In the past two decades, district residents have been granted home rule and the right to vote in presidential elections. But they still lack representation in Congress. In 1978, Congress offered for ratification a constitutional amendment that would have provided congressional representation but stopped short of statehood. When the seven-year limit on ratification expired in 1985, only a few states had approved the amendment. Minnesota was one of them. With the failure of the 1978 amendment, Fauntroy offered his statehood proposal, which requires only congressional approval and presidential signature.

Like all other U.S. citizens, district residents honor U.S. laws, pay U.S. taxes and serve in the U.S. military. Unlike other U.S. citizens, they have no direct say in what laws Congress will pass, what taxes Congress will impose and what wars Congress will declare. Fauntroy seeks to redress that fundamental unfairness.

There are also practical reasons for granting statehood. Like many core urban areas, the district has suffered a declining population, loss of commercial and industrial tax base to surrounding suburbs and increased poverty. Costs grow faster than city resources. Most states, recognizing the vital role central cities play in metropolitan economies, respond with urban aid raised by taxing suburbs—or by giving core cities the power to impose a payroll tax on suburban commuters.

But Washington has no state government to help out; its suburbs are in Virginia and Maryland. And the district charter prohibits a payroll tax. Which leaves only Congress to finance the rising cost of district Government. And that means Minnesota taxpayers shoulder as much of the district's financial burden as those in Virginia and Maryland,

who benefit directly from the district's government-dominated economy.

Federal support will always be appropriate, given the government's enormous tax-exempt holdings in the district. But statehood would allow Washington to tax commuters or work out other arrangements requiring Virginia and Maryland to bear a larger share of the district's burdens.

Fauntroy's bill is likely to come to the House floor this fall. Because the district is Democratic, urban and black, it faces opposition from Republicans, rural legislators and bigots. None relish adding district representatives to Congress. Such crass partisanship and bigotry should not be allowed to subvert the drive for statehood. To ease the district's financial burden and to erase an embarrassing political injustice, Congress should pass the statehood bill and welcome New Columbia to the Union.

[From the Seattle Times, May 11, 1987]

WHY NOT STATEHOOD FOR D.C. CITIZENS?

The path is strewn with all sorts of political and legal obstacles, but the District of Columbia is pressing ahead on a campaign that could give it full statehood—a 51st state to be called New Columbia.

And why not? Despite its place as the seat of national power, the district long has been a governmental orphan whose residents have second-class political status. It elects a mayor and City Council, but local decisions are liable to congressional veto. Residents can vote in presidential elections, but their representation in Congress is limited to a single nonvoting delegate.

In 1978 Congress proposed a constitutional amendment to give D.C. full voting representation—two senators and at least one representative—but only 16 of a required 38 states had approved it before the ratification period ran out three years ago.

Now advocates of full statehood are saying there's no need to pursue the tortuous constitutional-amendment process. Congress, they say, could establish New Columbia simply by enacting a law, and a bill to do that is working its way through the House.

Citing various legal authorities, opponents disagree and promise a court battle if Congress approves the statehood measure.

The Reagan administration also is resisting the statehood proposal, partly because of expectations that the members of Congress elected from New Columbia would be liberal Democrats.

Still, the case for statehood remains strong, if only as a matter of simple fairness. The district's population at last count stood at some 637,000—far more than in Alaska, Delaware, Vermont or Wyoming.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will kindly remind all persons in the gallery that they are here as guests of the House of Representatives, and that any manifestation of approval or disapproval of the proceedings on the House floor is strictly prohibited.

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

The CHAIRMAN. The gentlewoman from the District of Columbia [Ms. NORTON] has 3 minutes remaining, and the gentleman from Virginia [Mr. BLILEY] has 9 minutes remaining.

Mr. BLILEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, as I said yesterday, I have great respect for the Delegate of the District of Columbia and for the residents of the District of Columbia. I do support home rule and greater autonomy, but I certainly do not support D.C. statehood.

The District of Columbia was never intended to be a State, and it is not just because it is only 60 square miles, while the smallest State in the Union is over 1,000 square miles. The principal reason is, it is not economically self-sufficient. Forty percent of the District's State product is attributable to public employment.

That is what this is all about. It is an attempt to get the kind of revenue that the District needs to hire the police and the teachers that it desperately needs, but to get that revenue from the suburbs. The Mayor herself has said, "D.C. statehood means $1 billion from a commuter tax that D.C. statehood will allow us to impose."

The District of Columbia, if it was allowed to become a State, will impose nearly a 10-percent income tax on everyone living in the suburbs and working in the District. We cannot allow that. What this will do is to take hundreds of millions of dollars from my constituents, from constituents in Maryland, from all the suburbs that contribute workers into the District of Columbia, take hundreds of millions of dollars from them that cannot be used to educate their children, to protect their families, but will be spent within the State of New Columbia. That is not the way to deal with a desperate financial situation. There are other ways, and we will cooperate in those ways, but I urge my colleagues do not support this bill.

Mr. BLILEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER], a member of the committee.

Mr. ROHRABACHER. Mr. Chairman, statehood does not work and statehood is not fair. Statehood does not work constitutionally, and we have not seen an answer to any of the arguments that we have given as to why a constitutional amendment would be required for statehood, rather than just congressional action.

It does not work economically. We can see this. There is an admission in the bill itself that proves that this will not work economically, because the statehood bill insists on a continued Federal payment, which is in itself stating that this area cannot work in itself as a State. In fact, this area is not functioning well, is not working as a city, much less as a State. All of us know it. They cannot ask to have troops come out and patrol the streets 1 week and then ask for statehood the next week, and expect that that would be taken seriously. It is a flawed plan that we have been presented. It does not work economically or constitutionally, and it is not fair.

The people in the rest of the country will not be applauding to give the District of Columbia two U.S. Senators. My State has 50 times the population of this area, and it is not fair to them to give the District of Columbia two U.S. Senators.

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

The CHAIRMAN. The gentleman from Virginia [Mr. BLILEY] is recognized for 6½ minutes.

Mr. BLILEY. Mr. Chairman, H.R. 51 has been praised as a great exercise in democracy. But it is a blow to democracy. The rights of 250 million Americans to participate in the process of amending their Constitution is being denied. Congress is usurping power it does not have. The power to change the status of the Nation's Capital is reserved to the people in their right to amend their Constitution.

Statehood advocates are simply wrong in their analysis. No State has faced the impediments of three provisions in the Constitution. The other 37 States were admitted under article IV of the Constitution. The District of Columbia is the only article I territory in the United States. There is no precedent which applies to the admission of the District of Columbia through simple legislation. The status of the seat of government can be changed only through constitutional amendment. I will submit for the RECORD a letter signed by former Solicitor Generals who conclude:

Since the early days of our Republic, concern has been voiced that the residents of our Nation's Capital lack voting rights in Federal elections and lack full representation in Congress. In recent years, Congress has taken action to partially address that concern by giving District residents the right to vote in Presidential elections as provided in the Twenty-third Amendment and by creating the office of Delegate from the District of Columbia to the House of Representatives. District residents, however, still lack full representation. We understand their sense of frustration. We simply point out, however, that any effort to grant District residents full representation that does not comport with the Constitution is a self-defeating proposition.

For thirty years, through both Republican and Democrat Administrations, the Department of Justice has steadfastly warned that admission of the District of Columbia to the Union through simple legislation would raise substantial constitutional questions of the first order.

I want to also point out that even with the change in administrations, the position of the Justice Department has not been changed.

The blow to democracy is felt in the District as well. Prior to the introduction of statehood legislation, the citizens drafted and ratified their own constitution to live under as citizens of the New State. But the right to determine their own constitution has been taken away from them under H.R. 51.

Let me also remind my colleagues that this vote is on a bill, not a nonbinding resolution. There is a lot of

talk that the vote on H.R. 51 is only endorsing a principle. That is nonsense. The Committee on the District of Columbia has developed this legislation over a period of 10 years. We are not voting on a goal or principle. We are voting on a 38-page bill. If you vote for this bill, you are voting for everything in it. Statehood advocates have not talked much about the bill itself. But if you have listened to the debate, you have heard some shocking facts. For example, last night, Representative GOODLATTE explained that H.R. 51 will leave the seat of government without a judicial system. If H.R. 51 passes, there will be no civil court to appeal to for injuries suffered in Washington, DC. Think of it, 20 million visitors who come to Washington, DC, will have no civil protection here. There will be no criminal court to adjudicate the hundreds of crimes that are committed with the Federal enclave each year. In short, the place where our Nation's laws are forged will itself be lawless. If you vote for H.R. 51, you will be voting for just such a situation.

You will be voting for a State which is demanding special treatment for itself. Under H.R. 51, New Columbia will be guaranteed the right to control land in Maryland and Virginia. These two States will be forced to be the dumping grounds for New Columbia's trash and criminals.

For several years, I have pointed out the flaws in this bill, but none of them compare with the outrageous manner in which the boundaries were redrawn just earlier this month. If you did not hear about this in my previous remarks, you had better come look at the map of what is left of Washington, DC. New Columbia has hijacked two-thirds of the Senate Office Buildings, the O'Neill House Office Building, the Capitol Power Plant, the New Executive Office Building, five Cabinet-level departments, and the FBI building. The boundary of New Columbia literally runs through the Department of Labor. New Columbia has stolen the national treasures of Fords Theater, the National Portrait Gallery, and the National Museum of America Art. New Columbia has kidnapped tens of thousands of Federal employees for purposes of taxing them. This is clearly unequal treatment.

Some of my colleagues on the other side of the aisle have suggested that these boundaries are a trivial matter. They are irrational, but not trivial. If boundaries have no significance, why not let New Columbia take over everything? We all know that the American people would not stand for that even if it were constitutional. The Delegate from the District has stood in this House and told us that H.R. 51 only creates a State from the neighborhoods and that the Federal presence is in no way affected. This simply is not true. It is clearly ridiculous to restructure the Nation's Capital in a way that excludes parts of the White House and Capitol complexes.

Six years ago, the National Capital Planning Commission told us that a technical survey of the National Capital Service Area needed to be performed. No survey was done. When the bill was amended in committee, all references to the National Capital Service Area and Federal properties which were affronting and abutting the boundary were deleted. Proponents now claim that a survey conducted after the enactment of H.R. 51 will set right what this bill does wrong. Nonsense. Any survey must follow the boundary as described in the bill. A survey cannot recapture Federal departments and agencies which will be exiled if H.R. 51 is enacted.

On October 13, in a lengthy statement on the House floor, the Delegate from the District of Columbia responded to public statements by the Washington Post that New Columbia would not be economically independent. Despite her eloquent challenge to that conclusion, the city's budget crisis and the continuing decline in population speak louder than her words.

In her October 13 special order, the Delegate from the District also stated that, "* * * half of us would drop off the statehood bandwagon * * *" if New Columbia could exceed the current building height limitations. But any condition on the admission of New Columbia would be removed from the law by the courts. Ultimately, there would be no restrictions on building heights and there would be no legal method whereby Congress could impose one. Moreover, the taking provision sets a dangerous precedent which would set off lawsuits which could rage well into the 21st century. If the Federal Government can take property in New Columbia without compensation, it may take it elsewhere. States as well as private citizens should be alarmed at this sneak attack on property rights.

On the question of a taxpayer subsidy to New Columbia, the legislation continues to insist on special treatment. This bill authorizes a wholly new and unique payment-in-lieu-of-taxes to New Columbia. Not only does this new PILOT pay New Columbia for Federal land not even in the State; but, it does so to the exclusion of any other State—including Virginia and Maryland which are just as nearby Washington, DC, as is New Columbia. The District Delegate says that the Federal payment has been abolished—that is not true, it has simply changed its name. A separate and special payment to New Columbia is provided for in this bill.

Do not be fooled by the simplistic explanation that Washington, DC, has merely been shrunk in size.

IT HAS BEEN DESTROYED

The boundaries in this bill make a mockery of what our Nation's Capital is meant to be. We have just returned the Statue of Freedom to her place on top of this Capitol building. If H.R. 51 passes, she will have her back turned to the Nation's Capital and she will be overlooking only 1 State rather than the symbolic place where all 50 have come together. If we pass H.R. 51, we will give a new meaning on our national motto, One out of many.

Reducing the Nation's Capital to one-tenth the size of Dulles International Airport, is not merely inconvenient, it is unconstitutional. As Attorney General Kennedy told the House Committee on the District of Columbia 30 years ago,

> Reduction of the District to a small strip of territory occupied almost wholly by Federal buildings is thus clearly inconsistent with the concept of the Federal city held by the framers. The inadequacy of the small area * * * to meet the objectives of the framers and the inherent needs of our Federal system is apparent.

Statehood lobbyists are disguising a wide variety of complex issues with slogans and oversimplifications. Even before the outrageous change in the boundary, H.R. 51 would deprive the seat of government of the indispensably necessary land and population as envisioned by Washington, Jefferson, and Madison. Statehood advocates have not been able to refute the works of Robert Kennedy, Patricia Wald, and all of the others.

I oppose this legislation for its unconstitutional method of admitting part of the Nation's Capital as a State and for its failure to create a State of equal stature and sovereignty with the other States. I urge its defeat.

□ 1650

The CHAIRMAN. All time of the gentleman from Virginia [Mr. BLILEY] has expired.

Ms. NORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR] who has been with us and tirelessly.

Mr. BONIOR. Mr. Chairman, tell me if this sounds like it's what the Framers of our Constitution had in mind.

Today, the District of Columbia has more people than three other States. Yet it has no vote in Congress.

It pays higher Federal taxes per capita than 48 of the 50 States. Yet it has no voice in how those taxes are spent.

It sent more soldiers to the Persian Gulf war per capita than 45 other States. Yet, it has no say in deciding where or when our troops are put at risk.

The District's mayor and city council are elected by the people who live here. Yet, it cannot pass any laws unless they are approved by Congress first.

It raises 85 percent of its revenue from local residents and businesses. Yet, any Member of Congress can deny local residents from spending their own money as they see fit.

Mr. Chairman, does this sound like democracy to you? Is this what James Madison and Thomas Jefferson had in mind? Is this what

the Founders of our country fought and died for 200 years ago?

"No taxation without representation" is not just a slogan for our history books. It's the fundamental principle on which this country was built. And until the citizens of the District of Columbia have the same voice and the same vote as citizens from every other State, America will never be a great nation.

Mr. Chairman, we have rightfully come to this floor week after week the past few years to champion democracy in China, democracy in Eastern Europe, and democracy in Russia.

We fought and won the cold war to advance the cause of human rights and democracy around the world.

But it's the height of hypocrisy to champion democracy around the world while denying it in our own neighborhood.

Mr. Chairman, this bill will put the residents of the District of Columbia on equal footing with the rest of America.

It will give 600,000 District residents a voice and a vote in Congress for the first time. And it will give the District residents the right to run their home as they see fit.

As it stands now, the D.C. government can't do anything without our approval. If they want to pass a budget, they have to come to us. If they want to pass a new law, they have to come to us. If they want to set new hours for garbage collection, they have to check with us first.

Mr. Speaker, the U.S. Congress has bigger concerns than whether the District's garbage is picked up on Tuesday or Thursday.

We're responsible for a $1.5 trillion national budget. Why are we spending so much time managing a $3.2 billion District budget?

Just because we pay rent—and a very skimpy rent—for the Federal land does not give us the right to act like a feudal overlord with District residents.

I say it is time to give the residents of the District of Columbia the right to pass their own laws, to set their own budgets, and to manage their own affairs without interference from Congress. And this bill will do just that.

Those who oppose statehood often claim that the Constitution forbids the creation of a State in the District. Nothing could be further from the truth. All the Constitution says is that Congress must control a seat for the Government which is 10 square miles or less. And this bill meets that requirement.

In fact, the District has met all three traditional statehood tests. First, it reflects the will of the people. Second, they've agreed to a representative form of government. And third, there are enough people and resources to ensure economic viability.

The fact that District residents are treated as second-class citizens is a stain on our national fabric. It's not what our democracy is about, and it's not what the Framers of our Constitution envisioned.

I urge my colleagues: Say "no" to taxation without representation. Say "no" to colonialism. Say "no" to political inequality.

Say "yes" to D.C. statehood.

Ms. NORTON. Mr. Chairman, I am happy to yield such time as he may consume to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I rise in support of H.R. 51, legislation which would provide full voting representation in Congress for residents in what is now the District of Columbia.

This Nation has spent trillions of dollars around the world throughout our history in order to bring representative democracy to people in other lands. We sent our men and women in harm's way during two world wars in this century in order to maintain the rule of law for most of the world. Today, we have men and women on foreign soil to bring freedom and the right to have self-determination by their government.

We, the people of the United States utilize our wealth of skilled diplomats to end human rights abuse in other lands, be they democracies or totalitarian rule. The Federal Government as well as State and local governments refused to invest its public moneys in companies doing business in South Africa unless and until finally that Nation changed its Constitution and gave full citizenship status to all its people.

Yet, today, in America, there remains a pocket of representative deficiency. The people of the District of Columbia, American citizens, are denied their due representation in their Federal Government.

This is wrong. Our Constitution says so, our heritage and history state thus. Today we can and should right this wrong. We do this by passing H.R. 51.

Ms. NORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I rise in strong support of D.C. statehood.

Ms. NORTON. Mr. Chairman, it is with great pleasure that I yield 3 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, there has been a lot of debate in this debate about the Constitution and what it says about the area surrounding the seat of government deemed the District of Columbia. To their credit, Members have engaged in constitutional discourse that would make Oliver Wendell Holmes proud.

But I submit that this debate is not about debating, and it is not about scoring points in debates. The question before us today involves more than maps and surveys. It goes beyond tax bases and future payments.

The issue before Members today is one of fundamental fairness. Should Americans who live in this 70-square-mile area enjoy the same benefits of citizenship as the residents of my district in Missouri, or everybody else's district in the 50 States? As we consider this question today in this House, where every other American is represented, the answer must be yes.

More than 200 years into the life of this democracy, none among us, none among us should be disenfranchised. Whether we are citizens of St. Louis, or Selma, Seattle, or Southeast DC, each and every one of us should be able to share in the core privilege of democracy: one person, one vote. Not half a vote, not a quarter of a vote, not a diluted vote, but one person, one vote.

□ 1700

That vote should not depend on the location of the soil underneath your feet. It should not depend on the size of the area or the number of citizens in the community. It should not depend on your partisan leanings, and it should not depend on another's judgment of how that vote should be exercised.

Today we have the opportunity and the obligation to extend the constitutional right of full representation in this Congress to the 600,000 human beings who reside in the District of Columbia.

Washingtonians pay taxes with us, and they serve in wars with us. They even die with our young people in war. Joan Thomas, a resident of the District today, could tell you about it. She sent her son Edwin and two nephews to Vietnam. They served their country with honor, and they have Purple Hearts to show for it, Purple Hearts from their country, but no representation here and no representation on the other side of this building.

Ask Walter Winder about it. His oldest son, Walter, Jr., gave his life in Vietnam to honor the principles of democracy, but today democracy dishonors his legacy as his father is still disenfranchised.

And when we voted 2 years ago to send our young people to war in the Persian Gulf, I wondered to myself what it would feel like to be a father here in the District of Columbia and have my son or daughter go and have no vote on the floor of this House.

Vote yes on H.R. 51, and end this travesty of justice in this capital of the United States. Vote yes and give true meaning to democracy. Grant statehood to the citizens of the District of Columbia. It is the right thing to do.

Mr. STENHOLM. Mr. Chairman, I wish to take this opportunity to rise in strong opposition to H.R. 51, the New Columbia Admission Act. It has been said that those who oppose this legislation are doing so solely for political reasons. I am here to say that simply is not true.

Recently, I claimed on the floor of this House that I am not wise enough to understand all the nuances of constitutional law. But when the Constitution states that "Congress shall have power to exercise exclusive jurisdiction in all cases whatsoever over such District as may by cession of particular states, and acceptance of Congress, become the Seat of the Government of the United States * * *", it seems pretty clear to me that any congressional action granting DC statehood that bypasses the States violates both the letter and the spirit of the law.

If, as statehood proponents contend, the Founders would not condone the current situation, and that this begs a new interpretation of the Constitution, could it not also be claimed that circumstances have changed so much

since the Founders wrote the document that they would argue for a reinterpretation of the requirements for admitting new States as well?

Despite the length of time it took each of the States to gain statehood or the procedures they went through to achieve statehood, they were not as well-established, or as deeply entrenched, in the kind of fiscal and social turmoil as the District of Columbia is. Perhaps this should be considered.

But in addition to the issue of constitutionality, the District of Columbia does not have the confidence of the rest of the Nation. In my home State, for example, on which the DC Delegate recently commented, "What could be more American than Texas today?", my constituents speak with one voice in their opposition to DC statehood.

With last year's $100 million payment to help the city make ends meet and the recent decision to allow the Capitol Police to assist District law enforcement officials in their dangerous tasks, it is clear that the District government cannot meet the obligations it has to its citizens. With the reputation of the District the subject of derision and laughter, the Nation is not ready for DC statehood. It is not a question of DC joining the United States as an equal; it is a question of whether the other States want DC to be an equal. More importantly, it is not a question of doing what is desirable; it is a question of what the Constitution allows.

Mr. Chairman, as a Democrat, it would be reasonable for me to want additional representatives from my party in Congress. I am opposed to this legislation, however, because like my constituents, I do not believe it can be defended constitutionally. I ask my colleagues to vote against this bill.

Mr. CRANE. Mr. Chairman, I rise to oppose H.R. 51, the New Columbia Admission Act. The drafters of the Constitution clearly intended the seat of the government of the United States to maintain an exclusive status separate from the States. The Founding Fathers defined Washington, DC, as a "Federal City." To change the status of the Nation's Capital requires amending the Constitution, not simply passage and enactment of H.R. 51. For this Congress to attempt to change the status of DC through the passage of this bill is totally irresponsible.

Since the District of Columbia was created by the Constitution on land ceded by Virginia and Maryland, the most sensible proposal to provide DC residents with full Federal representation would be to return the land to Maryland. This would give the residents of Washington a voting Member of the House and two existing Senators. In fact, retrocession has a precedent. In 1846, Congress returned a portion of the District, Alexandria County, to the Commonwealth of Virginia. The District is now solely made up of land formerly held by Maryland.

Although those seeking statehood claim their primary objective is to provide DC residents with full representation in Congress, they have rebuffed past proposals that would do just that. DC statehood proponents rejected legislation that would rejoin the District with the State of Maryland, thus providing Washington with at least one voting representative in the House and representation by the State's two Senators. They are obviously after more than just congressional representation.

Mr. Speaker, I oppose H.R. 51, and urge my colleagues to do the same.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the bill, H.R. 51, granting statehood to the District of Columbia. I believe it is important to grant full voting representation to the Delegate from the District of Columbia, and I have consistently supported the District's home rule charter. I am not convinced, however, that becoming a State will address the many problems that have been brought about by its unique status.

The State of New Columbia, with no more than 57 square miles, would be the most densely populated State in the Union. This urban State would have no industry and no agriculture. New Columbia would receive a special Federal subsidy, not available to any other State. It would have jurisdiction over a major prison located in an adjacent State, without that State's permission. The State of New Columbia would operate juvenile facilities—Oak Hill and Cedar Knoll which was closed, but the land is still under the jurisdiction of the District—in the State of Maryland, which is unprecedented.

In my judgment, statehood would raise contentious issues of constitutionality and federalism. Washington is the Nation's Capital. It does not belong to only a few of our residents, but to all of our citizens as the seat of our National Government. The District was created by our Founding Fathers out of land given up by Maryland and Virginia. The Founding Fathers envisioned their Federal City as a safe haven for Congress and the Federal Government.

Statehood would allow the District to levy some form of reciprocal nonresident tax on suburbanites who work in the city. The mayor of the District has made it clear that she believes a commuter tax is critical to the District's financial survival. This tax would bring millions of dollars to the city's strained coffers, but would negatively impact the residents of Maryland and Virginia.

Mr. Chairman, I am staunchly opposed to a commuter tax on the residents of Maryland and Virginia that would most certainly accompany statehood for the District of Columbia. Most of the 400,000 State income tax payers in Montgomery County who work in DC would be required to file a State income tax return in the District. This would direct most of their State income taxes away from Maryland. Under law, Maryland would have to grant credit to taxpayers who pay the commuter tax. This would result in a huge loss of revenue to the State of Maryland and negatively impact the services afforded Montgomery County. In addition, approximately 300,000 residents of Prince George's County work in the District. Marylanders who work in the District already contribute millions of dollars in various taxes and fees and are an economic boon to the city.

For the reasons that I have just expressed, I urge my colleagues to defeat H.R. 51.

Mr. LEWIS of Florida. Mr. Chairman, I rise in opposition to H.R. 51, the New Columbia Admission Act.

For 30 years, the Department of Justice has consistently stated the status of the District of Columbia can only be changed with an amendment to the Constitution. Even were this to happen, the 23d amendment, granting electoral votes to DC residents, would also have to be repealed.

Like the bill's constitutionality, I also take issue with its practicality. The District government receives 20 percent of its budget from the Federal Government, and another 16 percent from other Federal grants and reimbursements. As much as I would like to eliminate these payments the Federal Government annually doles out to the District of Columbia, DC doesn't have the economic resources necessary to survive as a State or to cover its share of the cost of the Federal Government.

Last, since even the bill's strongest supporters admit it has little chance of passing, I resent the fact that the House is spending valuable hours before the winter break debating this issue while postponing for several months important issues like crime control. We should be spending this valuable time providing relief for Americans, not a political soapbox.

Mr. LEVIN. Mr. Chairman, I voted for the rule yesterday on H.R. 51, the New Columbia Admission Act, and I will support this legislation today on final passage.

It is clear that there are not enough votes to pass this bill today. Opponents of H.R. 51 say that statehood for the District is not the answer. They raise a variety of objections to this legislation, ranging from constitutional difficulties, to boundary disputes, to doubts concerning the economic viability of the proposed State of New Columbia.

I do believe that we should take seriously shortcomings in H.R. 51. I am particularly concerned that the fiscal arrangements necessary to ensure the long-term economic viability of New Columbia are not adequately spelled out by this legislation.

But I am also troubled by the status-quo. My vote today is grounded in the inescapable fact that some 600,000 District residents lack representation in the House and Senate. They pay Federal taxes. Their sons and daughters fight and die for their country in time of war. Residents of the District are entitled to the same standards of citizenship enjoyed by every other American.

It is clear that this House will revisit this issue. The votes for passage are not here today. If there are alternatives to H.R. 51—alternatives that provide for full congressional representation for the 600,000 residents of the District of Columbia—I hope we will consider them in the near future. Inaction is not an option.

Mr. SKAGGS. Mr. Chairman, the 600,000 citizens of the District of Columbia deserve a better deal than they've gotten. They pay taxes and send their sons and daughters to war, and they aren't fully represented in the legislative body that levies those taxes and authorizes the wars. Their status is at odds with fundamental precepts of this democracy; they deserve full and equitable voice in Congress.

But H.R. 51 is not the way to give them that voice. The ultimate goal of this bill is right; the method of achieving it is not. It fails, in my opinion, to pass constitutional or practical muster. If the people of the District of Columbia want to pursue statehood by statute, they

have the burden of proof of showing that H.R. 51 overcomes the constitutional obstacles presented by article 1, section 8, clause 17—the D.C. clause, amendment XXIII, and the logical interplay among those and other constitutional provisions. I conclude they have not and can not meet that burden. In my judgment, as in the judgment of a bipartisan succession of Attorneys General, this matter can only be addressed through amendment to the Constitution.

If equity and justice were our only considerations, H.R. 51 would face much smoother sailing. But we can not let our concern for equity and justice wash away the responsibility the Constitution imposes on us. The District of Columbia has existed as the "seat of government of the United States," with clear constitutional dimensions under the D.C. clause, for 200 years. I do not believe Congress can abrogate that status through legislation; if it wants to do so, it must amend the Constitution.

To be honest, I find it very difficult to square the proposition of transforming the city of Washington into the State of New Columbia with my gut sense of what constitutes a "State." Perhaps the ideal solution to the D.C. voting rights problem would be retrocession of most of the District to Maryland. New Columbia would become the newest city—and the Ninth Congressional District—in Maryland. It would be ably represented in the other body by two distinguished Senators, and governed by an executive branch and legislature in Annapolis. Its Mayor would still be Mayor, and its city council's authority would remain intact.

If a constitutional amendment to grant statehood were presented to the House, I would vote for it. The several States would then have the proper opportunity to address the anomaly of over a half-million disenfranchised Americans. H.R. 51 is not that amendment. It is a well-intentioned example of putting our heart before our head, and I must oppose it.

Finally, I want to recognize the frustration felt by the citizens of the District caused by the shameless way Congress continues to interfere with their local affairs. Having granted home rule to the District in 1974, Congress still can't resist the temptation to meddle in ways that contradict home rule. Yes, Congress has the constitutional right to interfere under the D.C. clause. But that interference abuses the legitimate expectations, if not the rights, of D.C.'s citizens nonetheless. So as I vote "no" on H.R. 51, I want to emphasize that I have consistently voted to respect the rights of the people of the District to manage their own affairs under home rule, and I will continue to do so.

Mr. HILLIARD. Mr. Chairman, I rise today to offer the strongest possible support for the passage of H.R. 51, which would allow the District of Columbia to become the 51st State in the Nation. Recently there has been an outcry from the public for change. In campaigns across the country candidates have run on this issue of change. Now is a time where we have the opportunity to look to the future and offer the citizens of Washington, DC a chance at full participation as Americans.

Many things have changed since the creation of the original 13 colonies, the days when our Founding Fathers first formulated our country's Constitution. Since then we have seen a great Civil War which brought our people together to create the greatest Nation in world history. We have witnessed an end to the horrible system of slavery and equal rights for women. However, separation of the North and South, slavery, and second-class citizenship for women were all part of the status quo during the days of the lives of our Founding Fathers.

These great men would have never imagined a day when this most-powerful Nation would include 50 States and 3 territories, African-American Governors, mayors, Congressmen, and Senators or women holding these same political positions.

As America has changed in these ways, the District has also changed. The original purpose for creating of the District of Columbia was for it to serve as an enclave of buildings, to have no residential population. That is why constitutional safeguards were put in place to separate the District from the other colonies to act as the Government's place of business. Contrary to this original purpose, the District of Columbia now has a residential population of over 600,000 citizens—more than four States—a diverse industrial sector, a $3.2 billion budget, a significant number of war veterans—higher than most States—and a per capita tax payment that is higher than that of 49 other States ($500 per person over the national average).

People, it is definitely time for change. The creation of New Columbia should be a part of America's change. It is time to extend to the people of D.C. the same constitutional rights that all other Americans share; the right to have voting representation in Congress, the right to control it's own finances, the right to make it's own laws without having the Federal Government peeking over their shoulders telling them that "you are not good as other citizens in this Nation."

We are definitely stepping beyond our constitutional authority by tying the hands of the District Government and it's people. I come before this body today to urge support for continued change, complete freedom, and basic rights guaranteed by law for the people of D.C.

I ask you to join me in making New Columbia our 51st State by voting yes on H.R. 51.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 51, a bill to provide for the admission of the State of New Columbia into the Union as our 51st State.

Washington, DC is unique area in many ways. Not only is this our Nation's capital, the site of many magnificent monuments to democracy, but it is also the only jurisdiction in the United States where 600,000 American citizens are effectively, systematically disenfranchised from participating in our democratic republic by lack of voting representation in Congress. In fact, even today more people live in the District of Columbia than in three other States—Alaska, Vermont, and Wyoming. While the District's Delegate to Congress has a vote in the Committee of the Whole, the Delegate does not have a vote in the House of Representatives, and, of course, there are no voting Senators representing the District in the other body. The United States is the only Nation in the world with a representative, democratic Constitution that denies full voting representation in the national legislature to the citizens of its capital area.

As if this circumstance was not onerous enough, Congress can and has occasionally decided to override laws passed by the elected city council and signed into law by the elected Mayor of the District of Columbia.

Mr. Chairman, over 200 years ago, the cry of "no taxation without representation" was one of the rallying points of the American Revolution. Today, District residents pay over $3 billion annually in Federal taxes at the fourth highest per capita rate in the Nation without full democratic representation.

Some critics have questioned whether the District of Columbia would be economically viable if it became a State. The answer is unequivocally affirmative. Locally generated revenues exceed those of 22 States. Local funding provides $5 out of every $6 for the District budget. In 1989, the gross product of the District was more than $39 billion; greater than the comparable figure for 19 States. Certainly the District of Columbia or New Columbia as a State would be a vibrant economic unit, working with other States and nations, it has a very bright future.

H.R. 51 specifically provides for the termination of the annual Federal payment in lieu of taxes, which has been inadequate as a measure of the true taxable value of Federal property holdings within the District. This legislation redefines the Federal enclave, including Federal buildings and national monuments, which will remain under Federal control and appropriate as an enclave. Congress previously reduced the size of the Federal District when it ceded what is now Arlington County, VA back to Virginia in the 1840's in the belief that the Federal Government would never need so much territory and, frankly, they were correct. Today the national Government is mature, the Washington, DC area has grown into a 600,000 populated area that needs the same status accorded other States within delegated powers.

Finally, Mr. Speaker, few political jurisdictions in our Nation have shown as much commitment to democracy and defending democracy as the people of the District of Columbia. District residents have fought and died in every war since the Revolution. They deserve to be represented and vote in congressional decisions of war and peace. The District of Columbia sustained more casualties during the Vietnam War than 10 States and more killed in action per capita than 47 States. An incredible testament to their interest, and this is no accident of history, more District residents per capita fought in the Persian Gulf war than 46 other States.

H.R. 51 establishes a Statehood Transition Commission to provide advice on the procedures for the orderly transition to statehood. The Commission would exist for 2 years following enactment of the bill and would provide advisory assistance to the District on numerous important public policy questions.

Mr. Chairman, some have said that Congress should now cede the District to the State of Maryland rather than grant statehood to the District. Yet it is clear from recent polls

that the people of Maryland do not wish to assume responsibility for the people of the District, nor do the people of the District as a distinct political entity necessarily wish now to become a part of Maryland. Under H.R. 51, the State of New Columbia would still have three Presidential electors, but they would also have two live voting Senators and a full-voting Representative in the House of Representatives.

The people of the District of Columbia have waited long enough. It is time to do what is right for the residents of our Nation's capital. It is time to bring democracy right to the doorsteps of the Capitol. I urge my colleagues to join me in voting for H.R. 51.

Mr. CARDIN, I vote in favor of statehood for the District of Columbia with mixed emotions.

Throughout my career in public office I have been a friend of the District and its residents. In 1980, as speaker of the Maryland House of Delegates, I helped Maryland become one of only 16 States that ratified an amendment to the Constitution to provide District residents with voting representation in the U.S. Congress. I feel strongly that citizens of D.C. deserve this right that is guaranteed to every other American.

I hesitate, however, to offer my unconditional support for D.C. statehood. If the legislation before us today had a realistic chance of passage my vote might have been different because the leadership of the District has not been willing to resolve the issues of a commuter tax and the Federal payment.

Mayor Kelly has openly supported imposing a commuter tax on Maryland residents working in the District of Columbia. Statehood for the District would empower her to do so. As a representative of many Marylanders who work in D.C., I will not support statehood until the District and Maryland resolve this conflict.

Legislation granting statehood should also re-evaluate the need for a Federal payment to the District of Columbia. As a State, D.C. should receive no special treatment from the Federal Government. After all, many other States have significant Federal facilities for which they receive no compensation.

Mr. Chairman, while my vote is accompanied by important caveats, I am pleased to have the opportunity today to express my support for voting representation in Congress for the District of Columbia. For too long District residents have been subject to Federal policies formulated by a Congress in which they are not fairly represented. I offer my sincere hope that we can resolve the issues of commuter taxes and Federal payments so that I can offer my unconditional support to the fine work of Representative NORTON on behalf of statehood for the District of Columbia.

Mr. SYNAR. Mr. Chairman, I rise today in support of H.R. 51, the New Columbia Admission Act.

Our Founding Fathers, with the best of intentions, established the District of Columbia as the home of our Nation's Capital. It is important to understand the historical context of that decision. In the early days of our Nation, we were more of loose confederation than a strong Union. The location of the Capital was a subject of intense disagreement, particularly between the North and South. Each felt locating the Capital in the other region would adversely affect them. Our fledgling Nation's leaders took note and were therefore concerned about subjecting the Capital City to State and local pressures. The only way to avoid this, they believed, was to create an autonomous district whose running was solely under the purview of the Federal Government. And so after much discussion and compromise, the District of Columbia was created.

In the 200 years or so since that act, the circumstances that inspired our Founding Fathers to create the District of Columbia changed. Moreover, the District itself changed from an area of vast fields interspersed by public buildings to a populous cosmopolitan city. The District of Columbia now has a population greater than that of three States. Further, it pays taxes to the Federal Government at the fourth highest per capita rate in the country, and has a productive economy. By all indications, the District of Columbia is a rich community that is both competent and resourceful in the conduct of its affairs. Yet the residents of the District are disenfranchised.

District residents are not allowed to have representation in Congress. Yet every act of the city's government is subject to congressional scrutiny. The District pays over $3 billion annually to the Treasury, yet its residents have no say in how that money is spent. The District ranked fourth per capita among States in the number of its citizens who served in the Persian Gulf, yet District residents had no voice in Congress when the vote was cast to enter that conflict.

The residents of the District of Columbia have petitioned for statehood for years. And for years they have been denied. We are the only Nation in the world with a representative, democratic Constitution that denies representation to the citizens of its Capital City. The only one. We are the leaders of the free world, the spreaders of democracy, the revolters against taxation without representation, yet we arbitrarily deny representation to 600,000 of our citizens. This is wrong.

The people of the District of Columbia deserve selfgovernment. Support D.C. statehood.

Mr. HEFLEY. Mr. Chairman, we have heard all about what the residents of the District of Columbia do not have. They do not have a governor, they do not have any Senators, and they do not have voting Representatives. In a word, the residents of the District of Columbia do not have some rights that others in the United States have.

Apparently, they also do not have a copy of the Constitution. What does it say?

> The Congress shall have power to * * * exercise exclusive legislation in all cases whatsoever over such District * * * as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States * * *

Washington, DC, is a special city which gets special funding and control from Congress, but it is not and never should be a State with two Senators and a Representative.

But then, statehood advocates are quick to point out, D.C. residents will never get to vote for a Senator, their House Delegate will never become a House Representative, and D.C. taxpayers will continue to suffer from taxation without representation. The District is not represented on Capitol Hill, and it just is not fair.

Which is all beside the point. If voting rights and representation were the real issue, District residents should take the logical step and ask to reincorporate back into Maryland—that is what the Virginia side of the District of Columbia did. Then the residents could vote for Maryland's Senators and they'd have their own Representative.

Of course, Maryland might have something to say about the matter. As perhaps the most poorly run city in the country, the District is not an attractive catch. On the other hand, if the District of Columbia could clean up its act, annexation into Maryland is the most direct path toward gaining voting rights and representation in Congress.

But let's not kid ourselves. Statehood for the District of Columbia is not about rights or representation—it is about money and power. The leaders behind the statehood movement are not as concerned about taxation without representation as they are about their own political futures. The city, on the other hand, wants a commuter tax that the Mayor says will bring $1 billion a year to the District.

Over the past 20 years, the "Self-Rule" experiment in the District of Columbia has gone from bad to worse. So, in the tried and true tradition of Mario Cuomo and Bill Clinton, the District is attempting to turn a record of failure and misery into a political advance.

Well, it is not going to happen. Statehood for the District of Columbia is a bad—no, stupid—idea which would contribute to the eroding the influence of the other 50 States. That is why the movement continues to flounder, and that is why I oppose statehood for the District of Columbia.

Mr. ACKERMAN. Mr. Speaker, I rise today to further explain my opposition to H.R. 51, a bill that would have admitted the State of New Columbia into the Union. H.R. 51, as did its predecessors, would not have simply admitted another State into the Union. It would have destroyed the vision hundreds of millions of Americans have shared for more than 200 years about what our Nation's Capital is and what it should be. H.R. 51 would have created a dramatically diminished Nation's Capital that would have reduced Washington, DC, to a strip of land one-tenth the size of Dulles International Airport.

The reduction in the Nation's Capital through H.R. 51 would have violated article I, section 8, clause 17 of the Constitution, the District clause. The bill sought to render inoperative the 23d amendment to the Constitution by simply repealing its implementing legislation rather than through the constitutional process of repealing the amendment. The bill also put Congress in the unprecedented position of choosing between two competing, and very different, versions of the constitution of the proposed State. H.R. 51 would have also not admitted a State on an equal footing with the other States as its enabling language claims. Rather, H.R. 51 would have created a State unlike any other in the Union.

Statehood proponents gave new meaning to article I, section 8, clause 17, the District clause, contenting that because Congress has power to exercise exclusive legislation for the District, it can do anything it wishes, including making the District a State. Of course, this is not what exclusive legislation means. It would

have been a great shock to have interpreted this phrase to have meant that Congress, through simple legislation, could have repealed the 23d amendment or suspended the Bill of Rights in the District. In a 1953 District lawsuit, Justice William O. Douglas reiterated that the phrase means that no State can have authority over the seat of Government.

Combined with the 23d amendment, H.R. 51 would have provided the residents of the District of Columbia not only with the three votes in the electoral college but it also would retain a separate seat of the Federal Government with its own electoral votes. To prevent the first family and a handful of others from controlling three electoral votes, the 23d amendment would have been either amended or repealed. Statehood advocates dismiss this constitutional conflict, alleging that upon admission the 23d Amendment would be an absurdity, and consequently, a dead letter. Congress, however, should not be in the business of reducing provisions of the Constitution to absurdities.

H.R. 51 sought not equal treatment for the new State, but special treatment. While the campaign on Capital Hill focused on simple justice, local officials are telling District residents that statehood means lower taxes and more revenue for them. The campaign for statehood would not have told you that the average family with an income of $50,000 in at least 12 other cities pay higher State and local taxes than does a comparable family in the district. Statehood advocates will not tell you that the Federal Government already spends $33,951 per capita in the district which is more than seven times the national per capita amount. Obviously, lower taxes and more revenue for the district means higher taxes for others. Statehood advocates refused to give up the special benefits the district now enjoys and refused to take on all of the burdens of statehood.

Statehood proponents claimed that statehood is a civil rights issue. However, voting representation and statehood are not synonymous. Retrocession to Maryland, and a constitutional amendment, are among some of the options which could equally provide voting representation.

H.R. 51 was fatally flawed and failed, in part, because of its geographical impact on the remaining District of Columbia. Many important Federal buildings, national treasures, and foreign embassies, along with the Vice President's house, Washington Cathedral, and the National Zoo would not have been located in Washington, DC. When one eliminates the rivers from the Federal enclave, only approximately 3,000 acres of land will remain in Washington, DC. The remainder of the capitol area is not only small, but its borders are irrational, twisting and turning in and out of the proposed new State.

I continue to support full voting rights for residents of the District of Columbia, but I continue to wait for a more appropriate vehicle than statehood proposed by H.R. 51.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute, modified by the amendments printed in part 1 of House Report 103-384, shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute, modified by the amendments printed in part 1 of House Report 103-384, is as follows:

H.R. 51

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "New Columbia Admission Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATE OF NEW COLUMBIA

Subtitle A—Procedures for Admission

Sec. 101. Admission into the union.
Sec. 102. Process for admission.
Sec. 103. Election of officials of State.
Sec. 104. Issuance of presidential proclamation.

Subtitle B—Description of New Columbia Territory

Sec. 111. Territories and boundaries of New Columbia.
Sec. 112. Description of District of Columbia after admission of State.
Sec. 113. Continuation of title to lands and property.

Subtitle C—General Provisions Relating to Laws of New Columbia

Sec. 121. Limitation on authority of State to tax Federal property.
Sec. 122. Effect of admission of State on current laws.
Sec. 123. Continuation of judicial proceedings.
Sec. 124. United States nationality.

TITLE II—RESPONSIBILITIES AND INTERESTS OF FEDERAL GOVERNMENT

Sec. 201. Continuation of revised District of Columbia as seat of Federal government.
Sec. 202. Treatment of military lands.
Sec. 203. Payment to State in lieu of tax.
Sec. 204. Waiver of claims to Federal lands and property.
Sec. 205. Preservation of scenic vistas.
Sec. 206. Permitting individuals residing in new seat of government to vote in Federal elections in State of most recent domicile.
Sec. 207. Repeal of law providing for participation of District of Columbia in election of President and Vice-President.
Sec. 208. Expedited consideration of constitutional amendment.

TITLE III—GENERAL PROVISIONS

Sec. 301. General definitions.
Sec. 302. Certification of enactment by president.
Sec. 303. Statehood Transition Commission.

TITLE I—STATE OF NEW COLUMBIA

Subtitle A—Procedures for Admission

SEC. 101. ADMISSION INTO THE UNION.

(a) IN GENERAL.—Subject to the provisions of this Act, upon issuance of the proclamation required by section 104(b), the State of New Columbia is declared to be a State of the United States of America, and is declared admitted into the Union on an equal footing with the other States in all respects whatever.

(b) CONSTITUTION OF STATE.—The State Constitution shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

SEC. 102. PROCESS FOR ADMISSION.

(a) APPROVAL OF ADMISSION BY VOTERS OF DISTRICT OF COLUMBIA.—

(1) ELECTION PROCEDURES.—At an election designated by proclamation of the Mayor, which may be the primary or the general election held pursuant to section 103(a), a general election, or a special election, there shall be submitted to the electors qualified to vote in such election the following propositions for adoption or rejection:

"(A) New Columbia shall immediately be admitted into the Union as a State.

"(B) The proposed Constitution for the State of New Columbia, as adopted by the Council of the District of Columbia pursuant to the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Law 7-8), shall be deemed ratified and shall replace the Constitution for the State of New Columbia ratified on November 2, 1982.

"(C) The boundaries of the State of New Columbia shall be as prescribed in the New Columbia Admission Act.

"(D) All provisions of the New Columbia Admission Act, including provisions reserving rights or powers to the United States and provisions prescribing the terms or conditions of the grants of lands or other property made to the State of New Columbia, are consented to fully by the State and its people.".

(2) RESPONSIBILITIES OF MAYOR.—The Mayor of the District of Columbia is authorized and directed to take such action as may be necessary or appropriate to ensure the submission of such propositions to the people. The return of the votes cast on such propositions shall be made by the election officers directly to the Board of Elections of the District of Columbia, which shall certify the results of the submission to the Mayor. The Mayor shall certify the results of such submission to the President of the United States.

(b) EFFECT OF VOTE.—

(1) ADOPTION OF PROPOSITIONS.—In the event the propositions described in subsection (a) are adopted in an election under such subsection by a majority of the legal votes cast on such submission—

(A) the State Constitution shall be deemed ratified; and

(B) the President shall issue a proclamation pursuant to section 104.

(2) REJECTION OF PROPOSITION.—In the event any one of the propositions described in subsection (a) is not adopted in an election under such subsection by a majority of the legal votes cast on such submission, the provisions of this Act shall cease to be effective.

SEC. 103. ELECTION OF OFFICIALS OF STATE.

(a) ISSUANCE OF PROCLAMATION.—

(1) IN GENERAL.—Not more than 30 days after receiving certification of the enactment of this Act from the President pursuant to section 302, the Mayor of the District of Columbia shall issue a proclamation for the first elections, subject to the provisions of this section, for two Senators and one Representative in Congress.

(2) SPECIAL RULE FOR ELECTION OF SENATORS.—In the election of Senators from the State pursuant to paragraph (1), the 2 Senate offices shall be separately identified and designated, and no person may be a candidate for both offices. No such identification or designation of either of the offices shall refer to or be taken to refer to the terms of such offices, or in any way impair the privilege of the Senate to determine the class to which each of the Senators elected shall be assigned.

(b) RULES FOR CONDUCTING ELECTION.—

(1) IN GENERAL.—The proclamation of the Mayor issued under subsection (a) shall provide for the holding of a primary election and a general election and at such elections the officers required to be elected as provided in subsection

(a) shall be chosen by the qualified electors of the District of Columbia in the manner required by law.

(2) CERTIFICATION OF RETURNS.—Election returns shall be made and certified in the manner required by law, except that the Mayor shall also certify the results of such elections to the President of the United States.

(c) ASSUMPTION OF DUTIES.—Upon the admission of the State into the Union, the Senators and Representative elected at the election described in subsection (a) shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

(d) TRANSFER OF OFFICES OF MAYOR AND MEMBERS AND CHAIR OF COUNCIL.—Upon the admission of the State into the Union, the Mayor, members of the Council, and the Chair of the Council at the time of admission shall be deemed the Governor, members of the House of Delegates, and the President of the House of Delegates of the State, respectively, as provided by the State Constitution and the laws of the State.

(e) CONTINUATION OF AUTHORITY AND DUTIES AND JUDICIAL AND EXECUTIVE OFFICERS.—Upon the admission of the State into the Union, members of executive and judicial offices of the District of Columbia shall be deemed members of the respective executive and judicial offices of the State, as provided by the State Constitution and the laws of the State.

(f) SPECIAL RULE FOR HOUSE OF REPRESENTATIVES MEMBERSHIP.—The State upon its admission into the Union shall be entitled to one Representative until the taking effect of the next reapportionment, and such Representative shall be in addition to the membership of the House of Representatives as now prescribed by law, except that such temporary increase in the membership shall not operate to either increase or decrease the permanent membership of the House of Representatives or affect the basis of apportionment for the Congress.

SEC. 104. ISSUANCE OF PRESIDENTIAL PROCLAMATION.

(a) IN GENERAL.—If the President finds that the propositions set forth in section 102(a) have been duly adopted by the people of the State, the President, upon certification of the returns of the election of the officers required to be elected as provided in section 103(a), shall, not later than 90 days after receiving such certification, issue a proclamation announcing the results of such elections as so ascertained.

(b) ADMISSION OF STATE UPON ISSUANCE OF PROCLAMATION.—Upon the issuance of the proclamation by the President under subsection (a), the State shall be deemed admitted into the Union as provided in section 101.

Subtitle B—Description of New Columbia Territory

SEC. 111. TERRITORIES AND BOUNDARIES OF NEW COLUMBIA.

(a) IN GENERAL.—Except as provided in subsection (b), the State shall consist of all of the territory of the District of Columbia as of the date of the enactment of this Act, subject to the results of the technical survey conducted under subsection (c).

(b) EXCLUSION OF PORTION OF DISTRICT OF COLUMBIA REMAINING AS NATIONAL CAPITAL.—The territory of the State shall not include the area described in section 112, which shall remain as the District of Columbia for purposes of serving as the seat of the government of the United States.

(c) TECHNICAL SURVEY.—Not later than 6 months after the date of the enactment of this Act, the President (in consultation with the Chair of the National Capital Planning Commission) shall conduct a technical survey of the metes and bounds of the District of Columbia and of the territory described in section 112(b).

SEC. 112. DESCRIPTION OF DISTRICT OF COLUMBIA AFTER ADMISSION OF STATE.

(a) IN GENERAL.—Subject to the succeeding provisions of this section, after the admission of the State into the Union, the District of Columbia shall consist of the property described in subsection (b) and shall include the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the Federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building.

(b) SPECIFIC DESCRIPTION OF METES AND BOUNDS.—After the admission of the State into the Union, the specific metes and bounds of the District of Columbia shall be as follows:

Beginning at the point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east of the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the north side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;

thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;

thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;

thence north on John Marshall Place Northwest to C Street Northwest;

thence east on C Street Northwest to Third Street Northwest;

thence north on Third Street Northwest to D Street Northwest;

thence east on D Street Northwest to Second Street Northwest;

thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;

thence northeast on Louisiana Avenue Northwest to North Capitol Street;

thence north on North Capitol Street to Massachusetts Avenue Northwest;

thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;

thence following Union Square to F Street Northeast;

thence east on F Street Northeast to Second Street Northeast;

thence south on Second Street Northeast to D Street Northeast;

thence west on D Street Northeast to First Street Northeast;

thence south on First Street Northeast to Maryland Avenue Northeast;

thence generally north and east on Maryland Avenue to Second Street Northeast;

thence south on Second Street Northeast to C Street Southeast;

thence west on C Street Southeast to New Jersey Avenue Southeast;

thence south on New Jersey Avenue Southeast to D Street Southeast;

thence west on D Street Southeast to Washington Avenue Southwest;

thence southeast on Washington Avenue Southwest to E Street Southeast;

thence west on E Street Southeast to the intersection of Washington Avenue Southwest and South Capitol Street;

thence northwest on Washington Avenue Southwest to Second Street Southwest;

thence south on Second Street Southwest to Virginia Avenue Southwest;

thence generally west on Virginia Avenue to Third Street Southwest;

thence north on Third Street Southwest to C Street Southwest;

thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;

thence west on Independence Avenue to Twelfth Street Southwest;

thence south on Twelfth Street Southwest to D Street Southwest;

thence west on D Street Southwest to Fourteenth Street Southwest;

thence south on Fourteenth Street Southwest to the middle of the Washington Channel;

thence generally south and east along the midchannel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;

thence due east to the side of the Washington Channel;

thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northernmost point of the Eleventh Street Bridge;

thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;

thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;

thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;

thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary; and

thence generally north and west up the Potomac River along the present Virginia-District of Columbia boundary to the point of beginning.

(c) TREATMENT OF CERTAIN PROPERTY.—

(1) STREETS AND SIDEWALKS BOUNDING AREA.—After the admission of the State into the Union, the District of Columbia shall be deemed to include any street (together with any sidewalk thereof) bounding the District of Columbia.

(2) EXCLUSION OF DISTRICT BUILDING.—Notwithstanding any other provision of this section, the District of Columbia shall not be considered to include the District Building after the admission of the State into the Union.

(3) INCLUSION OF CERTAIN MILITARY PROPERTY.—After the admission of the State into the Union, the District of Columbia shall be deemed to include Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory.

SEC. 113. CONTINUATION OF TITLE TO LANDS AND PROPERTY.

(a) CONTINUATION OF TITLE TO LANDS OF DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The State and its political subdivisions shall have and retain title or jurisdiction for purposes of administration and

maintenance to all property, real and personal, with respect to which title or jurisdiction for purposes of administration and maintenance is held by the territory of the District of Columbia on the day before the State is admitted into the Union.

(2) CONVEYANCE OF INTEREST IN CERTAIN BRIDGES AND TUNNELS.—On the day before the State is admitted into the Union, the District of Columbia shall convey to the United States any and all interest of the District of Columbia in any bridge or tunnel that will connect the Commonwealth of Virginia with the District of Columbia after the admission of the State into the Union.

(b) CONTINUATION OF FEDERAL TITLE TO PROPERTY IN STATE.—The United States shall have and retain title or jurisdiction for purposes of administration and maintenance to all property in the State with respect to which the United States holds title or jurisdiction on the day before the State is admitted into the Union, including the scenic easement taken by the Secretary of the Interior under section 205.

Subtitle C—General Provisions Relating to Laws of New Columbia

SEC. 121. LIMITATION ON AUTHORITY OF STATE TO TAX FEDERAL PROPERTY.

The State may not impose any taxes upon any lands or other property owned or acquired by the United States, except to the extent as Congress may permit.

SEC. 122. EFFECT OF ADMISSION OF STATE ON CURRENT LAWS.

(a) IN GENERAL.—The admission of the State into the Union shall not be construed to affect the applicability to the State of any laws in effect in the District of Columbia as of the date of admission, except as modified or changed by this Act or by the State Constitution.

(b) TREATMENT OF FEDERAL LAWS.—All of the laws of the United States shall have the same force and effect within the State as elsewhere in the United States, except as such laws may otherwise provide.

SEC. 123. CONTINUATION OF JUDICIAL PROCEEDINGS.

(a) PENDING PROCEEDINGS.—

(1) IN GENERAL.—No writ, action, indictment, cause, or proceeding pending in any court of the District of Columbia or in the United States District Court for the District of Columbia shall abate by reason of the admission of the State into the Union, but shall be transferred and shall proceed within such appropriate State courts as shall be established under the State Constitution, or shall continue in the United States District Court for the District of Columbia, as the nature of the case may require.

(2) SUCCESSION OF COURTS.—The appropriate courts of the State shall be the successors of the courts of the District of Columbia as to all cases arising within the limits embraced within the jurisdiction of such courts, with full power to proceed with such cases, and award mesne or final process therein, and all files, records, indictments, and proceedings relating to any such writ, action, indictment, cause, or proceeding shall be transferred to such appropriate State courts and shall be proceeded with therein in due course of law.

(b) UNFILED PROCEEDINGS BASED ON ACTIONS PRIOR TO ADMISSION.—All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of the State into the Union, but as to which no writ, action, indictment, or proceeding shall be pending at the date of such admission, shall be subject to prosecution in the appropriate State courts or in the United States District Court for the District of Columbia in like manner, to the same extent, and with like right of appellate review, as if the State had been admitted and such State courts had been established prior to the accrual of such causes of action or the commission of such offenses.

(c) MAINTENANCE OF RIGHTS TO AND JURISDICTION OVER APPEALS.—

(1) CASES DECIDED PRIOR TO ADMISSION.—Parties shall have the same rights of appeal from and appellate review of final decisions of the United States District Court for the District of Columbia or the District of Columbia Court of Appeals in any case finally decided prior to the admission of the State into the Union, whether or not an appeal therefrom shall have been perfected prior to such admission. The United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction in such cases as by law provided prior to the admission of the State into the Union.

(2) CASES DECIDED AFTER ADMISSION.—Parties shall have the same rights of appeal from and appellate review of all orders, judgments, and decrees of the United States District Court for the District of Columbia and of the highest court of the State, as successor to the District of Columbia Court of Appeals, in any case pending at the time of admission of the State into the Union, and the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court of the United States shall have the same jurisdiction therein, as by law provided in any case arising subsequent to the admission of the State into the Union.

(3) ISSUANCE OF SUBSEQUENT MANDATES.—Any mandate issued subsequent to the admission of the State shall be to the United States District Court for the District of Columbia or a court of the State, as appropriate.

(d) CONFORMING AMENDMENTS RELATING TO FEDERAL COURTS.—Effective upon the admission of the State into the Union—

(1) section 41 of title 28, United States Code, is amended in the second column by inserting ", New Columbia" after "District of Columbia"; and

(2) the first paragraph of section 88 of title 28, United States Code, is amended to read as follows:

"The District of Columbia and the State of New Columbia comprise one judicial district.".

SEC. 124. UNITED STATES NATIONALITY.

No provision of this Act shall operate to confer United States nationality, to terminate nationality lawfully acquired, or to restore nationality terminated or lost under any law of the United States or under any treaty to which the United States is or was a party.

TITLE II—RESPONSIBILITIES AND INTERESTS OF FEDERAL GOVERNMENT

SEC. 201. CONTINUATION OF REVISED DISTRICT OF COLUMBIA AS SEAT OF FEDERAL GOVERNMENT.

After the admission of the State into the Union, the seat of the Government of the United States shall be the District of Columbia as described in section 112 (also known as "Washington, D.C.").

SEC. 202. TREATMENT OF MILITARY LANDS.

(a) RESERVATION OF FEDERAL AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (b) and notwithstanding the admission of the State into the Union, authority is reserved in the United States for the exercise by Congress of the power of exclusive legislation in all cases whatsoever over such tracts or parcels of land located within the State that, immediately prior to the admission of the State, are controlled or owned by the United States and held for defense or Coast Guard purposes.

(2) LIMITATION ON AUTHORITY.—The power of exclusive legislation described in paragraph (1) shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for defense or Coast Guard purposes.

(b) AUTHORITY OF STATE.—

(1) IN GENERAL.—The reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over military lands under subsection (a) shall not operate to prevent such lands from being a part of the State, or to prevent the State from exercising over or upon such lands, concurrently with the United States, any jurisdiction which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by Congress pursuant to such reservation of authority.

(2) SERVICE OF PROCESS.—The State shall have the right to serve civil or criminal process within such tracts or parcels of land in which the authority of the United States is reserved under subsection (a) in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the State but outside of such tracts or parcels of land.

SEC. 203. PAYMENT TO STATE IN LIEU OF TAX.

In order to compensate the State for unavailable tax revenues and other effects on the revenues of the State resulting from the significant presence of the Federal Government within and nearby the State, the United States shall make a payment to the State for each fiscal year in such amount and under such schedule as Congress may determine (taking into account the recommendations of the Statehood Transition Commission under section 303).

SEC. 204. WAIVER OF CLAIMS TO FEDERAL LANDS AND PROPERTY.

(a) IN GENERAL.—As a compact with the United States, the State and its people disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or subject to disposition by the United States.

(b) EFFECT ON CLAIMS AGAINST UNITED STATES.—

(1) IN GENERAL.—Nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by applicable laws of the United States.

(2) RULE OF CONSTRUCTION.—Nothing in this Act is intended or shall be construed as a finding, interpretation, or construction by the Congress that any applicable law authorizes, establishes, recognizes, or confirms the validity or invalidity of any claim referred to in paragraph (1), and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act.

SEC. 205. PRESERVATION OF SCENIC VISTAS.

(a) SCENIC EASEMENT.—The Secretary of the Interior shall take a scenic easement in the space above all lots within the State (in accordance with such terms and procedures as the Secretary of the Interior may establish, including terms and procedures relating to the payment of compensation towards the value of the easement taken), and such scenic easement shall be reserved by the United States. The scenic easement is described as follows:

(1) GENERAL RULE.—Except as otherwise provided in this subsection, the scenic easement shall be in all space above a lot beginning at a height equal to the sum of—

(A) the width of the street, avenue, or highway in front of the lot; and

(B) 20 feet.

(2) PROPERTY ON COMMERCIAL STREET.—With respect to a lot on a business street, avenue, or highway, the scenic easement shall be in all space above the lot beginning at a height equal to 130 feet above the sidewalk of the street, avenue, or highway (or, in the case of property on the north side of Pennsylvania Avenue between

1st and 15th Streets Northwest, beginning 160 feet above the sidewalk).

(3) PROPERTY ON RESIDENTIAL STREET.—With respect to a lot on a residential street, avenue, or highway, the scenic easement shall be in all space above the lot beginning—

(A) in the case of a lot on a street, avenue, or highway 60 feet wide or less, at a height equal to the width of the street, avenue, or highway;

(B) in the case of a lot on a street, avenue, or highway more than 60 feet but less than 65 feet wide, at a height equal to 60 feet; and

(C) in the case of a lot on any other street, avenue, or highway, at a height equal to the lower of—

(i) the width of the street, avenue, or highway reduced by 10 feet, or

(ii) 90 feet.

(4) TREATMENT OF SPACE OVER CHURCHES.—With respect to any lot on a residence street, avenue, or highway upon which a church is located (other than a church whose construction had not been undertaken prior to June 1, 1910), the scenic easement shall be in all space above the lot beginning at a height equal to 95 feet above the level of the adjacent curb.

(5) TREATMENT OF PLAZA OF UNION STATION.—With respect to any portion of any lot affronting or abutting the plaza in front of Union Station upon which a building is located (other than a building erected prior to June 1, 1910), the scenic easement shall be in all space above the lot beginning at a height equal to 80 feet above the plaza.

(b) EFFECT OF SCENIC EASEMENT.—

(1) NO PHYSICAL STRUCTURES PERMITTED.—Except as provided in paragraph (2), no person may encroach upon any space in which the United States has reserved a scenic easement pursuant to subsection (a) with a physical structure.

(2) PERMISSIBLE ENCROACHMENT BY CERTAIN STRUCTURES.—Notwithstanding paragraph (1), a person may encroach upon a space in which the United States has reserved a scenic easement pursuant to subsection (a) with any of the following:

(A) A physical structure in existence on the date on which the Secretary of the Interior takes the easement.

(B) A spire, tower, dome, minaret, or pinnacle serving as an architectural embellishment.

(C) A penthouse over an elevator shaft, ventilation shaft, chimney, smokestack, or fire sprinkler tank, but only if—

(i) the structure is not used for human occupancy; and

(ii) the structure is set back from the exterior walls of the building upon which it is located at a distance equal to its height above the building's roof.

(D) An antenna.

(E) Construction equipment.

(F) A flagpole.

(c) RULES FOR INTERPRETING HEIGHTS.—In determining the point at which a scenic easement in a lot begins for purposes of subsection (a), the following rules shall apply:

(1) Height shall be measured from the level of the sidewalk opposite the middle of the front of the lot.

(2) Any height otherwise determined under such subsection to be not greater than 60 feet may be increased by the distance between the highest point of any building located on the lot and the portion of any parapet wall or balustrade of the building that extends over such highest point, but in no case may any height be increased pursuant to this paragraph by more than 4 feet.

(3) If a lot (including a corner lot) fronts an intersection of 2 or more streets, avenues, or highways, a height shall be determined by using the width of the widest street, avenue, or highway involved.

(4) In the case of a lot on a street less than 90 feet wide on which building lines have been established, the width of the street shall be deemed to be the distance between the lines.

(d) AUTHORITY OF STATE TO DESIGNATE STREETS.—Nothing in this section shall be construed to affect the authority of the State to designate streets, avenues, or highways as commercial or residential.

(e) EFFECTIVE DATE.—The Secretary of the Interior shall take the scenic easement described in this section on the day before the State is admitted into the Union. The scenic easement shall be reserved by the United States on the date on which the State is admitted into the Union.

SEC. 206. PERMITTING INDIVIDUALS RESIDING IN NEW SEAT OF GOVERNMENT TO VOTE IN FEDERAL ELECTIONS IN STATE OF MOST RECENT DOMICILE.

(a) REQUIREMENT FOR STATES TO PERMIT INDIVIDUALS TO VOTE BY ABSENTEE BALLOT.—

(1) IN GENERAL.—Each State shall—

(A) permit absent District of Columbia voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office; and

(B) accept and process, with respect to any general, special, primary, or runoff election for Federal office, any otherwise valid voter registration application from an absent District of Columbia voter, if the application is received by the appropriate State election official not less than 30 days before the election.

(2) ABSENT DISTRICT OF COLUMBIA VOTER DEFINED.—In this section, the term "absent District of Columbia voter" means, with respect to a State—

(A) a person who resides in the District of Columbia after the admission of the State into the Union and is qualified to vote in the State, but only if the State is the last place in which the person was domiciled before residing in the District of Columbia; or

(B) a person who resides in the District of Columbia after the admission of the State into the Union and (but for such residence) would be qualified to vote in the State, but only if the State is the last place in which the person was domiciled before residing in the District of Columbia.

(3) STATE DEFINED.—In this section, the term "State" means each of the several States, including the State of New Columbia.

(b) RECOMMENDATIONS TO STATES TO MAXIMIZE ACCESS TO POLLS BY ABSENT DISTRICT OF COLUMBIA VOTERS.—To afford maximum access to the polls by absent District of Columbia voters, it is recommended that the States—

(1) waive registration requirements for absent District of Columbia voters who, by reason of residence in the District of Columbia, do not have an opportunity to register;

(2) expedite processing of balloting materials with respect to such individuals; and

(3) assure that absentee ballots are mailed to such individuals at the earliest opportunity.

(c) ENFORCEMENT.—The Attorney General may bring a civil action in appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this section.

(d) EFFECT ON CERTAIN OTHER LAWS.—The exercise of any right under this section shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

(e) EFFECTIVE DATE.—This section shall take effect upon the date of the admission of the State into the Union, and shall apply with respect to elections for Federal office taking place on or after such date.

SEC. 207. REPEAL OF LAW PROVIDING FOR PARTICIPATION OF DISTRICT OF COLUMBIA IN ELECTION OF PRESIDENT AND VICE-PRESIDENT.

(a) IN GENERAL.—Title 3, United States Code, is amended by striking section 21.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the date of the admission of the State into the Union, and shall apply to any election of the President and Vice-President of the United States taking place on or after such date.

SEC. 208. EXPEDITED CONSIDERATION OF CONSTITUTIONAL AMENDMENT.

(a) EXERCISE OF RULEMAKING AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such these provisions are deemed as part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution described in subsection (b), and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change the rule (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(b) EXPEDITED CONSIDERATION OF REPEAL OF 23RD AMENDMENT.—

(1) MOTION MADE IN ORDER.—At any time after the date of the enactment of this Act, it shall be in order in the Senate to offer a motion to proceed to the consideration of a joint resolution proposing an amendment to the Constitution of the United States repealing the 23rd article of amendment to the Constitution.

(2) PROCEDURES RELATING TO MOTION.—With respect to the motion described in paragraph (1), the following rules shall apply:

(A) The motion is highly privileged and is not debatable.

(B) An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) A motion to postpone shall be decided without debate.

TITLE III—GENERAL PROVISIONS

SEC. 301. GENERAL DEFINITIONS.

In this Act, the following definitions shall apply:

(1) The term "Commission" means the Statehood Transition Commission established under section 303.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Governor" means the Governor of the State of New Columbia.

(4) The term "Mayor" means the Mayor of the District of Columbia.

(5) The term "State Constitution" means the constitution of the State of New Columbia, as adopted by the Council of the District of Columbia in the Constitution for the State of New Columbia Approval Act of 1987 (D.C. Law 7–8).

(6) The term "State" means the State of New Columbia.

SEC. 302. CERTIFICATION OF ENACTMENT BY PRESIDENT.

Not more than 60 days after the date of enactment of this Act, the President shall certify such enactment to the Mayor of the District of Columbia.

SEC. 303. STATEHOOD TRANSITION COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Statehood Transition Commission.

(b) COMPOSITION.—The Commission shall be composed of 17 members appointed as follows:

(1) 3 members appointed by the President.

(2) 2 members appointed by the Speaker of the House.

(3) 2 members appointed by the Minority Leader of the House of Representatives.

(4) 2 members appointed by the President Pro Tempore of the Senate.

(5) 2 members appointed by the Minority Leader of the Senate.

(6) 3 members appointed by the Mayor of the District of Columbia.

(7) 3 members appointed by the Council of the District of Columbia.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall advise the President, the Congress, the Mayor (or, upon the admission of the State into the Union, the Governor), and the Council (or, upon the admission of the State into the Union, the House of Delegates for the State of New Columbia) concerning necessary procedures to effect an orderly transition to statehood for the District of Columbia and other matters relating to the assumption of the property, functions, and activities of the District of Columbia by the State during the first 2 years of the State's existence.

(2) RECOMMENDATIONS REGARDING APPLICABILITY OF LAWS TO NEW SEAT OF GOVERNMENT.—In carrying out its duties under paragraph (1), the Commission shall analyze the laws of the United States that will apply to the District of Columbia after the admission of the State into the Union, and shall make recommendations to Congress regarding whether any of these laws should continue to apply to the District of Columbia after the admission of the State.

(3) RECOMMENDATIONS REGARDING ANNUAL PAYMENT IN LIEU OF TAX.—In addition to any of its other duties under paragraph (1), not later than 1 year after the date of the enactment of this Act, the Commission shall develop and recommend to Congress a methodology for determining the amount of and schedule for the annual payment to the State required under section 203, and shall base such methodology upon the methodologies used to determine the amount of other payments in lieu of taxes made by the United States to States and units of local government as compensation for the presence of Federal property which may not be taxed by such States and units of local government.

(4) RECOMMENDATIONS REGARDING LORTON CORRECTIONAL COMPLEX.—In addition to any of its other duties under paragraph (1), not later than 2 years after the date of the enactment of this Act, the Commission shall identify and recommend options to Congress, the Mayor of the District of Columbia (or, if the options are recommended after the admission of the State into the Union, the Governor of the State), and the Governor of Virginia regarding the incarceration of individuals convicted of crimes in the State, including options relating to—

(A) the construction of additional prison facilities within the State;

(B) agreements between the State and the Commonwealth of Virginia with respect to the Lorton Correctional Complex, or agreements with other jurisdictions under which such individuals may be incarcerated at facilities located in such other jurisdictions; and

(C) the development of a comprehensive plan for closing the Lorton Correctional Complex by 2010 and relocating inmates to other facilities.

(d) REPORTS.—The Commission shall submit such reports as the Commission considers appropriate or as may be requested.

(e) TERMINATION.—The Commission shall cease to exist 2 years after the date of the admission of the State into the Union.

The CHAIRMAN. No amendment to the substitute, as modified, and no other amendment to the bill is in order.

The question is on the committee amendment in the nature of a substitute, as modified.

The committee amendment in the nature of a substitute, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 51) to provide for the admission of the State of New Columbia into the Union, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read a third time.

□ 1720

MOTION TO RECOMMIT OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BLILEY. Yes, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BLILEY moves to recommit the bill, H.R. 51, to the Committee on the District of Columbia.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. BLILEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 153, noes 277, not voting 4, as follows:

[Roll No. 595]

AYES—153

Abercrombie
Andrews (ME)
Andrews (NJ)
Bacchus (FL)
Barca
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Durbin
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Green
Gutierrez
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Inslee
Jacobs
Jefferson
Johnson, E. B.
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
Lantos
Levin
Lewis (GA)
Long
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Pickle
Rangel
Reynolds
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Slattery
Slaughter
Stark
Stokes
Studds
Swett
Swift
Synar
Tejeda
Thompson
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Woolsey
Wyden
Wynn
Yates

NOES—277

Ackerman
Allard
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Boucher
Brewster
Brooks
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Clement
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Derrick
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (AZ)
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Mann
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers

Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Clinger
Hall (OH)
Kyl
Washington

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would remind visitors in the gallery that they are here as guests of the House and they should not approve or disapprove of what happens on the House floor.

□ 1724

Mr. BOEHLERT and Mr. KINGSTON changed their vote from "aye" to "no."

Mr. KENNEDY changed his vote from "no" to "aye."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3080

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that my name be removed as an original cosponsor of H.R. 3080. My name was inadvertently added to this list of cosponsors.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 268

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 268. It was inadvertently added.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

The SPEAKER. The pending business is the question of suspending the rules and passing the bill, H.R. 3548.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from Massachusetts [Mr. KENNEDY] that the House suspend the rules and pass the bill (H.R. 3548) to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson, Americans who have been prisoners of war, the Vietnam Veterans Memorial on the occasion of the 10th anniversary of the memorial, and the Women in Military Service for American Memorial, and for other purposes, on which the yeas and nays are ordered.

The vote as taken by electronic device, and there were—yeas 428, nays 0, not voting 5, as follows:

[Roll No. 596]

YEAS—428

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
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Pickett
Pickle
Pombo
Pomeroy
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Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
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Visclosky
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Walker
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Whitten
Williams
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Wyden
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Yates
Young (AK)
Young (FL)
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NOT VOTING—5

Clinger
Hall (OH)
Kyl
Sundquist
Washington

□ 1749

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1750

THOMAS JEFFERSON COMMEMORATION COMMISSION ACT

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1716) to amend the Thomas Jefferson Commemoration Commission Act to extend the deadlines for reports.

The Clerk read as follows:

S. 1716

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

SECTION 1. REPORTS FROM THE COMMISSION.

Section 9 of the Thomas Jefferson Commemoration Commission Act (36 U.S.C. 149 note) is amended—

(1) in subsection (a), by striking "December 31, 1992" and inserting "March 15, 1994"; and

(2) in subsection (b), by striking "December 31, 1993" and inserting "December 31, 1994".

SEC. 2. AUDIT OF FINANCIAL TRANSACTIONS.

Section 10(b) of the Thomas Jefferson Commemoration Commission Act (36 U.S.C. 149 note) is amended—

(1) by striking "December 31, 1992" each place it appears and inserting "March 15, 1994";

(2) by striking "March 4, 1994" and inserting "March 3, 1995"; and

(3) by striking "1993" and inserting "1994".

The SPEAKER pro tempore (Mr. LAROCCO). Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include therein extraneous matter, on the Senate bill, S. 1716, now being considered.

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

There was no objection.

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

S. 1716 would extend the life of the Thomas Jefferson Commemoration Commission for 1 year, without authorizing any additional funds.

The Jefferson Commission was established by Congress in August 1992, to commemorate the 250th anniversary of the birth of the author of the Declaration of Independence through various national education programs, scholarships, and celebrations.

Unfortunately, the Commission was not fully appointed and operational until June 1993, due to the lateness of its enactment and the changing of administrations. Therefore, the work that it was authorized to perform cannot reasonably be accomplished by December 31, 1993, the date of termination under current law.

S. 1716 would extend the life of the Jefferson Commission until December 31, 1994. The bill does not contain any additional funding for the Commission's activities, either for fiscal year 1994 or the first quarter of fiscal year 1995.

I believe that we ought to give the Jefferson Commission time to carry out its work. The delayed appointment of Commissioners simply precluded the opportunity for any meaningful programs this year. But I know that the fine individuals who are serving on the Commission are eager to share the unsurpassed legacy of Thomas Jefferson with our Nation and the world.

The Commission has initiated several useful projects. They include:

A conference assessing Jefferson's contribution to the development of the American West;

An international symposium in Washington, DC, to increase knowledge of Jefferson worldwide;

An educational project aimed at expanding knowledge of Jefferson in our schools; and

A series of discussion for public radio or television.

All of these activities will add measurably to our understanding of the democratic ideals that have made our Nation what we are—and that can be applied to emerging nations around the world. At no cost to the taxpayer, we can afford to honor and recognize Thomas Jefferson into the 251st anniversary of his birth, instead of just the 250th.

Congressman L.F. PAYNE, in whose district the home of Thomas Jefferson is located, has worked hard to ensure a meaningful tribute to our third President. I urge my colleagues to support his efforts.

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

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 1716. There was a counterpart here in the House, of course. This is a Senate bill, but I commend and thank the gentleman for bringing this up to us today.

As has already been explained by our chairman, this legislation does not have any money attached to it. In fact, it is the American way. It is somewhat helped by Federal contributions, but a large, significant amount of money has been raised by local contributions. And the significance of some of the programs it has already sponsored and paid for means a lot.

We have a lot of our ancestors and people who made our country great, Thomas Jefferson being one of the great ones. It is more than fitting that we do appropriately recognize the service and the contribution toward our life of a great many, including Thomas Jefferson.

I rise in support of this Commission.

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

Mr. SAWYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE], the sponsor of the House version of the legislation before us today.

Mr. PAYNE of Virginia. Mr. Speaker, I want to thank the gentleman from Ohio [Mr. SAWYER] for the work that he has done on this, and I also thank the ranking minority member, the gentleman from Indiana [Mr. MYERS] for the work that he has done on this legislation. I urge my colleagues to support this measure.

Mr. Speaker, I rise in strong support of S. 1716, a bill to extend the authorization of the Thomas Jefferson Commemoration Commission for an additional year. Mr. Speaker, although the original legislation authorizing this Commission was enacted on August 17, 1992, and was supported by a bipartisan majority of the Members of Congress, unforseen circumstances delayed the appointment of the Commission members until June 1993.

Since its appointment, the Commission has initiated several major projects. These include a conference assessing Jefferson's contribution to the development of the American West; an international symposium in Washington, DC similar to those recently held in Tokyo and Buenos Aires, intended to increase knowledge of Jefferson worldwide; an educational project aimed at expanding the knowledge of Jefferson in our schools; and a series of discussions for public radio and television.

It is quite clear that the work this Commission was authorized to perform cannot possibly be accomplished in the few weeks that remain of the original authorization.

I believe the projects designed by the Commission will provide an important contribution to the existing scholarly research on Jefferson and our democratic system of government. I also believe that the interest in this subject that has been generated by the yearlong celebration of the 250th anniversary of Thomas Jefferson's birth clearly justifies allowing this dialog to continue.

There is no Federal funding included in the bill; the work that will be done by the Commission during the additional year will be supported by private contributions. There is also no intention to request additional time after this extension is over; 1 year will be sufficient to allow the planned projects to be completed.

The Thomas Jefferson Commemoration Commission is a nonpartisan group of individuals linked by their interest in Jeffersonian scholarship and their dedication to expanding the knowledge of Jefferson's ideals to the next generation. I believe Congress should support them in this effort.

I urge my colleagues to support S. 1716.

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

Let me just pay parting tribute to the work of the gentleman from Virginia. He has undertaken the work that was begun by others and has sustained

it through a time of critical importance to the work of the Commission. He is to be commended for his efforts in that regard.

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 Ohio [Mr. SAWYER] that the House suspend the rules and pass the Senate bill, S. 1716.

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

A motion to reconsider was laid on the table.

POVERTY DATA IMPROVEMENT ACT OF 1993

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1645) to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States, as amended.

The Clerk read as follows:

H.R. 1645

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 "Poverty Data Improvement Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) more than $20,000,000,000 is provided to State and local governments each year, under various Federal programs, based on data relating to income and poverty status;

(2) the infrequency with which such data are collected diminishes their reliability and usefulness for public policy purposes;

(3) the relative lack of intercensal data can prevent Federal funds from reaching those populations that are in greatest need, as reflected in the dramatic and often unforeseen shifts in the way Federal funds are reallocated following each decennial census;

(4) the more frequent collection of data relating to income and poverty status would allow policymakers to target scarce program funds more effectively and in a more timely fashion; and

(5) the cost of producing the data needed to achieve the ends described in paragraph (4) would be small compared to the amounts that are distributed based on such data.

SEC. 3. REQUIREMENT.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 13, United States Code, is amended by inserting after section 181 the following:

"§ 181a. Data relating to poverty

"(a) The Secretary, to the extent feasible, shall produce and publish for each State, county, and local unit of general purpose government for which data are compiled in the most recent census of population taken under section 141(a), and for each school district, data relating to the incidence of poverty. Such data may be produced by means of sampling, estimation, or any other method that the Secretary determines will produce current, comprehensive, and reliable data.

"(b) Data under this section—

"(1) shall include—

"(A) for each school district, the number of children age 5 to 17, inclusive, in families below the poverty level; and

"(B) for each State and county referred to in subsection (a), the number of individuals age 65 or over below the poverty level; and

"(2) shall be published in 1996 and at least every second year thereafter.

"(c)(1) If reliable data could not otherwise be produced, the Secretary may, for purposes of subsection (b)(1)(A), aggregate school districts, but only to the extent necessary to achieve reliability.

"(2) Any data produced under this subsection shall be appropriately identified and shall be accompanied by a detailed explanation as to how and why aggregation was used (including the measures taken to minimize any such aggregation).

"(d) If the Secretary is unable to produce and publish the data required under this section for any State, county, local unit of general purpose government, or school district in any year specified in subsection (b)(2), a report shall be submitted by the Secretary to the President of the Senate and the Speaker of the House of Representatives, not later than 90 days before the commencement of the following year, enumerating each government or school district excluded and giving the reasons for the exclusion.

"(e) In carrying out this section, the Secretary shall use the same criteria relating to poverty as were used in compiling the then most recent census of population taken under section 141(a) (subject to such periodic adjustments as may be necessary to compensate for inflation and other similar factors).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 13, United States Code, is amended by inserting after the item relating to section 181 the following:

"181a. Data relating to poverty.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 1645, as amended, now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 1645 is the product of more than 1 year of research and consultation with a wide range of experts in the statistical and demographic communities.

I believe it will help Congress target more than $20 billion annually in Federal program funds to populations most in need. Among the programs that rely on poverty data either exclusively, or in combination with other population numbers, are chapter 1 of the Elementary and Secondary Education Act, the Job Training Partnership Act, community development block grants, and rural housing programs.

The bill would require the Census Bureau to produce and publish poverty data for States, counties, cities, and school districts, every 2 years.

Right now, we only get reliable poverty estimates below the national level from the decennial census once every 10 years. That means that by the time we're done using those data for policy and program purposes, they're some 13 or more years old.

For example, the 1980 census collected data on 1979 income. That data was used to distribute chapter 1 education funds through this past spring, when the 1990 census poverty estimates became available.

Yet, during the 1980's, the number of poor school-age children increased by as much as 67 percent in some States, and decreased by as much as 34 percent in others. And it is likely that the disparity within some States is even greater than that.

In this past year, we were distributing billions of program dollars based on 1979 economic conditions. That's simply unwise and unsound policy. We can't have any real confidence in programs administered on the basis of that kind of data.

When we first used 1990 census poverty data—reflecting 1989 income—this year, it was already 4 years old. Furthermore, income data from 1989 failed to capture the effects of the recession that hit the Eastern States in the spring of 1990.

This is a time rapid demographic change. What that means is this: Census data may look precise by virtue of its geographic detail. But it is not enough for the data to look precise. If the numbers are not timely, they are not accurate.

Change is a dominant demographic characteristic. The census occurs only once a decade. I think we are failing to measure what is most important—change itself.

The availability of more frequent, and therefore more accurate, measurements of poverty below the national level will greatly improve our ability to assess need and to target program dollars more effectively.

H.R. 1645 would require the publication of poverty numbers below the national level, every 2 years, beginning in 1996. The Census Bureau will have ample time to research and develop the methodology for an intercensal poverty estimates program.

The bill allows the Bureau to use appropriate methods, including sampling and estimation techniques, that will produce reliable and comprehensive data on poverty. It also allows the Bureau to aggregate less populous school districts, in order to develop accurate data for those areas.

It is important to give the Bureau this scientific flexibility. Producing demographic information between censuses for small geographic areas is not easy. We may not get separate figures for every community in the country. But we will get data that covers virtually all of the population, and that is far more accurate because it will be timely.

To its credit, the Census Bureau began developing a methodology last year to produce more frequent poverty numbers. The estimated annual cost of such a project is between $1 and $1.2 million.

Adding a requirement for data on the number of poor school-age children by school district has increased the cost of this program somewhat from its early estimates—but the difference is insignificant compared to the program dollars at stake. Unfortunately, school district boundaries often do not conform to governmental jurisdictions such as counties or cities. For that reason, it is more difficult to develop data by school district. Let me add: The bill also includes a requirement for data on older Americans living in poverty. Although, this added a modest amount to the original cost estimate the usefulness of the data is self-evident. Clearly this small expenditure will begin in saving dollars immediately. For example, plotting and updating school district boundaries in the Census Bureau's automated geographic mapping system will save both time and money following the next census. For the 1990 census, it cost several million dollars to develop accurate district maps that could be used to produce poverty data for those areas.

Mr. Speaker, H.R. 1645 addresses one important element of a growing debate about the accuracy of data we use for Federal program purposes. That element is the question of timeliness.

The bill does not address broader—and very legitimate—concerns about the definition of poverty in the United States.

Today, we are measuring poverty using definitions that were developed nearly 30 years ago by Mollie Orshansky, an employee of the Department of Health, Education and Welfare. Working closely with then-assistant Secretary of Labor DANIEL PATRICK MOYNIHAN.

Fortunately, the Committee on National Statistics of the National Academy of Sciences is conducting a comprehensive review of the definition of poverty. That study includes a review of consumption patterns, differences in cost of living across geography, and the effect of non-cash benefits of living standards the Academy's findings and recommendations are due next summer.

I hope that other interested committees will join the Subcommittee on Census, Statistics and Postal Personnel in thoroughly reviewing the Academy's report and identifying appropriate ways to measure what it means to be poor in today's society.

Finally, Mr. Speaker, I want to acknowledge the valuable work of Congressman TOM PETRI, who helped make the development of this legislation a truly bipartisan effort.

My thanks also to the chairman and ranking minority member of the Committee on Post Office and Civil Service—Congressman BILL CLAY and Congressman JOHN MYERS—whose support made it possible to move this bill quickly.

□ 1800

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

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, I commend the gentleman from Ohio [Mr. SAWYER], our chairman, and my colleague, the gentleman from Wisconsin [Mr. Petri] for the hard work they have put forth in bringing this legislation to the floor today.

As our chairman has explained here, a great many programs that we authorized and appropriated here depend upon data from the Census Bureau, including poverty figures. Particularly this year, when earlier in the year we had a conflict, there was a lot of disagreement about whether census figures were accurate, whether they properly reflect, because so many funds did come back to communities because of those figures, and there was criticism that the Census Bureau had not done a good job. This was directed to hopefully, in the future, make sure that does not happen.

Mr. Speaker, we had hearings, both in the subcommittee and in the full committee, to find out if there really was a disagreement. We knew there was disagreement, but was there reason to have disparity in the figures presented by the Census Bureau? This legislation is necessary to correct that problem.

Mr. Speaker, I commend everyone who worked on this program, and I hope all Members will vote for it.

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

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in strong support of H.R. 1645, the Poverty Data Improvement Act and I commend Congressman SAWYER for his efforts in drafting this legislation and bringing it before the House today.

I have spent a great deal of time working on this issue during my short time here in Washington and I believe that this bill will go a long way in addressing the problems we experience after each 10-year census. Currently, the census results in massive shifts of funding due to the changing demographics of our country and causes a great deal of contention in this body due to regional shifts in population.

By collecting poverty statistics every 2 years we can lessen the impact of population shifts which will help our State and local governments plan more effectively and will allocate Federal funds based far more accurately on the true needs of States.

The Federal Government currently distributes over $60 billion per year based on poverty figures from each 10-year census. The chapter 1 education program represents a good example of how this practice can result in funding disparities. In Texas, over the last 10-year, we have gained a larger percentage of the national average for children living in poverty, yet due to the 10-year update cycle, we did not receive an increase in funding until this year. This delay resulted in thousands of children being underserved in a program that is designed for early intervention.

The current 10-year cycle of updates hurts high growth States such as Texas and strains the ability of State governments to meet growing needs. This past March, I introduced H.R. 1453, the Equal Education Funding Act which incorporated more frequent updates in poverty figures as a means to increase the equal funding of Federal education funds. This is an idea whose time has come and I am pleased that it is before the House today.

I urge my colleagues to vote in favor of this bill as a matter of basic fairness. This bill will allow our Government to do a better job and will be of immediate benefit to States struggling with high population growth and increased demand for social services. There are those who argue that these estimates might not be precise but I would like my colleagues to know that they will be far better than what we have today.

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

The SPEAKER pro tempore. (Mr. LAROCCO). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 1645, 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.

SENSE OF THE HOUSE THAT THE ATTORNEY GENERAL AND THE FBI SHOULD COOPERATE TO DISSEMINATE INFORMATION REGARDING KIDNAPING OF POLLY KLAAS

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 285) expressing the sense of the House of Representatives that the Attorney General and the Director of the Federal Bureau of Investigation should cooperate with the U.S. Postal Service and the Polly Klaas Search Center to disseminate information regarding the kidnaping of Polly Klaas.

The Clerk read as follows:

H. RES. 285

Whereas Polly Klaas was abducted at knifepoint by a stranger who entered in her home in Petaluma, California, late at night

on October 1, 1993, while her mother was sleeping in the adjacent room;

Whereas hundreds of generous volunteers have donated their time, energy, and funds to the search for Polly by establishing the Polly Klaas Search Center, which has distributed over 7,000,000 flyers with pictures of Polly and her suspected abductor nationwide;

Whereas the Federal Bureau of Investigation and the Petaluma Police Department have also dedicated substantial resources and worked tirelessly on the search for Polly;

Whereas despite the continuing work of the community and law enforcement agencies, efforts to locate Polly have not yet succeeded;

Whereas abducted children are often recovered as a direct result of photographs that are distributed nationwide;

Whereas the United States Postal Service is not permitted to offer free postage for mailings concerning kidnapped children; and

Where the Polly Klaas Search Center is currently facing severe financial difficulties due to the high cost of postage: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Attorney General and the Director of the Federal Bureau of Investigation should cooperate with the United States Postal Service and the Polly Klaas Search Center to use nationwide mailings to disseminate as quickly as possible information concerning the kidnapping of Polly Klaas.

SEC. 2. The community of Petaluma, California, the Petaluma Police Department, and the Federal Bureau of Investigation are commended for their hard work on the Polly Klaas kidnapping case.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

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

Mr. Speaker, this resolution expresses the sense of this House that the Attorney General and U.S. Postal Service cooperate to the fullest extent to disseminate information on the kidnaping of Polly Klaas.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. WOOLSEY], the author of this measure, to explain it in the detail that only she can bring to this discussion.

Ms. WOOLSEY. Mr. Speaker, it is crucial that the House of Representatives pass House Resolution 285 today because this could mean the difference in the search for a missing child named Polly Klaas.

Mr. Speaker, I would like to express my gratitude to my colleagues who worked with me to bring this resolution to the floor. I offer my sincere thanks to Chairman CLAY and Congressman MYERS of the Post Office and Civil Service Committee, as well as to Representative SAWYER and the rest of the committee. I would also like to thank Chairman BROOKS of the Judiciary Committee, Representative FISH, and, my good friend, Chairman EDWARDS. Without the efforts and consideration of the chairs and ranking minority members of both committees, Polly and her family would not be able to receive the help provided by this resolution that they so desperately need.

As many people throughout the Nation already know, 12-year-old Polly Klaas was kidnaped at knifepoint from her home in Petaluma, CA, the night of October 1, 1993, while her mother slept in a nearby room. Since the night of Polly's disappearance, her family, the Petaluma Police Department, the FBI, and hundreds of volunteers have been working nonstop to find Polly. Despite their tireless efforts, Polly Klaas has not yet been found.

Mr. Speaker, this tragedy has grabbed the attention of the national media. Stories about Polly have appeared on "America's Most Wanted," "CBS This Morning," and CNN, as well as, in the Washington Post, the New York Times, and People magazine. It is clear that this real life nightmare has sent shock waves through America.

Mr. Speaker, this case is important not only to the Klaas family, but to every family in this Nation. Parents in communities across the country are wondering if it's possible that their children could be stolen from them by a stranger. America's families are frightened, and they are looking to us to do everything in our power to find Polly, and prevent this incident from happening in the future.

Mr. Speaker, we cannot sit idly by and watch our Nation's families be consumed by fear. We must act, and we must act now.

House Resolution 285 urges the Attorney General and the Director of the FBI to coordinate with the U.S. Postal Service to disseminate information nationwide about the abduction of Polly Klaas. The widespread distribution of Polly's picture and the sketch of her suspected abductor could mean the difference in the search for Polly, because kidnaped children oftentimes are recovered as a direct result of the circulation of photographs. With additional information disseminated nationwide, someone may recognize Polly from her picture, and be able to provide the information that leads to her safe return.

This resolution also commends the numerous volunteers for all their hard work to help locate Polly. Practically overnight, the people of Petaluma transformed an empty storefront into a sophisticated search operation. Hundreds of generous volunteers have donated their time, energy, and money to find Polly. As a result of their kind donations, over 7 million flyers with Polly's picture, and the picture of her suspected abductor, have been distributed around the country.

The major problem the Klaas family has encountered as they work to find Polly is the high cost of postage. The U.S. Postal Service is prohibited by law from offering free postage, except to military personnel in times of war. Well, Mr. Chairman, I believe that this is a war—a war against our children, and one that we cannot afford to lose.

Polly's parents, Eve Nichol and Mark Klaas, told me that they believe this resolution is important to their battle to bring Polly home. Mark and Eve have sent a letter to all the Members of Congress asking them to support this resolution for the sake of their daughter. I would like to read part of their letter.

From the moment the town heard about this unspeakable horror, they mounted an unprecedented volunteer effort. A Polly Klaas Center was set up, and thousands of people from all over have joined the effort to search for her and distribute fliers throughout the country. Local companies have donated $1 million worth of paper, printing, and supplies. But to date, we have spent in excess of $200,000 for stamps, and we continue to spend thousands more each day, just for postage * * * Our ultimate goal is that families in this situation in the future won't have to lose precious time raising funds for postage * * * Today we ask you to help in our effort to find Polly now. Please help us.

Mr. Speaker, I urge my colleagues to show American families that we, in the House of Representatives, won't let their concerns go unnoticed. By passing this important resolution we show that the Federal Government can, and will, mobilize and do its part to help a family, and an entire community, fight back against one of the most hurtful and tragic crimes imaginable—the kidnaping of a young child.

In closing, again, I would like to thank my colleagues and distinguished leaders of the House, Chairman CLAY, Chairman BROOKS, and Chairman EDWARDS, for their commendable efforts. I am very grateful for their willingness to provide vital help in an urgent situation. Finally, I would like to thank the nearly 100 Members who supported the resolution as cosponsors.

Mr. Speaker, by passing House Resolution 285, the House of Representatives will have helped to bring Polly home.

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

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to commend and thank the gentlewoman from California [Ms. WOOLSEY] for introducing this legislation. In fact, several weeks ago I received a call from my cousin in California, living, I think, in the gentlewoman's district, Tim Rebert, who was familiar with the Klass family. He told me about the seriousness and about what happened here. We also read about it. Most of us are parents, many of us are grandparents, and even some are great-grandparents. It comes much closer when we think of a child like

this, an innocent child being abducted, sleeping in her room and then to have someone come into the house like this.

I can recall as a child the Lindbergh case. It became so violent at that time, the kidnapping, that we made it a Federal offense, so what is happening in this country today, abducting children, terrorism, we have to look at it on a national basis, using all of the efforts here to give assistance to the local police and local authorities to do their job. That is exactly what we should be doing.

Of course, it is not going to cost any money, we have been sure of that, but at least we are going to give all the efforts of the Attorney General, the Post Office, and anyone else who can give any aid to finding the person responsible for this terrible crime.

□ 1810

So, I commend them and the gentlewoman from California [Ms. WOOLSEY, for bringing this legislation to the floor and hope it will be successful.

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

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

Mr. Speaker, it is clear that this kidnaping has affected the entire community at Petaluma, CA, and the hundreds and hundreds of citizens who have volunteered their precious time to help find this child. The gentlewoman from California [Ms. WOOLSEY] has done great service in calling on our Government to cooperate with these volunteers to assist to the fullest extent legally permissible. But she has done more than that. She has brought hope to the many parents across this Nation who have lost children in similar ways, who struggle with the heartache of not knowing, and in some cases the heartbreak of knowing a tragic truth.

In that sense she speaks for all parents who are grateful never to have had to endure this, and all who have.

I would urge my colleagues to join with the gentlewoman from California and support this resolution.

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

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and agree to the resolution, (H. Res. 285).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS WITH RESPECT TO SITUATION IN SUDAN

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 131) expressing the sense of the Congress with respect to the situation in Sudan, as amended.

The Clerk read as follows:

H. CON. RES. 131

Whereas the war-induced famine in southern Sudan is threatening the lives of an estimated 4,000,000 people, and an estimated 80 percent of children in some areas of southern Sudan are reportedly malnourished;

Whereas the civil war between the Government of Sudan and the factions of the Sudanese People's Liberation Army, as well as fighting within the Sudanese People's Liberation Army, have resulted in the displacement of millions of civilians;

Whereas the United States Government provided over $85,000,000 in humanitarian assistance to Sudan in fiscal year 1993;

Whereas access for humanitarian relief organizations has been inconsistent and subject to the military and political objectives of the Government of Sudan and Sudanese People's Liberation Army factions;

Whereas a human rights group reported in early 1993 that the Government of Sudan is engaged in a program of military action which appears to amount to "ethnic cleansing" in the Nuba Mountains and that it continues to torture political prisoners;

Whereas an estimated 500 unarmed civilians were reportedly executed by security forces on suspicion that they had collaborated with the Sudanese People's Liberation Army after its incursions into Juba in June and July of 1992;

Whereas the Government of Sudan executed Andrew Tombe and Baudoin Talley (foreign national employees of the United States Government) and Mark Laboke Jenner (an employee of the European Community) in Juba in mid-August 1992;

Whereas all factions of the Sudanese People's Liberation Army also are reportedly responsible for serious abuses of human rights, including the killing in September 1992 of 4 foreign citizens, the killing of 87 civilians by the Nasir faction of the Sudanese People's Liberation Army in January 1992 in Pagarau, and the killing of 200 "deserters" by the Torit group near Tonj in Bahr al-Ghazal;

Whereas the government of General Omar Hassan al-Bashir, which came to power by overthrowing the democratically elected civilian government on June 30, 1989, formed a 15-member Revolutionary Command Council, abolished the constitution, the National Assembly, political parties, and trade unions, and declared a state of emergency;

Whereas the political, religious, and military policies of the Bashir government have heightened political and religious tensions in the country;

Whereas the government in Khartoum has become a threat to regional stability in part because of its reported activities in neighboring countries and its relations with known terrorist and political extremist groups;

Whereas the conflict in southern Sudan, which has dragged on for over 3 decades, is the result of decades of political, religious, and economic discrimination against the people of southern Sudan by successive governments in the north;

Whereas the people of southern Sudan have not exercised their political rights freely, except for a brief period after the Addis Ababa agreement, and the lack of serious efforts by successive governments in Khartoum has resulted in deep mistrust;

Whereas the 1991 division of the Sudanese People's Liberation Army into factions has resulted in untold suffering for the people of southern Sudan;

Whereas the Government of Sudan continues its indiscriminate aerial bombardment of civilians in southern Sudan;

Whereas the factions of the Sudanese People's Liberation Army agreed on an 8 point peace plan, including an immediate cessation of hostilities, at a peace conference in Washington in October 1993; and

Whereas the resolution of the conflict in southern Sudan will not guarantee respect for human rights and political freedom in other regions of the country: Now, therefore, be it

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

(1) strongly condemns the Government of Sudan for its severe human rights abuses, and calls upon that government to improve human rights conditions throughout the country;

(2) deplores the internecine fighting among the Sudanese People's Liberation Army factions which has caused untold suffering for the people of southern Sudan;

(3) calls on the Government of Sudan and all factions of the Sudanese People's Liberation Army to cease hostilities and resolve their differences through peaceful means;

(4) urges the Government of Sudan and all factions of the Sudanese People's Liberation Army to provide full access for and to cooperate with relief organizations;

(5) encourages the Government of Sudan to hand over political power to an elected civilian government as soon as possible;

(6) urges the Government of Sudan to lift the press ban which was imposed after it took power in June 1989;

(7) recognizes the right of the people of southern Sudan to self-determination;

(8) urges the Government of Sudan and all factions of the Sudanese People's Liberation Army to allow free access to human rights organizations;

(9) commends the Clinton Administration for placing Sudan on the list of states having a government that has repeatedly provided support for acts of international terrorism;

(10) commends the Government of Kenya, the Government of Nigeria, the Government of Uganda, and the Organization of African Unity for their mediation efforts;

(11) calls upon the President—

(A) to appoint a special representative for mediation, reconciliation, and peace in Sudan;

(B) to increase the level of humanitarian assistance for Sudan that is provided through nongovernmental organizations, including local church groups; and

(C) to explore other means necessary to force the Government of Sudan to halt its war policies should the humanitarian conditions further deteriorate and the Government of Sudan continue to impede relief efforts; and

(12) further calls upon the President—

(A) to urge the United Nations to exert all efforts to bring an early end to the conflict in Sudan;

(B) to urge that the situation in Sudan be brought to the attention of the United Nations Security Council; and

(C) to urge the United Nations Security Council—

(i) to consider the creation of demilitarized zones for war and famine victims in southern Sudan that would be off limits to all warring factions;

(ii) to consider the creation of safe havens for war and famine victims should the warring factions reject the creation of demilitarized zones;

(iii) to facilitate safe passage for war and famine victims to and from conflict zones; and

(iv) to impose an arms embargo on Sudan.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] 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 Indiana [Mr. HAMILTON].

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

Mr. Speaker, House Concurrent Resolution 131, as amended, expresses the concern of the Congress with one of the great unpublicized tragedies of our time—the brutal civil war and famine in southern Sudan.

Four million people are directly at risk in southern Sudan.

This resolution condemns the Government of Sudan for its severe abuse of human rights.

It applauds the recent decision by the Clinton administration to place the Sudan Government on the list of regimes supporting international terrorism.

The resolution calls upon the factions of the Sudanese Peoples Liberation Army to resolve their differences through peaceful means.

It urges a more active United States policy both to address humanitarian issues in Sudan and to resolve that country's political conflicts.

I also would note that this resolution comes to the floor with strong bipartisan support. And I would like to thank Chairman GONZALEZ and the ranking member, Mr. LEACH, of the Committee on Banking, Finance, and Urban Affairs for their willingness to waive the Banking Committee's consideration of House Concurrent Resolution 131, without prejudice to its jurisdiction.

I strongly urge Members to support this resolution, as amended.

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

Mr. Speaker, for some months now, along with a number of our colleagues, I have been trying to call attention to the disaster taking place in southern Sudan. This resolution focuses public and international attention on the plight of the people there.

By its abuses, acts of violence, and efforts to create a famine in the south, the Khartoum government has made itself a pariah in the eyes of the international community.

Some 4 million people in the region are estimated to be at risk. They face death by starvation and daily acts of violence by the Khartoum regime.

It is long past time for that government to stop this reign of terror against its own people.

Relief and human rights organizations should be granted free access to southern Sudan, and the people there should have the opportunity to decide their own fate and form of government.

The administration and, in particular, those United States officials on the ground in the Sudan, have labored to send this message to the Khartoum regime while sending out signals of hope to the people of southern Sudan.

This resolution is intended to remind Khartoum, the southern Sudanese, and the international community just where the United States stands.

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

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida [Mr. JOHNSTON], chairman of the Subcommittee on Africa.

Mr. JOHNSTON of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 131 concerning the situation in Sudan.

Mr. Speaker, an entire generation of southern Sudanese is dying in one of the world's most neglected civil wars. Children and women, trapped by a bloody civil war and famine, are dying by the hundreds each day in part because of the indifference of the international community. Mr. Speaker, more people have died in southern Sudan over the past 2 years than in Somalia and the former Yugoslavia combined. Yet one rarely finds an article in our major newspapers about the suffering in southern Sudan.

The combined effects of war and famine have been devastating, and there seems to be no end in sight. The radical National Islamic Front Government in Khartoum continues its indiscriminate aerial bombardment of famine victims in the south. Khartoum's naked aggression against the civilian population has in recent months forced over 50,000 southern Sudanese to refugee camps in Uganda. Unfortunately, the Government of Sudan has rejected all calls to end this war and engage in a constructive dialog with opposition forces in the south.

Mr. Speaker, the suffering in Sudan is compounded by factional fighting in the south which has resulted in the death of thousands of civilians. In an effort to address the southern conflict, the Subcommittee on Africa, with the assistance of the Africa Bureau of the State Department, brought the two warring factions of the Sudan People's Liberation Army [SPLA] to Washington last month.

The leaders of the factions, who met for the first time in over 2 years, surprisingly agreed on a wide range of issues, including an immediate cessation of hostilities and international monitoring of the ceasefire. They also agreed to a follow-up meeting in Nairobi, a meeting which will build on the agreement reached in Washington. Most importantly, Mr. Speaker, soon after the agreement, the parties did in fact implement a ceasefire which is still in effect.

But this is just the first step. The peace process in Sudan will be difficult and is still far from resolution. Unfortunately, even if reconciliation is achieved among the southern factions, the north-south conflict is yet to be tackled. The radical National Islamic Front Government in Khartoum remains intransigent and continues its policies of aggression against much of the Sudanese population.

The people of Sudan deserve better. This resolution will send a very strong signal of support of the suffering people of Sudan.

In summary, Mr. Speaker:

House Concurrent Resolution 131 condemns the Government of Sudan and all factions of the SPLA for their human rights abuses and calls on all sides to improve human rights conditions. The resolution calls on the Government of Sudan and all factions of the SPLA to resolve these differences through peaceful means and urges all parties to provide full access for and to cooperate with relief organizations.

House Concurrent Resolution 131 calls on the President to appoint a special envoy for peace, mediation, and reconciliation and urges continued American humanitarian support for war and famine victims.

The resolution commends the Clinton administration for placing Sudan on the list of states that sponsor terrorism.

Mr. Speaker, what we do here today could have a significant impact on the situation on the ground. This resolution could save thousands of lives. I strongly urge all my colleagues to support this resolution.

□ 1820

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS], a senior member of our Committee on Foreign Affairs.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of House Concurrent Resolution 131. The situation in Sudan is one of the greatest humanitarian nightmares in the world. The Four Horsemen of the Apocalypse are riding through that shattered country daily.

The civil war between the Sudanese Peoples Liberation Army and the Government of Sudan has been one of the most savage in history. The country is divided between the Arab, Moslem north, and the African, Christian south. The Moslem military government is attempting to impose sharia, Islamic religious law over the entire country, including the large proportion of non-Moslem people.

One of the most oppressed sections of Sudanese society is women. Over 90 percent of northern Sudanese women have been subjected to genital mutilation. It is usually performed on girls between the ages 4 and 7. The operation

is done in unsanitary conditions with severe pain and trauma to the child. The resulting infections lead to lifetime afflictions and often death. Things are so bad for women in that country that it would be an advance if they were to attain second-class status.

The primary differences in the human conditions between Sudan and Somalia are that the violence is more organized, and that the international media and humanitarian groups are prevented by the Khartoum government from entering the country and documenting the horror to the world.

This resolution must be passed to increase the awareness of the world to this tragic situation.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], another distinguished member of our Committee on Foreign Affairs.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there has been a real tragedy going on in the Sudan for some time. The world has seen the problems in Somalia, they have seen the horrible problems that took place in Ethiopia during the great famine there, and the repression of the Mengistu regime, we have seen the problems in Bosnia, but there are certain parts of the world where the American people do not know what is going on. Kashmir and Punjab in northwestern India is one of those areas, because we cannot get television cameras in, International Red Cross or humanitarian groups in there, and another area that is just despicable what is going on is in the Sudan.

Hundreds of thousands of people are in danger of being killed or dying of starvation as we speak. Children like we have seen on television in Somalia and Ethiopia, their bellies are bloated, are dying daily, and the Sudanese Government is using their military power to strafe from the air innocent women and children. There is no cover. There is no protection for them. So they are dying from starvation. They are dying from exposure. And they are dying from attacks. They have no way to defend themselves.

The gentleman from Virginia [Mr. WOLF] has gone to the Sudan many times. My colleague has taken it upon himself to bring to the attention of this body these horrible atrocities taking place, and he is to be commended for that.

All of us ought to do everything in our power to put pressure on the Sudanese Government to change its policies. For God's sake, we ought to do that.

Mr. Speaker, this resolution is a step in that direction. It leaves open what we, as a nation, might do to try to rectify this situation, and during the committee hearings some people said, "Does that mean sending troops to the Sudan? Does that mean getting involved militarily?" And my answer to that is that we should let the Sudanese Government think about that, think about what the rest of the world might or might not do to deal with that horrible tragedy that is taking place because of their actions.

I say that this resolution is a good resolution. It is one that I hope the entire Congress will embrace unanimously, and it is one that I hope the media will take a look at, and I hope the message will go across the world loudly and clearly to the Sudanese Government that these atrocities must stop. We want human rights. We want democracy. We want these people over there to live at least a decent life without fear of being killed in their beds or killed on the plains of Sudan by a repressive government.

So I would like to thank my colleague, the gentleman from New York [Mr. GILMAN], for yielding me this time, and I would like to say to my colleagues here that there should not be one dissenting vote on this.

The Sudanese Embassy and the Sudanese Government, I hope they are listening tonight, and I hope they are paying attention, because the world now knows what you are doing.

Although we are very late in the session, it is fitting that we are making this legislation a priority. I would like to express my appreciation to our colleagues from both sides of the aisle who worked so hard to bring this resolution to the floor.

I want to once again pay special tribute in this regard to the gentleman from Virginia [FRANK WOLF] whose dedication and commitment to saving lives in Sudan, and elsewhere, are truly an inspiration to all of us.

Mr. Speaker, the tragedy of Sudan is perhaps the single worst humanitarian disaster in the world today. Over the past 10 years, over 1 million people have died as a result of civil war and the atrocities committed by the Sudanese Government. The rebel groups in the south have also committed atrocities.

Mr. Speaker, this carnage must stop.

It will not stop if we continue to stand by and watch. Our Bible commands us very clearly: "thou shalt not stand idly by over the blood of thy brother."

This resolution has the potential of saving lives. It says very clearly to the dictatorship in Khartoum that we will not ignore the murder and torture they commit daily.

This resolution tells Khartoum, in a strong, bipartisan fashion, that we are keeping a close watch on their activities, and we reserve the right to respond accordingly.

It calls much needed attention to the atrocities being committed against the people of southern Sudan, and in reality, in all of Sudan.

I urge unanimous support for this extremely urgent legislation.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. WOLF], who has played such a significant role in bringing this issue to the attention of the entire Congress.

Mr. WOLF. Mr. Speaker, I rise in strong support of House Concurrent Resolution 131. I am very grateful to Chairman JOHNSTON and the Africa Subcommittee for moving this crucial legislation forward and—for the first time—placing the House on record as clearly stating to the international community that the United States can no longer stand idly by as whole generations of Sudanese are wiped away in one of the most tragic situations in any nation today.

I have deeply appreciated the subcommittee's emphasis on Sudan through the October conference sponsored in coordination with the United States Peace Institute. And I applaud Mr. JOHNSTON's recent negotiations with rebel leaders toward a cease-fire between warring factions in southern Sudan—a crucial break for the flow of aid to the south and a necessary first-step toward peace.

The conference was called Sudan: The Forgotten Tragedy, but even this title does not capture the true nature of our long silence and inaction on Sudan. Like Pharoah, the world has deadened its ears and hardened its heart against the cries of a suffering people. Incredibly, until only recently we seem to have ignored the lessons of the 20th century: that crimes against humanity stop only when we address them, and not when we ignore them.

This resolution is an encouraging sign that we as a Congress will no longer ignore the mounting evidence of genocide and ethnic cleansing in Sudan. Doctors Without Borders, a medical relief organization, just issued an important report stating that:

> The people of Sudan are suffering one of the gravest and most enduring human crises in the world—the result of a ruthless dictatorship that violates every human right in the book, and the international community's lack of interest and political resolve.

Mr. Speaker, I have gone there three times. I even viewed the results of the high-altitude bombing of the Government during my stay in southern Sudan in February when I saw conditions much worse than I encountered in my first two trips. I flew into the south with the Norwegian People's Aid organization, one of only two relief organizations still operating at that time in southern Sudan shortly after the murder of four relief workers. I visited two of three main refugee camps located close to the road bisecting Sudan on which hundreds of thousands of refugees make their way southward, driven by the relentless and unforgiving Sudanese Army. People are without food, without medicine, without clothing, and, worst of all, without hope. These are the people who would surely perish without the bare subsistence provided by the Norwegian People's Aid and Catholic Relief Services.

In these camps, I listened to the people. I heard Rebekka, a woman from

the Dinka Tribe who was angry and upset. She had lost her husband and three children. She told me three things which were echoed again and again throughout the region.

First, she said that the world is silent to the suffering in southern Sudan because, she thought, the victims are black. The reluctance to act, in her view and others, was a matter of race discrimination that would not be tolerated in any other part of the globe. The second point is, she felt, that they were being persecuted, starved, bombed, and killed because they were Christians. The last point on which there is near universal agreement by the southern Sudanese refugees is that humanitarian groups such as World Vision and others, which do a wonderful job, should return to help with their life-giving assistance.

I also met with representatives of the SPLA, the Sudan Relief and Rehabilitation Association [SRRA], with Catholic priests, local officials, and a number of old hands in Sudan. I visited several hospitals, including one exclusively for those with tuberculosis. I saw first hand recent damage in the town of Kajo Kefi on the western bank of the Nile where the Government's bombers attacked the crowded town market square, killing and injuring many in this city with no military significance. I visited what was termed a hospital, but what was in reality a filthy place where the injured were gathered. One woman, injured in the air raid, had shrapnel still in her head. She had no hope and little chance for tomorrow. When it seemed conditions were as bad as they could be in the late 1980's, they got worse.

But I want to highlight the most defenseless victims, yet most affected innocents of this war: the children. Children are not responsible for this war; they do not understand religious intolerance or ethnic hatred. They are simply caught in the crossfire of civil war and the toll on them is unbelievable. In the feeding camps I visited, children—too weak to walk—huddled next to their mothers, starving to death and falling victim to fatal diseases. Not only will these children never attend school; never learning to read or to write, but they will never have a chance to dream and hope.

Basketball player Manute Bol, who has consistently worked on behalf of his people, tells of the tens of thousands of orphaned children in southern Sudan who roam from refugee camp to camp, many so weakened that they die along the way and are left to be eaten by wild animals.

The fate of those children who flee Sudan is no better. It is estimated that about 11,000 children, most orphaned, are now living as refugees in Kenya. Many walk up to 900 miles to reach refugee camps. Many then vanish and are believed to be recruited to fight in the civil war with the opposition Sudanese People's Liberation Army.

For those who do not die of starvation or who are not killed in the civil war, the future remains equally bleak. Traditional occupations are no longer readily available; there are no livestock to herd and no crops to cultivate. A decade of civil war and famine continues to wipe out whole generations of Sudanese.

In human terms, this tragedy is a larger crisis than we have seen in either Ethiopia or Somalia. During the height of the Ethiopian famine, 500,000 people died. In Sudan, conservative estimates report 2.5 million are now in need of disaster relief, 1.5 million in the south, with 1.3 million having died during the course of the decade-long war.

But sadly, the starvation is not the only commonplace threat to the southern Sudanese. They also face three unique dangers that make their everyday life even more frightening: slavery, religious persecution, and terrorism.

The first is present-day slavery in Sudan. Last spring I released a declassified report from the United States Embassy in Khartoum detailing the atrocity of slave trade in Sudan where "some women and girls are kept as wives; the others are shipped north where they perform forced labor, or are exported, notably to Libya." A recent Washington Post article reported about the active bartering of black children—especially from villages in the Nuba Mountains and the Bahr-el-Ghazal—to Arabs for "less than the cost of an international postage stamp." The story of one of these children just came across my desk last week in a News Network International report:

> There are unknown victims of jihad, like Tong. An illiterate runaway slave, Tong might be 10 years old, or perhaps 11. He has no idea who his parents were, or which village of Bahr al-Ghazal he was born in. He only knows that he was orphaned as an infant, when Arab militias swept through the area on jihad against his Christian Dinka tribe.
>
> From his earliest memory, his Muslim masters had one standard epithet for him: "You dirty Dinka slave!" Beaten nearly every day of his life, Tong has a pattern of scars across his closely cropped head and thin back and legs to prove it.
>
> The worst beatings, he recalled, came when he ventured to ask about his parents or village. "My master became furious. He would hang me by my arms, and beat me until I fainted."
>
> After escaping from herding goats and cows for his slavemaster, Tong wandered from one town and village to the next. Had a Christian tailor and his family not learned his story and taken him into their home in June, he would still be a homeless fugitive. Or, like hundreds of thousands of other Black orphans, he would have been forcibly converted to Islam in the notorious "displaced" camps dotting the provinces of Darfur and Kordofan, and surrounding the capital city of Khartoum.

The second oppression in Sudan is pervasive religious persecution and brutality by militias hired by the Islamic government against the Christian and Animist African population. Non-Islamic religious activities in the north are severely restricted and penalties severe. Farther south the reports of atrocities related to faith are more terrifying. Amnesty International recently documented a Nuba village assault wherein: "The priest, Matti al-Nur, was captured at prayer in his grass-roofed church. The deacon and over 20 members of the congregation were locked with the priest in the church, which was set alight. All were killed." Relief and mission workers confirm reports of Christian pastors and even entire villages in the Nuba Mountains suffering martyrs' deaths of crucifixion at the hands of government-armed militias. The religious campaign of the Sudanese Government is true genocide personified.

Finally, the Sudanese people's tribulations are compounded by yet a third affliction: The government of Khartoum is actively sponsoring and exporting terrorism worldwide. This alarming security threat is one we cannot ignore as terrorist support for Somali warlord Gen. Muhammad Farah Aideed via Khartoum is increasingly clear. Their reach extends even to our shores, as evidenced by the recent indictment of five Sudanese nationals in the World Trade Center bombing.

What can the United States do at this juncture? In spite of the long silence, some positive steps have been taken lately on the Hill and from the administration. Our Government has placed Sudan on the list of nations exporting terrorism. It has also appointed a special envoy for humanitarian affairs, Ambassador John Burroughs, who knows the region well after heading up the U.S. Embassy in Kapala, Uganda for 3 years.

But more must be done. This resolution urges some crucial next steps for the Clinton administration. First, the mandate of Ambassador Burroughs must be extended to peace brokering, or the administration must appoint a new special envoy with a strong mission to continue the negotiations toward peace that began in Washington. Second, our Government must press for the U.N. Security Council to create both demilitarized zones and safe havens with international observation to ensure the free flow of aid to the starving people of southern Sudan.

The pressure this resolution places on the United Nations is vital and long overdue. The chapter on Sudan in the new "Doctors With Borders" report contains a stinging, detailed indictment of U.N. capitulation to Khartoum for the entire decade of the crisis, citing "Sudan as one of the most serious failures of the United Nations in defending human rights and mass starvation." After making little protest in 1986 when U.N. Development Program

head Winston Prattley was ousted from Sudan for demanding accountability for relief efforts, the United Nations sat idly by for 2 years while almost no food moved. The chapter also chronicles the self-imposed impotence of the United Nations during the mass deportation of hundreds of thousands of Sudanese during 1991 and 1992. The General Assembly vote of December 1992, to ensure Sudan and the new special rapporteur for Sudan have been positive recent steps. But—as the largest single donor to U.N. coffers—the United States must press the United Nations to implement safe havens and demilitarized zones for true accountability in aid distribution.

In spite of the temptation to succumb to the current political distaste for intervention, we now have the responsibility to continue to demand justice in Sudan because we can no longer say that we don't know.

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

Mr. HASTINGS. Mr. Speaker, I thank the chairman so very much for the opportunity to rise and speak on House Concurrent Resolution 131. I am more than pleased that this is a bipartisan effort.

Mr. Speaker, I salute my colleagues on the Republican side, particularly the ranking member and the gentleman from Virginia [Mr. WOLF] for all the extraordinary work they have done in this regard.

□ 1830

I speak with conviction, Mr. Speaker, because in the month of July Chairman HARRY JOHNSTON of the Subcommittee on Africa and my colleague, Donald Tate, and I traveled to Sudan. We were met there by children who were happy to see us, but their bellies were distended; by mothers who were happy to see us and danced, but yet they knew that their children would die. But we went from the Ugandan border into Sudan. We knew we were in danger at that time, but we knew, more importantly, that the people there were in danger. And we knew that they would see us watch them as they starved.

Mr. Speaker, we went into a hospital where we saw an open appendectomy done with the light being hung down over the open wound of the individual, and there was very little in the way of anesthesia that was being administered. We went into areas where there were tuberculin patients and AIDS patients that disturbed everyone. We must support H.R. 131.

The question, in the final analysis, is not just the starving in southern Sudan or in the Nuga Mountains. The question for us is how long will we permit Khartoum to be a terrorist breeding ground? How long will we permit starvation and killing in Sudan to continue?

Countless Sudanese asked us to do something. This resolution does something, and we must do more.

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

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

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution (House Concurrent Resolution 131) as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 131, the concurrent resolution just considered and agreed to.

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

There was no objection.

ANTI-BOYCOTT RESOLUTION OF 1993

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 50) concerning the Arab League boycott of Israel.

The Clerk read as follows:

S. CON. RES. 50

Whereas the signing on September 13, 1993, of the Declaration of Principles between the Palestine Liberation Organization and the Government of Israel signals a new era of cooperation in the Middle East;

Whereas a true peace in the Middle East can only be established and remain in effect if there is economic stability and cooperation in the region;

Whereas adherence to the Arab League boycott of Israel is a source of economic instability in the Middle East;

Whereas the members of the Arab League instituted a primary boycott against Israel in 1948;

Whereas in the early 1950's the Arab states instituted a secondary and tertiary boycott against United States and other firms because of their commercial ties to Israel;

Whereas the boycott attempts to use economic blackmail to force United States firms to comply with boycott regulation;

Whereas the boycott was cited by the United States Trade Representative in the 1992 National Trade Estimate Report on Foreign Trade Barriers as an "additional legal restraint to United States trade in the region";

Whereas hundreds of United States firms have been blacklisted and barred from doing business with members of the Arab League under the secondary and tertiary boycott;

Whereas the total damage caused by the boycott is unknown because the number of United States firms that conduct business with Israel have not attempted commercial transactions with members of the Arab League due to the boycott is uncertain; and

Whereas the United States has a policy of prohibiting United States firms from providing Arab States with the requested information about compliance to boycott regulation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring).

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Anti-Boycott Resolution of 1993".

SEC. 2. EXPRESSION OF CONGRESSIONAL VIEWS.

The Congress—

(1) believes the continuation of the Arab League boycott of Israel will be a severe impediment to the economic prosperity of all participating nations and to the establishment of a lasting peace and prosperity in the Middle East;

(2) believes the secondary and tertiary boycott cause substantial economic losses to United States firms;

(3) welcomes the actions by those members of the Arab League that have begun dismantling the secondary and tertiary boycott, and urges them to continue their efforts until a complete dissolution of the primary, secondary, and tertiary boycott is achieved;

(4) hopes that the indefinite postponement of the October 24, 1993, meeting of the Central Boycott Committee signals an end to the placement of more United States firms on the boycott list and a willingness to dismantle the boycott in its entirety;

(5) urges those states that have begun to or are considering dismantling all forms of the boycott to proceed promptly with such dismantlement;

(6) urges those states that are still enforcing the boycott to dismantle the boycott in all its forms and to issue the necessary laws, rules, and regulations to ensure that United States firms have free and open access to Arab markets regardless of their business relationships with Israel;

(7) urges those states, in addition, to cease enforcing and requiring participation in the boycott in its primary, secondary, and tertiary forms;

(8) urges the United States Government to continue to raise the boycott as an unfair trade practice in every appropriate international trade forum; and

(9) expresses the sense of the Congress that the end of the Arab League boycott of Israel is of great urgency to the United States Government and will continue to be a priority issue in all bilateral relations with participating states until its complete dissolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] 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 Indiana [Mr. HAMILTON].

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

Mr. Speaker, let me explain briefly what this resolution is about and why, in my view, it is important.

WHAT THE RESOLUTION DOES

Senate Concurrent Resolution 50 expresses the sense of the Congress that

the end of the Arab League boycott of Israel is a priority issue for the United States. It calls for the dismantling of all forms of the Arab boycott of Israel—primary, secondary, and tertiary.

WHY THIS RESOLUTION IS IMPORTANT

The Arab League boycott affects Israel and third country firms that do business in Israel.

It is an unnecessary obstacle to a comprehensive peace in the Middle East.

In the aftermath of the Israeli-PLO Declaration of Principles: The continuation of the boycott is an anachronism and it stands as a threat to the spirit of increased cooperation and tolerance emerging in the region.

Economic stability and cooperation are critical to the establishment of durable peace and prosperity in this troubled region.

All parties stand to gain from the removal of the boycott and the start of active trade throughout the Middle East.

WHY THE UNITED STATES HAS AN INTEREST

The United States has a particularly strong interest in seeing the secondary and tertiary boycotts lifted because they directly punish: American firms that conduct business with Israel; and American firms that wish to pursue business elsewhere in the Arab world.

Therefore, I ask my colleagues to support Concurrent Resolution 50 calling for an end to the Arab boycott.

I urge the House to suspend the rules and pass Senate Concurrent Resolution 50.

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

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

Mr. Speaker, I rise in strong support for the legislation pending before us. Senate Concurrent Resolution 50 is yet another indication of the high priority Congress has placed on dismantling the decades-long abomination known as the Arab boycott of Israel. I also wish to commend the gentleman from Florida [Mr. DEUTSCH] for sponsoring this measure, and I thank the distinguished chairman of our House Foreign Affairs Committee, the gentleman from Indiana [Mr. HAMILTON] for moving this legislation through our committee so expeditiously and bringing it to the floor prior to our adjournment.

The Congress, the United States, and the American people have made their distaste for this Arab boycott known on many occasions to the Arab League States that participate in this blackmail. These nations are well aware that the boycott, whether in its primary, secondary or tertiary form, is anathema to us, and therefore one of the major obstacles to improved bilateral and multilateral relations.

Instigated by the Arab League after the founding of the state of Israel in 1948, the Arab boycott has attempted, in vain, to isolate and impoverish the State of Israel, resulting ultimately in its demise. In so doing, despite its failure to eradicate the State of Israel, American firms have been among those blacklisted by Arab States. Untold billions of dollars have been lost by American firms because of their willingness to do business with the State of Israel.

Having made recent inroads, the ongoing search for peace in the Middle East impels us to redouble our efforts for a dissolution of the Arab boycott. The boycott in all its forms must end. We are on the verge of a new era in the Middle East, and economic blackmail cannot be allowed to continue.

Senate Concurrent Resolution 50 recognizes that continued adherence to the boycott by Arab League States is a source of economic instability in the Middle East, yet acknowledges some small changes that a few of the Arab nations have made, including the postponement of the October 24th meeting of the Arab League in Damascus. Yet the bill correctly urges all the Members of the Arab League to respond positively to the changes that are taking place in the region today, by dismantling and ceasing the enforcement of this form of economic blackmail.

Continuation of the Arab boycott is a severe impediment to the establishment of a lasting peace in the Middle East. The substantial and untold losses to American firms deserve and require a strong response by the United States. Such an unfair trade practice cannot be permitted to continue, and accordingly, the legislation requires our Nation to raise this vital matter in every appropriate forum.

Mr. Speaker, as a sponsor of this legislation, I join our colleagues in strongly endorsing this measure. It sends a strong signal to the members of the Arab League that continuing the boycott against Israel and American firms is unacceptable and must be condemned. Peace cannot flourish in this atmosphere of economic blackmail. Accordingly, I urge unanimous support for Senate Concurrent Resolution 50.

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

Mr. HAMILTON. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Florida [Mr. DEUTSCH], principal sponsor of the resolution, without whose work this resolution would not have come forward.

Mr. DEUTSCH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to thank the chairman, the gentleman from Indiana [Mr. HAMILTON] and also thank the gentleman from Connecticut [Mr. GEJDENSON], chairman of the subcommittee, for their help in getting this resolution and the companion resolution to the floor at this time.

Mr. Speaker, since 1948, the nations of the Arab League have engaged in economic warfare against Israel through an economic boycott. This economic warfare does not use physically lethal weapons, but it is equally threatening to the security of Israel. We once believed that an agreement like the Declaration of Principles would end the Arab boycott of Israel. However, the nations of the Arab League have now unscrupulously upped the ante. They now demand movement on the Syrian and Lebanese negotiations and settlement of the Jerusalem issue.

For true peace to exist in the Middle East, economic warfare must end. The Arab refusal to lift barriers to trade can be given only one interpretation; the Arab League wants to capsize the peace agreement. Autonomy for the Palestinians is irrelevant if the standard of living in the West Bank and Gaza is not improved.

It is ironic, that the major trading partner of the West Bank and Gaza Strip is Israel. The West Bank and Gaza's mainly Palestinian residents survive on an economy whose lifeline is the nation which the Arab League seeks to isolate. If the nations of the Arab League continue their boycott of Israel, they place the economic prosperity of the West Bank and Gaza in severe jeopardy, thus destroying the effectiveness of the peace agreement.

The United States has already solidified its commitment to peace by hosting the donors conference and by pledging $500 million in aid to the Palestine Liberation Organization. Certainly, if the new commitments to cooperation and peace are sincere, they must be extended to encompass trade relationships. It is now time for the United States to definitively and unequivocally ask the nations of the Arab League to demonstrate their support for peace by lifting the economic boycott of Israel. Without this cooperation, the risks and investments that the Israelis, Palestinians, and Americans have undertaken for peace will be wasted.

Recently, U.S. Trade Representative [USTR] Mickey Kantor announced that his office was undertaking a year long study of the effects of the Arab boycott on the U.S. economy. Under boycott provisions, those nations that do business with Israel or firms that associate with companies who do business with Israel are blacklisted. The 1992 national trade estimate report on foreign trade barriers cites the boycott as an additional legal restraint to U.S. trade in the region. This secondary and tertiary boycott began in the early 1950's and has since excluded more than 400 United States companies from trading with the Arab League. It is my sincere hope that the nations of the Arab League will allow the USTR to spend its resources on reviewing other trade barriers.

The nations of the Arab League must understand that the United States will

no longer tolerate a boycott of U.S. firms, that is nothing more than economic warfare against the peace process. Regardless of our feelings about the peace accord, its failure would be extraordinarily detrimental to Israel and the United States. Thus, I introduced House Concurrent Resolution 175, calling on the Arab nations to immediately end their economic boycott. It is time that the Arab nations put their money where their mouths are. The U.S. Congress is prepared to make this an issue in all bilateral relations. There is now a diplomatic price to pay for enforcing this anachronistic and unjust boycott. I ask my colleagues to join me in supporting House Concurrent Resolution 175 and the companion Senate Concurrent Resolution 50.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], a distinguished member of our Committee on Foreign Affairs.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of House Concurrent Resolution 175. It is past time for Congress to speak out against the Arab boycott, especially the secondary and tertiary boycott directed against American companies.

The Arab boycott of Israel is a deliberate attempt to isolate that country. Now, as long as a formal state of war exists between countries a primary boycott is understandable. A nation very rarely maintains formal commercial relations with a nation with which it is at war. But as peaceful relations develop between Israel and her Arab neighbors, the economic boycott should be lifted very quickly.

But the secondary and tertiary boycott should be lifted immediately, and I am surprised that America has not pushed more forcefully to get it lifted. For the secondary boycott is economic warfare directed squarely against American companies. It is a deliberate attempt to coerce American citizens from trading with whom they wish.

When the United States imposes economic embargoes on foreign countries, we do not impose a secondary boycott against foreign firms that trade with those countries. When we were engaged in a total war against Germany and Japan, we did not boycott firms in neutral countries that also traded with those countries. The United States should act strongly against countries that boycott American companies. I ask my colleagues to strongly support passage of this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. FINGERHUT], who is also a cosponsor of the resolution.

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding this time to me and for his leadership on this issue, as well as my good friend and colleague, the gentleman from Florida [Mr. DEUTSCH].

Mr. Speaker, the chairman, the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Florida [Mr. DEUTSCH] have dealt very well with the economic issues at stake here.

The boycott, by hurting Israel's economic ability to provide for its own people, puts pressure on the economy, particularly given the cost of the massive immigration they have absorbed over the last 2 years and their high defense costs. It puts pressure on American firms that want to do business over there, thereby hurting our economy, and it puts the peace process in jeopardy, because as we know, peace can only succeed if they see the results on the ground and if economic prosperity follows for the people who have been suffering for so long.

I just want to make the point about the morality of this issue. We are familiar with economic boycotts in this country. Economic boycotts are pursued when a party who you wish to target has done something wrong, but as the gentleman from Florida [Mr. DEUTSCH] has pointed out, this boycott has been in effect since 1948 and it is there simply because Israel exists, not because of anything they have done, but because they have dared to exist in the Middle East. It is high time that we say to everyone who can listen far and wide that the American Government will stand up to those who put this onerous burden on America's democratic ally in the Middle East and on a country that is taking daily risks for peace far beyond anything that any of us have ever expected and hoped that they would do.

Mr. Speaker, I urge support for this resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. LEVY], another distinguished member of our Committee on Foreign Affairs.

Mr. LEVY. Mr. Speaker, I rise in support of Senate Concurrent Resolution 50 and also to commend the gentleman from Florida [Mr. DEUTSCH] for his commitment to this issue.

It is an understatement to say that, over the last few months, the State of Israel has taken serious risks for peace, and many have asked what America's role should be in the peace process.

At a minimum, Mr. Speaker, as an absolute minimum, as we seek to end the physical violence that has marked events in the Middle East, this Nation ought to put itself on record as being against continued economic warfare against Israel. That is what this resolution seeks to do and we should support it.

Our Israeli friends have always sought to live in peace with their Arab neighbors, but they have always defined peace, not as being limited to an absence of war, but as including full diplomatic and economic relations with their former enemies. By adopting Senate Concurrent Resolution 50 we place this Congress on record as supporting Israel's desire in this regard.

I salute Chairman HAMILTON of the Foreign Affairs Committee and our ranking Member, the gentleman from New York [Mr. GILMAN] for their work to bring this bill so promptly before the full House and I call on my colleagues to support this resolution, not by the necessary two-thirds because we are operating under a suspension, but unanimously tonight.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH], another distinguished senior member of our Committee on Foreign Affairs.

Mr. ROTH. Mr. Speaker, I thank my friend, the gentleman from New York [Mr. GILMAN] for yielding this time to me.

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

Our subcommittee has reviewed this resolution. We have had hearings on it, and it is a good resolution.

With this resolution, we are saying to the Arab League that the time has come for an end to the boycott of Israel.

We have seen a breakthrough in the long effort to find a basis for peace between Israel and the PLO.

At long last there is a real chance for peace. But the Arab League's boycott is an obstacle in the path of lasting peace in the Middle East. On a bipartisan basis, our subcommittee has for years strongly opposed the boycott. Today, at this critical juncture in the peace talks, we are restating our belief that ending the boycott is an essential step toward peace.

□ 1850

Therefore, Mr. Speaker, I urge all Members to join in this resolution, in sending a strong message to those who are standing in the way of resolving this conflict in the Middle East. Actually our subcommittee found that all countries involved would economically benefit from lifting the boycott, and this is an enlightened resolution, and I congratulate all those who worked on this resolution, especially its author, the gentleman from Florida [Mr. DEUTSCH], and all the people who have helped in bringing this resolution to the floor.

I ask everyone strongly to support this resolution as a strong step and a big step toward getting peace in the Middle East.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the ranking member, the gentleman from New York [Mr. GILMAN], for yielding this time to me, and I would like to add my commendation to the chairman of the committee, the gentleman from Indiana [Mr. HAMILTON], for the quick

and efficient job in reporting this bill from committee, and I would also like to say that I know how hard the gentleman from Florida [Mr. DEUTSCH] has worked to bring this resolution to us, and it is certainly through his very determined efforts that we are here tonight talking about what I believe is a very important issue.

Mr. Speaker, some Arab countries have moved beyond the denial of the existence of Israel, a major step in itself. Israeli and Arab leaders have met publicly. Private, secret negotiations have taken place with some success, and Yasser Arafat even appeared at the White House with Prime Minister Rabin. Certainly things that we could not have dreamt could have happened not long ago.

Today, to continue the Arab boycott, which accompanied the denial of Israel itself, to me seems to be impractical and immoral. The Arab boycott of Israel not only hurts Israel's American companies, but it sends a strong message to the Arab world that it is not yet ready to face the responsibility of true peace in the Middle East.

This resolution calls on all nations participating in the boycott to contribute to the peace process by permanently throwing off antiquated cold war policy. Complete recognition by withdrawal of the boycott is crucial to healing the wounds of generations of economic and political warfare.

Furthermore, it is in the Arab world's best interest to join in cooperation with the vital and enterprising Jewish State. The Middle East is ripe with opportunity, but all hope of advancement will be lost if Arab nations continue to delude themselves with expressions of hatred and intolerance.

The Israeli people have recently taken tremendous risks for peace and are considering other moves as well, not only with the Palestinians, but with major powers in the Arab world such as Jordan, Syria, and Egypt as well. It is time that these nations and their brothers in the Arab League respond in kind.

It is also important to keep in mind that Israel is not the only victim of this policy. American companies have been blacklisted, as has been pointed out by previous speakers, since the early 1950's because they hold commercial ties with Israel. American companies are affected. Americans are losing jobs. Americans are losing money. So, this is not just an Israeli problem; it is our problem as well.

Mr. Speaker, this resolution calls on the Arab League to being anew their relations with Israel and their relations with the United States, join in the spirit of cooperation and show the rest of the world that peace and economic cooperation are our common goals.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. HASTINGS], a member of the committee.

Mr. HASTINGS. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON]. I appreciate very much his efforts in this regard, as well as the efforts of the ranking member, and I appreciate my colleague, the gentleman from Florida [Mr. DEUTSCH], for all of the efforts that he has put forth. As a cosponsor of this measure, I rise proudly to support it, and I ask all of our Members to do likewise.

On the bright day that Israel and the PLO stood and cast their actions toward accord, looming in the shadows was the Arab boycott.

Every day we move closer to peace in the Middle East. One more step in that direction would be the lifting of the Arab boycott of Israel.

Some have argued that the boycott is not working in most Arab countries. If that is so, then why have the boycott at all? As we move globally toward open trade, we must not allow barriers and boycotts to prevail.

I say to my colleagues, "Lift the boycott now, and catalyze peace and security for the Middle East."

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

Mr. HORN. Mr. Speaker, the Arab boycott cannot any longer be tolerated by this Nation. It is simply shameful for Arab nations, supposedly friendly to the United States of America, to impact employment in this country because American firms are also doing business with the State of Israel which is one of our most reliable and strongest allies. The end of the Arab boycott should not be a bargaining chip in either the Middle East peace negotiations or any bilateral negotiations between this country and an Arab nation. The Arab boycott should simply be ended by any nation that wants to have good faith, equal trading relations with this country.

Who can doubt but that this boycott, over the years and at the present time, has impacted employment decisions in American companies doing business in the Middle East? I doubt if one of Jewish heritage and faith believes that there has been no impact. There obviously has been such an impact. Such a discriminatory impact is wrong.

The Arab boycott must end. It is shameful. It is intolerable. This Congress should judge our relations with Arab nations by how fast they end the nonsense of this economic boycott against our citizens and our businesses.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I want to thank the gentleman from Florida [Mr. DEUTSCH], the chief sponsor of this legislation, for his initiative and leadership to bring this issue as a matter of public debate and understanding of this long-standing policy that Arab countries have had since the establishment of the State of Israel some 45 years ago.

Mr. Speaker, it is time that the Arab nations stop this ridiculous practice of preventing American companies from doing business amongst Arab countries if those companies are known to conduct business in Israel.

Mr. Speaker, what would it be like if our Nation were to advocate a policy of a boycott against exports from Arab countries to our country? You establish a chain reaction to something like this and end up with none of the countries would benefit from such actions.

I submit, Mr. Speaker, we are witnessing a most historical event whereby the leaders of the Palestinian people and the borders of Israel are working tirelessly to bring about a peaceful solution to the current problems affecting the Middle East.

Mr. Speaker, I commend our friends among the Arab nations that have initiated plans to rescind such boycott conditions and urge the Central Boycott Committee of the Arab nations to terminate not only the activities of the committee but the committee itself.

Mr. Speaker, I commend our distinguished chairman of the House Foreign Affairs Committee, the gentleman from Indiana [Mr. HAMILTON] and our ranking minority leader on the committee, the gentleman from New York [Mr. GILMAN] for their support and leadership by bringing this legislation to the floor, and I urge my colleagues to support House Concurrent Resolution 175.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN], a member of the Committee on Foreign Affairs.

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to rise in support of this resolution which addresses the critical issue of the Arab boycott of Israel. In spite of all the lofty speeches and the hardy handshakes on the White House lawn, we must recognize that Israel is still subject to a systematic campaign against her.

Mr. Speaker, the Arab boycott has a chilling effect on all companies which are seeking to establish a positive business relationship with the only democratic ally in the Middle East for the United States, and that is our friend, Israel. Many leaders of that region deny that such a boycott exists. They practically laugh derisively when a Member of Congress states that the country should publicly renounce their allegiance to such a boycott. Egypt's leader told the members of the Committee on Foreign Affairs just weeks ago, "Boycott; what boycott? No one has a boycott against Israel."

Were it only so. We believe that a boycott does exist against Israel, and it

is the proper United States role to further ensure the economic stability of this thriving and peace-seeking nation.

I commend the gentleman from Florida [Mr. DEUTSCH], my dear colleague, for spearheading this very worthy and noble cause.

□ 1900

As we enter a new phase in Middle East relations, let us not pretend that all is well. Let us be ever vigilant about abuses, and let us do our best to monitor the economic boycott against Israel.

This resolution seeks only economic justice and a fair playing field for Israel so that full prosperity can finally take place in the troubled Middle East region.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Speaker, I rise in strong support of the resolution. Recently on the White House lawn we witnessed two old warriors shake hands and end the hostilities that have plagued these two great peoples. Here at home we see harmonious relationships between Arab-Americans and Jewish-Americans. Only in one area do we see the hypocritical relations of the Arab politicians who wish to continue a boycott that hurts Israel, that hurts America, and hurts the Arab people.

It is time, Mr. Speaker, to end this situation that has existed for far too long. Let us make this world a better world, and let us send out a strong message to Arab leaders that we will not tolerate the continuation of this boycott.

Mr. GILMAN. Mr. Speaker, as our final speaker on this issue, I am pleased to yield such time as he may consume to the distinguished gentleman from California [Mr. ROHRABACHER], a member of the Committee on Foreign Affairs.

Mr. ROHRABACHER. Mr. Speaker, I rise to ask all Members of the Arab League, especially America's friends in Saudi Arabia and Kuwait, to end the boycott against Israel. Now is the time to build a new world, a more peaceful world, a world of commerce, of cooperation, of technological progress beyond the wildest dreams of just a few years ago.

We can see this world developing before our eyes in Eastern Europe and the Soviet Union, in countries that used to be our enemies; in South Africa, where enemies are coming together and democracy is beginning to bloom; and in Central America, where just a few short years ago the battles in Central America divided this body and resulted in the deaths of tens of thousands of people. We can even see this new world emerging in our relations with Mexico, which to our southern border in the past was governed by people who spread anti-American hatred, and today reaches out for cooperation, economic cooperation, as never before with the United States.

Either the Arab peoples will be part of this new historic movement and the new world being built, or they will be left behind. In the past I have said to countries and Arab leaders that one does not have to be a friend of Israel to be a friend of the United States, but a country cannot be an enemy of peace and be a friend of the United States.

As the world now moves toward this historic movement toward a more peaceful reality, those people who are not helping build the world, if those people are trying to set up roadblocks to the transition, whether it is in the Middle East or elsewhere, those people and those leaders are not friends of the United States. Those who have been our friends cannot remain so if they remain belligerent in a world that is rejecting belligerancy.

Mr. Speaker, I call on the leaders, especially of those Arab states that have considered themselves friends of the United States, who we have considered our friends, especially in Saudi Arabia and Kuwait, where we allied in that great battle just a few years ago, to end the boycott against Israel. Join with us in building a new and more peaceful world.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise to support Senate Concurrent Resolution 50 which calls on the Arab League to lift all forms of the Arab boycott against Israel.

Frankly, I think it is both disturbing and disheartening that we still have to urge a reluctant Arab world to end their illegal boycott of Israel and of companies that do business with Israel.

One would have thought that after Israel recognized the PLO and agreed to full autonomy in the West Bank and Gaza that the Arab States would drop their 40-year-old boycott of Israel, a boycott that has cost Israel some $40 billion in business since the early 1950's.

Continuing the boycott is not only contrary to the spirit of reconciliation that led to the Israeli-Palestinian breakthrough in September but it also defies common sense.

Today, as Israelis and Palestinians work together to build a cooperative future, boycotting Israel harms Palestinians as it harms Israelis. Blocking a business venture in Jerusalem weakens the Palestinian economy as it weakens the Israeli economy. This means jobs for Palestinians as it means jobs for Israelis.

The Arab boycott of Israel is now an Arab boycott of Israelis and Palestinians and Jordanians, too.

That is why this legislation is an important step.

It sends a signal to the Arab world that the United States Congress wants this boycott to end and end now. And it sends a warning as well. The Arab world should not expect a normalization of relations with the United States until it ends the boycott. We are not interested in rhetoric or rationalizations. We want action. End the boycott now.

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

Mr. SWETT. Mr. Speaker, the Arab League economic boycott of Israel has been a tool of economic warfare directed at that nation since its birth in 1948. Today I stand in strong conviction to call an end to this belligerency and urge all of my colleagues to join me and the other sponsors of House Concurrent Resolution 175 in passing this important piece of legislation.

The Arab League boycott seeks to isolate the Israeli economy through primary, secondary, and tertiary boycotts. The damage to Israel's economy caused by this boycott is incalculable, but the cost is substantial. While the primary level of the boycott prohibits import of Israeli-origin goods and services into boycotting countries, the boycott has been applied at secondary and tertiary levels, which acts as a barrier to United States exports. Even Kuwait, where we risked and lost American lives during the Persian Gulf war, has not lifted its application of the boycott.

Mr. Speaker, this far-reaching effect has hurt Americans. In trying to destroy Israel's economic and military viability, the Arab League also directs its boycott at any company that has business contacts with Israel. American companies, forced to choose between doing business solely with Israel or with the Arab countries, have suffered indeterminate loss of opportunity and potential employability of Americans. United States companies consistently have felt the economic hardship of this secondary and tertiary level of boycott, with over 400 American firms believed to be on an Arab blacklist.

The signing of the Declaration of Principles between the Israeli Government and the Palestine Liberation Organization and the ongoing peace talks between these two principals and other Arab countries signals a new era of cooperation in the Middle East. The climate surrounding these events makes this an opportune time to call on the Arab countries to lift the economic boycott against Israel as a tangible symbol of their intention to keep the commitment they have made to establish a just and lasting peace in this region.

True peace in the Middle East can only be established and endure if there is economic cooperation in the region. This new cooperation must be extended to include trade relationships. Currently, the West Bank and Gaza survive solely on Israel's economy, the

only nation that trades with this area and, ironically, the country which the Arab League seeks to isolate. The continuation of this economic warfare will be a severe impediment to the prosperity of the region.

So far, the Arab response to a call for ending the boycott has been less than favorable, ranging from Syria's call for an expansion of the Arab blacklist to statements by the PLO that the boycott cannot be lifted without a unanimous vote by the Arab League. This Arab entrenchment makes one question the sincerity of their peace commitment.

Mr. Speaker, Israel has taken substantial risks in pursuit of peace, and it has assumed those risks, in no small part, because of its confidence in the unwavering support of the United States. To fortify this commitment, I urge all of my colleagues to join me tonight in supporting this legislation and demand an immediate end to this economic warfare. I also urge that in every appropriate international trade forum the U.S. Government continue to raise the boycott as an unfair trade practice.

Now is the time to take advantage of the recent advances toward peace and bring a long overdue end to this unfair practice. Ending the Arab economic boycott against Israel must be a top priority of Congress and the administration to secure peace in this region. I urge all of my colleagues to vote in support of House Concurrent Resolution 175.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. ENGEL], a member of the Committee on Foreign Affairs.

Mr. ENGEL. Mr. Speaker, I rise in strong support of the resolution today. What I have said many, many times before, what is really annoying is not only is there an Arab boycott against the State of Israel, but the United States of America went to war in the Persian Gulf and prevented Saudi Arabia and Kuwait from becoming the 19th and 20th provinces of Iraq. Yet here it is, several years later. American boys fought and died on that soil, and these countries are still participating in secondary and tertiary boycotts against American companies that they say are doing business with Israel.

Mr. Speaker, can you imagine; American blood was spilled saving those countries, preventing those countries from being swallowed up by Iraq, and today they are still boycotting American companies.

Mr. Speaker, that is not something that we in the United States should stand for. Nor should we just stand idly by while our staunchest ally in the Middle East, Israel, still is having itself boycotted, even though Israel has made tremendous strides and steps in being flexible in terms of negotiating peace with its Arab neighbors.

So I strongly support the resolution. We need in every instance to call attention to the Arab boycott, and we need to make sure that the Arab boycott is ended as soon as possible against Israel and against American companies.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Florida [Mr. DIAZ-BALART], a member of the Committee on Foreign Affairs.

□ 1910

Mr. DIAZ-BALART. I thank the distinguished ranking member for yielding time to me.

I am a proud cosponsor of this resolution by the gentleman from Florida [Mr. DEUTSCH], because I think it is extremely timely and necessary to point out that we are not only looking anymore for private assurances that economic aggression against Israel is going to be something of the past, we want public assurances. We want to make sure that the international community, the members who have participated in this tertiary and secondary and primary boycott of Israel renounce that and accept the reality of the new world and the fact there is not a better friend and no better ally to the United States and better member of the democratic community of nations than the State of Israel.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Speaker, I add my strong support to this resolution.

Mr. Speaker, the historic accord between Israel and the Palestine Liberation Organization give us new opportunities for peace in the Middle East.

The recent accord between Israel and the PLO stated that cooperation in the region might be encouraged by expanded trade relations.

Unfortunately, since the founding of Israel in 1948, most Arab League nations have sustained an economic and diplomatic boycott of the Jewish state. In addition, since the early 1950's, the same nations have extended this boycott to include firms throughout the world with commercial ties to Israel, including many companies from the United States.

In light of the immense progress toward peace in the Middle East, it would be a timely and appropriate gesture on the part of the Arab League countries to end both the boycott of Israel and the boycott of the firms with commercial ties to Israel.

Some Arab nations have recently begun to move in the direction of ending the boycott of firms, and we should encourage their actions.

I strongly support this resolution and I urge all Members to vote for this resolution which expresses the sense of Congress that the Arab League boycott of Israel and the boycott of companies doing business with Israel should end.

Thank you Mr. Speaker.

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

Mr. SCHUMER. Mr. Speaker, I rise in strong support of this resolution which calls on the Arab League to end their economic boycott of Israel and the secondary boycott against companies that do business with Israel.

The Arab boycott, which was designed to strangle Israel economically, is a morally offensive tool of economic warfare that was misguided at its inception, and, like many bad ideas, has unfortunately stood the test of time.

While we are all hopeful that the recent breakthrough between Israel and the PLO will bring a strong and lasting peace in the Mideast, we should all be disturbed and puzzled that the Arab boycott not only continues but is actually growing stronger.

In fact, the Commerce Department, which tracks illegal boycott requests to United States companies, reports that illegal boycott requests by Saudi Arabia are up by an alarming 25 percent over the same period last year.

While boycott activity is on the rise, Arab leaders are giving top administration officials assurances that they are no longer firmly enforcing the secondary boycott of United States companies.

This rhetoric is not nearly good enough, and the administration should continue to be outspoken in its insistence on ending the Arab League's primary and secondary boycott.

In closing, I would like to take this opportunity to correct the public record. Administration officials and editorial writers have recently referred to the boycott as an anachronism. I must point out that an anachronism is something that once had a proper role and legitimate purpose. The boycott is a form of invidious discrimination that never had a legitimate purpose and never had a proper role.

The boycott was and is a patently offensive practice.

The Arab nations, many of which relied on United States support to defeat Saddam, should take the next step toward comprehensive Mideast peace. Words are fine and they are an important start, but deeds are better. If Arab leaders truly want a lasting peace, it is time for them to put their money where their mouth is and end the economic boycott of Israel.

Peace is not simply the absence of war. Peace is at minimum the absence of hostilities. The Arab boycott of Israel is an overtly hostile act, the continuation of which is the single greatest barrier to peace in the Mideast today.

I commend Chairman HAMILTON and ranking member GILMAN for bringing this important resolution to the floor. And I offer special thanks to the bill's author, Mr. DEUTSCH of Florida, who has quickly and ably established himself as a positive force for peace in the Mideast.

Mr. GRAMS. Mr. Speaker, I rise in support of House Concurrent Resolution 175, the Anti-Boycott Resolution of 1993. I firmly believe the dismantling of the Arab economic boycott against Israel is critical to ensuring success in achieving peace within the Middle East.

Having had the rare opportunity to witness the historic signing of the Peace Accord between the Israelis and the Palestinians this past September, we must remember our work has just begun. The accord will have no impact if we do not support efforts to continue the momentum. Enactment of House Concurrent Resolution 175 represents an important step.

The Israeli people continue to face new challenges as a result of their quest for peace in the region. Nearly each evening, I can turn on the news and see the gruesome results of violence being conducted to undermine the peace process. Yet the commitment of the Israeli Government and the Israeli people remains as strong as ever.

Mr. Speaker, Israel has long been a friend to the United States—and now, that friendship is more important than ever. The United States must bring pressure to bear against the Arab boycott. If we are unsuccessful in ending the boycott, I fear we will surely witness the demise of peace within the region. Therefore, I urge my colleagues to join me in reiterating your support for the people of Israel by supporting the passage of this resolution. Thank you.

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

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 50.

The question was taken.

Mr. DEUTSCH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 425, nays 1, not voting 8, as follows:

[Roll No. 597]

YEAS—425

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—1

Rahall

NOT VOTING—8

Brown (CA)
Clinger
Dingell
Hall (OH)
Kyl
Serrano
Sundquist
Washington

□ 1932

Mr. DUNCAN and Mr. TORRES changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. Con. Res. 50, the Senate concurrent resolution just concurred in.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2202, PREVENTIVE HEALTH CARE AMENDMENTS OF 1993

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 2202) to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer.

The Clerk read the title of the bill.

(For conference report and statement, see Proceedings of the House of Saturday, November 20, 1993, at page 31338.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

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

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 the conference report now under consideration.

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

There was no objection.

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

This legislation includes reauthorizations of a number of important public health and primary care programs administered by the Centers for Disease Control and Prevention.

The first title of the bill reauthorizes the Breast and Cervical Cancer Screening program. This program provides mammograms and pap smears to thousands of women who have no other source of payment.

The second title of the bill reauthorizes the CDC injury prevention program and creates new authority for the CDC to work to study and develop interventions for domestic violence and sexual assault. Such violence should be viewed as a public health issue as well as a criminal issue, and I want to take special note of the leadership of the gentleman from Washington [Mr. KREIDLER] in putting this legislation together and in making these programs possible.

The third title codifies the tuberculosis programs of the CDC. TB is growing at epidemic rates in much of the country, and it is vital that we redouble our efforts to control this controllable disease.

The fourth title reauthorizes the program of grants to States for sexually transmitted disease control. These diseases, some of which have grown dramatically in recent years, pose particular risk for women and infants.

The fifth title reauthorizes the National Center for Health Statistics, a public health agency whose ongoing work will be vital during the times of health reform.

The sixth title reauthorizes the program of assistance for trauma care systems.

These programs have broad support. I want to give special thanks to my colleague from Virginia, Mr. BLILEY, and to the minority staff for the diligent and expeditious work they have put into this report to ensure that these vital programs can proceed uninterrupted.

I urge Members to support the conference report.

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

□ 1940

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

Mr. Speaker, the conference report on H.R. 2202 includes the provisions of several bills which previously passed the House. The conference agreement reauthorizes several programs administered by the Centers for Disease Control and Prevention including the Breast and Cervical Cancer Program, the Injury Prevention and Control Program, the Sexually Transmitted Diseases Program, and the National Center for Health Statistics. The conference agreement also includes Senate provisions which authorize additional resources and establish new programs for the control of tuberculosis. Finally, the conference agreement reauthorizes the Trauma Care Program administered by the Health Resources and Services Administration.

I urge my colleagues to join me in supporting this conference report.

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

Mr. MOORHEAD. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of the measure. Health prevention goes a long way toward cost containment.

I ask for support for the measure.

Mr. Speaker, I rise today in support of the conference report on H.R. 2202, preventive health amendments. I would like to commend the gentleman from California [Mr. WAXMAN], the distinguished chairman of the Health Subcommittee and the ranking minority member, the gentleman from California [Mr. MOORHEAD], for both introducing the Breast and Cervical Cancer Amendments of 1993, and bringing it to the floor in such an expeditious manner.

In 1992, there were over 180,000 new cases of breast cancer among women in the United States. Approximately 1 of every 9 women will develop breast cancer during her lifetime. Additionally, in 1992, 13,500 cases of cancer of the cervix were detected. These two horrible diseases can be detected early by having two tests performed: Mammogram and Pap smear.

H.R. 2202, established grant programs for breast and cervical cancer screening, as well as initiating health education programs. As many of my colleagues know, I have long advocated the need to include disease prevention and health promotion in every health insurance plan. I have introduced H.R. 4094, the Comprehensive Preventive Health and Promotion Act of 1993, which will require comprehensive periodic health exams, screenings, immunization, counseling, and health promotion. I am pleased that H.R. 2202 focuses on prevention.

Additionally, I am pleased that the conference report on H.R. 2202 includes tuberculosis [TB] prevention. Mr. Speaker, just 8 years ago, the United States had the lowest TB rate in modern history. In 1985, TB incidence started rising and has continued to rise. By 1990, Americans were suffering 16 percent more TB than in 1984, and nearly 40 percent more than previous trends would have predicted. Currently, in my home State of New York, TB has risen to over 30 percent. TB was once considered a disease of the past, and has now re-emerged as a global health crisis.

Disease prevention and health promotion is the key to improving the health of our Nation. Accordingly, I fully support H.R. 2202, and urge all of my colleagues to vote in favor of it.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. KREIDLER], the author of a very important section of this legislation.

Mr. KREIDLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this conference report, and I commend Chairman WAXMAN for his outstanding leadership on preventive health issues. I am especially grateful to Chairman WAXMAN for his help on reauthorization of the injury prevention and control program. This year we are establishing a new program to identify and treat injuries to women from domestic violence and sexual assault.

This program will be administered through the Centers for Disease Control and Prevention. It will increase our knowledge of the types of injuries that women sustain from domestic violence and sexual assault, which affect millions of women each year. This legislation also provides for training of health care providers so that they might better identify the injuries that occur as a result of domestic violence, and held these women get the help they need.

All too frequently women reporting for emergency care treatment are inappropriately identified as to the cause of the injury that they have received. Very frequently health care providers do not identify them as the result of domestic violence and do not refer the women, when these cases arise, to the appropriate kinds of follow-up care that would be appropriate under the circumstances. More than 1 million women each year seek medical treatment as a result of domestic violence, and it is the leading cause of injury to women. More than 1 in 6 pregnant women are battered, and such violence can lead to miscarriages, stillbirth, and low birth weight babies. Yet one study indicated that fewer than 5 percent of victims of domestic violence were correctly identified by health care professionals.

Health care providers must do a better job so that, these women receive the treatment they need to stop the cycle of violence, which too often escalates in severity and ends in death. Health care professionals can play a critical role in helping break the conspiracy of silence that surrounds issues of abuse.

This legislation will go a long way toward helping to train health care

providers, establish a data collection system with the CDC, and develop intervention programs to deal with the crisis of violence against women.

I commend this legislation to you, Mr. Speaker, and to this body for its endorsement.

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

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

The SPEAKER pro tempore (Mr. LAROCCO). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and agree to the conference report on the bill, H.R. 2202.

The question was taken.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 598]

YEAS—420

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bateman
Brown (CA)
Clinger
Dingell
Edwards (CA)
Foglietta
Ford (MI)
Hall (OH)
Harman
Kyl
Richardson
Sundquist
Washington

□ 2002

So (two-thirds having voted in favor thereof) the rules were suspended and 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.

PROVIDING FOR CONSIDERATION OF H.R. 3, CAMPAIGN FINANCE REFORM ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 319 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H.R. 319

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 consideration of the bill (H.R. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and benefits for congressional election campaigns, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order except the amendment printed in part 2 of the report of the Committee on Rules, which may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit, which may not include instructions. After passage of H.R. 3, it shall be in order to take from the Speaker's table the bill S. 3 and to consider the Senate bill in the House. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 3 as passed by the House. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move the House insist on its amendments to S. 3 and request a conference with the Senate thereon.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I make a point of order against consideration of this rule on the ground that it is in violation of clause 4(b) of House rule XI, and I ask to be heard on my point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. SOLOMON. Clause 4(b) of House rule XI provides that, and I quote:

The Committee on Rules shall not report any rule or order of business which * * * would prevent the motion to recommit from being made as provided in clause 4 of rule XVI.

If anyone wants to look at clause 4 of rule XVI, you are welcome to.

And clause 4 of rule XVI provides, and again I quote:

After the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order—not may, but shall be in order—and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution.

Mr. Speaker, those two clauses were adopted as amendments to House rules on March 15, 1909, when the minority party Democrats—let me repeat that, the minority party Democrats—joined with a group of insurgent Republicans to guarantee greater minority rights.

Did you hear that, Mr. Speaker? I said Republicans who were in the majority—it does not happen very often around here—joined with minority Democrats to guarantee greater rights for the Democrats, when they were in the minority. What has happened since then?

Prior to this rules revision, the motion to recommit was controlled by the majority party. This change was instituted for the specific purpose of giving the minority a final vote on its alternative legislative proposal through a motion to recommit with instructions.

House Resolution 319, that we are considering right now, on the other hand, provides that the motion to recommit, and I quote: "may not contain instructions."

That is a renege on the promises of the Democrat leadership. It is therefore in direct violation of this rule which was purposely designed to guarantee the minority a vote on its alternative by way of instructions.

Mr. Speaker, in support of this argument—I hate to take up the time of the body, but you know, you have got to be fair—I quote first from the author of clause 4(b) of rule XI and clause 4 of rule XVI on the day he offered the amendment.

It is a very famous name, John Fitzgerald Kennedy, a Democrat from New York. He is a good man. I knew John Fitzgerald Kennedy.

In his words:

Under our present practice, if a Member desires to move to recommit with instructions, the Speaker, instead of recognizing the Member desiring to submit a specific proposition by instructions, recognizes the gentleman in charge of the bill and he moves to recommit, and upon that motion demands the previous question is ordered, the motion to recommit is voted down.

And he went on: "Under our practice the motion to recommit might better be eliminated from the rules altogether."

The subsequent rulings of Speakers confirm that the whole purpose of the new rule was to permit the minority a chance to offer a final amendment in a motion to recommit with instructions.

Speaker Champ Clark ruled on May 14, 1912, 3 years later, and I quote:

It is not necessary to go into the history of how this particular rule came to be adopted, but that it was intended that the right to make the motion to recommit should be preserved inviolate the Chair has no doubt whatever.

That was Champ Clark back in 1912, Mr. Speaker.

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That is from a precedent found in volume 8 of Cannon's Precedents at section 2757. From that same volume at section 2727 is found a precedent from October 7, 1919. Former Speaker Crisp is quoted as follows:

The object of the motion to recommit is clearly to give the minority of the House * * * a chance affirmatively to go on record as to what they think this legislation should be, and if a motion to recommit does not permit that, then the motion is futile.

Speaker Gillett, in deciding the point of order on that occasion said, and I quote:

The fact is that a motion to recommit is intended to give the minority one chance to fully express their views so long as they are germane. * * * The whole purpose of this motion to recommit is to have a record vote on the program of the minority. That is the main purpose of the motion to recommit. * * *

And it goes on, and on, and on, and on. I could cite these precedents for hours standing here.

Speaker Bankhead, in a 1939 ruling, found in volume 7 of Deschler's Precedents, chapter 23, section 26.1, said of this rule and I quote:

The purpose of the motion to recommit * * * is to give Members opposed to the bill an opportunity to have an expression of opinion by the House upon their proposition.

Republican or Democrat, if they are in opposition, they ought to have that chance, he is saying.

Mr. Speaker, the whole key to this point of order and the underlying rules at issue here is what is meant in clause 4(b) of rule XI when it prohibits the Rules Committee from reporting a rule which denies the motion to recommit "as provided in clause 4 of rule XVI."

It is not sufficient for the Rules Committee simply to permit a straight motion to recommit, as they are doing in this rule, which prohibits instructions, since the authors of the 1909 rule provided for more than that. They have to be fair. What they clearly had in mind was to provide the minority an opportunity to get a final vote on their position if they wished, through amendatory recommittal instructions.

Indeed, in Deschler's Precedents, volume 7, chapter 23, section 25, this is made abundantly clear, and I qoute:

There are in the rules of the House four motions to refer: the ordinary motion provided for in the first sentence of clause 4, rule XVI when a question is "under debate;" the motion to recommit with or without instructions after the previous question has been ordered on a bill or joint resolution to final passage provided in the second sentence of clause 4, rule XVI * * *.

Mr. Speaker, that second sentence of clause 4 of rule XVI is the 1909 rule that is at issue in this point of order, and while it does not specifically mention instructions, it is clear from the legislative history behind the rule as well as this recent interpretation from Deschler's that the right of the minority to offer instructions in a motion to recommit is not only implied by the rule but is the whole reason for the adoption of the rule in the first place.

Mr. Speaker, the only precedent contradicting this interpretation was a 1934 ruling by the chair that a rule prohibiting certain amendments during consideration of a bill did not violate rule XI, clause 4(b) even though it restricted the minority's right to offer amendatory instructions.

Mr. Speaker, I say, only during your tenure; not you because you're the acting Speaker, but only during the present Speaker's tenure here has the Chair relied on that one precedent alone to uphold the rule which has completely blocked all instructions in a motion to recommit.

Mr. Speaker, it should be obvious that the 1934 precedent allowing for restricting amendatory instructions was wrongly decided because it led to the situation which allows for denying any motion to recommit which contains amendments and that is clearly violative of the intent behind the 1909 rule that is currently the law and the rule of this House. To allow that precedent to stand is to render the rule and the minority right it was intended to guarantee back in those days, the Democrat minority, to render it null and void. It is not only a violation of the spirit of this rule, but it is a violation of the literal essence of the rule as well, and my colleagues all know it.

I therefore urge that the Chair reverse the 1934 precedent and recent rulings based on it by sustaining my point of order for the sake of upholding the tradition, the spirit, and the letter of the rule in question.

Mr. Speaker, I will ask for a ruling.

Mr. DERRICK. Mr. Speaker, I wish to be heard on the point of order.

The gentleman from New York [Mr. SOLOMON] makes the point of order that the rule limits the motion to recommit and therefore, according to the

minority, the rule violates clause 4(b) of rule XI.

Mr. Speaker, I respectfully disagree.

Rule XI prohibits the Rules Committee from reporting a rule that: "Would prevent the motion to recommit from being made as provided in clause 4 of rule XVI."

Clause 4 of rule XVI addresses only the simple motion to recommit and requires the Speaker to give preference in recognition to a Member of the minority who is opposed to the measure.

Nowhere are instructions mentioned. Mr. Speaker, so long as the minority's right to offer a simple motion to recommit is protected, a rule does not "prevent the motion to recommit from being made as provided in clause 4 of rule XVI." This is a well-established parliamentary point.

I will not rehearse the precedents and history of this point. Suffice it to say that Speaker Rainey, on January 11, 1934, so ruled and was sustained on appeal.

The parliamentary point has been reaffirmed several times in the last few years, by ruling of the Chair, and when the ruling was challenged, it has been sustained on appeal.

The precedents are clear and unequivocal. If the rule does not deprive the minority of the right to offer a simple motion to recommit, then the rule does not violate the spirit or the letter of clause 4(b) of rule XI. Mr. Speaker, I urge that the point of order be overruled.

Mr. SOLOMON. Mr. Speaker, I am sure that the gentleman from South Carolina [Mr. DERRICK] has done nothing to sway you from being the Speaker of the House representing the entire House, and I ask for a ruling.

The SPEAKER pro tempore (Mr. LAROCCO). Based upon the precedents cited in section 729c of the House Rules and Manual, the point of order is overruled.

Mr. SOLOMON. Mr. Speaker, I respectfully appeal to the Chair to reconsider its ruling.

The SPEAKER pro tempore. Is the gentleman appealing the ruling of the Chair?

Mr. SOLOMON. No, sir. I respectfully appeal to the Chair to reconsider its ruling.

The SPEAKER pro tempore. The Chair has ruled on the gentleman's point of order.

The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 319 provides for the consideration of H.R. 3, the House Campaign Spending Limit and Election Reform Act of 1993. The rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration. The rule makes in order the House Administration Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of the report to accompanying the rule, as an original bill for the purpose of amendment.

The substitute, as modified, shall be considered as read. The rule makes in order only the amendment printed in part 2 of the report to be offered by the gentleman from Illinois [Mr. MICHEL] or his designee. The amendment is not subject to amendment and is debatable for 1 hour. The rule further provides for one motion to recommit which may not contain instructions.

Finally, the rule makes it in order, after passage of H.R. 3, to take S. 3 from the Speaker's table and to move to strike all after the enacting clause and insert the text of the House-passed H.R. 3. If that motion is adopted, the rule makes in order a motion to insist on the House amendments and request a conference with the Senate.

Mr. Speaker, H.R. 3 is the House Campaign Spending Limit and Election Reform Act. The bill establishes voluntary campaign spending limits for House elections with higher limits for candidates with closely contested primaries. The bill also establishes aggregate limits on the contributions candidates may accept from Political Action Committees [PACs] and large donors while providing greater incentives for candidates to seek small contributions from individuals. Under the bill individual contributions of $200 or less could be matched with voter communication vouchers which would be redeemable for television, radio, print advertisements, voter contact materials, and postage expenditures.

The bill further imposes fines and penalties on candidates who exceed spending limits after they have agreed to participate in the system and strengthens the reporting requirements on individual contributions. Finally, the bill closes a variety of campaign loopholes dealing with independent expenditures, bundling and soft money.

Mr. Speaker, House Resolution 319 is a fair rule that will expedite consideration of this legislation. I urge my colleagues to support the rule and I reserve the balance of my time.

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

Mr. Speaker, since today is Sunday, I think it is only appropriate that I look to the scriptures for inspiration on this rule and the so-called campaign reform bill it makes in order. So let me quote from Exodus 20, verses 8 through 10.

Remember the sabbath day to keep it holy. Six days shalt thou labour, and do all thy work: But the seventh day * * * thou shalt not do any work * * *.

Mr. Speaker, by forcing us to consider this rule and the campaign reform bill it makes in order on the Sabbath, the leadership is either admitting to breaking one of the Ten Commandants or is admitting that it does not consider this exercise to involve any real work.

Since House rules prevent me from casting moral aspersions on any of my colleagues, I must take the more charitable view that we are not really working here today. Instead, the leadership must think we are merely engaging in some form of folly, frolic or frivolity with this campaign reform bill.

I guess we must be playing some sort of a political game here. But is anyone really having any fun yet?

Mr. Speaker, this is not a serious exercise. The rule before us is not a serious attempt at deliberative democracy; and the bill it makes in order is certainly not a shining example of legislative perfection.

So while we may not be breaking one of the Ten Commandants today, what we are doing is still sinful in a secular sense.

At this eleventh hour of the seventh day of this first session we are simply going through the motions of considering something called a campaign spending and election reform act of 1993. This bill is of such an emergency nature that we must be here on the Sabbath to consider it, when in fact it would not even take effect until the 1996 elections, 3 years from now. That's sinful.

Moreover, we are considering a campaign reform bill that promises public financing if Members agree to certain voluntary spending limits, and yet the bill does not provide the funding for those benefits.

Instead, its effectiveness is contingent on the enactment of some future bill that provides the taxpayer financing. Now that's sinful, if not downright deceitful.

The leadership has kept us here on a weekend to pass an emergency election reform bill that won't take effect until 1996 and won't take effect until another bill is enacted to pay for it.

Somehow, I guess, the leadership is hoping the public will be fooled into thinking we have really accomplished something if we just take action today on a half-passed, half-baked reform proposal. That's sinful.

We are considering this important measure under just 1 hour of general debate time, followed by the consideration of just one substitute amendment subject to another hour of debate, followed by a motion to recommit which may not contain instructions. That's sinful.

Why was the minority denied its traditional right to offer a final amendment in the motion to recommit? Well,

we are told that since the minority already can offer a substitute amendment, giving it a motion to recommit with instructions would be a second bite at the apple.

As I pointed out in the Rules Committee last night, I don't know where it is written that you should only take one bite out of an apple. Where I come from in New York State, where we have the finest apples in all the land, apples are for eating in their entirety. And, when I came to the Congress, I used to think that bills were to be amended in their entirety, by any Member who wished to offer an amendment. And that's the way it used to be.

Mr. Speaker, yesterday the majority defended a closed rule on the DC statehood bill on grounds that no one appeared before the Rules Committee to ask for an amendment. I have not heard that justification for this gag rule today. Why? Because on this bill some 17 Members submitted a total of 35 amendments—6 by Democrats and 29 by Republicans.

And, as was pointed out in our hearing, many of those amendments had bipartisan support in the House Administration Committee.

Three significant substitutes were presented to the Rules Committee—a bipartisan substitute by Representatives SYNAR, MINGE, GUNDERSON, and UPTON. A Republican freshman substitute presented by Representatives FOWLER, BUYER, and TORKILDSEN. And an honest public financing bill that actually had the financing in it by Representative OBEY.

Many serious individual amendments were offered and turned down by the Rules Committee—almost all on party-line votes. These included:

An amendment by Representative THOMAS of California to ban taxpayer financing of campaigns;

By Representative LIVINGSTON to ban political action committees, ban bundling by PAC's and lobbyists;

By Representative BOEHNER to ban franked mass mailings in election years;

By Representative GOSS to prohibit lobbyist paid travel for Members of Congress; and

By Representative HOKE to require that a majority of a candidate's funds be raised from within the district.

I could go on and on, Mr. Speaker, about other noteworthy and worthwhile amendments presented to the Rules Committee that were dismissed out of hand and therefore cannot be offered on this floor today. That is sinful.

Mr. Speaker, I am always amazed that whenever it comes to debating a civil rights bill or a campaign or election reform bill, this body is prevented from exercising its own democratic rights to fully and freely represent the people that sent us here.

We are being denied our rights in the name of reform. That's sinful. It's not the kind of reform and change the people want.

In summary, Mr. Speaker, this rule makes a mockery of our democracy on a bill that purportedly would strengthen our democracy. There is only one way to respond to this cavalier treatment of the Members of this House and the constituents they represent who are also being disenfranchised by this process, and that is to defeat this rule.

If you want to strike a real blow for democracy and deliberative process, vote down this sinful rule and force the leadership to get real and bring us a serious bill that we can seriously consider under an open amendment process. Then, and only then, we might get a campaign reform bill that will make the people proud of us, and us once again proud of this Congress.

Mr. Speaker, for the RECORD I include a list of the rollcall votes in the Committee on Rules on amendments to the proposed rule on H.R. 3.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 3, THE CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

1. Open rule.—This amendment to the proposed rule provides for an open rule with one hour of general debate to be equally divided between the Chairman and Ranking Minority Member of the Committees on House Administration. It also makes in order the House Administration Committee amendment in the nature of a substitute as an original bill for the purpose of amendment under the five-minute rule. The Michel substitute is made in order as the first amendment under the rule.

Vote (Defeated 3-8): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

2. Allow motion to recommit with instructions—

Vote (Defeated 4-7): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Wheat, Gordon, Slaughter. Not voting: Quillen, Hall.

3. Thomas (CA)—(A) Strike the increase in the spending limit for a contested primary.

Vote (Defeated 4-6): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

4. Thomas (CA)—(B) Strike the 10% exemption from the spending limit for spending on fundraising and overhead costs.

Vote (Defeated 3-7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

5. Thomas (CA)—(C) Ban on Taxpayer Financing. Deletes sections providing for candidate benefits and adds ban on taxpayer subsidies to campaigns.

Vote (Defeated 4-6): Yeas—Solomon, Dreier, Goss, Frost; Nays—Moakley, Derrick, Beilenson, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

6. Livingston (LA)—(D) Strike the exemptions and loopholes from the spending limit that increase the limit from $600,000 to about $1,000,000.

Vote (Defeated 3-7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

7. Boehner (OH)—An amendment to ban unsolicited franked mass mailing in general election years.

Vote (Defeated 3-7): Yes—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

8. En Bloc—

Livingston (LA)—(A) Ban all PACS (If a ban on non-connected PACs is determined to be unconstitutional, the allowable non-connected PAC contribution would be reduced to $1,000); (B) Ban "Bundling" by PACs and Lobbyists; (C) Require disclosure of spending by unions, corporation, and non-profits on political activities undertaken to influence federal elections.

Goss (FL)—(A) Sense of the Congress that no person may serve more than four consecutive terms as Representative or two consecutive terms as Senator; (B) Reductions of Members' franking allowance by 50%; (C) Prohibit lobbyist paid travel for Members or their staff.

Delay (TX)—Text of H.R. 2307—The Workers Political Rights Act, which seeks to codify the 1988 U.S. Supreme Court Decision in *Beck v. Communication Workers of America*. The amendment calls for full disclosure of political funding to workers. Unions may still conduct political activities with funds voluntarily contributed to a segregated fund.

Santorum (PA)—(A) To reduce the public funds available to an incumbent by the amount of funds used from an official mail account on unsolicited mailings of greater than 200 pieces in the election year, the exception of town meetings; (B) To allow candidates to qualify for public matching funds only if 50% or more of the individual contributions are made by individuals residing within the congressional district of the legally filed candidate; (C) To require candidates who qualify for and accept public funds to debate other candidates who qualify for public funds; (D) Restrictions of Franking—prohibition of all photographs in mass mailings/newsletters with the exception of one portrait photo; reduction of personal references from 32 to 16; restriction of newsletter content to legislation introduced by incumbent or other legislative activity; elimination of all personal references in type size above 14-point, except in the masthead.

Fowler (FL)—Text of H.R. 3196—Freshman Republican package. Among other things, the bill includes the following provisions; Eliminate PAC contributions from one PAC to another; Prohibit funding while allowing nationally solicited direct contributions (i.e., WISH, EMILY'S List); Require lobbyists to declare their lobbyist status on contributions and to file a report of all political contributions with the FEC; Increase limit on total individual contributions to all campaigns over an election cycle from $25,000 to $50,000 per cycle.

Hoekstra (MI)—Strikes the title relating to "Ballot Initiative Committees".

Hoke (OH)—(A) An amendment to prohibit political action committee contributions to candidates running for the House of Representatives or for the Senate; further stipulates that in the event this ban on PAC contributions is ruled unconstitutional by the Supreme Court, PACs will be limited to contributions not to exceed $1,000 per candidate; (B) To require that a majority of all contributions to candidates for the House of Representatives be raised from within their own districts; (C) Makes all provisions of H.R. 3 effective upon the date of enactment.

Horn (CA)—(A) Bans contributions to a Member's campaign by the spouses of the

Member's staff and spouses of the Member's assigned committee staff; (B) Bans Members' staff from contributing time and money to the Member's campaign while on payroll or within 3 months of leaving the payroll; (C) Bans congressional and committee staff from being on split payrolls between the Member's staff and the Member's campaign; (D) Bans Members' Washington staff travelling to the Member's district at government 60 days before an election; (E) An amendment providing that the government would pay for a booklet providing voter information on each congressional candidate.

Vote (Defeated 3–7): Yeas—Solomon, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Gordon, Slaughter. Not voting: Quillen, Hall, Wheat.

9. Adoption of rule—

Vote (Adopted 7–3–1): Yeas: Moakley, Derrick, Beilenson, Bonior, Wheat, Gordon, Slaughter; Nays: Solomon, Dreier, Goss. Voting Present: Frost. Not Voting: Quillen, Hall.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	53	12	23	41	77

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

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

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

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Nov. 20, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

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

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Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Connecticut [Mr. GEJDENSON], who has spent so much time working on this bill, and we are real proud of him.

Mr. GEJDENSON. Mr. Speaker, I would like to ask my colleagues to recognize that we come here with a bit of history.

In 1974, a Democratic-led Congress made important changes in the way campaigns were to be run. The Supreme Court undid much of that in a Supreme Court decision called Buckley versus Valeo, where they said we were not able to simply limit spending, that there were other provisions in that bill that they claimed to be unconstitutional.

So we come here today in a system that is somewhat complex. Why is it complex? Because the Supreme Court has said that money is equal to speech and we simply cannot limit it. So we have to have a process that restricts it, but we cannot just outright limit it.

So then we end up with some choices before us. We have a choice presented by the minority that will rig the system for wealthy individuals. It is my assessment that wealthy people in

America already have adequate power, already have adequate access to Congress. And it is poor people, it is individuals of small means that need to get some protection in this system.

If Members look at the proposal made by the minority and, frankly, the proposal that comes from my colleague, the gentleman from Oklahoma [Mr. SYNAR], it is modeled after a small number of people who get large numbers of large contributions. And frankly, under either proposal, one could raise tens of millions of dollars from individuals or from political action committees.

What is our goal here today? Well, we have mixed goals. Some Members are frankly against changing the present system. I think that is not an unreasonable position. But the problem that happens on the floor of the House is sometimes Members are not direct in their actions.

Three years ago, when my good friend, the gentleman from Oklahoma [Mr. SYNAR], offered an amendment for public financing, a large number of Republicans abstained. And suddenly, an amendment was going to pass because only the Democrats on the floor were voting or primarily the Democrats on the floor were voting. And by abstaining, they would have an amendment win that they knew did not have a majority of the House.

I believe, if my memory serves me correctly, the gentleman from Oklahoma [Mr. SYNAR] had to come to the floor and work against his own amendment, not because it was a simple straight up or down vote in the House, but because of the craftiness of the Republicans deciding to abstain on a particular vote and, thereby, creating a situation where they could kill the bill at the end of the day.

I submit to Members that that is their goal here today. It is not simply to defeat the rule so they can get two bites of the apple. We give them, the minority, an alternative, an alternative that protects the wealthy, that protects their ability to raise unlimited funds from political action committees and from individuals.

They would like to have another alternative, the alternative of the gentleman from Oklahoma [Mr. SYNAR], which would do essentially the same thing, allow one to raise unlimited amounts of money from individuals and political action committees.

What does our bill do? Our bill does what is important and what is needed. It first of all limits spending. Is there a magic number on what spending ought to be limited to? I do not think so.

What we want to make sure is there is enough money to have a debate, but we do not want to have so much money or unlimited money so that we end up in nothing but a race to get additional dollars. That is why the first premise of our bill is to limit spending, and we do that in the bill that comes before us from the Democrats.

The second provision is, the public is concerned that a predominance of political action committees is influencing the Congress. Under the Republican bill, one can get unlimited PAC money. Under our bill, one is limited to a percentage that is roughly one-third of the bill for political action committee money.

If we limit political action committee money, we also have to limit large contributions from individuals. So under our bill, that is limited as well.

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

Mr. GEJDENSON. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, the gentleman said that under the Republican bill we would have unlimited PAC money.

Mr. GEJDENSON. Mr. Speaker, yes.

Mr. HOKE. Mr. Speaker, if the gentleman will continue to yield, that is completely untrue. There is no PAC contribution under the Republican bill, none.

Mr. GEJDENSON. Mr. Speaker, reclaiming my time, I will be happy to engage the gentleman later.

It is clear that backup position, which is if the Court rules that banning PAC's is unconstitutional, the $1,000 limit then becomes an unlimited ticket to get PAC money. So what we have here is a real choice: One bill that really limits spending, that really limits political action committee money, that gives everybody a chance to run for Congress, that gives people that come from poor rural districts, that gives people who come from minority districts a chance to be able to have the money to enter the debate.

There is a choice here, whether we are going to give a political system that we live in a fair chance for all citizens to participate, or do we want to rig the political process to that only wealthy individuals and those with access to wealth can enter the political process.

I want to, last, thank the leadership of this House for putting the effort into today to get a bill passed and to get it to the floor.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise to oppose in the strongest possible terms the rule.

Mr. Speaker, I rise to oppose in the strongest possible terms the rule on campaign finance reform.

Perhaps no issue hits at public skepticism of Congress as much as the current ways Members raise the money they rely on to win reelection over and over again.

Particularly troubling for many Americans is that, through Political Action Committees [PACs], it appears that some Members accept large sums of money from complete strangers, and pretend that it has absolutely no effect whatsoever on how they act.

Today we have the opportunity to make major changes in campaign financing, but only if this restrictive rule is defeated. It is essential that this rule be replaced with another rule that will allow a wide variety of amendments dealing with reducing PAC contributions, prohibiting bundling, reducing the amount of time incumbents have to send out free franked mail, forcing lobbyist disclosure of contributions, protecting State term limitation efforts, and making other significant reforms. Only if these changes are allowed to come before all Members of the House for debate and a vote will we be able to increase some measure of public confidence in Washington.

One package the freshman Republicans advanced would achieve several of these reforms. Another package, led by the gentleman from Oklahoma, would also substantially reduce PAC contributions. Still another change proposed by the gentleman from Michigan would protect State groups that are seeking to advance ballot questions limiting terms of State and Federal officials.

Yet the Members of Congress will not have the opportunity to vote on these and other significant proposals if the proposed restrictive rule is adopted.

I strongly urge each of my colleagues, no matter what your inclination on the leadership bill, to vote against this crazy rule that limits the ability of each and every Member to propose amendments, and limits the right of Members to vote on the various proposals to reduce PAC influence, and make other necessary changes in how Members of Congress raise campaign contributions.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the very distinguished gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Republican Task Force on Campaign Finance Reform.

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

Between the full committee and the Committee on Rules, we offered some 35 amendments, as the gentleman from New York pointed out. We really wanted an open rule, and this is a totally closed rule. The process is wrong, and the process is rigged on a very important issue.

Campaign finance law sets the tone and the rule and the process for all of the U.S. elections held in this country. It is imperative that the process be fair and simple and believable. And the bill proferred by the gentleman that just spoke in the well, the gentleman from Connecticut [Mr. GEJDENSON], is none of those.

There are lots of ideas available, proferred by Republicans and Democrats. The gentleman from Oklahoma [Mr. SYNAR] had some great ideas to improve current law, and those ideas should be explored. Some of the ideas we have might be good; some might be bad. But they each should be debated

and evaluated and considered. Each should be voted on. But this rule stifles debate. It restricts options. It eliminates dissent, Worse, it foists the Gejdenson bill, a horrible plan, on the American election process without adequate consideration or debate.

It forces a choice between only two bills, two plans. And the majority has the votes, and they will probably vote for theirs and against ours. But frankly, that is not the way this process should work. We should be taking the best ideas and hashing them out and coming to a consensus as to what really is reform. But they are not interested in it.

I personally believe public financing, which is the core, the centerpiece of their plan, is welfare for the politicians. It forces support by an unwitting public for candidates they might despise and would never support if given a voice.

Even under existing law, there is a public financing scheme for the Presidents of the United States. And do Members know that Lyndon LaRouche, from his jail cell qualified for over $1 million in public financing, and that is the kind of activity that the Gejdenson bill will encourage. $1 million from his jail cell.

The Gejdenson bill invokes public financing, and it hides public financing under the name of "communications vouchers," which will be paid by the Treasury of the United States.

□ 2040

The bill creates a fund, taxes to be implied later under some surreptitiously hidden omnibus tax bill months from now, when nobody is paying attention, it creates a fund, but it does not include those taxes in this bill. Hence, the bill is not believable, and neither is it fair, and neither is it simple.

In fact, the bill is unconstitutional on at least five grounds. It is incredibly complex, $600,000 in spending limits the gentleman would impose for the entire election process, under Federal law, but that $600,000 spending limit is riddled with exemptions, loopholes, waivers, ad indexing, and the total really comes out to well over $1 million.

The loopholes include exemptions for bundling. It prohibits bundling from some folks but not for others. It provides soft money for some folks but not for others. Their bill even exceeds Federal jurisdiction. For my friends that might be in State legislatures all over this country, we will be shocked and appalled to learn that the ballot initiative for like term limit in the States would be outlawed, or, excuse me, they would not be outlawed, they would be forced to abide by these complex, complex rules and regulations.

Mr. Speaker, this bill discourages challengers, will guarantee that law-abiding candidates will run afoul of the law, will do nothing to discourage cheaters, and it will not be enforced, because they do not even give the resources to the Federal Election Commission to enforce it.

It deprives the American voter of the right to support or deny support or even oppose the candidate of his or her choice.

Mr. Speaker, I urge the defeat of this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, tonight we can signal to the American public that we are serious about reform. As the law governing campaign spending, campaign finance reform is of great importance to each of us. Our ability to pass reform legislation speaks directly to our sensitivity to the American public's outcry for change, their call for responsible and accountable government, and our ability to meet that demand.

To the American people campaign reform is a defining issue. It is an issue by which they will measure our commitment to change, our commitment to cleaning up government, our ability to regulate our own activity, and most importantly, our commitment to acting on the message sent so loudly in the last national elections.

Mr. Speaker, the people are watching closely tonight. They are watching to see if the House is capable of disciplining itself. If we do not act tonight, voters will certainly react in 1994.

The campaign finance reform bill which the rule will allow is a serious attempt at campaign finance reform. It is not perfect. No law intimately affecting each Member so closely will ever be regarded as such. But this legislation tackles some of the most difficult problems with our current system:

It limits the influence of political action committees.

It limits the influence of wealthy contributors.

It limits overall spending, doing away with a system which has seen campaign spending swell into the millions of dollars.

For the first time it empowers low donors, giving average Americans a greater impact in political campaigns—making their support a critical component to the success of a candidate.

This bill in the best tradition of this House strives to be fair to all those who must operate under its rules. It is fair to Democrats, it is fair to Republicans. It is fair to Members who represent minority districts and women candidates—groups that have been often left struggling on the political sidelines under our current campaign financing system.

But most importantly Mr. Speaker, this bill is fair to the American people. It demonstrates that the Congress is listening to the call for reform, that we hear the cry for change.

Alternative proposals which have been suggested do not represent a similar attempt to be fair. In fact, they limit the ability of minority members and women to run for office—candidates who cannot tap into the same sources of funding available to the majority of this body.

This legislation is not new to this body. It was passed in the last Congress when a veto was certain. To deny the opportunity to pass it this year, when the changes for enactment under a Democratic administration are greater is a disingenuous course at best. Voters will not allow us to get away with that double standard.

Mr. Speaker, for the integrity of this institution we can not allow ourselves to be dragged kicking and screaming to the table of reform. Instead it is time for us to lead the way. To accept the responsibility, to act. We must pass this rule, and we must pass campaign finance reform.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA], a freshman Member of this House who has become, in just 10 months, a leading force as far as the initiative on referendum is concerned.

Mr. HOEKSTRA. Mr. Speaker, yesterday, I once again had a real eye-opener that I want to share.

The Rules Committee meeting was embarrassing. I watched my colleague from Ohio, a Democrat, offer a commonsense amendment which would have attached franking budget reforms with campaign reform. He was thanked for his time and excused, just like a little schoolboy asking Mommy for a cookie, and then being politely dismissed to go outside and play. I thought it was kind of funny, but the same thing happened to me when I offered an amendment that would have stopped the Federal Elections Commission from getting involved in State ballot issues. What a joke.

So why did I bother? Why does anyone ever bother?

Why? Because we all represent people who are sick and tired of the nonsense that goes on in this city.

Mr. Speaker, my constituents are fed up. They are angry. They do not trust Congress. They do not like Congress.

They love our country, but they have serious doubts about the future. Yesterday's Rules Committee is a case in point: Little deliberation; little discussion; some polite winks and nods; and even a staffer to open and close the door.

Let me come to the floor and make the case on behalf of millions of Americans involved in State initiatives and referenda.

Let me explain how Congress is trying to thwart the will of the people and

preserve the status quo. It is unbelievable to me to be hearing my Democratic colleagues talking about rigging the process.

Let us reject this outrageous rule. We have all been insulted long enough. Vote "no" on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, I rise to urge my colleagues to support this rule, and to support this campaign finance reform bill. It is real reform.

Mr. Speaker, if we do not vote to change the way we finance our campaigns, we will again break faith with our fellow Americans.

The American people will once again see that the Members of this body are more concerned with politics as usual than meaningful reform. What hypocrisy to say it does not go far enough. So let us do nothing.

We cannot afford such a breach of faith with the people who sent us here.

The American people have demanded this campaign reform, as they have demanded lobbying reform and a ban on gifts and perks.

Let us give the people what they want. Support this rule, and support the passage of H.R. 3.

Mr. GOSS. Mr. Speaker, it gives me great pleasure to yield 1 minute to my distinguished colleague, the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in opposition to the closed rule on campaign finance reform. Because the freshmen Republicans do not believe H.R. 3 is real reform, we submitted an alternative bill which, like many other good reform amendments, was not allowed. Because I do not support H.R. 3, and because only one amendment was allowed, I will vote against the closed rule.

However, those who support H.R. 3 and also claim to support term limits should join me in opposing this rule. That is right, hidden in H.R. 3 is a provision that would require new Federal regulation and interference in State ballot initiatives. The National Taxpayers Union calls the provision "a mean-spirited and misguided effort to harass State supporters of congressional term limits."

Every Member of this House who supports term limits should vote against this rule. Regardless of what you think about everything else in H.R. 3, you cannot support the term limits movement and vote for a restrictive rule that protects this antiterm limits provision.

I say to those who support H.R. 3, vote "no" on the closed rule and go back to the committee and get them to remove the provision which has nothing to do with campaign finance and everything to do with incumbency protection.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to participate.

Mr. Speaker, the time has come for this body to seriously respond to the expectations from Americans clamoring for real and meaningful campaign reform. This reform of Government starts with us. It is clear that Congress must change its way of doing business. There is a rising call for action to make Congress more accountable in the minds of those who elected us. No longer can we explain or justify special privileges in a time when Congress is under such public scrutiny. The demand for campaign reform is now and should not be delayed until a perfect bill is crafted. This is the right step at this time.

Some will seek to defeat the rule in order to craft a perfect bill. I would urge my colleagues to vote for the rule. The bill as crafted by the gentleman from Connecticut [Mr. GEDJENSEN] is fair, to nonwealthy, minorities, women, and consistent with the freshman class recommendations and the President's proposal.

We need to make sure that the appearance of special interest is reduced, and we must establish reasonable spending limits. The outrageous cost of running a campaign must come under control. We can no longer wait; the call for action is upon us, and this body must respond by acting now. The American people are demanding real change.

I urge the passage of the rule and the passage of H.R. 3.

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Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOKE], who brought three specific amendments to H.R. 3 forward.

Mr. HOKE. Mr. Speaker, this House, the people's House, has been for sale for too long, far too long. Tonight we can tear down this sign if we defeat this rule.

Mr. Speaker, I rise tonight to express my disgust with the grotesque abuse of power which has been committed by the Rules Committee at the expense of the American people and at the expense of the Members of Congress and to the discredit and disgrace of this institution.

Campaign finance reform captures the imagination and interest of the American public for the same reason that it animates the intellect and incites the passions of Members here. It is because we understand that there is a fundamental relationship between how we get here and how we serve here. The fact is that to a great extent how we get here is how we serve here.

And how should we serve here? Independently, in the public interest, not for the special interests, beholden to no person or group save two, the constituents of the district that we have the honor to represent, and our own conscience.

If that is how we should serve here, then should we not get here the same way? Independently, belonging only to ourselves and our constituents? Of course we should. Which is why I offered several amendments to this bill: First, to ban special interest campaign contributions. Second, to require that 51 percent of a candidate's contributions come from within the district that he or she wants to represent. And third, that the bill apply now, not in 1996, but now.

The ban on special interest PAC contributions is something that the Senate has already passed, the public wants overwhelmingly, the President campaigned for, and the House Republican conference has adopted as its position. In fact, the only ones opposed to it at this point are House Democrats, and maybe not all of them. But that is something we will never find out if this rule passes, because the Rules Committee on a straight party line vote has refused to even allow this House to consider these amendments.

In order to reveal this chicanery to the American people, C-Span should be at the Rules Committee, because that is where the tyranny of the majority takes place. That is where the American people and their elected Representatives are squelched, and muzzled, and that is where we are trying to make a meaningful attempt to reform this people's House.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

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

I wish I could support this rule, because I recognize that we may not get another chance to vote on campaign finance reform in this Congress. Under the circumstances, though, I think that we should reject the two bad choices before us and insist on a real alternative when we come back in January.

Voting to exclude any alternative only allows both parties to go through the motions of voting for reform without actually curbing the influence of special interests and the advantages of incumbents. I think we should avoid the temptation to take the easy way out.

The Democratic package would be a slight improvement over the present system—if we could pass a financing mechanism to make it work—but at best, it offers incremental changes when what we need is a drastic overhaul.

My biggest concern is that it doesn't include a $1,000 limit on each PAC contribution. Any campaign finance bill that doesn't drastically curb PAC contributions is more cosmetic than substantive. I am especially disappointed that President Clinton did not propose to reduce PAC's from their current $5,000 limit after having campaigned on a specific promise to do so.

PAC's give an average of $228,000 more to incumbents than challengers. Without PAC limits, the influence of special interests will go unchecked. I can't buy it, and neither will the public. Real campaign finance reform—with PAC limits as well as tougher overall spending caps—is the only way to make elections competitive.

I support public matching funds in exchange for agreeing to spending limits, but there's no money for matching funds in this bill and the limits are so full of holes that candidates will be able to spend upwards of a million dollars and still meet the cap.

The Republican leadership, on the other hand, wants to kill PAC's while preserving the power of wealthy individuals and ignoring the need to limit spending. They want to cut the influence of special interests unless the special interests are the kinds of people who can give $1,000 to a congressional campaign.

Congressional candidates spent a total of $66 million during the 1972 elections. In 1992, they spent $504 million. By failing to rein in spending, the Republican alternative perpetuates the corruption inherent in a system where million-dollar races are becoming the norm and any candidate who can't raise at least half that amount has little hope of being heard, let alone winning.

The Democrats are trying to protect incumbents, and the Republicans are trying to protect the rich. We should quite posturing and pass real, bipartisan reform that cuts the influence of special interests and makes races competitive.

I think the Synar-Upton alternative is a good start. Of course, it doesn't have either the public financing or the overall spending limits necessary to fix the fundamental problems with the way campaigns are funded. In a way, though, that's its strength: It would improve the system by lowering both PAC and individual contribution levels while not pretending to be the definitive solution to every problem.

If the rule passes, I will hold my nose and vote for the Democratic bill. But I cannot in good conscience vote to limit debate to these two alternatives, so I must oppose the rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON], from the land of football and who is part of the bipartisan coalition to bring forward an alternative.

Mr. GUNDERSON. Mr. Speaker, it is Sunday night. The Senate has gone home and we are in session. Why?

We are here because the leadership says we have to enact a reform before we can adjourn for the year. But what we are doing tonight is not reform at all. It is a fraud, and we ought to understand it as such and call it that.

We talk about campaign reform. This is not campaign reform. It is spending caps of $1 million.

They talk about campaign reform, but what do they do? Put it in effect after the next election, not in 1994, but 1996.

They talk about public financing, but they do not provide the mechanism to fund it.

They talk about limits on PAC's up to $200,000 grand total. And they talk about limiting bundling unless it depends on who is bundling the money.

That is their definition of campaign reform.

So what happens? The Rules Committee comes here and says we are going to bring up the Incumbents Protection Act, better known as the Democratic bill. But we are not going to allow amendments offered by Members to make that particular Incumbents Protection Act work. We are not going to allow amendments to fully debate the whole concept of campaign finance reform. And we are not going to allow amendments that would bring together in a bipartisan effort the only option we have in terms of trying to enact something in terms of real campaign reform in this Congress.

I think what we are doing tonight is a fraud, and I think anybody who has the gall to vote for this rule knows it is a fraud, and they are going to have to find a way to defend that in their district, and I do not think they are going to be able to. Your constituents can see through this.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I rise in strong support of the rule on H.R. 3.

For two decades, as a State legislator and in my time in Congress, I have supported and fought for tough campaign reform to limit the influence of big money in the political process.

Some of us—myself included—would prefer something tougher than H.R. 3. I am disappointed that H.R. 3 does not include a funding mechanism for its campaign finance provisions. I would support lower PAC limits and spending limits than are contained in H.R. 3.

But this is a good bill and furthermore the best bill we will get this year. Opponents of the rule say they are advocates of what they call real reform. They call for delay.

But their proposal imposes no spending limit. Their proposal contains no public finance provisions.

That is not my notion of real reform.

H.R. 3 is a comprehensive campaign finance reform bill that imposes a voluntary $600,000 spending limit on congressional races. H.R. 3 limits each candidate to $200,000 in PAC contributions and $200,000 in large individual contributions. H.R. 3 provides communications vouchers to correct the most significant inequity in modern elections: the ability to buy time on television.

H.R. 3 is very similar to the bill passed last year when we had a President who was passionately opposed to campaign finance reform. We can finally enact real reform if we pass H.R. 3.

Mr. Speaker, I urge Members to support the rule so we do not miss our only real chance to pass genuine campaign reform this year.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Speaker, I take this matter very personally, because in my campaign for this House I spent $250,000. My incumbent opponent spent over $800,000, and he had the advantage of a special interest independent expenditure as well as spending over a quarter of a million dollars of tax dollars to send out self-promoting newsletters. And I won.

Let me tell Members three people who helped me win. An elderly woman who wanted to come to a $5 fund raiser and asked if she could come on credit until she got her Social Security check. A couple who reserved two $15 tickets, and when they came to pick up their tickets said you keep the tickets because we cannot come. And when I asked why, she said, "Because I don't have the kind of clothes that I need to wear to an event like that." It was in a picnic shelter behind a truck stop.

□ 2100

These little people that I represent have a right to combine their money into a PAC to make a significant gift. We need to reform the way we do our business here, but, for goodness sakes, let us not cut out the little people who give in Appalachia, OH.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Speaker, in a last-minute effort to derail campaign finance reform, some Members of this body are arguing today that a vote for the rule on H.R. 3 is a vote against term limits. This is simply not the case.

As many of you know, I am a supporter of term limits. I have introduced a constitutional amendment to limit terms; I have pledged to serve no more than 12 years in this body; and I played an instrumental role in securing the

first hearings on term limits that the House of Representatives has ever held. I would not take an action that would undercut the national drive for term limits. And I fully intend to vote for this rule.

A registration requirement for State ballot committees is not central to the campaign finance reform initiative we are finally about to pass. But any effort to characterize such an innocuous registration requirement as a reason not to vote for the reform is an effort forwarded by people looking for reasons to avoid reform.

Mr. Speaker, this is a debate about campaign finance reform, not about term limits legislation. I ask the other Members of this body who, like me, support term limits, to join in support of this rule. Public advocacy groups across the Nation support this bill. Let us not be distracted by a last-minute effort to derail this critical and long-overdue campaign finance reform effort.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise today in support of the rule for H.R. 3. Only one bill, H.R. 3, has all the principles necessary for legitimate campaign finance reform. That is why H.R. 3, the Gejdenson bill, has been endorsed by major newspapers across this country, by the good-government groups Common Cause and Public Advocate, and endorsed by the Democratic freshman class.

Some Members want to defeat the rule so other proposals can be brought forward, proposals that obscure the real issues of campaign finance reform. These proposals do not set a spending limit, do not provide for all the alternative resources, and make the reduction of PAC's the main focus of their reform.

To use my own race last year is a good example of how these proposals would result in no reform. I ran against two multimillionaires, both of whom spent hundreds of thousands of dollars of their own money. They outspent me 5 to 1. One spent $1.3 million. I challenged them to spending limits, $500,000, $1 million. They said no.

Proposals that simply focus on PAC contributions without addressing the need of overall spending limits do not make our elections more competitive, and they do not present the voters with real and meaningful choices.

We need to hold the elections not auctions. H.R. 3 is the only bill that will show the American people that this Government is not for sale.

Vote for the rule and real campaign finance reform.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, I rise in strong support of this rule on campaign finance reform. Today, every Member of this House sends a clear message to his or her district and the Nation—either you support reform or you believe in business-as-usual.

This bill on campaign-finance reform will limit total campaign spending, limit the amount of money candidates may accept from political action committees and make future political races more competitive—and more fair.

The freshman Democrats have made campaign finance reform our No. 1 reform priority. By passing this bill today we will not only honor our commitment to improve America's electoral process, we will also improve the legislative process and our ability to govern.

This rule and this bill are a rare opportunity for real change.

Tomorrow we will consider legislation to reinvent government. Let us take the first step today, lead by example and reinvent congressional campaigns. The time for reform is now.

Mr. Speaker, I urge my colleagues to vote "yes" on this rule and "yes" on campaign finance reform. It is time to stop skyrocketing campaign costs.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, I rise in opposition to the proposal on the floor.

While I do not support the proposals on the floor today, I want to make clear that I do support campaign finance reform. I am proud to be a cosponsor of the proposals initiated by the Republican freshman, H.R. 3196. In particular, I want to express my appreciation to Congresswoman FOWLER and Congressman TORKILDSEN for their hard work in crafting our reform legislation. Unfortunately, the Rules Committee has deemed it unworthy of consideration by this body.

I do not support H.R. 3. It is nothing but an incumbent protection bill. First, it limits what challengers and incumbents alike can spend. Challengers are disadvantaged to overcome the greater name recognition that incumbents usually enjoy. Second, this bill does nothing to address the advantages that incumbents do enjoy, especially the use of the congressional frank.

Third, while the bill purports to limit spending, it is in fact riddled with loopholes. For example, the limit does not apply if one's opponent spends more than $50,000 of his own money. There are no limits on political action committee money held over from a previous election. No limits on political action committee money to pay for legal and tax expenses. It is clear that this provision was added because the burdensomeness of this proposal will cause a tremendous rise in legal expenses just for compliance.

Fourth, this bill provides $200,000 in federally-funded communication vouchers for candidates who agree to spending limits. This is simply welfare for politicians. Let's put disclosures on yard signs and television ads—your tax dollars at work. Creative taxing strategies, as yet unknown, are going to be developed to rob some people of their money so politicians can pay for television time. Some unsuspecting soul is going to have their money snatched to pay for Speaker FOLEY'S television ads.

The ironic thing here, is that this bill is null and void until some financing is developed. This is no reform at all if it can't be paid for.

Finally, the bill attempts to limit the rights of citizens to participate in the electoral process. Citizens who want to mount an independent expenditure campaign either for or against a candidate will be effectively prohibited from doing so. The bill also places a dagger at the heart of the term limit movement by requiring those citizens who work on term limit initiatives to comply with the FEC fundraising guidelines.

Incumbents are protected. Citizens are muzzled. This bill is not reform.

Regretfully, I also have to take issue with my good colleagues on this side of the aisle on the Republican proposal for campaign finance reform. I respect their initiative. They have attempted to address the true need of campaign finance reform. But they have been unrealistic in two respects:

First, they ban contributions from political action committees. This proposal, I feel, is unconstitutional. The proponents of this proposal must feel so as well, or why otherwise include a fallback provision. I do support limiting PAC's to $1000.

Second, this proposal requires a majority of funds to come from within district. I think this is unworkable and places an undue burden on candidates from districts of modest means. In my district, the per capita income is a little over $12,000 per year. Furthermore, this proposal does not address how redistricting affects fundraising. I'm sure all Members have experienced what I have in that the post office cannot precisely deliver mail from constituents, yet this proposal would require us to precisely know the status of all contributors. I do support requring a majority of contributions to come from within one's home State. I think this is much more workable and much more fair to candidates.

Let me address one additional issue. This is the definition of "clean public resources." In 1992, I signed a pledge as did many other Members that was sponsored by Common Cause supporting the use of "clean public resources" for campaign funding.

I'll admit to being new to Washington ways, being a freshman Member. Let me explain the views of this Hoosier in support of clean public resources by examining each word. Clean means to be washed or unblemished or untarnished, in this case by corruption or the perceived buying of influence. Public means the people, individuals, as in public parking, public restrooms, or public parks—open to all the people. Resources could mean time, money or effort. I support individuals being able to give of their time, money and efforts to support candidates who share the beliefs they hold.

Lo and behold, upon coming to Washington I immediately learned that there is a different dictionary here than the ones we used in Indiana. This dictionary defines

"Washingtonspeak." Here, inside the beltway, "clean public resources" means taxpayers' dollars. Tax dollars have no business funding political campaigns. With billions of dollars in deficit spending a year, taxpayers should not be forced to make contributions to fund political campaigns.

Immediately upon learning the true "Washingtonspeak" meaning of "clean public resources," I wrote a letter to the president of Common Cause, Mr. Wertheimer, disavowing their view. I have yet to receive a response. I repudiate the ambiguous and misleading language and deceitful tactics they have used to solicit signatures to the pledge. I ask unanimous consent to include my letter to Mr. Wertheimer in the RECORD following my remarks.

I oppose the legislation on the floor today. But I do support campaign finance reform. Regrettably, we will see no real reform legislation from this body today.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
May 4, 1993.

Mr. FRED WERTHEIMER,
President, Common Cause, Washington, DC.

DEAR MR. WERTHEIMER. I am writing regarding the Common Cause "Anti-corruption Campaign" pledge which I signed during my campaign.

I certainly believe that campaign finance reform is critical to increase the competitiveness of Congressional elections. That is why I support proposals to limit PAC contribution amounts, eliminate "soft" money, and require most of a campaign's funding to come from within the congressional district's State.

Like you, I support the ability of the people, individual citizens, to participate fully in our republic and to contribute, within bounds, to the campaigns of their choice. This is what I interpreted as the meaning of "clean public resources" when I signed your pledge.

Unfortunately, I have now learned that Common Cause interprets that phrase to mean congressional elections financed with taxpayer's dollars. This will not make elections more competitive—it is another incumbent protection perk to Congress. I do not support nor do my constituents support the diversion of tax dollars to pay for partisan campaigns. I am very disappointed you used ambiguous and misleading language to obtain signatures to your pledge without clearly defining exactly what you meant. Thomas Jefferson said that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." I agree with him.

I regret this misunderstanding regarding taxpayer funded elections, but I am pleased that we share a desire to reform and improve our system of government.

Best regards,

STEVE BUYER,
Member of Congress.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. THOMAS], the ranking member of the Committee on House Administration.

Mr. THOMAS of California. Mr. Speaker, perhaps I am confused here. I have heard freshman after freshman on the Democratic side come down here and talk about "vote in favor of this rule and the bill for campaign finance reform."

Perhaps our leadership has not told them that the financing portion of the bill is gone. There is nothing there for public financing. They could not put it in.

The gentleman from Connecticut talked about the craftiness of Republicans last year. Do you know what we had the audacity to do? The gentleman from Oklahoma had a real public financing bill. It was brought up on the Committee of the Whole. Republicans refused to defeat it. And, guess what, the Democrats had to vote it down in the full House. That was the craftiness of the Republicans.

Let me assure you that was a real public financing bill. This one is not.

Please, do not come down here and say you are supporting a public financing bill. Nothing will happen, no limits, no controls, unless a financing package is passed. Go home and tell your folks that.

I do not have to tell the Republicans why they should vote against this rule. The gentleman from New York clearly spelled it. If you are a Republican, you cannot support the kind of procedural moves made by the Democrats.

Now, let me tell you, when I came to the Committee on Rules to ask for amendments to be made in order, I brought only those amendments that got Democratic votes in the Committee on House Administration. I did not have a laundry list. We did that in committee. In front of the Committee on Rules I wanted to offer only those amendments that got Democratic support. One of them was, look, you have taken out all the financing stuff; why do we not be honest, why do we not talk about taking out all of the mechanics and simply say this is a spending limitation bill? It has been 20 years since Buckley versus Valeo. There are seven new Members on the Supreme Court. Why do we not be honest about what we are going to do? Pass a spending limit bill, and let us see if the Court declares it unconstitutional 20 years later with all the knowledge that we have now, with seven new members of the Court. That is at least honest.

It got Democratic votes on the Committee on Rules, but it is not made in order.

Now, let me tell you, someone just said that this is a whole lot like the bill from last year. Let me tell you, it is not. Last year was a sham. You knew you did not have to live with it. This year you have to live with it. What happens? A closely contested primary last year was 10 percent difference in the vote. A closely contested primary this year, 20 percent, double the amount. You got $150,000 last year if it was a close primary. This year it is $200,000. Limits on carryover? Oh, yes, last year there were limits. This year, no carryover. Audit? Last year you wanted to audit 10 percent of the candidates? This year we only want to audit 5 percent of the candidates. Last year you bragged about how you were banning leadership PAC's, a business where Members who are incumbents give money to other Members who are incumbents to promote their ability inside the ballgame. You banned that last year. Where is it in the bill this year? Nowhere to be found. You do not touch leadership PAC's in this bill.

Last year you said no Government aircraft to be used for political purposes. This year, I looked in vain in the bill. Nowhere do you say you are going to ban the use of Government aircraft for political purposes. Is that not interesting?

CBO estimates that if you put the money in the bill, $180 million. CBO estimates about $5 million for the Federal Election Commission. The Federal Election Commission itself says it cannot do the job for less than $20 million.

But the irony of the debate over the rule tonight is that everyone of you will stand up and say the world needs campaign finance reform. It is not in your bill

Look, it is embarrassing enough what you are trying to do. At least be honest about it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. SYNAR].

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. SYNAR] is recognized for 4 minutes.

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

Mr. SYNAR. I am happy to yield to the gentleman from Oklahoma.

Mr. MCCURDY. Mr. Speaker, I want to support my colleague, the gentleman from Oklahoma, in opposition to this rule.

Mr. SYNAR. Mr. Speaker, almost 16 years ago I walked in on this Chamber at the ripe old age of 28 with all the excitement and enthusiasm that a freshman Congressman has.

In those 16 years that have followed, I have grown up, and I have also learned a lot about campaign reform.

Defining campaign reform may be the hardest part. To editorial boards, it is clean up the system regardless of the consequences or the Constitution.

To my Democratic Party it is, "Clean up the system, but don't you dare jeopardize the majority which we so enjoy."

To the Republican Party it is, "Clean up the system, but don't touch our large donors, because that will help us become the majority party."

□ 2110

I would suggest that all those definitions are simply wrong. The American

public defines true campaign finance reform very simply: Does it make these congressional races more competitive; second, does it improve the debate during the campaigns?

The two bills that we consider tonight do not meet that simple definition. Neither bill qualifies as true campaign reform. Not one congressional race will be any cheaper or any fairer if either one of these bills passes.

Both bills are so clearly unconstitutional that it begs the question of sincerity by either party about reform. You know, the Democratic plan could be better described as the incumbent protection plan; the Republican plan could be better titled the fat cat enhancement act.

True campaign reform means leveling the playing field, not for Democrats and Republicans but for challengers and incumbents regardless of party.

You know, over the last 16 years I have learned one other important principle; that is, how we get here is how we serve. Let us not forget that as we vote tonight.

Let us remember it for ourselves as well as those who would seek this office to serve this great country.

My colleagues, we can do better, we should do better, we must do better. I respectfully submit that you should vote against the rule so that we can do it right.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HORN], a distinguished freshman Member of the House from California who was denied five amendments to this bill.

Mr. HORN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I completely agree with the eloquent words of the gentleman from Oklahoma [Mr. SYNAR]. There is one bipartisan bill which should be before this House. That is the Synar-Livingston bill. It could be before this House if we vote down this arrogant and atrocious and awful rule which is before us.

I oppose this rule because on this weekend, when the country is fed with bread and circuses of the football teams of intercollegiate athletics, the pro teams and everything else, the majority party is trying to sneak over on the American people a horrible measure in the guise of campaign finance reform.

There are people in both parties who want real reform. When I went to the Committee on Rules yesterday, I went to advocate a voter booklet that could go into every home in America where there is a registered voter. Every candidate running for Federal office could have a page for a 500-word statement. The opponents could rebut that statement if they could agree on one 500-word statement. The candidate could have a rebuttal of their rebuttal. That booklet and process would assure some leveling of the playing field between incumbent and challengers. However, that sensible proposal was turned down.

I also advocated banning Federal, taxpayer-paid congressional committee and office staff from participating in political campaigns within 60 days of the primary or general election. The fact is the U.S. attorney for the central district of California in Los Angeles has handed down one indictment recently on that very problem. This Chamber ought to have the guts to ban federally paid congressional staff from going to the district of their Member and campaigning for their Member of Congress. Congressional staff should stay out of direct partisan politics in a campaign.

I feel compelled to mention one other thing: For three decades I have agreed with Common Cause in its drive for campaign reform. And now I must say I am sadly disappointed that they have swallowed whole the Democratic proposal, which is not campaign reform. The Democratic bill does not ban political action committees. It does not end the use of soft money. It does not require a candidate to raise over half the money for his or her campaign in the congressional district. I am disappointed that Common Cause has been a lap dog for advocates of the Democratic bill as long as anything seems to resemble public finance.

What is needed is a lid on what we spend in campaigns and a leveling of the playing field. All I can say to Common Cause is: Oh, John Gardner, your founder, where are you when we need you? Ladies and gentlemen, what we have here is one of the most flawed bills that ever came before this House. And if you believe anything in our elections will be reformed with its passage, then you must also believe that an idiot can become a winner of the Nobel prize.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. Mr. Speaker, I rise in support of my colleague, the gentleman from Oklahoma, in opposition to the rule.

Mr. DERRICK. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, campaign finance reform is one of the most difficult problems the Congress will ever deal with. I suppose the reason for that is because it is such a personal thing. It affects everyone and everyone's situation is different.

I am sure that we could bring 435 different campaign finance reform bills to this floor very easily. We have in this rule, I think, given both parties, Democrats and Republicans a chance to put their thoughts forward on campaign finance reform, with the Democratic bill being, of course, the basic text, with a Republican amendment, and they will have an opportunity to put all of those things in their amendment that they believe should be included in finance reform.

I believe it is a fair rule, I believe it is a rule that we should pass, and I think we should move on and pass campaign finance reform before we break for Thanksgiving.

I think the American people expect it, they deserve it. Now is the time. We can talk about putting it off until later, but now is the time. We will be faced with the same situation, that same choices a month from now, 2 months from now, a year from now or 2 years from now.

So I suggest that we pass this rule, which is a fair rule, and move ahead with campaign finance reform.

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

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], a distinguished member of the Committee on Rules, who was denied three very, very good amendments.

Mr. GOSS. Mr. Speaker, I rise in the strongest opposition to this rule.

Mr. Speaker, when Americans cite their frustrations with Congress—they often point to the arrogance of power by which Members seem more interested in serving themselves than serving the country. Polls show most people do not trust Congress—and they have come to expect obfuscation, misinformation, and smoke-and-mirrors gimmicks when Congress is faced with tough decisions, especially those involving our own well-being. Our credibility rating hovers dangerously low—well below 30 percent—and we have an obligation to this institution to reverse that negative image. With campaign reform, we might have had a chance to move in that direction. After all, campaigning is the lifeblood of politicians—and it directly affects each and every Member of this House. If we could implement meaningful campaign reform, allowing all Members to participate in developing the best possible package of changes—it would send a strong signal to Americans that Congress is willing to clean up its act; that we are capable of getting tough on ourselves. But the majority leadership nipped that in the bud with today's outrageously dictatorial rule. Never mind that, for 5 hours yesterday, members of the Rules Committee heard testimony from a bipartisan contingent of Members with solid proposals for campaign reform. Never mind that there are serious constitutional questions about infringements on free speech caused by spending limits in H.R. 3, and never mind that the majority's bill establishes an enormous taxpayer liability to finance political campaigns—without specifying a mechanism to pay for them. Because of this contrived rule we will not be discussing term limits, or restrictions on Members' free mail and some of the other advantages of incumbency. Tell me there is not election year abuse of the frank. We will not be zeroing in on problems with lobbyists and the way campaign funds are bundled together to beat the rules. We will not be tackling the

desperate need for increased disclosure of how unions, corporations and not-for-profit organizations seek to influence elections. I ask my colleagues, how dare we pretend this is campaign reform? How dare we call it campaign reform? We ask the American people to believe we are working toward opening up the political process—while at the same time we acquiesce to shutting down deliberative democracy on the floor of this House? I am deeply saddened that, instead of seizing upon this opportunity to do something real, this whole procedure has become a political hoax, a sham, a pretense. This rule even denies the traditional right of the minority for a motion to recommit with instructions. But forget fair play—vote "no" because this rule does not get us on the road to reform—neither does H.R. 3. Vote down this rule.

Mr. SOLOMON. Mr. Speaker, to sum up for the Republicans and Democrats opposed to taxpayer financing of congressional campaigns I yield the balance of our time to the gentleman from Illinois [Mr. MICHEL], one of the most outstanding leaders of the Republican Party this House has ever known.

Mr. MICHEL. Might I initially compliment the very distinguished gentleman from New York [Mr. SOLOMON] for making the point of order on the motion to recommit with the citations of prior speakers of the House of Representatives. It is the time-honored tradition to give or to award to the minority an opportunity for one last say with respect to their position. It just really rankles me no end that a majority with an 83-vote majority—this really ought to be considered under an open rule, controversial as the issue is and the difference of opinion on both sides of the aisle.

But in the absence of an open rule, at least then an opportunity for a motion to recommit with instructions that places in opposition to whatever the majority position is our package of amendments.

On my side of the aisle we spent hundreds of hours over the last Congresses on campaign reform. I am proud of where we are today; especially compared to where we were when we started, with a weak effort brought forth by the majority.

I want to publicly thank the gentleman from Louisiana [Mr. LIVINGSTON], specifically, who headed up our task force and did an outstanding job leading our troops and crafting the alternate. Also, the gentleman from California [Mr. THOMAS], who dedicated so much of his career to this issue and brought much intellectual thought to the issue.

And when we get to the debate, if the rule does not go down, I am sure you will have it laid out there for you by both of these gentleman in spades.

□ 2120

Let us look just very briefly then in summary at the fruits of our respective labors.

House Republicans ban political action committees; the Democrats do not.

I was here when the only political action committees were those formed by labor unions. Business and industry had no opportunity.

Actually PAC's were born of reform. I do not know whether that $5,000 limit out there was the best thing to do or the worst thing to do, but today if it ought to be reduced to $1,000, we are prepared to do that but even more so if it is so onerous, and the reason we justified thousand dollar PAC's on our side, if an individual can give $1,000, what is wrong with 300 or 400 people getting together and offering the same $1,000? Who has got the most influence, for Heaven's sake? The individual.

That is really a phony argument altogether; but if that is the way you want to play it, we will eliminate PAC's altogether. Then House Republicans prohibit soft money. Oh, and this is doozey, I will tell you. We can live without it, but you cannot, and that is why you will not put it in your reform bill.

House Republicans say half of a candidate's money must come from the district from which he or she hopes to represent. What is wrong with that? If it is a rich district like New York or Hollywood or Palm Beach or whatever, and a poor district like Peoria or North Dakota or South Dakota, both sides are affected the same way. If you got half the contributions at least coming from your home district, that is a great equalizer, for my money.

Well, we House Republicans build up political parties. We think that is very important in our process. We respect you Democrats for having your party. You ought to want to build up your party, just as we do.

House Republicans reject public financing of campaigns. We just think frankly in this day and age we will have Penny-Kasich tomorrow, I suppose, another effort to cut Federal spending, and here we are thinking in terms of some form of Federal financing, when all we are trying to do is cut Federal expenditures.

Then as the gentleman from California pointed out, there is no mechanism anywhere even for that Federal financing. It is a sham.

House Republicans apply our reforms immediately. If they are really good, why not? That is the reason I suppose we are meeting tonight before the session ends. Get it all wrapped up, because we have to have it real quick like. Must be for this next election. We do, but you do not.

I think, by glory, you ought to vote down this rule and give us all an opportunity to do this thing right. If we do not get it done by the end of this session, let us take the next session to do it and do it up right.

Mr. SOLOMON. Mr. Speaker, I ask for a "no" vote on this rule, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I certainly agree with the distinguished bill manager on the Republican side, the gentleman from New York [Mr. SOLOMON], that the gentleman from Illinois [Mr. MICHEL] is one of the greatest leaders we have ever had in the House in either party. We are all going to be poorer when he leaves, but that is not soon, so we still have the pleasure of agreeing on some issues and disagreeing on others.

I could not quite understand, while the distinguished Republican leader was speaking, what was wrong with doing the rule. He says they have a very fine bill on the Republican side.

I am not, at this point, going to dispute the Republican bill, but if it is in order, as it is, and every Member of Congress, Republican and Democrat, has an opportunity to consider it, and it is the sum and substance of their best thinking on the Republican side concerning campaign reform, why should we wait? The rule is fair. The rule makes in order the Republican substitute by the gentleman from Illinois [Mr. MICHEL]. The rule gives every Member a chance to vote on those things that are in the rule that the distinguished minority leader says are so good.

Why, at the same time, is he arguing for the adoption of the Republican bill and against the rule?

Why if we are going to do these things should we wait, and not do them now?

We have promised to deal with this issue this year. We should deal with it this year. We have the time and the opportunity to decide on campaign reform in this session of the Congress. Let us do it. Let us pass this rule and go to the debate tomorrow, and decide this issue.

Now, as far as a lot of other amendments are concerned, as the distinguished gentleman from South Carolina [Mr. DERRICK], who is managing this bill on our side said, we could probably have 500 different types of campaign reform, at least 435, because every Member has a feeling that he or she has the best idea of what campaign reform is all about.

But the fact of the matter is that we need to bring two well-thought out, well-presented proposals to give Members an opportunity to vote for proposals that hang together in some logical way and are not just a patchwork of various ideas.

I could get into a dispute here with my distinguished friend, the gentleman from Illinois [Mr. MICHEL], about whether some of the provisions that they have in their bill are a good idea, such as no campaign spending limits. We think campaign spending has grown

too much, that it has out-paced the level of inflation, that there is no excuse for it, and that Members are spending more and more time raising money.

We do not bar political action committees, because they have been an opportunity for people who are not rich and able to give large contributions to participate in the political process; but we would limit how much they can give as a percentage of a total campaign.

We also limit the percentage of very large contributions.

We could go back and forth and debate the merits of each bill, and we will do that, but first we have to adopt the rule. First we have to put these two proposals, one Democratic, one Republican, before the House and decide.

If we fail to pass the rule tonight, it will be seen in some quarters as a rejection of all reform, of all opportunity to deal with this system and make the system fairer, more equitable, and a better reflection of what the American people want when they select their Representatives.

Let us not make that mistake. Let us not put off this issue that we have rightly brought before the House tonight. Let us vote for this rule.

Mr. PORTER. Mr. Speaker, this rule is not worthy of being passed, nor is the legislation, H.R. 3, reported by the Committee on House Administration.

Mr. Speaker, campaign finance reform is a real necessity—the current system is a disgrace and it does need to be fixed. We stand at a time in our history when the American people hold this institution and its Members in extreme disregard. How else does one explain the momentum for term limits, the calls for a third political party, and the turnout of Members at the polls in the last election?

The handwriting on the wall is easy to read, but as a body we refuse to interpret it. Once again—as in each of the last several Congresses—the majority party brings before this body legislation which makes a mockery of the need to reform our campaigns and elections system. This legislation is, simply, unhelpful.

Unlike some of my Republican colleagues, I am not philosophically averse to the use of incentives to encourage compliance with spending limits. Indeed, I strongly support spending limits which would squeeze the political professionals out of the elections business, and return us to campaigns characterized by attention to the issues and grassroots participation. Unless we get away from combat politics—from campaigns premised on smear, scandal, and innuendo—we cannot hope to help the American people regain confidence in their institutions of Government and their elected officials. Because of the Supreme Court's Buckley decision—wrong though it may be—there is simply no way to control spending without an incentive system.

But the outrage of H.R. 3 is not its use of incentives, but the extremely high level at which the spending caps are set. It is patently ridiculous that we should legislate a $600,000 basic limit, augment it with $150,000 for a close primary, exempt fundraising, legal fees, taxes, accounting costs, 10 percent of all overhead from the limit, allow continued $10,000 PAC contributions, index this entire package for inflation, and call this spending control.

This is not spending control. Quite to the contrary, it is a scheme to lock in our current system of elections, to continue the status quo forever—a status quo that features significant reliance on special interest moneys, huge amounts of spending, and payments to media gurus who counsel in the art of destroying the integrity of one's opponent, not fostering enlightened debate on the issues.

It is coldly cynical to bring this package before the body and claim with a straight face that it comprises reform. Such cynicism is what has gotten this body in trouble with the American people so often in the past, and is truly disappointing to see it happen again.

There are men and women of good faith on both sides of the aisle who are trying to break this gridlock. Mr. BEILENSON and Mr. LEACH have worked together on a sensible reform proposal. Mr. SYNAR and Mr. UPTON have cooperated on a limited approach that would make some steps in the right direction. These Members have worked hard and diligently to try to achieve workable and fair solutions to the campaign reform dilemma.

I think a reasonable compromise on this issue could be achieved. If we set much lower spending limits—lower than the ones in H.R. 3, ones which would only, possibly, affect a few congressional races—we could accomplish a number of goals. First, we could help challengers who are underfunded. Second, we could really limit campaign spending. Third, we could hold down the cost of taxpayers. I suggest that such an approach is worth considering and that the approach contained in H.R. 3 is completely unworthy of consideration on the floor of this House.

Mr. ROSTENKOWSKI. Mr. Speaker, I have grave reservations about the rule and the underlying legislation.

I must express great concerns about the pubic financing provisions contained in the task force proposal.

Further, the bill fails to pay for the public financing. The Committee on Ways and Means is prepared to conduct full, open and fair deliberations on methods to finance this bill. But I must warn the membership, such funding will not be easy.

It is my understanding that the task force's preferred method for financing this legislation is a voluntary taxpayer checkoff on tax returns. Although revenue estimates are subject to change, based upon the estimates available to me today, this proposal would finance approximately one-fifth of the cost of the legislation—I repeat, about 20 percent.

Even if all the other task force ideas for financing were implemented, including having candidates pay for their opponents' matching funds, the estimates available to me today indicate a substantial shortfall.

I have great fear that the eventual burden for funding this legislation may rest on some broad cross-section of the American taxpaying public. I find it unacceptable that the American taxpayer would pay for congressional elections.

I am supportive of reasonable and fair campaign finance reform. Although the task force proposal is the least flawed of the current proposals under discussion, in my opinion, it is unfair to Members who have tough primaries and tough general elections. It is unfair to Members who reside in expensive media markets. And, it favors wealthy candidates.

In closing, Mr. Speaker, let me say that I fully support reasonable reform. However, taxpayers should not have to pay us to run our campaigns. If this rule passes, I would hope that the task force bill could be perfected in conference. If this rule fails, I hope the Congress can enact fair and appropriate campaign reform legislation.

Mr. KIM. Mr. Speaker, I rise in opposition to both the rule and to H.R. 3, the so-called campaign spending limit reform bill.

I strongly oppose the wasteful public financing of political campaigns, and H.R. 3 provides up to $200,000 in deficit-financed, taxpayer dollars to politicians for their campaigns.

I am very disturbed that in an effort to railroad through this controversial legislation in the 11th hour, this rule, once again, virtually prohibits us from offering any amendments to fix this flawed bill.

It is ironic that we are considering legislation to make campaigns more open and fair in a most undemocratic, closed and unfair way. That is not reform, it is politics as usual.

H.R. 3 is biased against congressional term limits. A provision in the bill would require State ballot committees to register with and report to the Federal Elections Commission.

The National Taxpayers Union calls this a mean-spirited and misguided effort to harass State supporters of term limits. They are right and the American people will agree. State term limits are a State issue.

Along with 70 percent of Californians, I voted in favor of congressional term limits. H.R. 3 adds new obstacles to those who want to do what California has done, and it gives the perception that campaign reform advocates oppose term limits. We certainly do not. If we had a less dictatorial rule, we could offer an amendment to strike this antiterm limits provision.

I urge my colleagues to defeat this rule and vote against H.R. 3. The title may sound good, but the provisions are wasteful and misguided. We need real campaign finance reform.

Ms. BROWN of Florida. Mr. Speaker, I rise in support of the rule, and final passage of H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act.

My colleagues, I am not convinced that we need to change a system that has resulted in the 103d Congress being the most diverse in history with 24 new women, 16 new African-Americans, and 8 new Hispanics. In fact, I have shared my concerns with many of you because the last time a campaign finance reform bill became law, the number of women and minorities in Congress decreased.

We will vote on a campaign finance reform bill today because many Americans believe that too much money is spent on House races and that there are too many loopholes in the present system. The Democratic version of H.R. 3 addresses these concerns. It is better than any of the other alternatives.

The bill establishes a voluntary spending limit of $600,000 per election cycle while allowing Members who have close primaries or

runoffs to spend additional funds. It provides incentives for Members to abide by the spending limits through the establishment of voter communication vouchers which will allow candidates to reach out and touch their voters through television, radio, newspaper, or direct mail. It curbs negative independent expenditures which have gotten out of control. It also prohibits bundling while allowing groups such as Emily's List to continue to assist women candidates for office. Most importantly, it increases campaign disclosure which is the most important issue for Americans.

I urge my colleagues to pass the rule and the Democratic version of H.R. 3.

Mr. DEAL. Mr. Speaker, I rise in opposition to this rule and in strong support of my colleague from Oklahoma, Mr. SYNAR.

A vote against this rule does not mean that I am against campaign finance reform. In fact, the opposite is true. A vote against this rule signals a rejection of the idea that only the Democratic bill and the Republican bill represent meaningful reform.

The Democratic proposal spending limits are too high. While the Republican proposal makes no provisions for spending limits and does not reduce the amount that individuals can contribute. Neither represent true reform.

I strongly support campaign finance reform and I am an original cosponsor of H.R. 2469 the Congressional Campaign and Election Reform Act of 1993. This legislation reduces the amount of money political action committees and individuals can give, closes soft money loopholes, applies to the next election cycle, and contains no public financing. H.R. 2469 is not perfect reform, but it will put real reforms in place right now.

H.R. 2469 along with more than 30 other proposals, by both Democrats and Republicans, were denied consideration by the Rules Committee. This practice I feel must stop. It is time that the Rules Committee allow House Members to fully debate issues like campaign finance reform, to make the best legislation possible. The American people deserve no less.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

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

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

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. 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 220, nays 207, not voting 7, as follows:

[Roll No. 599]

YEAS—220

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tejeda
Thompson
Thornton
Thurman
Torres
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—207

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kopetski
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Myers
Nussle
Oxley
Packard
Paxon
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Towns
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Bunning
Clinger
Ford (MI)
Hall (OH)
Kyl
Sundquist
Washington

□ 2145

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAROCCA). Without objection, a motion to reconsider is laid on the table.

Mr. THOMAS of California. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

PARLIAMENTARY INQUIRY

Mr. THOMAS of California. Mr. Speaker, are we going to consider this bill all together, as the rule indicated, or are we going to divide it up and do the general debate, so that when we point out the problems in the bill, no one will be here, but we will vote the substitute tomorrow?

The SPEAKER pro tempore. The Chair is aware that the majority leadership is willing to discuss this issue with the minority.

Mr. THOMAS of California. Mr. Speaker, I appreciate that. But if I give up my request, I lose any opportunity. So I would reserve my right to object until I get an answer.

Mr. Speaker, I object to the motion to reconsider. That will give them time to work it out.

The SPEAKER pro tempore. Objection is heard.

Mr. MOAKLEY. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to table.

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

RECORDED VOTE

Mr. THOMAS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 161, answered "present" 1, not voting 21, as follows:

[Roll No. 600]

AYES—250

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—161

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Herger
Hobson
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Morella
Myers
Nussle
Oxley
Packard
Paxon
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Hoke

NOT VOTING—21

Abercrombie
Berman
Bunning
Clinger
Combest
Conyers
Dicks
Hall (OH)
Johnson (CT)
Kasich
Kyl
Lloyd
Moorhead
Shuster
Sisisky
Smith (OR)
Sundquist
Thomas (WY)
Washington
Waters
Yates

□ 2204

So the motion to table was agreed to. The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 319, the resolution just considered and adopted.

The SPEAKER pro tempore (Mr. LAROCCO). Is there objection to the request of the gentleman from Massachusetts? There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-405) on the resolution (H. Res. 321) waiving points of order against the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AGREEING TO THE REQUEST OF THE SENATE FOR A CONFERENCE ON H.R. 1025, THE BRADY HANDGUN VIOLENCE PREVENTION ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-406) on the resolution (H. Res. 322) agreeing to the request of the Senate for a conference on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearms; and waiving a requirement of clause 4(b) of rule XI with respect to the consideration of a resolution reported from the Committee on Rules on the legislative day of November 22, 1993, providing for the consideration or disposition of a conference report to accompany that bill which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

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

Mr. MICHEL. Mr. Speaker, I rise to inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], how the program will now unfold for tomorrow.

Mr. GEPHARDT. Will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

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

Mr. Speaker, there will not be further votes tonight. We will ask unanimous consent in a moment for the

House to meet tomorrow at 9 a.m. I would expect there would be an immediate Journal vote. We would then go to the campaign finance general debate and final passage. There would be a Michel amendment after the general debate, then the vote right after that on final passage.

We would go to the rule to go to conference on the Brady bill second. Then we would go the reinventing government bill, which has a number of amendments in it.

It is then possible that at the end of that we would go to unemployment conference, rule, 1 hour of debate. There is possibility that before that, if it is available and possible, we might do the RTC conference rule, 1 hour of debate then.

Then there is the possibility that the Brady conference may come back, and interspersed in this, if there is a lull, there may be some suspensions which we have given you a list of.

Mr. MICHEL. I thank the gentleman.

HOUR OF MEETING ON MONDAY, NOVEMBER 22, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, Monday, November 22, 1993.

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

There was no objection.

LECHUGUILLA CAVE PROTECTION ACT OF 1993

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lechuguilla Cave Protection Act of 1993".

SEC. 2. FINDING.

Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

SEC. 3. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled "Lechuguilla Cave Protection Area" numbered 130/80,055 and dated April 1993.

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever occurs first.

(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

(b) NO EFFECT ON PIPELINES.—Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act: *Provided*, That no funds shall be made available except to the extent, or in such amounts as are provided in advance in appropriation Acts.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. HANSEN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, H.R. 698 is a bill I introduced earlier this year. Its purpose is to provide additional protection for Lechuguilla Cave and other resources and values of Carlsbad Caverns National Park, in New Mexico, and some adjacent public lands.

Lechuguilla is the deepest cave in the United States. It is also very large, extending for more than 60 miles—exceeding Carlsbad Cavern itself—with the possibility that this is only a small percentage of its full size. It also contains many unusual features, such as gypsum chandeliers described by experts as the best examples of such formations in the world.

The bill responds to serious concerns about possible effects of oil and gas drilling on Lechuguilla and other cave resources. These concerns have heightened as there has been increased mineral exploration activity in the general area.

H.R. 698 would withdraw from future development the most critical lands adjacent to the northern boundary of Carlsbad Caverns National Park. It also would address possible development of already-existing mineral leases in that same area, where drilling or other activities could present a risk to Lechuguilla or other significant cave resources.

With the assistance of the gentleman from New Mexico [Mr. SKEEN], in whose district the affected lands are located, the Natural Resources Committee was able to reach an agreement on a revised version of the bill, which the House passed on suspension back on May 11 with bipartisan support.

The Senate has now returned the bill to the House with some revisions. The revisions are consistent with the purposes of the bill as passed by the House, and I am seeking to have the House concur in those changes and

send the bill to President Clinton for signature into law.

Mr. Speaker, I want to commend the Senator from New Mexico [Mr. BINGAMAN] for the leadership he has displayed on this issue. Thanks to his efforts, with full cooperation of Senators BUMPERS, JOHNSTON, and DOMENICI, we can now take the final legislative step to provide needed protection of a unique, world-class national asset—Lechuguilla cave—and other priceless resources in the adjacent area.

Mr. Speaker, the bill as passed by the Senate is not significantly different from the version passed by the House earlier this year. It retains the provisions of the House-passed bill related to withdrawal of the cave protection area and the requirement that the Secretary not permit any new drilling on any existing Federal mineral or geothermal lease within that area for 1 year after enactment of the date of BLM's record of decision on pending applications for drilling, whichever comes first.

It includes a provision that the withdrawal of the cave protection area from mineral development will have no effect on any existing rights-of-way or on any facilities located in such rights-of-way, such as gas pipelines, or on the future renewal of such rights-of-way. In my opinion, this merely makes explicit the intent and effect of the bill as passed by the House, and so is acceptable.

Similarly, the bill as amended by the Senate includes language concerning the authority of the Secretary of the Interior to cancel any existing Federal mineral or geothermal lease in the cave protection area. My understanding is that the administration believes an explicit provision is desirable in order to remove any doubts about the Secretary's authority to take such an action. Under the bill as passed by the Senate, no such cancellation could occur prior to the effective date of the BLM record of decision, which is reasonable and acceptable.

The bill as amended by the Senate also provides that as of that same date the Secretary would be authorized to enter into negotiations with a leaseholder to seek to determine to what extent compensation would be appropriate for complete or partial termination of such a lease, while retaining the provisions of the House bill that ensure there will be no effect on the ability of any party to seek compensation through other means, such as a suit in the claims court, under other, existing law.

The Senate also retained the House's bill provisions that will give the Bureau of Land Management additional authority to limit or prohibit public access to or across Federal lands in order to protect Lechuguilla Cave or the Federal lands within the cave protection area, so long as existing access to private lands within that area are not affected, and to prohibit the removal of mineral, geological, or cave resources from the Federal lands within the cave protection area. These provisions were requested by the administration, and I am glad to note that they have been retained.

The Senate dropped from the bill a requirement that the Secretary, in the absence of agreement with holders of existing leases, take whatever steps the Secretary deems appropriate in order to protect Lechuguilla Cave and other resources of the protection area. That provision of the House bill did not provide new authority, because the Secretary has ample authority to act with respect to those leases. In concurring with this change, we are not saying that the Secretary should not act—rather, we fully expect that all appropriate steps to protect Lechuguilla Cave and other resources will be taken.

Both the House and Senate bills would establish a cave protection area where Federal lands would be closed to mineral development. The House bill included a provision under which the Secretary, to the extend deemed desirable, would seek the cooperation of other parties owning land in that area—especially the State of New Mexico—toward furthering the protection of Lechuguilla Cave and other resources. That provision was dropped in the Senate, but of course the Secretary already has the authority to seek such cooperation, and it is our expectation that he will do so.

Similarly, the Senate dropped an explicit requirement that the Secretary inform the Congress if the Secretary determines that existing law, including this bill, did not provide sufficient authority to enable the Secretary to take appropriate steps to protect Lechuguilla Cave or other resources. Certainly, the Secretary can at any time inform Congress about whatever deficiencies there may be in existing law—and I strongly encourage Secretary Babbitt to do just that, so that if it is necessary for Congress again to act to protect Lechuguilla Cave or the cave protection area, we can do so without unnecessary delay.

Mr. Speaker, it gives me great personal satisfaction to be able to have this important bill cleared for the President's signature. I want to again express my thanks to the gentleman from New Mexico [Mr. SKEEN] for his assistance and cooperation, and to all the others on that side of the aisle who have played a role in connection with this matter.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

□ 2210

WAR IN THE PACIFIC NATIONAL HISTORICAL PARK

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1944) to provide for additional development at War in the Pacific National Historical Park, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which United States forces captured the Japanese islands of Saipan and Tinian and liberated the United States Territory of Guam from Japan;

(2) an attack during this campaign by the Japanese combined fleet, aimed at annihilating the United States forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied by the enemy during World War II and restored United States Government to more than 20,000 native Guamanians;

(4) units of the United States Army, Navy, Marine Corps, and Coast Guard fought with great bravery and sacrifice, suffering casualties of approximately 5,700 killed and missing and 21,900 wounded in action;

(5) United States forces succeeded in destroying all Japanese garrisons in Saipan, Tinian, and Guam, which resulted in Japanese military casualties of 54,000 dead and 21,900 taken prisoner;

(6) Guamanians, notably members of the Navy Insular Force Guard and volunteer militia, bravely resisted the invasion and occupation of their island, and ultimately assisted in the expulsion of Japanese forces from Guam;

(7) at the hands of the Japanese, the people of Guam—

(A) were forcibly removed from their homes;

(B) were relocated to remote sections of the island;

(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

(D) were eventually placed in concentration camps and subjected to retribution when the liberation of their island became apparent to the Japanese;

(8) the seizure of the Mariana Islands severed Japanese lines of communication between Japan proper and those remaining Japanese bases and forces in the Central Pacific south of the Mariana Islands and in the South Pacific as well;

(9) the Mariana Islands provided large island areas on which advance bases could be constructed to support further operations against Japanese possessions and conquered territories such as Iwo Jima and Okinawa, the Philippines, Taiwan, and the south China

coast, and ultimately against the Japanese home islands;

(10) the Mariana Islands provided, for the first time during the war, island air bases from which United States land-based airpower could reach Japan itself; and

(11) the air offensive staged from the Mariana Islands against Japanese cities and economic infrastructure helped shorten the war and vitiate the need for the invasion and capture of the Japanese home islands.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned; and

(2) the Secretary of the Interior should take all necessary steps to ensure that two visitors centers to provide appropriate facilities for the interpretation of the events described in section 1 are completed, one at the War in the Pacific National Historical Park and one at the American Memorial Park, before June 15, 1994, the beginning of the 50th anniversary of the campaign.

SEC. 3. WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.

Section 6(k) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 493; 16 U.S.C. 410 dd(k)), is amended by striking "$500,000" and inserting in lieu thereof "$8,000,000".

SEC. 4. AMERICAN MEMORIAL PARK.

Section 5(g) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by striking "$3,000,000" and inserting in lieu thereof "$8,000,000".

House amendment to Senate amendment: In lieu of the matter inserted by the Senate amendment, insert the following:

SECTION 1. FINDINGS.

Congress finds that—

(1) June 15 through August 10, 1994, marks the 50th anniversary of the Mariana campaign of World War II in which American forces captured the islands of Saipan and Tinian in the Northern Marianas and liberated the United States Territory of Guam from Japanese occupation;

(2) an attack during this campaign by the Japanese Imperial fleet, aimed at countering the American forces that had landed on Saipan, led to the battle of the Philippine Sea, which resulted in a crushing defeat for the Japanese by United States naval forces and the destruction of the effectiveness of the Japanese carrier-based airpower;

(3) the recapture of Guam liberated one of the few pieces of United States territory that was occupied for two and one-half years by the enemy during World War II and restored freedom to the indigenous Chamorros on Guam who suffered as a result of the Japanese occupation;

(4) Army, Navy, Marine Corps, and Coast Guard units distinguished themselves with their heroic bravery and sacrifice;

(5) the Guam Insular Force Guard, the Guam militia, and the people of Guam earned the highest respect for their defense of the island during the Japanese invasion and their resistance during the occupation; their assistance to the American forces as scouts for the American invasion was invaluable; and their role, as members of the Guam Combat Patrol, was instrumental in seeking out the remaining Japanese forces and restoring peace to the island;

(6) during the occupation, the people of Guam—

(A) were forcibly removed from their homes;

(B) were relocated to remote sections of the island;

(C) were required to perform forced labor and faced other harsh treatment, injustices, and death; and

(D) were placed in concentration camps when the American invasion became imminent and were brutalized by their occupiers when the liberation of Guam became apparent to the Japanese;

(7) the liberation of the Mariana Islands marked a pivotal point in the Pacific war and led to the American victories at Iwo Jima, Okinawa, the Philippines, Taiwan, and the south China coast, and ultimately against the Japanese home islands;

(8) the Mariana Islands of Guam, Saipan, and Tinian provided, for the first time during the war, air bases which allowed land-based American bombers to reach strategic targets in Japan; and

(9) the air offensive conducted from the Marianas against the Japanese war-making capability helped shorten the war and ultimately reduced the toll of lives to secure peace in the Pacific.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned by the United States in conjunction with the Government of Guam and the Government of the Commonwealth of the Northern Mariana Islands;

(2) the Secretary of the Interior should take all necessary steps to ensure that appropriate visitor facilities at War in the Pacific National Historical Park on Guam are expeditiously developed and constructed; and

(3) the Secretary of the Interior should take all necessary steps to ensure that the monument referenced in section 3(b) is completed before July 21, 1994, for the 50th anniversary commemoration, to provide adequate historical interpretation of the events described in section 1.

SEC. 3. WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (k) of section 6 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 493; 16 U.S.C. 410dd) is amended by striking "$500,000" and inserting "$8,000,000".

(b) DEVELOPMENT.—Section 6 is further amended by adding at the end the following subsections:

"(l) Within the boundaries of the park, the Secretary is authorized to construct a monument which shall commemorate the loyalty of the people of Guam and the heroism of the American forces that liberated Guam.

"(m) Within the boundaries of the park, the Secretary is authorized to implement programs to interpret experiences of the people of Guam during World War II, including, but not limited to, oral histories of those people of Guam who experienced the occupation.

"(n) Within six months after the date of enactment of this subsection, the Secretary, through the Director of the National Park Service, shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report containing updated cost estimates for the development of the park. Further, this report shall contain a general plan to implement subsections (l) and (m), including, at a minimum, cost estimates for the design and construction of the monument authorized in section (l).

"(o) The Secretary may take such steps as may be necessary to preserve and protect various World War II vintage weapons and fortifications which exist within the boundaries of the park".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

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

Mr. HANSEN. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Minnesota [Mr. VENTO] to explain the legislation.

Mr. VENTO. Mr. Speaker, H.R. 1994 provides for additional development at War in the Pacific National Historical Park. The legislation originally passed the House on June 21, 1993. On July 21, 1993, the Senate returned the bill to the House with amendments. After subsequent discussion among the bill's sponsor, Mr. UNDERWOOD, the Senate and the House, an agreement has been reached with the Senate Members. We are seeking to return the bill to the Senate with the changes that have been agreed to by the principles in the Senate.

War in the Pacific National Historical Park was authorized by Congress in 1978, to "commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater of World War II and to conserve and interpret outstanding natural, scenic, and historic values and objects on the island of Guam." The park includes seven units, each providing a different insight into the Pacific war. These sites contain both Japanese and American artifacts and interpret military aspects of the war in the Pacific on Guam. No park site interprets the story of the people of Guam in this conflict.

At the May 27th hearing on this legislation, the Subcommittee on National Parks, Forests and Public Lands received moving and eloquent testimony about the atrocities suffered by the people of Guam during Japanese occupation of the Island and about the lack of appropriate recognition for the sacrifices made by the people of Guam to protect American interests in the Pacific during World War II. The 50th anniversary of the liberation of the Mariana Islands will be commemorated next year. It is time to acknowledge this heritage and recognize appropriately the loyalty of the people of Guam.

H.R. 1944, as passed by the House in June, expressed the sense of Congress that an appropriate commemoration of the 50th anniversary of the Mariana campaign should be planned, that the Secretary of the Interior should take

all necessary steps to ensure that visitor facilities at War in the Pacific National Historical Park on Guam are expeditiously developed and constructed, and that a monument to the people of Guam should be completed before July 21, 1994, the 50th anniversary commemoration.

The House-passed bill also increased the development ceiling for War in the Pacific National Historical Park from $500,000 to $8 million and authorized the construction of a monument within the park to the people of Guam who suffered personal injury, forced labor, forced marches, internment, or death as a result of enemy occupation during World War II. The Secretary was also authorized to implement programs to interpret the experiences of the people of Guam during World War II.

The bill as it is presented to the House today changes the previous House-passed legislation by substituting language describing the monument. Rather than a monument which commemorates, by individual name, the people of Guam who suffered during the occupation, the amended bill specifies a monument to commemorate the loyalty of the people of Guam and the heroism of the American forces that liberated Guam. The section calling for the transmittal of the names as required under the previous House-passed version has been deleted.

While War in the Pacific National Historical Park interprets World War II military events on Guam, the story of the people of Guam and their experiences during the war have not been fully recognized. The people of Guam suffered great hardship as the result of Japanese occupation, yet no monument to their contribution and sacrifice has been constructed. This legislation provides for the development of an appropriate monument which will recognize both the people of Guam who suffered and the American forces involved in their liberation.

This monument is intended to make the war interpretation on Guam complete and will complement the plans to honor the American Armed Forces who died in the liberation of Guam. This is a long-overdue improvement to the park and I urge my colleagues' support.

Mr. Speaker, I want to thank the gentleman from Utah for his cooperation and patience today in dealing with us, and I commend the gentleman from Guam [Mr. UNDERWOOD] and all who were involved, especially Senator AKAKA for his interest and work on this important park.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

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

Mr. SKEEN. Mr. Speaker, reserving the right to object, I will not object, but I do want to thank the chairman and the ranking member on the Lechuguilla Cave legislation for the accommodation. Great job, and I appreciate it very much.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to reverse and extend their remarks the amendments to H.R. 1944.

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

There was no objection.

EGG RESEARCH AND CONSUMER INFORMATION ACT AMENDMENTS OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 717) to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, to explain the details of the Egg Checkoff Reform Act.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 717 is analogous to title I of H.R. 3515 that was passed under suspension by the House on Friday.

S. 717, like the House-passed bill, makes a number of changes in the current egg checkoff program. The changes will allow for an increase in the maximum assessment rate, subject to approval through a producer referendum. The bill exempts those egg producers who have 75,000 laying hens or less from the assessment.

S. 717 allows for an assessment rate increase up to only 20 cents. The House bill would have allowed the assessment rate to be increased from the current 10 cents per case to up to 30 cents.

Section 3 of the Senate bill requires that in future years, the Egg Board allocate a proportion of funds for research comparable to the proportion for research funded in fiscal year 1993. The House bill had no similar provision. It is not intended that this language be a rigid formula and the language specifically provides that this is to be done only "to the maximum extent practicable." The Subcommittee on Livestock of the Committee has not had hearings on this provision, and we may find it necessary to revisit this provision.

Mr. Speaker, I would like to clarify a provision in the bill. Section 5 states that the amendments to the egg research and promotion order necessary to implement all of the amendments made by the bill would be subject to informal rulemaking and not subject to a referendum. Under the amendments made to the Egg Research and Consumer Information Act, any increases in the assessment rate would, of course, be subject to a referendum. Decreases in the assessment rate, the change in the producer exemption, and the research provision are not subject to a referendum. Too, the Secretary may find it appropriate in amending the outstanding order under the basic act to incorporate the change in the producer exemption, the research provision, and the maximum level of assessment without notice and comment. Of course, with respect to amendments to the order to increase the operative assessment or other items, the Secretary could determine that, in addition to notice and comment, hearings would be appropriate.

Mr. Speaker, the passage and enactment of S. 717 before the end of the year would allow USDA to initiate these changes in an expeditious manner. I urge the passage of the legislation.

Mr. ROBERTS. Mr. Speaker, I thank the chairman for his explanation and thank him for his leadership in hatching this bill to its final conclusion.

Mr. Speaker, I withdraw my reservation of objection

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 717

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 "Egg Research and Consumer Information Act Amendments of 1993".

SEC. 2. ASSESSMENT RATE.

(a) IN GENERAL.—Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended—

(1) by designating the first and second sentences as paragraph (1);

(2) by designating the fifth and sixth sentences as paragraph (3); and

(3) by striking the third and fourth sentences and inserting the following new paragraph:

"(2)(A) The Assessment rate shall be prescribed by the order. The rate shall not exceed 20 cents per case (or the equivalent of a case) of commercial eggs.

"(B) The order may be amended to increase the rate of assessment if the increase is recommended by the Egg Board and approved by egg producers in a referendum conducted under section 9(b).

"(C) The order may be amended to decrease the assessment rate after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.".

(B) REFERENDUM.—Section 9 of such Act (7 U.S.C. 2708) is amended—

(1) by designating the first and second sentences as subsection (a);

(2) by designating the last sentence as subsection (c); and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following new subsection:

"(b)(1) If the Egg Board determines, based on a scientific study, marketing analysis, or other similar competent evidence, that an increase in the assessment rate is needed to ensure that assessments under the order are set at an appropriate level to effectuate the policy declared in section 2, the Egg Board may request that the Secretary conduct a referendum as provided in paragraph (2).

"(2)(A) If the Egg Board requests the Secretary to conduct a referendum under paragraph (1) or (3), the Secretary shall conduct a referendum among egg producers not exempt from this Act who, during a representative period determined by the Secretary, have been engaged in the production of commercial eggs, for the purpose of ascertaining whether the producers approve the change in the assessment rate proposed by the Egg Board.

"(B) The change in the assessment rate shall become effective if the change is approved or favored by—

"(i) not less than two-thirds of the producers voting in the referendum; or

"(ii) a majority of the producers voting in the referendum, if the majority produced not less than two-thirds of all the commercial eggs produced by the producers voting during a representative period defined by the Secretary.

"(3)(A) In the case of the order in effect on the date of enactment of this subsection, the Egg Board shall determine under paragraph (1), as soon as practicable after such date of enactment, whether to request that the Secretary conduct a referendum under paragraph (2).

"(B) If the Egg Board makes such a request on the basis of competent evidence, as provided in paragraph (1), the Secretary shall conduct the referendum as soon as practicable, but not later than—

"(i) 120 days after receipt of the request from the Egg Board; or

"(ii) if the Director of the Office of Management and Budget determines that the change in the assessment rate is a significant action that requires review by the Director, 170 days after receipt of the request from the Egg Board.

"(4) Notwithstanding any other provision of this Act, if an increase in the assessment rate and the authority for additional increases is approved by producers in a referendum conducted under this subsection, the Secretary shall amend the order to reflect the vote of the producers. The amendment to the order shall become effective on the date of issuance of the amendment.".

SEC. 3. RESEARCH.

Section 8(d) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(d)) is amended by adding at the end the following new sentence: "In preparing a budget for each of the 1994 and subsequent fiscal years, the Egg Board shall, to the maximum extent practicable, allocate a proportion of funds for research projects under this Act that is comparable to the proportion of funds that were allocated for research projects under this Act in the budget of the Egg Board for fiscal year 1993.".

SEC. 4. EXEMPTED PROCEDURES.

Section 12(a)(1) of the Egg Research and Consumer Information Act (7 U.S.C. 2711(a)(1)) is amended by striking "30,000 laying hens" and inserting "75,000 laying hens".

SEC. 5. AMENDMENT TO ORDER.

Notwithstanding any other provision of law:

(1) IN GENERAL.—The Secretary of Agriculture shall issue amendments to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this Act. The amendments shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue the proposed amendments to the order not later than 80 days after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The amendments to the egg promotion and research order required by paragraph (1) shall become effective not later than—

(A) 30 days after the proposed amendments are issued; or

(B) if the Director of the Office of Management and Budget determines that the amendments are a significant action that requires review by the Director, 50 days after the proposed amendments are issued.

(3) REFERENDUM.—The amendments referred to in paragraph (2) shall not be subject to a referendum conducted under the Egg Research and Consumer Information Act.

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

WATERMELON RESEARCH AND PROMOTION IMPROVEMENT ACT OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 778) to amend the Watermelon Research and Promotion Act to expand operation of the act to the entire United States, to authorize the revocation of the refund provision of the act, to modify the referendum procedures of the act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the chairman of the Committee on Agriculture, the distinguished gentleman from Texas [Mr. DE LA GARZA], to fully explain to the House the details of the Watermelon Research and Promotion Reform Program.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 778 makes various changes in the current watermelon research and promotion program, and it is comparable to title II of H.R. 3515 which passed the House under suspension on Friday.

Like H.R. 3515, S. 778 lowers the referendum threshold. There are, however, four differences between the House-passed bill and what is here in the Senate bill that I want to point out. We are agreeable to accepting S. 778 on this side.

S. 778 increases the assessment exemption for importers to those importing less than 150,000 pounds a year, as compared to the House bill which said less than 75,000 pounds a year.

S. 778 does not include the House language providing for a 5-year base period for establishing the average yield per acre.

Currently, the watermelon assessment is collected from all domestic producers with 5 acres or more. S. 778 increases the assessment exemption threshold to 10 acres.

Finally, S. 778 deletes the requirement for formal hearings to amend the plan, and requires informal rulemaking and referenda to amend the plan. The House bill had no similar provision.

Mr. Speaker, the Senate language is acceptable. I urge my colleagues to support passage of the legislation.

Mr. ROBERTS. I thank the chairman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 778

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Watermelon Research and Promotion Improvement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Change to majority vote in referendum procedures.
Sec. 3. Expansion of watermelon plans to entire United States.
Sec. 4. Clarification of differences between producers and handlers.
Sec. 5. Clarification of collection of assessments by the Board.
Sec. 6. Changes to assessment rate not subject to formal rulemaking.
Sec. 7. Elimination of watermelon assessment refund.
Sec. 8. Equitable treatment of watermelon plans.

Sec. 9. Definition of producer.
Sec. 10. Amendment procedure.

SEC. 2. CHANGE TO MAJORITY VOTE IN REFERENDUM PROCEDURES.

Section 1653 of the Watermelon Research and Promotion Act (7 U.S.C. 4912) is amended—

(1) by inserting "(a)" after "SEC. 1653.";

(2) by striking the third sentence; and

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

"(b) A plan issued under this subtitle shall not take effect unless the Secretary determines that the issuance of the plan is approved or favored by a majority of the producers and handlers (and importers who are subject to the plan) voting in the referendum.".

SEC. 3. EXPANSION OF WATERMELON PLANS TO ENTIRE UNITED STATES.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902) is amended—

(1) in paragraph (3), by striking "the forty-eight contiguous States of"; and

(2) by adding at the end the following new paragraph:

"(10) The term 'United States' means each of the several States and the District of Columbia.".

(b) ISSUANCE OF PLANS.—The last sentence of section 1644 of such Act (7 U.S.C. 4903) is amended by striking "the forty-eight contiguous States of".

SEC. 4. CLARIFICATION OF DIFFERENCES BETWEEN PRODUCERS AND HANDLERS.

Section 1647(c) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(c)) is amended by adding at the end the following new paragraph:

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) A producer shall be eligible to serve on the Board only as a representative of handlers, and not as a representative of producers, if—

"(A) the producer purchases watermelons from other producers, in a combined total volume that is equal to 25 percent or more of the producer's own production; or

"(B) the combined total volume of watermelons handled by the producer from the producer's own production and purchases from other producers' production is more than 50 percent of the producer's own production.".

SEC. 5. CLARIFICATION OF COLLECTION OF ASSESSMENTS BY THE BOARD.

Section 1647 of the Watermelon Research and Promotion Act (7 U.S.C. 4906) is amended—

(1) in subsection (f), by striking "collection of the assessments by the Board" and inserting "payment of the assessments to the Board."; and

(2) in paragraphs (1) and (3) of subsection (g), by striking "collected" each place it appears and inserting "received".

SEC. 6. CHANGES TO ASSESSMENT RATE NOT SUBJECT TO FORMAL RULEMAKING.

Section 1647(f) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(f)) is amended by adding at the end the following new sentences: "In fixing or changing the rate of assessment pursuant to the plan, the Secretary shall comply with the notice and comment procedures established under section 553 of title 5, United States Code. Sections 556 and 557 of such title shall not apply with respect to fixing or changing the rate of assessment.".

SEC. 7. ELIMINATION OF WATERMELON ASSESSMENT REFUND.

Section 1647(h) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(h)) is amended—

(1) by striking "(h) The" and inserting "(h)(1) Except as provided in paragraph (2), the"; and

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

"(2) If approved in the referendum required by section 1655(b) relating to the elimination of the assessment refund under paragraph (1), the Secretary shall amend the plan that is in effect on the day before the date of the enactment of the Watermelon Research and Promotion Improvement Act of 1993 to eliminate the refund provision.

"(3)(A) Notwithstanding paragraph (2) and subject to subparagraph (B), if importers are subject to the plan, the plan shall provide that an importer of less than 150,000 pounds of watermelons per year shall be entitled to apply for a refund that is based on the rate of assessment paid by domestic producers.

"(B) The Secretary may adjust the quantity of the weight exemption specified in subparagraph (A) on the recommendation of the Board after an opportunity for public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title, to reflect significant changes in the 5-year average yield per acre of watermelons produced in the United States.".

SEC. 8. EQUITABLE TREATMENT OF WATERMELON PLANS.

(a) DEFINITIONS.—Section 1643 of the Watermelon Research and Promotion Act (7 U.S.C. 4902), as amended by section 3(a), is further amended—

(1) in paragraph (3), by striking the semicolon at the end and inserting the following: "or imported into the United States.";

(2) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'importer' means any person who imports watermelons into the United States.

"(7) The term 'plan' means an order issued by the Secretary under this subtitle.".

(b) ISSUANCE OF PLANS.—Section 1644 of such Act (7 U.S.C. 4903), as amended by section 3(b), is further amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers";

(2) by striking the second sentence; and

(3) in the last sentence, by inserting "or imported into the United States" before the period.

(c) NOTICE AND HEARINGS.—Section 1645(a) of such Act (7 U.S.C. 4904(a)) is amended—

(1) in the first sentence, by striking "and handlers" and inserting ", handlers, and importers"; and

(2) in the last sentence, by striking "or handlers" and inserting ", handlers, or importers".

(d) MEMBERSHIP OF BOARD.—Section 1647(c) of such Act (7 U.S.C. 4906(c)), as amended by section 4, is further amended—

(1) in the second sentence of paragraph (1), by striking "producer and handler members" and inserting "other members"; and

(2) by adding at the end the following new paragraph:

"(3)(A) If importers are subject to the plan, the Board shall also include 1 or more representatives of importers, who shall be appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.

"(B) Importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least 1 representative of importers shall serve on the Board.

"(C) If importers are subject to the plan and fail to select nominees for appointment to the Board, the Secretary may appoint any importers as the representatives of importers.

"(D) Not later than 5 years after the date that importers are subjected to the plan, and every 5 years thereafter, the Secretary shall evaluate the average annual percentage of assessments paid by importers during the 3-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.".

(e) ASSESSMENTS.—Section 1647(g) of such Act (7 U.S.C. 4906(g)) is amended—

(1) in paragraph (4)—

(A) by striking "(4) assessments" and inserting "(4) Assessments"; and

(B) by inserting "in the case of producers and handlers" after "such assessments"; and

(2) by adding at the end the following new paragraph:

"(5) If importers are subject to the plan, an assessment shall also be made on watermelons imported into the United States by the importers. The rate of assessment for importers who are subject to the plan shall be equal to the combined rate for producers and handlers.".

(f) REFUNDS.—Paragraph (1) of section 1647(h) of such Act (7 U.S.C. 4906(h)), as amended by section 7, is further amended—

(1) by inserting after "or handler" the first two places it appears the following: "(or importer who is subject to the plan)"; and

(2) by striking "or handler" the last place it appears and inserting ", handler, or importer".

(g) ASSESSMENT PROCEDURES.—Section 1649 of such Act (7 U.S.C. 4908) is amended—

(1) in subsection (a)—

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

(B) by adding at the end the following new paragraph:

"(2)(A) If importers are subject to the plan, each importer required to pay assessments under the plan shall be responsible for payment of the assessment to the Board, as the Board may direct.

"(B) The assessment on imported watermelons shall be equal to the combined rate for domestic producers and handlers and shall be paid by the importer to the Board at the time of the entry of the watermelons into the United States.

"(C) Each importer required to pay assessments under the plan shall maintain a separate record that includes a record of—

"(i) the total quantity of watermelons imported into the United States that are included under the terms of the plan;

"(ii) the total quantity of watermelons that are exempt from the plan; and

"(iii) such other information as may be prescribed by the Board.

"(D) No more than 1 assessment shall be made on any imported watermelon.";

(2) in subsection (b), by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1), by inserting "or importers" after "handlers".

(h) INVESTIGATIONS.—Section 1652(a) of such Act (7 U.S.C. 4911(a)) is amended—

(1) in the first sentence, by striking "a handler or any other person" by inserting "a person";

(2) in the fourth sentence, by inserting "(or an importer who is subject to the plan)" after "a handler"; and

(3) in the last sentence, by striking "the handler or other person" and inserting "the person".

(i) REFERENDUM.—Subsection (a) of section 1653 of such Act (7 U.S.C. 4912), as amended by section 2, is further amended—

(1) in the first sentence—

(A) by striking "and handlers" both places it appears and inserting ", handlers, and importers"; and

(B) by striking "or handling" and inserting ", handling, or importing";

(2) by striking the second sentence; and

(3) in the sentence beginning with "The ballots"—

(A) by striking "or handler" and inserting ", handler, or importer"; and

(B) by striking "or handled" and inserting ", handled, or imported".

(j) TERMINATION OF PLANS.—Section 1654(b) of such Act (7 U.S.C. 4913(b)) is amended—

(1) in the first sentence—

(A) by striking "10 per centum or more" and inserting "at least 10 percent of the combined total"; and

(B) by striking "and handlers" both places it appears and inserting ", handlers, and importers";

(2) in the second sentence—

(A) by striking "or handle" and inserting ", handle, or import";

(B) by striking "50 per centum" and inserting "50 percent of the combined total"; and

(C) by striking "or handled by the handlers," and inserting ", handled by the handlers, or imported by the importers"; and

(3) by striking the last sentence.

(k) CONFORMING AND TECHNICAL AMENDMENTS.—Such Act is further amended—

(1) in section 1642(a)(5) (7 U.S.C. 4901(a)(5)), by striking "and handling" and inserting "handling, and importing";

(2) in the first sentence of section 1642(b) (7 U.S.C. 4901(b))—

(A) by inserting ", or imported into the United States," after "harvested in the United States"; and

(B) by striking "produced in the United States";

(3) in section 1643 (7 U.S.C. 4902), as amended by subsection (a) and section 3(a)—

(A) by striking "subtitle—" and inserting "subtitle:";

(B) in paragraphs (1) through (5), by striking "the term" each place it appears and inserting "The term";

(C) in paragraphs (1), (2), (4), and (5), by striking the semicolon at the end of each paragraph and inserting a period;

(D) in paragraph (8), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "; and" and inserting a period; and

(E) in paragraph (9), as redesignated by subsection (a)(2)—

(i) by striking "the term" and inserting "The term"; and

(ii) by striking "1644" and inserting "1647"; and

(4) in section 1647(g) (7 U.S.C. 4906(g)), as amended by subsection (e) and section 5(2)—

(A) by striking "that—" and inserting "the following:";

(B) in paragraph (1)—

(i) by striking "(1) funds" and inserting "(1) Funds"; and

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

(C) in paragraph (2)—

(i) by striking "(2) no" and inserting "(2) No"; and

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

(D) in paragraph (3)—

(i) by striking "(3) no" and inserting "(3) No"; and

(ii) by striking "; and" and inserting a period.

SEC. 9. DEFINITION OF PRODUCER.

(a) IN GENERAL.—Section 1643(5) of the Watermelon Research and Promotion Act (7 U.S.C. 4902(5)) is amended by striking "five" and inserting "10".

(b) CERTIFICATION.—Section 1647 of such Act (7 U.S.C. 4906) is amended by adding at the end the following new subsection:

"(1) The plan shall provide that the Board shall have the authority to establish rules for certifying whether a person meets the definition of a producer under section 1643(5).".

SEC. 10. AMENDMENT PROCEDURE.

Section 1655 of the Watermelon Research and Promotion Act (7 U.S.C. 4914) is amended to read as follows:

"SEC. 1655. AMENDMENT PROCEDURE.

"(a) IN GENERAL.—Before a plan issued by the Secretary under this subtitle may be amended, the Secretary shall publish the proposed amendments for public comment and conduct a referendum in accordance with section 1653.

"(b) SEPARATE CONSIDERATION OF AMENDMENTS.—

"(1) IN GENERAL.—The amendments described in paragraph (2) that are required to be made by the Secretary to a plan as a result of the amendments made by the Watermelon Research and Promotion Improvement Act of 1993 shall be subject to separate line item voting and approval in a referendum conducted pursuant to section 1653 before the Secretary alters the plan as in effect on the day before the date of the enactment of such Act.

"(2) AMENDMENTS.—The amendments referred to in paragraph (1) are the amendments to a plan required under—

"(A) section 7 of the Watermelon Research and Promotion Improvement Act of 1993 relating to the elimination of the assessment refund; and

"(B) section 8 of such Act relating to subjecting importers to the terms and conditions of the plan.

"(3) IMPORTERS.—When conducting the referendum relating to subjecting importers to the terms and conditions of a plan, the Secretary shall include as eligible voters in the referendum producers, handlers, and importers who would be subject to the plan if the amendments to a plan were approved.".

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

FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ACT OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 994) to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Texas [Mr. DE LA GARZA] chairman of the Committee on Agriculture, to explain to the House the PromoFlor Checkoff Program.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 994 provides legislative authorization for the establishment of a new industry-funded checkoff program for the cut flower and cut greens industry.

Basically, the provisions of S. 994 are similar to title III of H.R. 3515. The legislation establishes a checkoff program with administrative procedures and structure similar to that used for other industry-funded research and promotion programs.

The Senate version does have two differences compared to the House-passed bill that I want to highlight. After reviewing these differences, we are agreeable to accepting the Senate version.

The House bill would place one retailer on the PromoFlor Council. Some concern has been expressed within the cut flower industry that a greater retailer presence is needed. S. 994 adds two more retailers to the board, thus increasing the size of the Council to 25 members.

In addition, S. 994 will require the use of the assessments collected from the industry to cover the full costs of USDA in conducting referenda and administering the order issued under the legislation, with no exception for the salaries of USDA employees. We believe the Senate language improves the legislation.

I urge passage of the legislation.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for his explanation and for his leadership in reforming the cut flower and cut greens industry.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 994

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.

Sec. 4. Issuance of orders.
Sec. 5. Required terms in orders.
Sec. 6. Exclusion; determinations.
Sec. 7. Referenda.
Sec. 8. Petition and review.
Sec. 9. Enforcement.
Sec. 10. Investigations and power to subpoena.
Sec. 11. Confidentiality.
Sec. 12. Authority for Secretary to suspend or terminate order.
Sec. 13. Construction.
Sec. 14. Regulations.
Sec. 15. Authorization of appropriations.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;

(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and

(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;

(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—

(A) purchase most of the cut flowers and cut greens marketed by producers;

(B) prepare the cut flowers and cut greens for retail consumption;

(C) serve as an intermediary between the source of the product and the retailer;

(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and

(E) add efficiencies to the market process that ensure the availability of a much greater variety of the product to retailers and consumers;

(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;

(5)(A) cut flowers and cut greens mcve in interstate and foreign commerce; and

(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;

(6) the maintenance and expansion of markets in existence on the date of enactment of this Act, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;

(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;

(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on the date of enactment of this Act and the development of new markets for cut flowers and cut greens have been prevented;

(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information program authorized by this Act in that the program will enhance the market development efforts of the programs for domestic producers;

(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and

(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.

(b) POLICY AND PURPOSE.—It is the policy of Congress that it is in the public interest, and it is the purpose of this Act, to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) CONSUMER INFORMATION.—The term "consumer information" means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.

(2) CUT FLOWERS AND CUT GREENS.—

(A) IN GENERAL.—

(i) CUT FLOWERS.—The term "cut flowers" includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.

(ii) CUT GREENS.—The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.

(iii) EXCLUSIONS.—The terms "cut flowers" and "cut greens" do not include a foliage plant, floral supply, or flowering plant.

(B) SUBSTANTIAL PORTION.—In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.

(3) GROSS SALES PRICE.—The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens from a handler to a retailer or exempt handler.

(4) HANDLER.—

(A) QUALIFIED HANDLER.—

(i) IN GENERAL.—The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—

(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and

(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are $750,000 or more.

(ii) INCLUSIONS AND EXCLUSIONS.—

(I) IN GENERAL.—The term "qualified handler" includes—

(aa) bouquet manufacturers (subject to paragraph (2)(B));

(bb) an auction house that clears the sale of cut flowers and cut greens to retailers and exempt handlers through a central clearinghouse; and

(cc) a distribution center that is owned or controlled by a retailer if the predominant retail business activity of the retailer is floral sales.

(II) TRANSFERS.—For the purpose of determining sales of cut flowers and cut greens to a retailer from a distribution center described in subclause (I)(cc), each non-sale transfer to a retailer shall be treated as a sale in an amount calculated as provided in subparagraph (C).

(III) TRANSPORTATION OR DELIVERY.—The term "qualified handler" does not include a person who only physically transports or delivers cut flowers or cut greens.

(iii) CONSTRUCTION.—

(I) IN GENERAL.—The term "qualified handler" includes an importer or producer that sells cut flowers or cut greens that the importer or producer has imported into the United States or produced, respectively, directly to consumers and whose sales of the cut flowers and cut greens (as calculated under subparagraph (C)), together with sales of cut flowers and cut greens to retailers or exempt handlers, annually are $750,000 or more.

(II) SALES.—Each direct sale to a consumer by a qualified handler described in subclause (I) shall be treated as a sale to a retailer or exempt handler in an amount calculated as provided in subparagraph (C).

(III) DEFINITIONS.—As used in this paragraph:

(aa) IMPORTER.—The term "importer" has the meaning provided in section 5(b)(2)(B)(i)(I).

(bb) PRODUCER.—The term "producer" has the meaning provided in section 5(b)(2)(B)(ii)(I).

(B) EXEMPT HANDLER.—The term "exempt handler" means a person who would otherwise be considered to be a qualified handler, except that the annual sales by the person of cut flowers and cut greens to retailers and other exempt handlers are less than $750,000.

(C) ANNUAL SALES DETERMINED.—

(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraphs (A) and (B), the amount of a sale shall be determined on the basis of the gross sales price of the cut flowers and cut greens sold.

(ii) TRANSFERS.—

(I) NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (III), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center (as described in subparagraph (A)(ii)(II)), or a direct sale to a consumer by an importer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by an order to represent the mark-up of a wholesale handler on a sale to a retailer.

(II) DIRECT SALES BY PRODUCERS.—Subject to subclause (III), in the case of a direct sale to a consumer by a producer (as described in subparagraph (A)(iii)), the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by an order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(III) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (I) or (II) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(5) ORDER.—The term "order" means an order issued under this Act (other than sections 9, 10, and 12).

(6) PERSON.—The term "person" means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or other legal entity.

(7) PROMOFLOR COUNCIL.—The term "PromoFlor Council" means the Fresh Cut Flowers and Fresh Cut Greens Promotion Council established under section 5(b).

(8) PROMOTION.—The term "promotion" means any action determined by the Secretary to advance the image, desirability, or marketability of cut flowers or cut greens, including paid advertising.

(9) RESEARCH.—The term "research" means market research and studies limited to the support of advertising, market development, and other promotion efforts and consumer information efforts relating to cut flowers or cut greens, including educational activities.

(10) RETAILER.—

(A) IN GENERAL.—The term "retailer" means a person (such as a retail florist, supermarket, mass market retail outlet, or other end-use seller), as described in an order, that sells cut flowers or cut greens to consumers, and a distribution center described in subparagraph (B)(i).

(B) DISTRIBUTION CENTERS.—

(i) IN GENERAL.—The term "retailer" includes a distribution center that is—

(I) owned or controlled by a person described in subparagraph (A), or owned or controlled cooperatively by a group of the persons, if the predominant retail business activity of the person is not floral sales; or

(II) independently owned but operated primarily to provide food products to retail stores.

(ii) IMPORTERS AND PRODUCERS.—An independently owned distribution center described in clause (i)(II) that also is an importer or producer of cut flowers or cut greens shall be subject to the rules of construction specified in paragraph (4)(A)(iii) and, for the purpose of the rules of construction, be considered to be the seller of the articles directly to the consumer.

(11) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(12) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (until such time as the Compact of Free Association is ratified).

(13) UNITED STATES.—The term "United States" means the States collectively.

SEC. 4. ISSUANCE OF ORDERS.

(a) IN GENERAL.—

(1) ISSUANCE.—To effectuate the policy of this Act specified in section 2(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to qualified handlers of cut flowers and cut greens.

(2) SCOPE.—Any order shall be national in scope.

(3) ONE ORDER.—Not more than 1 order shall be in effect at any 1 time.

(b) PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—

(A) SECRETARY.—The Secretary may propose the issuance of an order.

(B) OTHER PERSONS.—An industry group that represents a substantial number of the industry members who are to be assessed under the order, or any other person who will be affected by this Act, may request the issuance of, and submit a proposal for, an order.

(2) PUBLICATION OF PROPOSAL.—The Secretary shall publish a proposed order and give notice and opportunity for public comment on the proposed order not later than 60 days after the earlier of—

(A) the date on which the Secretary proposes an order, as provided in paragraph (1)(A); and

(B) the date of the receipt by the Secretary of a proposal for an order, as provided in paragraph (1)(B).

(3) ISSUANCE OF ORDER.—

(A) IN GENERAL.—After notice and opportunity for public comment are provided in accordance with paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with this Act.

(B) EFFECTIVE DATE.—The order shall be issued and become effective not later than 180 days after publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend an order. The provisions of this Act applicable to an order shall be applicable to any amendment to an order.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and provisions specified in this section.

(b) PROMOFLOR COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of a Fresh Cut Flowers and Fresh Cut Greens Promotion Council, consisting of 25 members, to administer the order.

(B) MEMBERSHIP.—

(i) APPOINTMENT.—The order shall provide that members of the PromoFlor Council shall be appointed by the Secretary from nominations submitted as provided in paragraphs (2) and (3).

(ii) COMPOSITION.—The PromoFlor Council shall consist of—

(I) participating qualified handlers representing qualified wholesale handlers and producers and importers that are qualified handlers;

(II) representatives of traditional retailers; and

(III) representatives of persons who produce fresh cut flowers and fresh cut greens.

(2) DISTRIBUTION OF APPOINTMENTS.—

(A) IN GENERAL.—The order shall provide that the membership of the PromoFlor Council shall consist of—

(i) 14 members representing qualified wholesale handlers of domestic or imported cut flowers and cut greens;

(ii) 3 members representing producers that are qualified handlers of cut flowers and cut greens;

(iii) 3 members representing importers that are qualified handlers of cut flowers and cut greens;

(iv) 3 members representing traditional cut flowers and cut greens retailers; and

(v) 2 members representing persons who produce fresh cut flowers and fresh cut greens, of whom—

(I) 1 member shall represent persons who produce the flowers or greens in locations that are east of the Mississippi River; and

(II) 1 member shall represent persons who produce the flowers or greens in locations that are west of the Mississippi River.

(B) DEFINITIONS.—As used in this subsection:

(i) IMPORTER THAT IS A QUALIFIED HANDLER.—The term "importer that is a qualified handler" means an entity—

(I) whose principal activity is the importation of cut flowers or cut greens into the United States (either directly or as an agent, broker, or consignee of any person or nation that produces or handles cut flowers or cut greens outside the United States for sale in the United States); and

(II) that is subject to assessments as a qualified handler under the order.

(ii) PRODUCER THAT IS A QUALIFIED HANDLER.—The term "producer that is a qualified handler" means an entity that—

(I) is engaged—

(aa) in the domestic production, for sale in commerce, of cut flowers or cut greens and that owns or shares in the ownership and risk of loss of the cut flowers or cut greens; or

(bb) as a first processor of noncultivated cut greens, in receiving the cut greens from a person who gathers the cut greens for handling; and

(II) is subject to assessments as a qualified handler under the order.

(iii) QUALIFIED WHOLESALE HANDLER.—

(I) IN GENERAL.—The term "qualified wholesale handler" means a person in business as a floral wholesale jobber or floral supplier that is subject to assessments as a qualified handler under the order.

(II) DEFINITIONS.—As used in this clause:

(aa) FLORAL SUPPLIER.—The term "floral supplier" means a person engaged in acquiring cut flowers or cut greens to be manufactured into floral articles or otherwise processed for resale.

(bb) FLORAL WHOLESALE JOBBER.—The term "floral wholesale jobber" means a person who conducts a commission or other wholesale business in buying and selling cut flowers or cut greens.

(C) DISTRIBUTION OF QUALIFIED WHOLESALE HANDLER APPOINTMENTS.—The order shall provide that the appointments of qualified wholesale handlers to the PromoFlor Council made by the Secretary shall take into account the geographical distribution of cut flowers and cut greens markets in the United States.

(3) NOMINATION PROCESS.—The order shall provide that—

(A) 2 nominees shall be submitted for each appointment to the PromoFlor Council;

(B) nominations for each appointment of a qualified wholesale handler, producer that is a qualified handler, or importer that is a qualified handler to the PromoFlor Council shall be made by qualified wholesale handlers, producers that are qualified handlers, or importers that are qualified handlers, respectively, through an election process, in accordance with regulations issued by the Secretary;

(C) nominations for—

(i) 1 of the retailer appointments shall be made by the American Floral Marketing Council or a successor entity; and

(ii) 2 of the retailer appointments shall be made by traditional retail florist organizations, in accordance with regulations issued by the Secretary;

(D) nominations for each appointment of a representative of persons who produce fresh cut flowers and fresh cut greens shall be made by the persons through an election process, in accordance with regulations issued by the Secretary; and

(E) in any case in which qualified wholesale handlers, producers that are qualified handlers, importers that are qualified handlers, persons who produce fresh cut flowers and fresh cut greens, or retailers fail to nominate individuals for an appointment to the PromoFlor Council, the Secretary may appoint an individual to fill the vacancy on a basis provided in the order or other regulations of the Secretary.

(4) ALTERNATES.—The order shall provide for the selection of alternate members of the PromoFlor Council by the Secretary in accordance with procedures specified in the order.

(5) TERMS; COMPENSATION.—The order shall provide that—

(A) each term of appointment to the PromoFlor Council shall be for 3 years, except that, of the initial appointments, 9 of the appointments shall be for 2-year terms, 8 of the appointments shall be for 3-year terms, and 8 of the appointments shall be for 4-year terms;

(B) no member of the PromoFlor Council may serve more than 2 consecutive terms of 3 years, except that any member serving an initial term of 4 years may serve an additional term of 3 years; and

(C) members of the PromoFlor Council shall serve without compensation, but shall be reimbursed for the expenses of the members incurred in performing duties as members of the PromoFlor Council.

(6) EXECUTIVE COMMITTEE.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The order shall authorize the PromoFlor Council to appoint, from among the members of the Council, an executive committee of not more than 9 members.

(ii) INITIAL MEMBERSHIP.—The membership of the executive committee initially shall be composed of—

(I) 4 members representing qualified wholesale handlers;

(II) 2 members representing producers that are qualified handlers;

(III) 2 members representing importers that are qualified handlers; and

(IV) 1 member representing traditional retailers.

(iii) SUBSEQUENT MEMBERSHIP.—After the initial appointments, each appointment to the executive committee shall be made so as to ensure that the committee reflects, to the maximum extent practicable, the membership composition of the PromoFlor Council as a whole.

(iv) TERMS.—Each initial appointment to the executive committee shall be for a term of 2 years. After the initial appointments, each appointment to the executive committee shall be for a term of 1 year.

(B) AUTHORITY.—The PromoFlor Council may delegate to the executive committee the authority of the PromoFlor Council under the order to hire and manage staff and conduct the routine business of the PromoFlor Council consistent with such policies as are determined by the PromoFlor Council.

(c) GENERAL RESPONSIBILITIES OF THE PROMOFLOR COUNCIL.—The order shall define the general responsibilities of the PromoFlor Council, which shall include the responsibility to—

(1) administer the order in accordance with the terms and provisions of the order;

(2) make rules and regulations to effectuate the terms and provisions of the order;

(3) appoint members of the PromoFlor Council to serve on an executive committee;

(4) employ such persons as the PromoFlor Council determines are necessary, and set the compensation and define the duties of the persons;

(5)(A) develop budgets for the implementation of the order and submit the budgets to the Secretary for approval under subsection (d); and

(B) propose and develop (or receive and evaluate), approve, and submit to the Secretary for approval under subsection (d) plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(6)(A) implement plans and projects for cut flowers or cut greens promotion, consumer information, or related research, as provided in subsection (d); or

(B) contract or enter into agreements with appropriate persons to implement the plans and projects, as provided in subsection (e), and pay the costs of the implementation, or contracts and agreements, with funds received under the order;

(7) evaluate on-going and completed plans and projects for cut flowers or cut greens promotion, consumer information, or related research;

(8) receive, investigate, and report to the Secretary complaints of violations of the order;

(9) recommend to the Secretary amendments to the order;

(10) invest, pending disbursement under a plan or project, funds collected through assessments authorized under this Act only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used only for a purpose for which the invested funds may be used; and

(11) provide the Secretary such information as the Secretary may require.

(d) BUDGETS; PLANS AND PROJECTS.—

(1) SUBMISSION OF BUDGETS.—The order shall require the PromoFlor Council to submit to the Secretary for approval budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Council in the implementation of the order, including the projected costs of cut flowers and cut greens promotion, consumer information, and related research plans and projects.

(2) PLANS AND PROJECTS.—

(A) PROMOTION AND CONSUMER INFORMATION.—The order shall provide—

(i) for the establishment, implementation, administration, and evaluation of appropriate plans and projects for advertising, sales promotion, other promotion, and consumer information with respect to cut flowers and cut greens, and for the disbursement of necessary funds for the purposes described in this clause;

(ii) that any plan or project referred to in clause (i) shall be directed toward increasing the general demand for cut flowers or cut greens and may not make reference to a private brand or trade name, point of origin, or source of supply, except that this clause shall not preclude the PromoFlor Council from offering the plans and projects of the Council for use by commercial parties, under terms and conditions prescribed by the PromoFlor Council and approved by the Secretary; and

(iii) that no plan or project may make use of unfair or deceptive acts or practices with respect to quality or value.

(B) RESEARCH.—The order shall provide for—

(i) the establishment, implementation, administration, and evaluation of plans and projects for—

(I) market development research;

(II) research with respect to the sale, distribution, marketing, or use of cut flowers or cut greens; and

(III) other research with respect to cut flowers or cut greens marketing, promotion, or consumer information;

(ii) the dissemination of the information acquired through the plans and projects; and

(iii) the disbursement of such funds as are necessary to carry out this subparagraph.

(C) SUBMISSION TO SECRETARY.—The order shall provide that the PromoFlor Council shall submit to the Secretary for approval a proposed plan or project for cut flowers or cut greens promotion, consumer information, or related research, as described in subparagraphs (A) and (B).

(3) APPROVAL BY SECRETARY.—A budget, or plan or project for cut flowers or cut greens promotion, consumer information, or related research may not be implemented prior to approval of the budget, plan, or project by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) PROMOTION, CONSUMER INFORMATION, AND RELATED RESEARCH PLANS AND PROJECTS.—

(A) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the PromoFlor Council, with the approval of the Secretary, may enter into a contract or an agreement for the implementation of a plan or project for promotion, consumer information, or related research with respect to cut flowers or cut greens, and for the payment of the cost of the contract or agreement with funds received by the PromoFlor Council under the order.

(B) REQUIREMENTS.—The order shall provide that any contract or agreement entered into under this paragraph shall provide that—

(i) the contracting or agreeing party shall develop and submit to the PromoFlor Council a plan or project, together with a budget that includes the estimated costs to be incurred for the plan or project;

(ii) the plan or project shall become effective on the approval of the Secretary; and

(iii) the contracting or agreeing party shall—

(I) keep accurate records of all of the transactions of the party;

(II) account for funds received and expended;

(III) make periodic reports to the PromoFlor Council of activities conducted; and

(IV) make such other reports as the PromoFlor Council or the Secretary may require.

(2) OTHER CONTRACTS AND AGREEMENTS.—The order shall provide that the PromoFlor Council may enter into a contract or agreement for administrative services. Any contract or agreement entered into under this paragraph shall include provisions comparable to the provisions described in paragraph (1)(B).

(f) BOOKS AND RECORDS OF THE PROMOFLOR COUNCIL.—

(1) IN GENERAL.—The order shall require the PromoFlor Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may require;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may require; and

(C) account for the receipt and disbursement of all funds entrusted to the PromoFlor Council.

(2) AUDITS.—The PromoFlor Council shall cause the books and records of the Council to be audited by an independent auditor at the end of each fiscal year. A report of each audit shall be submitted to the Secretary.

(g) CONTROL OF ADMINISTRATIVE COSTS.—The order shall provide that the PromoFlor Council shall, as soon as practicable after the order becomes effective and after consultation with the Secretary and other appropriate persons, implement a system of cost controls based on normally accepted business practices that will ensure that the annual budgets of the PromoFlor Council include only amounts for administrative expenses that cover the minimum administrative activities and personnel needed to properly administer and enforce the order, and conduct, supervise, and evaluate plans and projects under the order.

(h) ASSESSMENTS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The order shall provide that each qualified handler shall pay to the PromoFlor Council, in the manner provided in the order, an assessment on each sale of cut flowers or cut greens to a retailer or an exempt handler (including each transaction described in subparagraph (C)(ii)), except to the extent that the sale is excluded from assessments under section 6(a).

(B) PUBLISHED LISTS.—To facilitate the payment of assessments under this paragraph, the PromoFlor Council shall publish lists of qualified handlers required to pay assessments under the order and exempt handlers.

(C) MAKING DETERMINATIONS.—

(i) QUALIFIED HANDLER STATUS.—The order shall contain provisions regarding the determination of the status of a person as a qualified handler or exempt handler that include the rules and requirements specified in sections 3(4) and 6(b).

(ii) CERTAIN COVERED TRANSACTIONS.—

(I) IN GENERAL.—The order shall provide that each non-sale transfer of cut flowers or cut greens to a retailer from a qualified handler that is a distribution center (as described in section 3(4)(A)(ii)(II)), and each direct sale of cut flowers or cut greens to a consumer by a qualified handler that is an importer or a producer (as described in section 3(4)(A)(iii)), shall be treated as a sale of cut flowers or cut greens to a retailer subject to assessments under this subsection.

(II) AMOUNT OF SALE IN THE CASE OF NON-SALE TRANSFERS AND DIRECT SALES BY IMPORTERS.—Subject to subclause (IV), in the case of a non-sale transfer of cut flowers or cut greens from a distribution center, or a direct sale to a consumer by an importer, the amount of the sale shall be equal to the sum of—

(aa) the price paid by the distribution center or importer, respectively, to acquire the cut flowers or cut greens; and

(bb) an amount determined by multiplying the acquisition price referred to in item (aa) by a uniform percentage established by the order to represent the mark-up of a wholesale handler on a sale to a retailer.

(III) DIRECT SALES BY PRODUCERS.—Subject to subclause (IV), in the case of a direct sale to a consumer by a producer, the amount of the sale shall be equal to an amount determined by multiplying the price paid by the consumer by a uniform percentage established by the order to represent the cost of producing the article and the mark-up of a wholesale handler on a sale to a retailer.

(IV) CHANGES IN UNIFORM PERCENTAGES.—Any change in a uniform percentage referred to in subclause (II) or (III) may become effective after—

(aa) recommendation by the PromoFlor Council; and

(bb) approval by the Secretary after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(2) ASSESSMENT RATES.—With respect to assessment rates, the order shall contain the following terms:

(A) INITIAL RATE.—During the first 3 years the order is in effect, the rate of assessment on each sale or transfer of cut flowers or cut greens shall be ½ of 1 percent of—

(i) the gross sales price of the cut flowers or cut greens sold; or

(ii) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii).

(B) CHANGES IN THE RATE.—

(i) IN GENERAL.—After the first 3 years the order is in effect, the uniform assessment rate may be increased or decreased annually by not more than .25 percent of—

(I) the gross sales price of a product sold; or

(II) in the case of transactions described in paragraph (1)(C)(ii), the amount of each transaction calculated as provided in paragraph (1)(C)(ii),

except that the assessment rate may in no case exceed 1 percent of the gross sales price or 1 percent of the transaction amount.

(ii) REQUIREMENTS.—Any change in the rate of assessment under this subparagraph—

(I) may be made only if adopted by the PromoFlor Council by at least a ⅔ majority vote and approved by the Secretary as necessary to achieve the objectives of this Act (after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title);

(II) shall be announced by the PromoFlor Council not less than 30 days prior to going into effect; and

(III) shall not be subject to a vote in a referendum conducted under section 7.

(3) TIMING OF SUBMITTING ASSESSMENTS.—The order shall provide that each person required to pay assessments under this subsection shall remit, to the PromoFlor Council, the assessment due from each sale by the person of cut flowers or cut greens that is subject to an assessment within such time period after the sale (not to exceed 60 days after the end of the month in which the sale took place) as is specified in the order.

(4) REFUNDS FROM ESCROW ACCOUNT.—

(A) ESTABLISHMENT OF ESCROW ACCOUNT.—The order shall provide that the PromoFlor Council shall—

(i) establish an escrow account to be used for assessment refunds, as needed; and

(ii) place into the account an amount equal to 10 percent of the total amount of assessments collected during the period beginning on the date the order becomes effective, as provided in section 4(b)(3)(B), and ending on the date the initial referendum on the order under section 7(a) is completed.

(B) RIGHT TO RECEIVE REFUND.—

(i) IN GENERAL.—The order shall provide that, subject to subparagraph (C) and the conditions specified in clause (ii), any qualified handler shall have the right to demand and receive from the PromoFlor Council out of the escrow account a one-time refund of any assessments paid by or on behalf of the qualified handler during the time period specified in subparagraph (A)(ii), if—

(I) the qualified handler is required to pay the assessments;

(II) the qualified handler does not support the program established under this Act;

(III) the qualified handler demands the refund prior to the conduct of the referendum on the order under section 7(a); and

(IV) the order is not approved by qualified handlers in the referendum.

(ii) CONDITIONS.—The right of a qualified handler to receive a refund under clause (i) shall be subject to the following conditions:

(I) The demand shall be made in accordance with regulations, on a form, and within a time period specified by the PromoFlor Council.

(II) The refund shall be made only on submission of proof satisfactory to the PromoFlor Council that the qualified handler paid the assessment for which the refund is demanded.

(III) If the amount in the escrow account required under subparagraph (A) is not sufficient to refund the total amount of assessments demanded by all qualified handlers determined eligible for refunds and the order is not approved in the referendum on the order under section 7(a), the PromoFlor Council shall prorate the amount of all such refunds among all eligible qualified handlers that demand the refund.

(C) PROGRAM APPROVED.—The order shall provide that, if the order is approved in the referendum conducted under section 7(a), there shall be no refunds made, and all funds in the escrow account shall be returned to the PromoFlor Council for use by the PromoFlor Council in accordance with the other provisions of the order.

(5) USE OF ASSESSMENT FUNDS.—The order shall provide that assessment funds (less any refunds expended under the terms of the order required under paragraph (4)) shall be used for payment of costs incurred in implementing and administering the order, with

provision for a reasonable reserve, and to cover the administrative costs incurred by the Secretary in implementing and administering this Act.

(6) POSTPONEMENT OF COLLECTIONS.—

(A) AUTHORITY.—

(i) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of this Act, the PromoFlor Council may grant a postponement of the payment of an assessment under this subsection for any qualified handler that establishes that the handler is financially unable to make the payment.

(ii) REQUIREMENTS AND PROCEDURES.—A handler described in clause (i) shall establish that the handler is financially unable to make the payment in accordance with application and documentation requirements and review procedures established under rules recommended by the PromoFlor Council, approved by the Secretary, and issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title.

(B) CRITERIA AND RESPONSIBILITY FOR DETERMINATIONS.—The PromoFlor Council may grant a postponement under subparagraph (A) only if the handler demonstrates by the submission of an opinion of an independent certified public accountant, and by submission of other documentation required under the rules established under subparagraph (A)(ii), that the handler is insolvent or will be unable to continue to operate if the handler is required to pay the assessment when otherwise due.

(C) PERIOD OF POSTPONEMENT.—

(i) IN GENERAL.—The time period of a postponement and the terms and conditions of the payment of each assessment that is postponed under this paragraph shall be established by the PromoFlor Council, in accordance with rules established under the procedures specified in subparagraph (A)(ii), so as to appropriately reflect the demonstrated needs of the qualified handler.

(ii) EXTENSIONS.—A postponement may be extended under rules established under the procedures specified in subparagraph (A)(ii) for the grant of initial postponements.

(i) PROHIBITION.—The order shall prohibit the use of any funds received by the PromoFlor Council in any manner for the purpose of influencing legislation or government action or policy, except that the funds may be used by the PromoFlor Council for the development and recommendation to the Secretary of amendments to the order.

(j) BOOKS AND RECORDS; REPORTS.—

(1) IN GENERAL.—The order shall provide that each qualified handler shall maintain, and make available for inspection, such books and records as are required by the order and file reports at the time, in the manner, and having the content required by the order, to the end that such information is made available to the Secretary and the PromoFlor Council as is appropriate for the administration or enforcement of this Act, the order, or any regulation issued under this Act.

(2) CONFIDENTIALITY REQUIREMENT.—

(A) IN GENERAL.—Information obtained from books, records, or reports under paragraph (1) or subsection (h)(6), or from reports required under section 6(b)(3), shall be kept confidential by all officers and employees of the Department of Agriculture and by the staff and agents of the PromoFlor Council.

(B) SUITS AND HEARINGS.—Information described in subparagraph (A) may be disclosed to the public only—

(i) in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, involving the order; and

(ii) to the extent the Secretary considers the information relevant to the suit or hearing.

(C) GENERAL STATEMENTS AND PUBLICATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person who violates the order, together with a statement of the particular provisions of the order violated by the person.

(3) LISTS OF IMPORTERS.—

(A) REVIEW.—The order shall provide that the staff of the PromoFlor Council shall periodically review lists of importers of cut flowers and cut greens to determine whether persons on the lists are subject to the order.

(B) CUSTOMS SERVICE.—On the request of the PromoFlor Council, the Commissioner of the United States Customs Service shall provide to the PromoFlor Council lists of importers of cut flowers and cut greens.

(k) CONSULTATIONS WITH INDUSTRY EXPERTS.—

(1) IN GENERAL.—The order shall provide that the PromoFlor Council, from time to time, may seek advice from and consult with experts from the production, import, wholesale, and retail segments of the cut flowers and cut greens industry to assist in the development of promotion, consumer information, and related research plans and projects.

(2) SPECIAL COMMITTEES.—

(A) IN GENERAL.—For the purposes described in paragraph (1), the order shall authorize the appointment of special committees composed of persons other than PromoFlor Council members.

(B) CONSULTATION.—A committee appointed under subparagraph (A)—

(i) may not provide advice or recommendations to a representative of an agency, or an officer, of the Federal Government; and

(ii) shall consult directly with the PromoFlor Council.

(l) OTHER TERMS OF THE ORDER.—The order shall contain such other terms and provisions, consistent with this Act, as are necessary to carry out this Act (including provision for the assessment of interest and a charge for each late payment of assessments under subsection (h) and for carrying out section 6).

SEC. 6. EXCLUSION; DETERMINATIONS.

(a) EXCLUSION.—An order shall exclude from assessments under the order any sale of cut flowers or cut greens for export from the United States.

(b) MAKING DETERMINATIONS.—

(1) IN GENERAL.—For the purpose of applying the $750,000 annual sales limitation to a specific person in order to determine the status of the person as a qualified handler or an exempt handler under section 3(4), or to a specific facility in order to determine the status of the facility as an eligible separate facility under section 7(b)(2), an order issued under this Act shall provide that—

(A) a determination of the annual sales volume of a person or facility shall be based on the sales of cut flowers and cut greens by the person or facility during the most recently-completed calendar year, except as provided in subparagraph (B); and

(B) in the case of a new business or other operation for which complete data on sales during all or part of the most recently-completed calendar year are not available to the PromoFlor Council, the determination may be made using an alternative time period or other alternative procedure specified in the order.

(2) RULE OF ATTRIBUTION.—

(A) IN GENERAL.—For the purpose of determining the annual sales volume of a person or a separate facility of a person, sales attributable to a person shall include—

(i) in the case of an individual, sales attributable to the spouse, children, grandchildren, parents, and grandparents of the person;

(ii) in the case of a partnership or member of a partnership, sales attributable to the partnership and other partners of the partnership;

(iii) in the case of an individual or a partnership, sales attributable to any corporation or other entity in which the individual or partnership owns more than 50 percent of the stock or (if the entity is not a corporation) that the individual or partnership controls; and

(iv) in the case of a corporation, sales attributable to any corporate subsidiary or other corporation or entity in which the corporation owns more than 50 percent of the stock or (if the entity is not a corporation) that the corporation controls.

(B) STOCK AND OWNERSHIP INTEREST.—For the purpose of this paragraph, stock or an ownership interest in an entity that is owned by the spouse, children, grandchildren, parents, grandparents, or partners of an individual, or by a partnership in which a person is a partner, or by a corporation more than 50 percent of the stock of which is owned by a person, shall be treated as owned by the individual or person.

(3) REPORTS.—For the purpose of this subsection, the order may require a person who sells cut flowers or cut greens to retailers to submit reports to the PromoFlor Council on annual sales by the person.

SEC. 7. REFERENDA.

(a) REQUIREMENT FOR INITIAL REFERENDUM.—

(1) IN GENERAL.—Not later than 3 years after the issuance of an order under section 4(b)(3), the Secretary shall conduct a referendum among qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether the order then in effect shall be continued.

(2) APPROVAL OF ORDER NEEDED.—The order shall be continued only if the Secretary determines that the order has been approved by a simple majority of all votes cast in the referendum. If the order is not approved, the Secretary shall terminate the order as provided in subsection (d).

(b) VOTES PERMITTED.—

(1) IN GENERAL.—Each qualified handler eligible to vote in a referendum conducted under this section shall be entitled to cast 1 vote for each separate facility of the person that is an eligible separate facility, as defined in paragraph (2).

(2) ELIGIBLE SEPARATE FACILITY.—For the purpose of paragraph (1):

(A) SEPARATE FACILITY.—A handling or marketing facility of a qualified handler shall be considered to be a separate facility if the facility is physically located away from other facilities of the qualified handler or the business function of the facility is substantially different from the functions of

other facilities owned or operated by the qualified handler.

(B) ELIGIBILITY.—A separate facility of a qualified handler shall be considered to be an eligible separate facility if the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more.

(C) ANNUAL SALES DETERMINED.—For the purpose of determining the amount of annual sales of cut flowers and cut greens under subparagraph (B), subparagraphs (A) and (C) of section 3(4) shall apply.

(c) SUSPENSION OR TERMINATION REFERENDA.—If an order is approved in a referendum conducted under subsection (a), effective beginning on the date that is 3 years after the date of the approval, the Secretary—

(1) at the discretion of the Secretary, may conduct at any time a referendum of qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order; and

(2) if requested by the PromoFlor Council or by a representative group comprising 30 percent or more of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), shall conduct a referendum of all qualified handlers required to pay assessments under the order, as provided in section 5(h)(1), subject to the voting requirements of subsection (b), to ascertain whether qualified handlers favor suspension or termination of the order.

(d) SUSPENSION OR TERMINATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that the order has not been approved by a simple majority of all votes cast in the referendum, or as a result of a referendum conducted under subsection (c), the Secretary determines that suspension or termination of the order is favored by a simple majority of all votes cast in the referendum, the Secretary shall—

(1) not later than 180 days after the referendum, suspend or terminate, as appropriate, collection of assessments under the order; and

(2) suspend or terminate, as appropriate, activities under the order as soon as practicable and in an orderly manner.

(e) MANNER OF CONDUCTING REFERENDA.—Referenda under this section shall be conducted in such manner as is determined appropriate by the Secretary.

SEC. 8. PETITION AND REVIEW.

(a) PETITION AND HEARING.—

(1) PETITION.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary. Any such hearing shall be conducted in accordance with section 10(b)(2) and be held within the United States judicial district in which the residence or principal place of business of the person is located.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or conducts business shall have jurisdiction to review the ruling of the Secretary on the petition of the person, if a complaint requesting the review is filed not later than 20 days after the date of the entry of the ruling by the Secretary.

(2) PROCESS.—Service of process in proceedings under this subsection shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMAND.—If the court in a proceeding under this subsection determines that the ruling of the Secretary on the petition of the person is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under this section shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief under section 9.

SEC. 9. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction to enforce, and to prevent and restrain any person from violating, this Act or an order or regulation issued by the Secretary under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action brought under subsection (a) shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, or an order or regulation issued under this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—A person who violates a provision of this Act, or an order or regulation issued by the Secretary under this Act, or who fails or refuses to pay, collect, or remit any assessment or fee required of the person under an order or regulation issued under this Act, may be assessed by the Secretary—

(i) a civil penalty of not less than $500 nor more than $5,000 for each violation; and

(ii) in the case of a willful failure to remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSES.—Each violation shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation of this Act, or an order or regulation issued under this Act.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to the violation. Any such hearing shall be conducted in accordance with section 10(b)(2) and shall be held within the United States judicial district in which the residence or principal place of business of the person is located.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—

(A) IN GENERAL.—Any person against whom a violation is found and a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of the penalty or order by, within the 30-day period beginning on the date the penalty is assessed or order issued—

(i) filing a notice of appeal in the district court of the United States for the district in which the person resides or conducts business, or in the United States District Court for the District of Columbia; and

(ii) sending a copy of the notice by certified mail to the Secretary.

(B) COPY OF RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person had committed a violation.

(2) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside under this subsection only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY AN ORDER.—

(1) IN GENERAL.—A person who fails to obey a cease and desist order issued under subsection (c) after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary of not more than $5,000 for each offense, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d).

(2) SEPARATE VIOLATIONS.—Each day during which the person fails to obey an order described in paragraph (1) shall be considered as a separate violation of the order.

(f) FAILURE TO PAY A PENALTY.—

(1) IN GENERAL.—If a person fails to pay a civil penalty assessed under subsection (c) or (e) after the penalty has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any United States district court in which the person resides or conducts business.

(2) SCOPE OF REVIEW.—In an action by the Attorney General under paragraph (1), the validity and appropriateness of the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this Act shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 10. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this Act, or to determine whether any person has engaged or is engaging in any act that constitutes a violation of this Act or any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) INVESTIGATIONS.—For the purpose of making an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue subpoenas to require the production of any records that are relevant to the inquiry. The production of the

records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 8(a)(2) or 9(c)(3), the presiding officer may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of the records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) IN GENERAL.—In the case of contumacy by, or refusal to obey a subpoena issued under subsection (b) to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is conducted, or where the person resides or conducts business, in order to enforce a subpoena issued under subsection (b).

(2) ORDER.—The court may issue an order requiring the person referred to in paragraph (1) to comply with a subpoena referred to in paragraph (1).

(3) FAILURE TO OBEY.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) PROCESS.—Process in any proceeding under this subsection may be served in the United States judicial district in which the person being proceeded against resides or conducts business or wherever the person may be found.

SEC. 11. CONFIDENTIALITY.

(a) PROHIBITION.—No information on how a person voted in a referendum conducted under this Act shall be made public.

(b) PENALTY.—Any person who knowingly violates subsection (a) or the confidentiality terms of an order, as described in section 5(j)(2), shall be subject to a fine of not less than $1,000 nor more than $10,000 or to imprisonment for not more than 1 year, or both. If the person is an officer or employee of the Department of Agriculture or the PromoFlor Council, the person shall be removed from office.

(c) ADDITIONAL PROHIBITION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or an investigatory or enforcement action necessary for the implementation of this Act.

(d) WITHHOLDING INFORMATION FROM CONGRESS PROHIBITED.—Nothing in this Act shall be construed to authorize the withholding of information from Congress.

SEC. 12. AUTHORITY FOR SECRETARY TO SUSPEND OR TERMINATE ORDER.

If the Secretary finds that an order, or any provision of the order, obstructs or does not tend to effectuate the policy of this Act specified in section 2(b), the Secretary shall terminate or suspend the operation of the order or provision under such terms as the Secretary determines are appropriate.

SEC. 13. CONSTRUCTION.

(a) TERMINATION OR SUSPENSION NOT AN ORDER.—The termination or suspension of an order, or a provision of an order, shall not be considered an order under the meaning of this Act.

(b) PRODUCER RIGHTS.—This Act—

(1) may not be construed to provide for control of production or otherwise limit the right of individual cut flowers and cut greens producers to produce cut flowers and cut greens; and

(2) shall be construed to treat all persons producing cut flowers and cut greens fairly and to implement any order in an equitable manner.

(c) OTHER PROGRAMS.—Nothing in this Act may be construed to preempt or supersede any other program relating to cut flowers or cut greens promotion and consumer information organized and operated under the laws of the United States or a State.

SEC. 14. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act and the powers vested in the Secretary by this Act, including regulations relating to the assessment of late payment charges and interest.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) may not be used for the payment of the expenses or expenditures of the PromoFlor Council in administering a provision of an order.

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

LIME RESEARCH, PROMOTION, AND CONSUMER INFORMATION IMPROVEMENT ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1766) to amend the Lime Research, Promotion, and Consumer Information Act of 1990 to cover seedless and not seeded limes, to increase the exemption level, to delay the initial referendum date, and to alter the composition of the Lime Board, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. ROBERTS. Mr. Speaker, reserving the right to object, under my reservation I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, and a leader in the seedless lime reform effort, to fully explain this bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 1766 provides for legislative changes in the current research and promotion program for limes that was established by Congress in 1990. This bill is similar to title IV of H.R. 3515 which the House passed under suspension on Friday.

Both bills would: First, replace the scientific name used in the underlying law with the correct scientific name; second, increase the assessment exemption level from 35,000 pounds per year to 200,000 pounds; third, require the referendum no later than 30 months after assessments begin; and fourth, alter the board composition to more fairly reflect the structure of the lime industry.

Mr. Speaker, I support approval of S. 1766 so that our Nation's lime industry can move forward in restructuring its research and promotion board consistent with these legislative changes. I urge passage of the legislation.

Mr. ROBERTS. Mr. Speaker, I wish to thank the chairman for his leadership and staunch work for the four reform bills that we have passed in regard to these promotion efforts, and I wish the House to know that the gentleman is truly a reformer in this area.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1766

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 "Lime Research, Promotion, and Consumer Information Improvement Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Lime Research, Promotion, and Consumer Information Act of 1990 was enacted on November 28, 1990, for the purpose of establishing an orderly procedure for the development and financing of an effective and coordinated program of research, promotion, and consumer information to strengthen the domestic and foreign markets for limes.

(2) The lime research, promotion, and consumer information order required by such Act became effective on January 27, 1992.

(3) Although the intent of such Act was to cover seedless limes, the definition of the term "lime" in section 1953(6) of such Act applies to seeded limes. Therefore, the Act and the order need to be revised before a research, promotion, and consumer information program on seedless limes can go into effect.

(4) Since the enactment of the Lime Research, Promotion, and Consumer Information Act of 1990, the United States production of fresh market limes has plummeted and the volume of imports has risen dramatically. The drop in United States production is primarily due to damage to lime orchards in the State of Florida by Hurricane Andrew in August 1992. United States production is not expected to reach pre-Hurricane Andrew levels for possibly two to three years because a majority of the United States production of limes is in Florida.

(b) PURPOSES.—The purpose of this Act is—

(1) to revise the definition of the term "lime" in order to cover seedless and not seeded limes;

(2) to increase the exemption level;

(3) to delay the initial referendum date; and

(4) to alter the composition of the Lime Board.

SEC. 3. DEFINITION OF LIME.

Section 1953(6) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6202(6)) is amended by striking "citrus aurantifolia" and inserting "citrus latifolia".

SEC. 4. REQUIRED TERMS IN ORDERS.

(a) COMPOSITION OF LIME BOARD.—Subsection (b) of section 1955 of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204) is amended—

(1) in paragraph (1)(A), by striking "7" and inserting "3";

(2) in paragraph (2)(B), by striking "7" and inserting "3";

(3) in paragraph (2)(F), by adding at the end the following new sentence: "The Secretary shall terminate the initial Board established under this subsection as soon as practicable after the date of the enactment of the Lime Research, Promotion, and Consumer Information Improvement Act."; and

(4) by inserting after paragraph (2)(F) the following new paragraph:

"(G) BOARD ALLOCATION.—The producer and importer representation on the Board shall be allocated on the basis of 2 producer members and 1 importer member from the district east of the Mississippi River and 1 producer member and 2 importer members from the district west of the Mississippi River.".

(b) TERMS OF MEMBERS.—Subsection (b)(4) of such section is amended—

(1) by striking "The Secretary" and all that follows through "shall—" and inserting "The initial members of the Board appointed under the amended order shall serve a term of 30 months. Subsequent appointments to the Board shall be for a term of 3 years, except that—";

(2) in subparagraph (A), by striking "3" and inserting "2";

(3) in subparagraph (B), by striking "4" and inserting "2"; and

(4) in subparagraph (C), by striking "4" and inserting "3".

(c) DE MINIMIS EXCEPTION.—Subsection (d)(5) of such section is amended by striking "35,000" each place it appears and inserting "200,000".

SEC. 5. INITIAL REFERENDUM.

Section 1960(a) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6209(a)) is amended by striking "Not later than 2 years after the date on which the Secretary first issues an order under section 1954(a)," and inserting "Not later than 30 months after the date on which the collection of assessments begins under the order pursuant to section 1955(d),".

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

GENERAL LEAVE

Mr. 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 S. 717, S. 778, S. 994, and S. 1766, the four Senate bills just passed.

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

There was no objection.

NATIONAL FIREFIGHTERS DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 272) designating October 29, 1993, as "National Firefighters Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. GILMAN. Mr. Speaker, reserving the right to object, under my reservation of objection I yield to the gentleman from Maryland [Mr. HOYER], who is the chief sponsor of H.J. Res. 272, to explain the legislation.

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Mr. HOYER. Mr. Speaker, I thank my good friend, the gentleman from New York [Mr. GILMAN], and the ranking member of this committee, for yielding to me.

As chairman of the Congressional Fire Services Caucus, I am very pleased that this bill has been brought to the floor in a timely fashion by my colleague and good friend, the distinguished gentleman from Maryland [Mr. WYNN], a former leader in the State senate and now a distinguished Member of this body, and my good friend, the gentleman from New York [Mr. GILMAN].

Mr. Speaker, I would like to thank Chairman CLAY and his staff for their hard work on this resolution.

Our country's 2 million firefighters risk their lives to preserve the safety and livelihood of family, friend, and neighbor. The National Fire Administration estimates that about 100 firefighters die in the line of duty each year. While this number is very high, it does not address the true effect each of these deaths has on the family, fire house, and community of the deceased firefighter.

I was honored to participate this year in the National Fallen Firefighters Memorial Service in Emittsburg, MD. This memorial service not only paid tribute to the heroic service of those firefighters killed in the line of duty, but it provided grief seminars and support groups to reach out to the friends and family of those firefighters.

National Firefighters Day pays tribute to those firefighters who died protecting us and our community, and recognizes the tremendous efforts of every firefighter in our country who works each day to make our communities safer.

This year alone, we have all witnessed some very high-profile efforts made by our firefighters. In New York City during the bombing of the Twin Towers, it was the quick response of firefighters there which helped prevent an even greater tragedy from occurring. In the Midwest we saw fire department after fire department engage in the emergency management effort to stem the Mississippi from flooding their communities, and to rescue people caught up in the muddy torrents. And finally, in southern California, we have witnessed thousands of firefighters literally battle mountains of flame which destroyed lives, homes, and communities.

If not for the courage and effort of our country's firefighters, each of these disasters would have been much worse. Our country owes a tremendous debt of gratitude to our domestic defenders, and I am proud to join the Members of this House to recognize them by designating December 15 as National Firefighters Day.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of House Joint Resolution 272, which would recognize the dedication and sacrifices of our Nation's firefighters by designating October 29, 1993, as National Firefighters Day.

Our fire departments are one of the most crucial of all public services, but in many ways fire departments are among the most forgotten. Perhaps this is so because they are not consistently visible such as our police and postmen.

Yet the statistics disclose, that in the United States, a higher percentage of firefighters are killed or injured in the line of duty than are workers in any other occupation.

It is therefore appropriate that there be a national day to honor the many sacrifices of our firefighters, especially the firefighters who die in the line of duty each year, and our deepest sympathies go out to those families who have suffered such tragic losses.

Accordingly, Mr. Speaker, I urge my colleagues to support this important measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LAROCCO). Is there objection to the request of the gentleman from Maryland.

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 272

Whereas there are over 2,000,000 firefighters in the United States;

Whereas firefighters respond to more than 2,300,000 fires and 8,700,000 emergencies other than fires each year;

Whereas fires annually cause nearly 6,000 deaths and $10,000,000,000 in property damages;

Whereas firefighters have given their lives and risked injury to preserve the lives and protect the property of others;

Whereas the contributions and sacrifices of valiant firefighters often go unreported and are inadequately recognized by the public; and

Whereas the work of firefighters deserves the attention and gratitude of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1993, is designated as "National Firefighters Day",

and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. WYNN

Mr. WYNN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYNN: Page 2, line 3, strike "October 29, 1993," and insert "December 15, 1993,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland [Mr. WYNN].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. WYNN

Mr. WYNN. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. WYNN: Amend the title so as to read: "Joint resolution designating November 22, 1993, as 'National Firefighters Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

RELIGIOUS FREEDOM DAY

Mr. WYNN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 154) designating January 16, 1994, as "Religious Freedom Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

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

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now before the House.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 154

Whereas the first amendment to the Constitution of the United States guarantees religious liberty to the people of the United States;

Whereas millions of people from all parts of the world have come to the United States fleeing religious persecution and seeking to worship;

Whereas in 1777 Thomas Jefferson wrote the bill entitled "A Bill for Establishing Religious Freedom in Virginia" to guarantee freedom of conscience and separation of church and state;

Whereas in 1786, through the devotion of Virginians such as George Mason and James Madison, the General Assembly of Virginia passed such bill;

Whereas the Statute of Virginia for Religious Freedom inspired and shaped the guarantee of religious freedom in the first amendment;

Whereas the Supreme Court of the United States has recognized repeatedly that the Statute of Virginia for Religious Freedom was an important influence in the development of the Bill of Rights;

Whereas scholars across the United States have proclaimed the vital importance of such statute and leader in fields such as law and religion have devoted time, energy and resources to celebrating its contribution to international freedom; and

Whereas America's First Freedom Center, located in Richmond, Virginia, plans a permanent monument to the Statute of Religious Freedom, accompanied by educational programs and commemorative activities for visitors from around the world: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1994, is designated as "Religious Freedom Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to join together to celebrate their religious freedom and to observe the day with appropriate ceremonies and activities.

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

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just considered and passed.

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

There was no objection.

A CONTINUED COMMITMENT FOR A FULL ACCOUNTING OF MIA'S AND POW'S IN SOUTHEAST ASIA

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

Mr. ROHRABACHER. Mr. Speaker, before this session of Congress ends, let the Record indicate our continued commitment to achieve a full accounting of our MIA's and POW's in Southeast Asia.

Next month our Joint Task Force—Full Accounting will conduct one of its largest operations ever in Cambodia to locate our MIA's and POW's or to uncover more information about their status. I am planning to take part, as an observer, in some of those operations.

I am convinced that the Vietnamese regime holds the answers to many of the questions which linger from the Vietnam war. We should expect more from the Vietnamese regime about our MIA's and POW's and we should expect more from them in terms of respecting the human rights of their own people before we lift our trade embargo.

We should also have the opportunity to question Commerce Secretary Ron Brown to clarify the charges that he lied about an alleged bribe offer and contradictions about his role in easing the embargo against the Communist Vietnamese.

Mr. Speaker, I would like to insert in the RECORD at this point a letter I received from the American Legion concerning their efforts to find more information concerning our MIA's and POW's by interviewing those who returned during Operation Homecoming.

THE AMERICAN LEGION,
Washington, DC, November 17, 1993.

Hon. DANA ROHRABACHER,
House Foreign Affairs Committee, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE ROHRABACHER: The American Legion continues to have an active interest in achieving a full and complete accounting of American servicemen missing in Southeast Asia. The Legion has also been undaunted in exploring any credible new clue or initiative that may lead to a breakthrough in recovering information or remains of Americans believed to have been captured and incarcerated as POWs by any Southeast Asian nations.

The most recent activity in which the Legion has been involved is the completion of a survey of 500 former prisoners of the Vietnam War who were repatriated during Operation Homecoming in 1973. Our survey was an effort to seek additional information about missing U.S servicemen in Southeast Asia that was previously unknown or has been denied to all earlier requests for information. The results of our survey have revealed findings that were both informative and helpful.

We took this survey action because the Select Committee had been unable to gain access to the debriefing transcripts, which could logically be expected to provide some useful information in searching for prisoners of war. The Department of Defense denied access to the debriefing transcripts on the basis of confidentiality pledges made in 1973 to the returnees. This refusal occurred despite the fact the 285 returnees had granted permission to the Select Committee to review their debriefings. The Department of Defense did allow the Select Committee's Chairman and Vice Chairman access to the debriefings, but they did not have time to review them thoroughly. Consequently, in its final report, the Select Committee urged DoD to conduct a full, independent review to clarify this issue for the public. It was recommended that the review be undertaken by DoD staff and not assigned to the DIA, and that the results be provided to the appropriate oversight committees of Congress and made public.

We received 237 responses to queries sent to these former POWs. Of that number, 27 said they had firsthand information on other American POWs who did not return; 30 said they had reason to believe there were other Vietnamese prisons that held Americans who did not return; and 36 said they had reasons to believe certain American POWs who had technical or intelligence knowledge were transferred to other countries.

We believe the high response rate received and the significant portion of "Yes" answers substantiates our presumption that the returnee debriefing transcripts could prove to be a useful source of information in helping to resolve the fate of American POW/MIAs and possibly provide clues in the hunt for any live Americans still held in captivity. Therefore, we have urged President Clinton to instruct the Department of Defense to proceed immediately with the independent review recommended by the former Senate Select Committee on POW/MIA Affairs.

Sincerely,

BRUCE THIESEN,
National Commander.

ORDER OF BUSINESS

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the 30-minute special order on today for the gentleman from Texas [Mr. PICKLE] be changed to a 5-minute special order on today.

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

There was no objection.

TAX-EXEMPT ORGANIZATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, the Subcommittee on Oversight of the Committee on Ways and Means is currently reviewing the Federal tax laws applicable to tax-exempt charities under Internal Revenue Code section 501(c)(3). The subcommittee's review encompassed a broad range of organizations, including hospitals, colleges and universities, radio and television evangelists, various groups organized to help the needy, and many other types of charities.

Specifically, the subcommittee has been discussing why the IRS needs tools to identify and sanction acts of inurement, and why the public needs better information about public charities' activities and related IRS enforcement efforts. These issues are particularly important since contributions to 501(c)(3) charities are tax-deductible and, in making such donations, the public assumes that these charities were granted Federal tax exemption because they are serving legitimate charitable purposes. Unfortunately, this is not the case in all situations. It is my goal to move forward reforms that have teeth in them. Such reforms will benefit the vast majority of charities that are complying with the law, and put the bad apples out of business.

The tax laws require, among other things, that no part of a 501(c)(3) organization's net earnings inure to the benefit of any private shareholder or individual. Where a tax-exempt organization has violated this requirement, IRS can revoke the organization's tax-exemption. However, this is rarely done. In 1991 and 1992, IRS has revoked an organization's exemption for inurement only 20 times. I should note that 16 of these cases involved personal expenses being paid with charity funds.

The subcommittee held hearings on tax-exempt organizations most recently in June and August of this year. The official hearing record of these hearings is being printed and will be available to the public in early December. I urge each of you to read this record. Outside groups can obtain a copy by calling the Government Printing Office at (202) 783-3238. I think you will be shocked about what the subcommittee learned and agree, without hesitation, that the IRS needs an interim sanction, something short of revocation, as a tool to punish those individuals who misuse a charity's name and assets. Also, I think that you will agree that the public needs more and better information about charities' activities and what the IRS is or isn't doing to stop violations of the law.

Over the next 3 months, the subcommittee will complete its review and analysis of the hearing record and other information obtained by the subcommittee. Also, we will continue to work closely with the Department of the Treasury and IRS to develop a comprehensive package of meaningful reforms. I expect that the subcommittee will complete its work early next session by submitting a report to the full committee with both administrative and legislative recommendations.

Today, I want to take a few minutes to share with you some of the data, facts, and testimony the subcommittee has received during the course of its investigation. I must mention before I proceed that my intent in providing numerous examples of situations that cause the IRS and this subcommittee concern, is not to imply that all or most charities are acting in violation of the public trust or in violation of the Federal tax laws. They are not. Rather, my intent is to lay out the facts, with the hope that you will feel an urgency for enacting reforms to deal with inurement and public disclosure. Many, many tax exempt organizations have told me that something needs to be done and they support the subcommittee's efforts to provide IRS with the tools it needs to clean out those intent on abusing the public trust. It is with their support and encouragement, and to their benefit, that the subcommittee will proceed.

At the end of 1992, there were over a million organizations exempt from taxation under section 501(c). This does not include an estimated 340,000 churches. Approximately 489,000 of these tax-exempt organizations filed annual information returns with IRS in 1992, as required by law.

There were nearly 44,000 new organizations for which IRS approved applications for tax exemption in 1992. As of May 1993, there were approximately 473,000 public charities exempt from taxation under section 501(c)(3). In 1990, public charities had revenues of $406 billion—7.4 percent of the gross domestic product—and total assets of $674 billion. In that year, a total of $80 billion was contributed to charities in the form of gifts, grants, and bequests. I think that all will agree that this is Big Business and the opportunities for abuse are great.

IRS's overall budget for exempt organization activities has increased in the last 4 years by 15 percent, to an estimated $55 million in fiscal year 1993. Exempt organization technical staffing for examinations and determinations of tax exemption has remained relatively constant over the past 4 years, at about 500 employees.

In 1992, IRS examined only 5,132 tax-exempt organizations. This was less than 0.5 percent of all tax-exempt organizations and well below the number of organizations examined in prior years. A subcommittee survey in 1991 revealed that there were over 800 cases in inventories awaiting examination at IRS's 7 exempt organization key districts.

In 1992, IRS assessed penalties in 45,000 cases—totaling $56 million—for failure to file or fully complete the form 990. Since 1989, IRS assessed a penalty for failure to make the form 990 available for public inspection in only one occasion. This is of particular concern to the subcommittee since we routinely received complaints that form 990's are not being made available to the public, and often organizations are making it very difficult for the public to inspect their returns as provided for under law.

On June 15, 1993, the subcommittee held a hearing to receive testimony from IRS on activities the agency is conducting with regard to public charities and the issue of private inurement. The subcommittee requested that IRS provide testimony on: difficulties in administering the current tax rules applicable to public charities; the nature and extent of tax law noncompliance; the adequacy of current law sanctions; and the sufficiency of information provided to the public and IRS by charitable organizations for purposes of monitoring overall charitable activities, spending, and tax compliance.

The IRS Commissioner's testimony provided background on the prohibition against inurement and private benefit. She described the prohibition against inurement as applying to insiders or individuals who have an opportunity to control or influence the activities of an organization, such as trustees, directors, officers, managers, and large donors. The Commissioner noted that "inurement arises whenever a financial benefit represents a transfer of resources to an individual solely by virtue of the individual's relationship

with the organization, without regard to accomplishing its exempt purposes." Typically, private benefit results where the organization acts for the benefit of someone not within a charitable group.

The Commissioner testified that only providing IRS with the sanction of revocation "makes enforcement of the charitable organization provisions difficult. The Commissioner reported that "lack of a sanction short of revocation in cases in which an organization violated the inurement standards or one of the other standards for exemption causes the Service significant enforcement difficulties. Revocation of an exemption is a severe sanction that may be greatly disproportional to the violation in issue." The Commissioner concluded that these enforcement "difficulties suggest it would be useful to provide the Service with a sanction short of revocation to address violations of these standards."

The Commissioner provided the subcommittee with an example of a case where IRS would be faced with the difficult choice of revocation or no enforcement action. Assume that an examination of a large university reveals that the university is providing its president with inappropriate benefits, such as a salary that appears excessive, a substantial interest-free loan, and costly and luxurious amenities in the official residence. While each of these facts raise serious inurement questions, revocation would adversely affect an entire university community and the president could retain the inappropriate benefits.

In addressing enforcement, the Commissioner testified that increasing the number of audits, taxpayer education, and taxpayer assistance provide opportunities to improve compliance. The Commissioner reported that a Coordinated Examination Program has been initiated for exempt organizations. Also, IRS has established examination priorities for issues that IRS believes to have the greatest effect on society: charitable fundraising, tax-exempt bond issuances, unrelated business activity, media evangelists, and political activities. There were 21 media evangelist cases, 21 hospital cases, and 10 university cases under examination at the time of the hearing.

The Commissioner indicated that in recent examinations of large public charities IRS has been finding patterns of abuse which cause concern. Further, IRS has found a number of cases of inurement and significant private benefit with potentially excessive compensation. This is an area of particular concern.

The Commissioner's testimony noted that improved examination efforts have identified other significant income tax issues with respect to the individuals. These include organizations not reporting compensation on forms W-2 or 1099, individuals failing to report income, and a few cases involving individuals failing to file tax returns at all. Further, IRS has found disguised compensation and amounts not fully reported on the form 990. The Commissioner noted that IRS examinations routinely turn up circumstances where compensation is not properly reflected on a form 990 or not properly characterized as compensation by the organization.

With regard to reforms, the Commissioner indicated that IRS believes: It is useful to have sanctions targeted against specific abuses and against those individuals responsible for any misconduct; it would be helpful to allow disclosure of IRS enforcement actions; and, it would be beneficial to the public and appropriate if IRS could publicly announce reasons for revocation of tax-exempt status.

On August 2, 1993, the subcommittee held a second hearing to review IRS's and certain States' compliance activities involving public charities, and to examine the adequacy of current law reporting on the form 990 and related disclosure requirements. Specifically, the subcommittee discussed IRS's audits conducted pursuant to the Coordinated Examination Program [CEP], situations involving inurement and private benefit, the extent to which employees of public charities are reporting benefits on their individual tax returns, and efforts by State charity officials to eliminate abusive practices by public charities.

IRS's Director of Exempt Organizations Technical Division reported that there were 52 open cases in IRS's CEP Program. Of these cases, 28 involved hospitals or health care organizations, 11 involved colleges and universities, 7 involved media evangelists, and 6 involved other organizations. With regard to issues under examination in these cases, IRS reported that inurement is an issue in eight hospital cases, five media evangelist cases, and three other cases, and private benefit is an issue in nine hospital cases, five college cases, and two media evangelist cases.

With regard to the form 990, IRS's Special Assistant for Exempt Organization Matters identified areas of the form that could be changed to improve the public accountability of charities. Specifically, IRS discussed the need for: (1) a separate listing of cash and noncash contributions; (2) a separate listing of cash and noncash functional expenses; (3) a schedule setting forth additional information on professional fundraising fees; (4) the reporting of certain listed employees on the schedule A who receive aggregated compensation in excess of $100,000; and (5) the reporting of whether certain activities of the organization involved key employees or members of their families.

The assistant attorney general [AG] of the State of Connecticut testified that (1) tax exempt status is obtained too easily; (2) professional solicitors in his State turned over an average of only 30 percent of the money raised to the organizations that hired them and the national scope of fundraisers' activities requires a Federal presence; (3) the quality and reliability of the 990 data is poor; (4) the error rate for completing the form 990 is high; (5) little attention is being paid by the States or IRS to the way charities complete the form 990; (6) some charities exist more for the benefit of officers and fundraisers than the public; and (7) some organizations are exaggerating their accomplishments and the need for their services.

With regard to reform, the assistant AG suggested: (1) allowing IRS to share investigatory information with appropriate State charity officials; (2) providing IRS with the resources needed to conduct periodic reviews to determine if an organization continues to perform public service; (3) the possibility of a minimum pay-out requirement for public charities similar to the requirement for private foundations; (4) prohibiting charities from claiming as program service costs on their forms 990 more than a certain percentage of fundraising or management expenses; (5) reporting on the form 990 of excise tax assessments for violations of the 501(c)(3) rules; and (6) changing the form 990 to better identify in-kind contributions and fundraising contracts.

The AG of the State of Texas provided testimony indicating that, while a vast majority of charities operate within the law, the following abusive practices have been found: (1) ineffective or nonfunctioning boards of directors; (2) self-dealing by members of boards of directors and employees; (3) failure to fulfill the charitable purpose for which the charity was established; (4) hiding behind church status to avoid responsibility for public accountability; and, (5) deceptive fundraising practices. In the area of inurement, the AG noted that under the Texas Non-Profit Corporation Act loans to directors are prohibited.

During the course of the subcommittee's hearings, the Commissioner's testimony provided the following additional examples of abusive transactions by charities for the benefit of insiders. They included the following: (1) an organization purchased a 42-foot boat for an insider's personal use and leased land, buildings, and properties to an insider without charging rent; (2) a hospital was sold to a for-profit corporation controlled by the hospital's board at less than fair-market-value; and (3) a church paid the private expenses of its founders, including jewelry and clothing in excess of $30,000 per year and five luxury cars, and none of these benefits were reported as personal income to the founders. In addition, public charities were used to benefit an individual's private interests as follows:

(1) an organization paid substantially all of its expenses to a for-profit consulting firm with minimal amounts of educational material being produced; and (2) an organization received only three percent of the amount collected by a professional fundraiser.

Review of the most recent forms 990 filed by the top 250 charities indicate the following: (1) of the 2,000 top executives, 64 were paid between $300,000 to $400,000 and 38 were paid more than $400,000; (2) the president of a school received a salary of $365,000 and had a 50-year, interest-free loan of $1 million to purchase and renovate his residence; (3) a hospital had $1.5 million in loans to officers, directors and employees outstanding; (4) the director of surgery had a hospital loan for $845,000 outstanding which was secured by his home; (5) a hospital was lending funds to doctors so that the doctors could set up private practices; (6) four trustees of an educational assistance charity were each paid almost $700,000; (7) the head of a public charity was paid $1 million a year; (8) an arts charity had income and assets rise by $110 million in 1 year, but only spent $3 million that year; and, (9) an organization simply stated on their form 990, instead of listing amounts paid for expenses, that the "information is available in the taxpayer's personnel file." While these practices may be completely legal under current law, I am told by IRS that this is not necessarily so. I think that it's important that we all remember that the issue is both legal compliance and the public's perception of abuse and their public trust.

In addition, IRS field agents provided a wealth of information to the Subcommittee in closed executive session regarding on-going cases under examination involving inurement. A publicly disclosable discussion of these cases follows:

A health care organization, in a clinic-type setting, controlled by a CEO and small board—all of whom have substantial business dealings with the CEO and the organization—paid the CEO more than $1 million including a substantial distribution from an executive compensation plan and premium payments on several hundreds of thousands of dollars in life insurance. The organization made substantial credit card payments and cash disbursements for personal expenses. The organization sold the charitable assets and began purchasing physicians' private practices in excess of fair market value and the physicians and their staffs became employees of the organization.

A large health care institution paid its CEO extraordinary compensation including salary, substantial bonuses, and generous perks and fringe benefits. The bonuses and benefits were shown as expenses on the form 990 and were not reported as compensation to the officer involved. The physicians on staff were paid a base salary and a percentage of fees without any cap, along with housing.

An educational service organization provided its CEO with a residence including maid service and a significant compensation package including salary, deferred compensation, expense accounts, and several loans, one of which was no interest.

An organization serving the poor, which was under the control of the officer and relatives, used organization funds to pay for their personal expenses, such as leasing vehicles, educational expenses, vacations, home improvements, and rental of resort property. The minutes of the board meetings were falsified.

A televangelist used the organization's funds to pay for an extravagant reception and island vacation, a large downpayment on a home, and second resort vacation. A substantial amount of compensation was not reported on the televangelist's individual tax return. Further, the organization acquired agricultural supplies for which the sale date had expired and then donated them to another charity claiming program service activity on the form 990 in excess of $1 million. One transaction involved dozens of tax-exempt organizations declaring the same supplies as in-kind contributions and program service expenditures.

A television ministry paid personal expenses for the minister including a home mortgage, household expenses, country club membership dues, additional homes, and a house for a member of the minister's family.

A media evangelist raised large sums of money through fraudulent or misleading fundraising and only a small part of the fundraising is used for charitable purposes.

A number of organizations exclusively contracted with a for-profit fundraising organization. Nearly all of the organizations were viable organizations with ongoing charitable programs, however, virtually all of the money collected was absorbed by fundraiser fees with very little money being available for the exempt organizations' charitable programs. The true fundraising costs were not discernible from looking at the form 990 because a substantial portion of the costs were allocated to and reported as program services rather than fundraising costs.

The Connecticut assistant AG reported that the State has sued: (1) an organization formed for brain tumor research which raised $500,000 over 2 years and spent $5,000 for research, the rest of the money having been used for fundraising polo matches and certain overhead; (2) an organization set up to grant the last wishes of dying children spent only 4 percent of funds for dying children and used the remainder to support the activities of the officers and directors, including personal travel; and (3) a charity that underreported amounts paid to a professional fundraiser on the form 990.

Finally, the Texas AG cited a number of cases evidencing abuses including: (1) a board member of a children's organ transplant organization who diverted $400,000 of the organization's funds leaving the patients' families with nothing; (2) a hospital which had an admission policy excluding uninsured nonemergency individuals unless they paid a deposit equal to the entire cost of care and devoted less than 1 percent of its gross patient revenue to charity care; and (3) a televangelist, who raised $65 million in revenue in 1991, and refused to disclose financial records to the State of Texas on the grounds that the disclosure infringes upon the principle of separation of church and state.

In conclusion, I hope that you will support the subcommittee's efforts over the next several months to address acts of inurement and public disclosure. I will be pleased to provide your office with a copy of the subcommittee's hearing record and report when it is issued, and of course answer any questions you may have.

□ 2230

So that over the next 3 months the subcommittee will complete its review and analysis of the hearing record and other information to be obtained by the subcommittee. Also we will come to work closely with the Department of the Treasury and the IRS to develop a comprehensive package of meaningful reforms. I expect that the subcommittee will complete its work early next session by submitting a report to the full committee with both administrative and legislative recommendations.

I am going to include in the RECORD some of the facts that we have brought out in our committee hearing which show the apparent abuse of some of the privileges that these organizations practice just because they are 501(c) organizations, such tax-exempt organizations.

It is alarming, perhaps, for some Members to realize that today we have over 1 million 501(c) organizations on the books. They get on the books, they never go off the books.

Last year alone we had over 44,000 501(c)s approved. They are put on the books again.

There is very little audit. In the last year or two they audited maybe 5,000 out of the 1 million, and that 1 million does not include the 350,000 churches.

I am going to put in the RECORD a lot of these abuses, some of the recommendations we are making, and the quotations from the IRS that they need this extra tool. I hope the Members will become familiar with this proposed regulation.

KUDOS TO HON. J.J. PICKLE

The SPEAKER pro tempore (Mr. FILNER). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, first I would like to yield for a commercial to the fighting Congressman from Ohio.

Mr. KASICH. Mr. Speaker, we are going to be talking about Penny-Kasich in a minute here. I wanted to say something about Mr. PICKLE here for just a moment. JAKE PICKLE is doing now a number of special orders that are very interesting, and he just did a special order on charitable deductibility. The gentleman needs to be listened to in this area. I am going to tell you right now he does not get paid extra for what he is saying takes guts to talk about.

I just wanted to take a second to compliment the gentleman from Texas for trying to shed light on some subjects here that people need to talk about. So what I would say to the gentleman from California is that I thank him for yielding, and I say to the gentleman from Texas [Mr. PICKLE], I think some of his most valuable work and valuable contributions lie ahead of him in terms of informing this U.S. Congress about some of the things we need to focus our attention on.

I want to thank the gentleman for being here at 10:35 at night. He has had a career that spans all the way from Lyndon Johnson, and he is still doing special orders, trying to contribute to his country.

Mr. DORNAN. Reclaiming my time, I say ditto. I am proud to serve with that hero from Texas.

I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I appreciate the comments of both of these gentlemen. Mr. KASICH has been here only some 10 or 12 years, but very few Members have been more diligent in pursuing changes and improvements for this institution. The gentleman from Ohio has been equally efficient. We are all doing what we can in the public interest, and I thank the gentlemen for their comments.

Mr. DORNAN. The gentleman from Ohio has been here 11 years. The gentleman from Minnesota has been here 11 years. We have two 11-year guys. Now I have been here 17, and that is why I am taking what remains of my dynamic 5 minutes to do some cleanup work here.

CULTURE WARS, ANTIHEROES, AND HEROES

Mr. DORNAN. In this culture war I came across an article by Anne Roche Muggeridge, Canadian correspondent for the best Roman Catholic newsletter in America, called the Catholic Guide. She of course wrote the books "Gates of Hell," "Desolate City: Revolution in the Catholic Church." This one is a defense of John Paul II's long-awaited encyclical on morality and a more beautiful apologia and defense of truth and decency and purity, something that now everybody in America is talking about, family values. I would like to submit that for the RECORD.

Then I would put an article in the area of antiheroes, called "McNamara's Ghost," about how the whiz kids, among them a second lieutenant called Les Aspin, back in the 1960's, using McNamara's systems analysis to just about destroy the Pentagon. Les was then in civilian clothes, and that is all he served as a second lieutenant in the Reserves. He was a civilian whiz kid over there.

Then I want to put in an article when we come to the part about heroes, one of my heroes, Frank J. Gaffney, Jr. Last night I could not discuss the nomination, in fullness, of Morton Halperin to the newly created undersecretary position in the Defense Department. But lo and behold I can discuss it tonight because it has been sent back to the White House. That is in the form of a senatorial pocket veto on a confirmation. So I doubt it is going to see the light of day in the Senate again when we come back in January.

Let me put in an article of Mr. Gaffney's from the Wall Street Journal on November 2, "Wrong Way to Face the Future Nuclear Threat." I will submit that article and the fascinating article by another of my heroes, Reid Irvine, and Jay Goulden on "Covert Halperin Helper," one of the guys working for Time magazine, how he tried to dynamite Mr. Gaffney's lead that was picked up by several courageous Senators to stop the appointment of what I think is the worst appointment in the Defense Department I have ever seen in my life. So I will put in that article by Reid Irvine and Jay Goulden.

Mr. Speaker, here are some notable quotes on selected topics; let us call it "Halperin on Halperin." All of this thanks to the superb scholarship, again, of Frank J. Gaffney, Jr.

So here we go with pages of quotes. Let me guess that this is probably going to cost about $2,000. So I would ask unanimous consent in advance that I am willing to stand by that, it is a bargain at any cost, at any cost, if we can get Americans who love the proceedings of this House, Mr. Speaker, who, believe it or not, I found out again this week, actually go out of their way to write their Congressman or Senator, get the CONGRESSIONAL RECORD, curl up in front of a fireplace and read it and actually learn something from it. I submit these 33 pages of scholarship on Mr. Gaffney and thank the Speaker and yield back the 2 seconds of my time to the dynamos, PENNY and KASICH.

The articles referred to are as follows:

[From the Catholic Eye, Oct. 29, 1993]

COMMENTARY

(By Anne Roche Muggeridge)

"Pope John Paul II's long-awaited encyclical on morality," said the Washington Post, "contains a sweeping reaffirmation of traditional teaching on sexual issues, strongly criticizing contraception, abortion, premarital sex and homosexual relations." "No quarter is given to those who would moderate the Church's hostility to homosexuality, abortion and artificial contraception," the London Times lamented. The Economist devoted its entire coverage to a condemnation of the Church's teaching against artificial birth control: "Deaf to the complaints of married Catholics and apparently blind to the struggles of the third-world poor, this church [The Economist's lower case] persists in a teaching that is not only harmful but, even by its own lights, illogical and inconsistent." The Washington Times headlined: "Don't bother to ask: Pope's still against it." But the things that you're liable to read in the papers, they ain't necessarily so. The overwhelming impression created by the various media was that the forthcoming encyclical was preoccupied with sexual behaviour. "Pope's Sex Stand Has 'Em Hot & Bothered," blared the New York Post. Nothing could be further from the truth.

In the 183 pages of Veritatis Splendor (Édicions Paulines, Vatican translation), the word contraception appears only once, in the course of one sentence (in section 47) that mentions kinds of sexual behaviour that "certain theologians" claim the Church has mistakenly condemned. In fact, the encyclical does not concern itself with specific moral or immoral actions.

In the brief Introduction, the Pope states the reasons for his letter to all the Bishops of the Catholic Church. The Christian community, he says, is in a new situation. The Church's moral teaching is being widely rejected by its own theologians and pastors. "It is no longer a matter of limited and occasional dissent, but of an overall and systematic calling into question of traditional moral doctrine, on the basis of certain anthropological and ethical presuppositions."

This process ends in the detaching of human freedom from eternal truth. Even seminaries and faculties of theology, he writes, publicly doubt the universally binding nature of God's Commandments, and suggest that belief can be separated from practice. Therefore, his "specific purpose" is to "set forth, with regard to the problems being discussed, the principles of a moral teaching based on Sacred Scripture and the living Apostolic Tradition, and at the same time to shed light on the presuppositions and consequences of the dissent which that teaching has met."

It took me some time to get used to Pope John Paul's leisurely style, his unique method of exposition, the way in which his poetic apprehension of Biblical truth inflames and colours his teaching, adding feeling to intellect. It was his wonderful many-layered work "On The Original Unity of Man And Woman" that first won me, heart, mind and soul.

"The Splendour of Truth" is equally powerful and moving. The Pope talks of persons, not of terms. In Chapter One, he answers "the question about morality"—What is good? What is evil? What must I do?—with an extended meditation about the rich young man who asked Our Lord, "What must I do to gain eternal life?" and got the answer, "Keep the Commandments," which are "the beginning of freedom," and the basis of moral life. "Jesus' conversation with the

rich young man continues," the Pope says, "in every period of history, including our own."

Chapter Two discusses "certain tendencies in present-day moral theology." Though they were intended for the Bishops, this layman is glad to have the good, clear, succinct critiques of the fundamental option, of proportionalism and of consequentialism. The faithful, and we are still many, have felt helpless, abandoned by our shepherds, despised and rejected like the Christ we love and serve, for a very long time now.

Near the end of his letter, the Pope praises martyrdom. It "rejects as false and illusory whatever 'human meaning' one might claim to attribute, even in exceptional circumstances, to an act morally wrong." Faithful Catholics share in the "consistent witness which all Christians must daily be ready to make, even at the cost of suffering and daily sacrifice" and "heroic commitment." Laypeople who have taken a sizeable family through "Catholic" schools, colleges and parish churches during the past thirty years know what martyrdom means.

Just before his conclusion, the Pope reminds the Bishops of their duty "to be vigilant that the word of God is faithfully taught," and to guard the faithful "from every doctrine and theory contrary to it," to make sure that "sound doctrine" is taught in their dioceses, and to remove the title "Catholic" from their schools, universities, hospitals, et cetera, "in cases of a serious failure to live up to that title."

"Dear Brothers in the Episcopate," the Pope says to our Bishops, "we must not be content merely to warn the faithful about the errors and dangers of certain ethical theories. We must first of all show the inviting splendour of the truth which is Jesus Christ Himself."

Won't that be splendid.

[From the Baltimore Sun, Sept. 29, 1993]

MCNAMARA'S GHOST

(By Robert J. Hanks)

When Robert L. McNamara—formerly assistant professor at Harvard University, later head of Ford Motor Company—became Secretary of Defense in 1961, he brought to the Pentagon a host of bright young assistants and a determination to establish firm civilian control over the U.S. armed forces. With assistance from those youthful but militarily inexperienced executives (the so-called "Whiz Kids"), he succeeded.

He also brought a briefcase full of management techniques he had employed at Ford. Mr. McNamara seemed convinced that these procedures—used to produce automobiles—could be applied across the board to national defense. Among them, he placed infinite reliance on a management tool he had wielded in Dearborn: systems analysis.

Mr. McNamara entrenched an office—Systems Analysis—in the Pentagon, not only to analyze service programs but to originate them. One bright, young analyst during the latter McNamara years, Les Aspin, is now Secretary of Defense.

Then a newly commissioned Army Reserve second lieutenant, Mr. Aspin served his active duty obligation in Systems Analysis, wearing civilian clothes. He worked with computer models of military issues, many of whose solutions ultimately bore scant resemblance to battlefield realities in South Vietnam or to other military uncertainties then confronting the nation.

"McNamara's Band"—as Systems Analysis quickly became known throughout the Pentagon—sought to "quantify" everything. The underlying assumption held that computers, fed "quantified" inputs, could produce solutions to every problem; professional experience didn't matter.

Enemy "body counts" became a progress yardstick in Vietnam. Computer loved the numbers. Similar methodology spawned an "electronic fence," touted as the answer to North Vietnamese infiltration into the southern part of that tortured country. It wasn't, of course. Similar analytical failures abounded. One of the more senseless fixations involved development of a fighter aircraft for the Air Force and Navy. It typified Systems Analysis solutions' faults when applied to real-world problems.

SA combined diverse requirements of the two services—many incompatible—and established essential characteristics of one aircraft, the TFX, for Tactical Fighter Experimental, to meet the disparate Navy and Air Force needs. The "Whiz Kids" didn't realize that this would inevitably produce a plane whose every component had been reduced to the lowest common denominator. While Systems Analysis rammed the TFX concept through the Pentagon, a far better approach already lay at hand.

At that time, the F-4 Phantom reigned as the premier fighter aircraft in the world; produced by McDonnell Aircraft, it strained the boundaries of technology. It proved eminently suited to carrier operations.

The Air Force simply took that plane and removed characteristics it didn't need: wing-folding mechanisms (for carrier operations) heavy landing gear for landing on pitching decks, reinforced tail structure to withstand enormous forces generated by arrested landings, etc. When the Air Force finished modifying the Navy version of the Phantom, it was a much lighter aircraft boasting significantly improved combat capabilities. It subsequently proved to be mainstay of the Air Force, particularly in Vietnam.

For years, the F-4, based afloat and ashore, ruled international skies while both services sought replacements for the aging plane. Each could have acquired a new aircraft, tailored to specific needs, far sooner and at less cost, had the Defense Department learned the lesson of the F-4. Instead, the Air Force had to buy several hundred F-111s (TFXs), those now still in service being used primarily as bombers rather than fighters.

With the nation's armed forces currently "downsizing," every defense dollar must be spent as wisely as possible. The country simply cannot afford to waste money applying theoretical solutions like the TFX to military problems.

One must hope that Secretary Aspin is not still wedded to his systems-analysis background, that he will use it as an analytical tool to examine service proposals—in the context of the experience accumulated on the battlefield by this nation's military professionals. America's shrinking armed forces cannot survive another McNamara-type reign over the Pentagon.

COVERT HALPERIN HELPER

Did a Time magazine correspondent use his press credentials to spy on opponents of controversial Defense Department nominee Morton Halperin? Or did a lapse of journalistic ethics permit a former Halperin associate to research a story on his old boss?

Whatever the explanation, Frank Gaffney, a high Pentagon official in the Reagan years, is upset about his encounter with Time's Jay Peterzell, who subjected him to a "highly aggressive interview" in late August. Mr. Gaffney got the impression Mr. Peterzell was primarily interested in the lines of attack Mr. Gaffney was using to block Mr. Halperin's nomination as assistant secretary of defense for democracy and peacekeeping.

Mr. Gaffney finally became so suspicious of Mr. Peterzell during the interview that he asked point-blank whether he was working on a story for Time, and if so, when it would run. By Mr. Gaffney's account, Mr. Peterzell was "uncertain whether the article would run in the edition then in preparation, or in the following one." But there was "no question that he was going to file a story for the magazine about the coming confirmation battle at some point."

Then something peculiar happened: Mr. Peterzell asked about a conversation Mr. Gaffney had had only a few hours earlier in which a mutual friend had asked whether he would be willing to meet with Mr. Halperin. The conversation was known only to Mr. Halperin and one other person besides Mr. Gaffney. Mr. Gaffney concluded that he was not dealing with a journalist, but someone who was scouting for Mr. Halperin.

Several days later, Mr. Gaffney discovered something else about Mr. Peterzell: that before joining Time, he had worked for Mr. Halperin's CNSS. Mr. Peterzell took the harsh antimilitary-anti-intelligence posture of his boss, writing articles for the CNSS newsletter echoing Mr. Halperin's themes that U.S. intelligence regularly duped the public and Congress.

Mr. Gaffney complained to Time assistant managing editor Walter Isaacson. According to Mr. Gaffney's notes, Mr. Isaacson said he "thought [Mr. Gaffney] was right, personally" in calling attention to the conflict of interest. But Mr. Isaacson had a change of heart overnight. He wrote Mr. Gaffney on Sept. 8, "I understand the concerns you raise." He continued: "Jay Peterzell was looking into a possible story for Time. But he was not—and would not—be assigned to write any story on this issue. In response to your specific questions, I can assure you that he was acting on behalf of Time and not Mr. Halperin."

Mr. Isaacson's answer doesn't make sense to use. Why should a reporter who would not be permitted to "write any story on this issue" be assigned to do interviews "on behalf of Time"? The Time editorial system is collective, with a writer melding the research of other persons into a story. Mr. Gaffney found this answer "entirely unsatisfactory," writing Mr. Isaacson, "The statement * * * that 'he was not looking into a possible story for Time' but not under assignment sounds, quite frankly, like a cover-up."

The next Time "explanation" came from deputy managing editor John F. Stacks. He wrote that Mr. Peterzell was aware of the rising controversy about Mr. Halperin and "not surprisingly since it falls on his beat, decided to look into elements of that controversy. As a result of his inquiries, including his conversations with you and Mr. Halperin, he proposed that Time do a story. In that suggestion, he forthrightly reminded us of his former association with Mr. Halperin." Mr. Stacks said he directed that Mr. Peterzell was not to "report" the story because of the conflict.

Mr. Peterzell denied any shenanigans on behalf of Mr. Halperin, or any conflict, given that their association ended seven years ago. Contradicting Mr. Stack's statement, he denied talking to Mr. Halperin, but said he "talked to both sides, as any reporter would do." He declined to say where he learned of Mr. Gaffney's private conversation concerning Mr. Halperin. He said he indeed told Mr.

Gaffney he was working on the Halperin story but didn't say he was writing it, because he wasn't. (No Time story ever appeared.)

As Mr. Gaffney wrote Mr. Stacks, "It would seem to me that Time would not want someone whose longstanding personal relationship with the subject of a possible story and whose considerable, direct involvement with some of the subject's most controversial publications might skew even his looking into a possible story."

[From the Wall Street Journal, Nov. 2, 1993]

WRONG WAY TO FACE THE FUTURE NUCLEAR THREAT

(By Frank J. Gaffney, Jr.)

The Defense Department's major review of U.S. nuclear weapons policy, announced on Friday 29 Oct. 1993 with a suspicious lack of fanfare, is supposed to be a "bottom up" analysis of all aspects of the U.S. nuclear deterrent posture. To judge by Friday's muted press conference and the outlook of many Clinton defense officials, however, the study is likely to be an exercise in rationalization that bears no resemblance to a genuinely fresh look at the vexing questions of nuclear policy.

In particular, three urgent problems seem likely to be neglected:

The U.S. is going out of the nuclear weapons business.

At the press conference, Assistant Secretary of Defense Ashton Carter noted the long-term nature of the study: "We're going to be looking at what might evolve in the next 10 to 20 years because the force structure we determine today is the one we'll be living with 10 to 20 years from now." This is true enough, as far as it goes. But it assumes that the U.S. will be able to field effective nuclear weapons a decade or two from now—an assumption worth examining carefully.

Several key policy decisions by the Bush and Clinton administrations have amounted to a unilateral nuclear freeze. They include: declaring an open-ended cessation of nuclear testing; suspending the production of nuclear weapons; closing key facilities in the industrial infrastructure; and allowing the hemorrhage of skilled personnel from the energy Department's laboratories and weapons complex. Perhaps most important, the Defense Department has failed to ensure a steady domestic supply of the radioactive gas tritium. Unless new sources for tritium are found within the next decade, there will be no U.S. viable nuclear weapons in the force structure "10 to 20 years from now."

The future nuclear threat is not confined to the many dangerous actors around the world that are "going nuclear" or acquiring new, less costly, weapons of mass destruction: Russia continues to pose a serious threat.

Announcing the nuclear study, Defense Secretary Les Aspin spoke rather wistfully of "the old Soviet threat," contending that, "while very dangerous, [it] had developed a certain comfort level." But no one should take any comfort from the status of the former Soviet nuclear arsenal today.

The Russians continue to manufacture nuclear weapons and weapons-related material (notably plutonium, tritium and highly enriched uranium). They continue to develop new generations of offensive nuclear delivery systems, including mobile intercontinental ballistic missiles. And they continue to conduct exercises involving massive nuclear attacks against the U.S.

Moreover, according to the head of the Russian Ministry of Atomic Energy, Viktor Mikhailov, the Russians possess far larger stocks of nuclear weapons than has been assumed by Western intelligence. They also reportedly continue to operate a "Doomsday machine" capable of automatically launching attacks if fallible sensors suggest that nuclear weapons have been used against Russia.

There is precious little "comfort" to be taken from these facts, especially in the face of enormous uncertainty about the exact status of former Soviet nuclear arms and about the reliability of the command and control arrangements that govern them. It would be reckless indeed if the Pentagon's nuclear strategy review were to focus on emerging nuclear threats and ignore the abiding Russian threat because it may be politically inconvenient or "incorrect."

The U.S. is essentially eliminating the option of strategic defense.

It seems unlikely that Mr. Aspin's review will acknowledge the enormous contribution that strategic defenses could make to U.S. security. Even before Mr. Aspin's "bottom up" budget review earlier this year, the Clinton administration had decided to eliminate work on a territorial defense against missile attack. And its blind ideological attachment to the 1972 Anti-Ballistic Missile Treaty seem to ensure that the U.S. will not be fielding missile defenses any time soon. In sum, the administration is ignoring technologies that might reduce the risks of U.S. unilateral nuclear disarmament just at the time other nations are aggressively pursuing nuclear options.

Instead of addressing these problems, the Aspin study seems likely to be preoccupied with secondary issues. Most of these are hobbyhorses of Clinton political appointees—policies that were rejected in the past by both Republican and Democratic administrations but that now will be given a new lease on life.

Such second-order—and second-rate—notions include: adopting a "no first use" policy concerning nuclear weapons; enacting a permanent comprehensive test ban; declaring a formalized nuclear freeze affecting not only testing but production and at least some related research and development; instituting wholesale cuts in U.S. nuclear forces; keeping a large percentage of U.S. ballistic missile submarines in port while confining those at sea to negotiated "sanctuaries"; and separating land-based warheads from their missiles. If adopted, these steps would unquestionably further reduce the readiness, reliability and credibility of the American nuclear deterrent.

There is an urgent need for a truly "bottom up" review of U.S. nuclear policy. Unlike the one announced on Friday, however, such a review would explicitly address whether the U.S. will continue to need a nuclear deterrent for the foreseeable future and, if so, whether we are taking all necessary steps to maintain it, while also ensuring the means of defending against missile attacks should deterrence fail.

In view of the prejudices of at least some of those involved in the Aspin study, an independent examination of these issues seems in order. A blue-ribbon, bipartisan panel should be commissioned and given access to the relevant intelligence and operational data. It might provide a "second opinion" on U.S. nuclear forces before any dramatic redirection is ordered.

(Mr. Gaffney was responsible for nuclear forces policy in the Reagan Defense Department. He is currently director of the Center for Security Policy in Washington.)

Mr. Speaker, here are some notable Halperin quotes on selected topics. Let's call it Halperin on Halperin. All of this thanks to the superb scholarship of Frank J. Gaffey, Jr. Here we go:

ON THE FUNDAMENTAL NATURE OF THE COLD WAR

"The Soviet Union apparently never even contemplated the overt use of military force against Western Europe. . . . The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one. The positioning of Soviet ground forces in Eastern Europe and the limited logistical capability of these forces suggests an orientation primarily toward defense against a Western attack." (Defense Strategies for the Seventies, 1971, p. 60)

". . . Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law. The Cubans have come in only when invited by a government and have remained only at their request. . . . The American public needs to understand that Soviet conduct in Africa violates no Soviet-American agreements nor any accepted principles of international behavior. It reflects simply a different Soviet estimate of what should happen in the African continent and a genuine conflict between the United States and the Soviet Union." ("American Military Intervention: Is It Ever Justified?", The Nation, June 9, 1979, p. 668)

ON U.S. INTERNATIONAL COMMITMENTS

"One of the great disappointments of the Carter Administration is that it has failed to give any systematic reconsideration to the security commitments of the United States. [For example, President Carter's] decision to withdraw [U.S. ground forces from Korea] was accompanied by a commitment to keep air and naval units in and around Korea—a strong reaffirmation by the United States of its security commitment to Korea. This action prevented a careful consideration of whether the United States wished to remain committed to the security of Korea. . . . Even if a commitment is maintained, a request for American military intervention should not be routinely honored." (The Nation, June 9, 1979, p. 670)

ON THE USE OF U.S. MILITARY POWER ABROAD

"All of the genuine security needs of United States can be met by a simple rule which permits us to intervene [only] when invited to do so by a foreign government. . . . The principle of proportion would require that American intervention be no greater than the intervention by other outside powers in the local conflict. We should not assume that once we intervene we are free to commit whatever destruction is necessary in order to secure our objectives." (The Nation, June 9, 1979, p. 670)

"The United States should explicitly surrender the right to intervene unilaterally in the internal affairs of other countries by overt military means or by covert operations. Such self restraint would bar interventions like those in Grenada and Panama, unless the United States first gained the explicit consent of the international community acting through the Security Council or a regional organization. The United States would, however, retain the right granted under Article 51 of the U.N. Charter to act unilaterally if necessary to meet threats to international peace and security involving aggression across borders (such as those in Kuwait and in Bosnia-Herzegovina.) ("Guaranteeing Democracy, Summer 1993 Foreign Policy, p. 120)

"President George Bush's act of putting U.S. troops in a position where conflict could erupt at any moment (Operation Desert Shield), violated an unambiguous constitutional principle. . . " (Co-authored with Jeanne Wood, "Ending The Cold War At Home," Foreign Policy, Winter 1990–91)

ON THE U.S. DEFENSE ESTABLISHMENT

Referring to the Reagan defense buildup: "Are we now buying the forces to meet the real threats to our security? Unfortunately, there is little reason to be confident that we are." (New York Times, June 7, 1981, p. 1)

"In the name of protecting liberty from communism, a massive undemocratic national security structure was erected during the Cold War, which continues to exist even though the Cold War is over. Now, with the Gulf War having commenced, we are seeing further unjustified limitations of constitutional rights using the powers granted to the executive branch during the Cold War." (United Press International, January 28, 1991)

"The military should have no role in the surveillance of American citizens." ("Controlling the Intelligence Agencies," Center for National Security Studies newsletter First Principles, October 1975, p. 16.)—N.B. Halperin's prospective responsibilities would include oversight of drug policy in the Pentagon including the U.S. military's activities in the area of drug surveillance and interdiction operations.

ON THE U.S. INTELLIGENCE ESTABLISHMENT

"Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients. The intent is therapeutic, but in the long run the cure is more deadly than the disease. Secret intelligence agencies are designed to act routinely in ways that violate the laws or standards of society." (Co-authored with Jerry Berman, Robert Borosage and Christine Marwick, The Lawless State: The Crimes of the U.S. Intelligence Agencies, Center for National Security Studies, Washington, D.C., 1976, p. 5)

"You can never preclude abuses by intelligence agencies and, therefore, that is a risk that you run if you decide to have intelligence agencies. I think there is a very real tension between a clandestine intelligence agency and a free society. I think we accepted it for the first time during the Cold War period and I think in light of the end of the Cold War we need to assess a variety of things at home, including secret intelligence agencies, and make sure that we end the Cold War at home as we end it abroad." (MacNeil/Lehrer Newshour, July 23, 1991)

"* * * The intelligence [service's] * * * monastic training prepared officials not for saintliness, but for crime, for acts transgressing the limits of accepted law and morality * * * The abuses of the intelligence agencies are one of the symptoms of the amassing of power in the postwar presidency; the only way to safeguard against future crimes is to alter that balance of power. * * *

"Clandestine government means that Americans give up something for nothing—they give up their right to participation in the political process and to informed consent in exchange for grave assaults on basic rights and a long record of serious policy failures abroad." (The Lawless State, pp. 222–57)

"Secrecy * * * does not serve national security. * * * Covert operations are incompatible with constitutional government and should be abolished." ("Just Say No: The Case Against Covert Action," The Nation, March 21, 1987, p. 363)

"[T]he primary function of the [intelligence] agencies is to undertake disreputable activities that presidents do not wish to reveal to the public or expose to congressional debate." (The Lawless State, p. 221)

"CIA defenders offer us the specter of Soviet power, the KGB, and the Chinese hordes. What they fail to mention is more significant: they have never been able successfully to use espionage or covert action techniques against the USSR or China, which are the only two nations that could conceivably threaten the United States. * * * The 'successes' of covert action and espionage, of which the CIA is so proud, have taken place in countries that are no threat to the security of the United States." (The Lawless State, p. 262)

"Spies and covert action are counterproductive as tools in international relations. The costs are too high; the returns too meager. Covert action and spies should be banned and the CIA's Clandestine Services Branch disbanded." (The Lawless State, p. 263)

"* * * Covert intervention, whether through the CIA or any other agency, should be absolutely prohibited. * * *" ("American Military Intervention: Is It Ever Justified?" The Nation, 9 June 1979, p. 670)

"We need to create a legislated structure of safeguards which clearly delineate the functions of the intelligence community while holding them to the laws of the land and the Constitution. The first step in creating such a structure should be to decide that the basic facts about each agency—its existence, its charter and its budget—must be made public . . .

"The budgets of most intelligence agencies remain secret. Such secrecy is not part of any legitimate national security purpose. . . . The CIA should be limited to collating and evaluating intelligence information, and its only activities in the United States should be openly acknowledged actions in support of this mission. The agency's clandestine service should be abolished." ("Controlling the Intelligence Agencies," First Principles, October 1975, p. 16)

"The Campaign for Political Rights is a coalition of over 80 civil liberties [and other] groups . . . committed to an end to covert operations abroad." (Flyer produced by the Campaign for Political Rights which was founded and organized by Morton Halperin in 1977 under the original name of the Campaign to Stop Government Spying)

"It may be true that other nations have, and will continue to engage in covert action. But this is far from proper justification for its use by the U.S. Indeed, few nations in the world have used covert action as aggressively and comprehensively as the U.S. And in no other country does the use of covert action conflict so violently with the guiding principles of a nation's constitution and the desires of its people.

"Covert action violates international law." ("The CIA and Covert Action," a June 1982 report produced by the Campaign for Political Rights)

"The ACLU believes, and I believe that the United States should not conduct covert operations. . . . The record now before this committee and the nation demonstrate that covert operations are fundamentally incompatible with a democratic society." (Testimony provided by Halperin before the House Select committee on Intelligence regarding Prior Notice of Covert Actions to the Congress, April 1 and 8, 1987 and June 10, 1987, pp. 90 and 96 of the hearing record)

"Perhaps the most entrenched legacy of the Cold War is a carefully structured system of government information controls—a system steeped in secrecy: Secret agencies, secret budgets, secret documents, and secret decisions affecting issues of life and death, war and peace. . . . There are intelligence agencies whose very existence is secret, whose charters and budgets are secret, and whose activities include secret paramilitary operations abroad.

"And millions of government documents on critical policy matters are needlessly classified, preventing essential information on foreign policy from reaching the public domain, even though disclosure would cause no appreciable harm to the national security. Such a system runs counter to the constitutional design for an open and accountable government." ("Ending the Cold War at Home," Foreign Policy, Winter 1990–1991, p. 129)

"The FBI should be limited to the investigation of crime; it should be prohibited from conducting 'intelligence' investigations on groups or individuals not suspected of crimes." ("Controlling the Intelligence Agencies," First Principles, October 1975)

"The National Security Agency should monitor international communications in a way that avoids recording of the communications of Americans." ("Controlling the Intelligence Agencies," First Principles, October 1975, p. 16)

"It should be made a crime for any official of an intelligence organization to knowingly violate and/or to order or request an action which would violate the congressional limitations or public regulations concerning the activities of the agencies. Failing to report such violations should also have criminal sanctions. * * *

"The policing of the crimes of the intelligence [agencies] should be in the hands of a single official. . . . He or she should have access to all intelligence community files and should be empowered to release any information necessary to prosecute a criminal offense. . . . Civil remedies patterned after those now available for illegal wiretaps should back up these criminal penalties by allowing anyone whose rights have been violated by the intelligence organizations to sue. Such penalties should be set out in a statute and there should be no need to prove actual damage." ("Controlling the Intelligence Agencies," First Principles, October 1975, p. 15)

Halperin favorably reviewed Philip Agee's book Inside the Company: CIA Diary saying that in it "we learn in devastating detail what is done in the name of the United States." The review made no mention of the fact that the book contained some thirty pages of names of U.S. covert operatives overseas or that the author acknowledges in his preface the help he received from the Cuban Communist Party.

Halperin concluded the review by pronouncing: "The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing and allied nations." (First Principles, September 1975, p. 13)

[The following excerpts are taken from a pamphlet published by the Center for National Security Studies in 1976 and entitled "CIA Covert Action: Threat to the Constitution." Morton Halperin is listed as a "participant" in the Center's activities; at the time he was also the Chief Editorial Writer for the CNSS' publication, First Principles. Subsequently, Halperin became the organization's

deputy director and then served from 1984 to 1992 as its director.]

"In the wake of Vietnam and Watergate, the question must be faced: Should the U.S. government continue to engage in clandestine operations? We at the Center for National Security Studies believe that the answer is 'No'; that the CIA's covert action programs should be ended immediately. The risks and costs of maintaining a clandestine underworld are too great, and covert action cannot be justified on either pragmatic or moral grounds."

"Defenders of the CIA argue that the Agency's covert actions protect the 'national security.' Yet historically, covert action has had little, if anything, to do with the reasonable defense of the country. * * * Morton Halperin * * * has stated that he knows of no program of covert action which was necessary to the national security."

"* * * [Covert operations] make us an object of suspicion and hatred throughout the world. Indeed, by practicing subversion and terror, we only encourage others to adopt the same tactics."

"A bureaucracy trained in the nefarious tactics of espionage and of covert action is a constant threat in an open society."

"A bureaucracy skilled in deceit is suspect in any government, but it is particularly destructive to a republic."

"In the final analysis, covert actions by the CIA undermine our democracy because they are an inherently criminal enterprise."

"* * * even if covert action is not 'misused,' it still corrodes our constitutional order."

"As Morton Halperin * * * states, 'If there were a successful operation that we did not know about, that proved the case for covert action, the temptation to make that public would have long ago overcome any inhibitions against leaking information. So this notion that there is something that none of us know about that is so important and so great that it justifies all the fiascoes and failures, and crimes, I take with a grain of salt.'"

"Covert operations involve breaking the laws of other nations, and those who conduct them come to believe that they can also break U.S. law and get away with it. * * * Covert operations breed a disrespect for the truth." ("Just Say No: The Case Against Covert Action" The Nation, March 21, 1987)

"Restoring Congress's constitutional role demands that Congress activate its full share of authority over paramilitary operations by taking the 'covert' out of covert action."

"The only way to stop this pattern [of abuse] is to impose an absolute requirement of public approval to bar paramilitary operations that are covert." (Lawful Wars," Foreign Policy, Fall 1988)

From an interview with Ben Wattenberg which appeared as part of the 1978 Public Broadcasting Service series "In Search of the Reach America":

WATTENBERG: "Don't we need a strong and vigorous intelligence service with tools at its command that every other major intelligence service in this world has?"

HALPERIN: "Well, I think that's the issue. I think we certainly need to know about the Soviet Union."

WATTENBERG: "What about other nation?"

HALPERIN: "Other nation—I think it's much more questionable as to whether we need that information and whether the price for it is worth paying." ("Two Cheers for the CIA," broadcast 15 June 1978)

ON BEHALF OF EXTREME INTERPRETATIONS OF THE FIRST AMENDMENT

"Under the First Amendment, Americans have every right to seek to 'impede or impair' the functions of any federal agency, whether it is the FTC or the CIA, by pushing information acquired from unclassified sources." ("The CIA's Distemper: How Can We Unleash the Agency When It Hasn't Yet Been Leased?", The New Republic, February 9, 1980, p. 23)

"Lawful dissent and opposition to a government should not call down upon an individual any surveillance at all and certainly not surveillance as intrusive as a wiretap." ("National Security and Civil Liberties," Foreign Policy, Winter 1975–76, p. 151)

In opposition to draft legislation setting heavy criminal penalties for Americans who deliberately identify undercover U.S. intelligence agents: "[Such legislation] will chill public debate on important intelligence issues and is unconstitutional. * * * What we have is a bill which is merely symbolic in its protection of agents but which does violence to the principles of the First Amendment." (UPI, April 8, 1981)

In criticizing scientists who "refused to help the lawyers representing The Progressive and its editors" in fighting government efforts to halt the magazine's publication of detailed information about the design and manufacturing of nuclear weapons: "They failed to understand that the question of whether publishing the 'secret of the H-bomb' would help or hinder non-proliferation efforts was beside the point. The real question was whether the government had the right to decide what information should be published. If the government could stop publication of [this] article, it could, in theory, prevent publication of any other material that it thought would stimulate proliferation." ("Secrecy and National Security," The Bulletin of the Atomic Scientists, August 1985, p. 116)

In response to government attempts to close down the Washington offices of the PLO: "It is clearly a violation of the rights of free speech and association to bar American citizens from acting as agents seeking to advance the political ideology of any organization, even if that organization is based abroad. Notwithstanding criminal acts in which the PLO may have been involved, a ban on advocacy of all components of the PLO's efforts will not withstand constitutional scrutiny." (The Nation, October 10, 1987)

In arguing that the random use of polygraph tests to find spies was unconstitutional: "Congress should strip these measures from the bill and start attacking the genuine problems, such as over-classification of information." (Associated Press, July 8, 1985)

"Having had administrative responsibility for the production of the [Pentagon] Papers, I knew they contained nothing which would cause serious injury to national security. I watched with amazement as the Justice Department, without knowing what was in the study, sought to persuade court after court that they should be suppressed ("Where I'm At," First Principles, September 1975, p. 16).—N.B. The so-called Pentagon Papers—a 2.5 million word compilation of classified documents concerning the U.S. role in Vietnam—were officially categorized as "Top Secret/Sensitive." Halperin, together with his deputy, Leslie Gelb, gave Daniel Ellsberg access to these papers which Ellsberg subsequently provided to the New York Times. Halperin reportedly served as chief of staff for a team of 35 defense attorneys and testified on behalf of Ellsberg in the subsequent trial. One can only speculate upon the myriad sensitive documents to which Halperin currently has access in the Defense Department and from other agencies that he might similarly view as excessively classified and whether he might choose to grant access to such information to others who may, in turn, elect to make such documents public. (For additional discussion of this issue, see pp. 26–31)

"The constitutional rights of Americans have also been major casualties in the 'war on drugs' . . . Gross invasions of privacy such as urine testing, excessive property forfeitures and seizures without due process of law, the circulation of extensive government files on suspected drug offenders, and border patrols and checkpoints that inhibit free travel, all are among the draconian actions deemed necessary to wage the war on drugs." ("Ending The Cold War At Home", Foreign Policy, Winter 1990–91 (with Jeanne Wood)

"International terrorism is rapidly supplanting the communist threat as the primary justification for wholesale deprivations of civil liberties and distortions of the democratic process." ("Ending The Cold War At Home", *Foreign Policy*, Winter 1990–91 (with Jeanne Wood)

"The Federal Bureau of Investigation's counter-intelligence program (COINTELPRO), for example, was as serious a threat to individual freedom in the United States as one can imagine." ("We Need New Intelligence Charters," the Center [for National Security Studies] Magazine, May/June 1985)

ON U.S. AID TO FOREIGN PRO-DEMOCRATIC MOVEMENTS

Regarding President Reagan's veto of a bill tying U.S. military aid to El Salvador to improved human rights, "[This action] makes clear that the administration has reconciled itself to unqualified support for those engaged in the systematic practice of political murder." (Washington Post, 1 December 1983, p. 1)

Halperin called U.S. aid to the pro-democracy Contra rebels "ineffective and immoral." (Associated Press, 2 October 1983)

ON NUCLEAR STRATEGY AND ARMS CONTROL

As reported by the New York Times on November 23, 1983 (p. 7): "Mr. Halperin said the most important contribution American officials could make to stability would be 'to renounce the notion that nuclear weapons can be used for any other purpose than to deter nuclear attack.' He also argued that the United States should abandon plans to attack Soviet missile silos in responding to a nuclear attack. For one thing, he said, a high degree of accuracy would be required."

As reported by the Chicago Tribune on December 21, 1987: "Halperin explained the NATO deterrent strategy known as coupling, whereby a Soviet conventional attack in Europe would be met with Allied tactical, and if the Soviets persisted, strategic nuclear weapons, in this way: 'First, we fight conventionally until we're losing. Then we fight with tactical nuclear weapons until we're losing; then we blow up the world.'"

Referring to the Nuclear Freeze proposal: "Sounds like good arms control to me." (Bulletin of the Atomic Scientists, March 1983, p. 3)

"* * * I suggest * * * that the United States be prohibited from being the first to use nuclear weapons. In my judgment, there are no circumstances that would justify the United States using nuclear weapons unless

those weapons were used first by an opposing power." ("American Military Intervention: Is It Ever Justified?" The Nation, 9 June 1979, p. 670)

ON CLASSIFICATION OF SENSITIVE INFORMATION

"While the most flagrant abuses of the rights of Americans associated with the Cold War are thankfully gone from the scene, we have been left behind with a legacy of secrecy that continues to undermine democratic principles." (Boston Globe, 26 July 1992, p. 57)

Halperin called the government's prosecution of Samuel Loring Morison, who was convicted of disclosing classified satellite photos of a Soviet aircraft carrier under construction "an extraordinary threat to the First Amendment." (Washington Post, October 8, 1985, p. A9)

"Generally, secrecy has been used more to disguise government policy from American citizens than to protect information from the prying eyes of the KGB. * * * U.S. government officials admit that experts in the Soviet Union know more about American policies abroad than American citizens do." (The Lawless State, p. 258)

ON SECURITY CLEARANCES

"Standard Form 86 (questionnaire for applicants to sensitive or critical government positions) ask intrusive and irrelevant questions regarding Communist party membership, prior arrests (whether or not they resulted in a conviction), drug and alcohol abuse, and private medical information, including mental health history." (Co-authored with Jeanne Wood "Ending The Cold War At Home," Foreign Policy, Winter 1990–91)

Mr. Speaker, here is how Halperin's defense was rebutted by Frank Gaffney:

THE HALPERIN DEFENSE CONCERNING CLANDESTINE INTELLIGENCE AND COVERT OPERATIONS

"He does not oppose all intelligence operations—He supports clandestine collections by human and technical means, counter-intelligence activities, and 'covert' operations in support of the public policies of the United States. He opposes covert activities which contravene those policies."

"Halperin has, in testimony on behalf of the ACLU and in his writings, expressed opposition to covert operations designed to influence the activities of foreign governments. He has not opposed clandestine intelligence collection by human or technical means or counter-intelligence operations. With regard to covert operations, Halperin in his writings and testimony has made clear that his objection is to operations which are not consistent with the public policy of the United States. Thus, he would support the operations carried on—covertly—in aid of the Afghan rebels because they were conducted pursuant to a congressional resolution and would support activities designed to aid the opposition in Iraq because they are consistent with the public policies of the government."

"In his writings and testimony. Halperin has explained that he would not rule out activities conducted in secret provided that they are in support of a publicly announced and approved policy of the United States. Thus, for example, in an article now in press [apparently part of a volume entitled The U.S. Constitution and the Power to Go to War: Historical and Current Perspectives, edited with Gary M. Stern (Westport: Greenwood Press, anticipated publication date November 1993)] * * * Halperin wrote that his proposed requirement for 'congressional approval in the substantive objectives' of a proposed covert operation, 'would not prevent the President from conducting paramilitary operations whose operational details need to be kept secret.'

"* * * Halperin went on to write that the recent operations in Afghanistan, Angola and Nicaragua were conducted consistent with his proposal. * * * Other covert operations such as aid to the Iraqi opposition would be justified because they are consistent with the public policies of the United States."

"Halperin has continued to oppose covert operations, but he has explained that he would not rule out activities conducted in secret provided that they are in support of a publicly announced and approved policy of the United States.

THE TRUTH

There are several types of activity discussed in the above excerpts. One is counter-intelligence. Halperin has consistently advocated severe limitations on this type of activity on civil liberties grounds. The record on this score is not in dispute.

An illustrative example of Halperin's extreme opposition to government operations aimed at defeating terrorists, foreign intelligence services and other potential threats can be found in his April 1976 testimony before the House Judiciary Subcommittee on Civil Liberties:

"The right of the government to wiretap American citizens—if it exists at all—should be limited to situations in which there is probably cause to believe that a crime has been committed. Any other standard is simply open to abuse and provides no effective check on agency discretion." (Washington Post, 13 April 1976)

Steadfast Opposition To "Special Activities":

There is also clandestine collection of intelligence information by human or technical means and covert action sometimes called "special activities." This refers to activities to influence foreign governments or other foreign entities without showing the hand of the United States.

Regarding such "special activities," Halperin testified before the Church Committee on 5 December 1975:

"Mr. Chairman, my view is really very simple. I believe that the United States should no longer maintain the career service for the purpose of conducting covert operations or covert intelligence collection by human beings. I also believe that the United States should outlaw as a matter of national policy the conduct of covert operations, and I think this prohibition should be in law [in addition to] the assassination statute that the committee has already proposed.

"Now, I do not put forward these proposals because I believe that there never would be a situation in which the United States might want to conduct a covert operation or indeed, that there might not be a situation where that would seem important to people. I do so because I believe that the evil of having capability for covert actions, the harm that has come to our society and to the world from the existence of that capability, and the [? in] the President for using that capability far outweighs the possible potential benefits in a few situations of using covert means. And I believe that in such situations the United States will have to use other means to promote its interest." ("Intelligence Activities, Senate Resolution 21," Hearings Before the Select Committee to Study Governmental Operations with Respect to Intelligence Activities of the United States Senate, Volume 7, 5 December 1975, p. 60)

In his prepared statement before the Senate Intelligence Committee on June 15, 1978, Halperin reiterated his belief that all covert action should be abolished. ("National Intelligence Reorganization and Reform Act of 1978," Hearings before the Select Committee on Intelligence of the United States Senate, 15 June 1978, p. 324)

A joint statement of ACLU and the Center for National Security Studies was placed into the record of the hearing. It urged Congress to "prohibit covert action abroad" and to "prohibit espionage in peacetime." (Ibid., pp. 579–581)

Introducing Halperin's 'Brierpatch' Strategem:

In 1980 hearings before the House Intelligence Committee, Congressman John Ashbrook challenged Halperin on his 1978 testimony. Halperin first tried to deny that he opposed clandestine intelligence collection, until Ashbrook pointed to the record. Ashbrook said:

"Well, Mr. Halperin, let's go to your statement that was I guess a joint statement by the ACLU and the CNSS to the Senate Intelligence Committee. It's on page 580 and 581.

Mr. HALPERIN. "You have the advantage on us. I don't have a copy in front of me but that's all right."

Mr. BERMAN [of the ACLU]. "Are we talking about 1978?"

Mr. ASHBROOK. "[Here] is prohibitions on clandestine intelligence collection abroad in peacetime, covert actions and you want to say—

Mr. HALPERIN. "Clandestine activity, not collection."

Mr. ASHBROOK. "And then you go on to say, in fact, you argue against any—you would prohibit any espionage by the United States in peacetime. You just flat out say that on pages 580 and 581. And that's why I think it's kind of a game to say you want all these restrictions when the bottom line is you don't want any intelligence, I mean, at least we can be honest with each other. You don't want intelligence operations by this country in peacetime. I don't think you say you don't want them in wartime but you say: 'We oppose section 111(a), authorization of clandestine collection abroad absent any congressional declaration of war.' And then within the United States you say there shouldn't be any in peacetime.

"Now I guess I have to look at everything you favor and try the old brierpatch philosophy. If you create a brierpatch, the result of it is you're not going to have any collection, you're not going to have any real intelligence activity. But you oppose all electronic surveillance, all covert action. You oppose all physical searches, all mail openings, all disruption, all anti-leak legislation, all efforts of the Government to protect legitimate intelligence secrets. And then you say let's get a bill that accomplishes intelligence objectives." (H.R. 658, "The National Intelligence Act of 1980," Hearings before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, House of Representatives, 27 March 1980, p. 147)

In testimony before the House Intelligence Committee on 8 April 1987, Halperin continued his opposition to covert action. In his testimony he said, "I want to say first that the ACLU believes, and I believe, that the United States should not conduct covert operations. I believe Mr. Hyde knows, and we have discussed it in the past, that this is our

view. I would hope that at an appropriate time the Committee would hold hearings on that more fundamental question, and we would welcome an opportunity to discuss that.

"But as I have done on a number of occasions when I have appeared before this committee * * * I want to accept the terms in which the committee is conducting this discussion, and try to be helpful to the committee in discussing how to improve the oversight process and covert operations on the assumption that the question of whether they should be conducted is not now on the table." ("H.R. 1013, H.R. 1371, and Other Proposals Which Address the Issue of Affording Prior Notice of Covert Actions to the Congress," Hearings before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, House of Representatives, 8 April 1987, p. 90)

In his prepared statement at the same hearing, Halperin said, "The record now before this committee and the nation demonstrates, that covert operations are fundamentally incompatible with a democratic society. The ACLU has held that position for a number of years, and I have had the privilege of presenting it to this committee on more than one occasion. The basic argument is that covert operations are used by our Presidents to avoid the public and congressional debate mandated by the Constitution, a debate which is particularly crucial when questions of war and peace are at stake." (Ibid., p. 96)

A Genuine 'Change of Mind' or Just Tactical Shifts?

During the hearing, Congressman Henry Hyde confronted Halperin with his 1975 views. Congressman Hyde said:

"Now, I know Mr. Halperin opposed covert action. As a matter of fact, Mr. Halperin goes even further than that, just quoting from your testimony, December 5, 1975 before the Church Committee, I believe, you said, 'I believe that the United States should no longer maintain a career service for the purpose of conducting covert operations and covert intelligence collection by human means. I believe also that the United States should eschew as a matter of national policy the conduct of covert operations.'

"So you do not believe, do you, Mr. Halperin, we even should have a capability of collecting intelligence covertly? That was your position then.

"Mr. HALPERIN. That was my position then. That is not my position now."

"Mr. HYDE. You have changed your mind since then?"

"Mr. HALPERIN. Yes, sir. I think we are all open to changing our minds." (Ibid., pp. 117–8)

Halperin did not, however, explain what caused him to change his mind about clandestine collection by human sources. Perhaps the reason was, as Halperin complained in the CNSS publication First Principles of October 1980, "The widespread acceptance of the view that the 1980s pose a great danger to the nation's survival makes it a less than auspicious time to seek to put restrictions on the activities of the CIA." Halperin continued, nonetheless, to argue against covert action.

A Confirmation Conversion?

Halperin's defense now claims that he supports covert actions such as those that were conducted recently in Afghanistan, Angola and Nicaragua. However, in 1982 when the Nicaragua operation was being conducted, Halperin publicly opposed it. On 27 May 1982, he spoke at a public forum on covert operations against Nicaragua organized by the Campaign for Political Rights which he headed. He also signed a "Statement in Opposition to Covert Intervention in Nicaragua" circulated by the same group. This statement said in part, "* * * We call upon the President to abandon the U.S. plan for covert destabilization of Nicaragua and upon the Congress to repudiate this plan and provide for full and public debate of U.S. policy in Central America."—The signers of the statement against U.S. policy in Nicaragua included a number of groups on the legitimate left. It also included, however, a large number of fringe groups, including: The Center for Constitutional Rights (a front for the American Communist Party); the Christic Institute; the Church of Scientology; the Committee in Solidarity with the People of El Salvador; Counterspy magazine; the International Longshoremen and Warehouseman's Union (a communist-controlled union); the Middle East Research and Information Project; the Mobilization for Survival; the Nation Institute; the National Alliance Against Racist and Political Repression (a front for the American Communist party); the National Lawyers Guild; the North American Congress of Latin America; the Palestine Human Rights Campaign; Stop the Pentagon/Serve the People; United Electrical Workers (communist-controlled); U.S. Peace Council (a front for the American Communist Party) and Women for Racial and Economic Equality (a front for the American Communist Party).

As the covert action in Nicaragua was consistent with U.S. policy to prevent the Sandinista dictatorship from continuing to supply arms to terrorists and insurgents in nearby countries, Halperin under his new criteria should have supported it. His current claim that he would have supported it is utterly disingenuous.

THE HALPERIN DEFENSE ABOUT HIS HELP TO PHILIP AGEE AND HIS ROLE IN RELATED LEGISLATION

"[Halperin] did not aid and abet Philip Agee in his campaign to expose the identities of CIA agents overseas. He supported criminal penalties for such activities and negotiated an agreement with the CIA which led to the passage of the Intelligence Identities Protection Act." (p. A1)

"Halperin did nothing to aid and abet Philip Agee and others in their efforts to reveal the identities of covert agents. He expressed opposition to 'naming names' and support for legislation to make such actions criminal. He did testify at a hearing related to the effort of the British government to deport Agee from England. This testimony was limited to urging the citizen panel to look beyond the government's assertion of harm to national security if Agee was (sic) allowed to remain in England, in order to determine what the actual reasons were. Halperin indicated that the U.K. government would have the right to deport Agee if his actions were in fact harming British security. He did not discuss or defend Agee's current or past actions.

"When the government sought to criminalize the revealing of the names of covert agents, Halperin, on behalf of the ACLU, did not oppose the section of the bill relating to former government officials [Hearings, Senate Judiciary Committee, 8 May 1981, p. 74]. Halperin for the ACLU, along with a range of news organizations, did oppose the section of the bill which applied to people who had never been in the government.

"In his testimony Halperin stated, 'We do not condone the practice of naming names and we fully understand Congress' desire to do what it can to provide meaningful protection to those intelligence agents serving abroad, often in situation of danger.' [Hearings, Senate Judiciary Committee, 8 May 1981, p. 73.]" (p. B2)

THE TRUTH

On "Aiding and Abetting Philip Agee"

Halperin claims that his trip to England in defense of Agee was not to support Agee's activities but only to urge the court to "look beyond the government's assertion of harm to national security if Agee were allowed to remain in England. * * *" It is difficult to comprehend this statement. If the purpose behind Halperin's appeal were not to defend Agee, what was it?

The lack of judgment Halperin evinced in mounting such a defense of Philip Agee is made clear by the U.S. Supreme Court findings in a suit Agee brought to block the State Department from revoking his American passport. The court determined that:

"Not only has Agee jeopardized the security of the United States, but he has endangered the interests of countries other than the United States—thereby creating serious problems for American foreign relations and foreign policy. Restricting Agee's foreign travel, although perhaps not certain to prevent all of Agee's harmful activities, is the only avenue open to the Government to limit these activities. * * * (Supreme Court of the United States in Haig, Secretary of State, v. Agee, 29 June 1981—majority opinion delivered by Chief Justice Burger, joined by Justices Stewart, White, Blackmun, Powell, Rehnquist and Stevens.)

The Court also found that:

"Agee's disclosures, among other things, have the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel. They are clearly not protected by the Constitution. The mere fact that Agee is also engaged in criticism of the Government does not render his conduct beyond the reach of the law.

"[Agee] recruits collaborators and trains them in clandestine techniques designed to expose the 'cover' of CIA employees and sources. Agee and his collaborators have repeatedly and publicly identified individuals and organizations located in foreign countries as undercover CIA agents, employees, or sources." (Ibid.)

Halperin also provided aid and comfort to Agee by muddying the water following then-CIA Director William Colby's assertion that Agee's CounterSpy Magazine bore responsibility for the murder of the Agency's Athens station chief, Richard Welch. Halperin did so by advancing the argument that the Central Intelligence Agency had expressed concern about Welch's safety and residence even before CounterSpy published his name and address. He also advanced the line that the Agency was responsible for engaging in "news management" and "disinformation" in the aftermath of Welch's murder.

"The point * * * is not whether the assassins learned of Welch's identity because of the CounterSpy article or his choice of residence—it is well known that in most capitals, particularly in Western countries, anyone who really wants to learn the CIA chief's name can do so. The point is rather that the CIA engaged in news management immediately after his death to make a political point." (Washington Post, 23 January 1977, p. C–3)

Where Halperin Really Stood on Legislative Efforts to Protect Covert Agents' Identities:

In January 1980, Halperin testified before the House Intelligence Committee and argued that the Identities Protection Bill

should penalize only former government officials who learned the names of agents in their official capacity. He argued against penalizing those who had not been in the government but engaged in a pattern of activity to identify American agents. ("Proposals to Criminalize the Unauthorized Disclosure of the Identities of Undercover United States Intelligence Officers and Agents," Hearings Before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence House of Representatives, 30 January 1980, P. 66).

When asked by Congressman Bill Young Specifically about Agee, Halperin responded:

"Mr. Chairman, we are here representing the American Civil Liberties Union, and I have to say that the American Civil Liberties Union I think represents Mr. Agee, or has represented him in the past, and therefore I think it is not appropriate for us to make comments about whether any of us individually would approve or disapprove of any of the things that he might have done."

Even Halperin's averred interest in "drafting a constitutional statute which would punish Mr. Agee's conduct in revealing the names of agents," (Ibid.) rings hollow. After all, Agee had already named anyone he knew. The problem, as the Supreme Court pointed out, was that Agee had trained others to identify the agents and carry on his work. Halperin was recommending amendments that would effectively have prevented the bill from covering Agee's trainees.

In June of 1980, moreover, Halperin complained in testimony before the Senate Intelligence Committee, about the language in the identities protection bill that was then being considered by the Senate. He said:

"Most of the problems that we have identified could be eliminated by returning to language similar to that contained in S. 2525 which would have provided criminal penalties only for the release of names in a situation where the release was done deliberately for the purpose of placing the life of the individual in jeopardy and where the release-of the name did, in fact, have that result. Any bill which goes beyond that would go too far in chilling important public debate and therefore should be rejected.

"We also must note, Mr. Chairman, that no bill which is conceivably constitutional can, in fact, prevent the publication by the Covert Action Information Bulletin, or by other publications in the United States or abroad of the names of CIA officers who are assigned to positions in American embassies. ("Intelligence Identities Protection Legislation," Hearings Before the Select Committee on intelligence of the United States Senate, 25 June 1980, p. 94)

Halperin said he would accept—but did not support—even this narrowly drawn language. In the same hearing, he said in discussing his preferred approach:

"As an alternative, that such a disclosure is made either with the intent or with reckless disregard of the fact that it placed a human life in jeopardy. In other words, I think the Government can constitutionally punish it, although I would not advocate it, either if the disclosure is based on classified information or if the disclosure places a life in jeopardy, assuming all the other points, of the intent and the pattern of activities and so on; either one of those alternative with the other material would, I think, produce a statute which, although I would not advocate it, I think would be constitutional." (Ibid., p. 114)

Nearly a year later, Halperin again testified against draft legislation that would in the words of the Washington Post, "impose heavy criminal penalties on Americans who deliberately identify U.S. undercover intelligence agents":

"There is no practical or constitutional way to accomplish the objectives of this legislation. Thus, what we have is a bill which is merely symbolic in its protection of agents but which does violence to the principles of the First Amendment." (Washington Post, 9 April 1981)

No Credit Where It Is Not Due:

Halperin's defenders claim that he "negotiated an agreement with the CIA which led to the passage of the intelligence Identities Protection Act." In fact, Halperin was approximately as responsible for the enactment of this legislation as Erich Honecker was for the reunification of Germany.

As The Nation magazine—a publication squarely in Halperin's camp—ruefully reported:

"During the debate in Congress, an effort was made by the American Civil Liberties Union [under the leadership of Morton Halperin] and others to limit the bill's scope, so that to prosecute an offender, the government would have to demonstrate 'intent to impair or impede the foreign intelligence activities of the United States.' Such proposed language was overridden by an amendment offered by the late Republican congressman John M. Ashbrook of Ohio. . . . Ashbrook's language substituted 'reason to believe' for 'intent to impair,' thus widening the bill's reach. . . . Ashbrook's amendment prevailed. . . ." (The Nation, 11 May 1982, p. 18)

Indeed, Rep. John Ashbrook's amendment was of pivotal importance: It made possible the enforcement of the law. After all, the "intent" provision promoted by Halperin could never be proved. For example, Agee and his associates claimed that they were helping the United States by their actions. Ashbrook explained the purpose of his amendment to his colleagues:

"Mr. Chairman, a few minutes ago my friend and colleague, the gentleman from California (Mr. Rousselot) said, "Give me a very brief description of why you are offering your amendments and the difference with the Committee version." My response to him was the difference is that my amendment would knock out . . . the American Civil Liberties Union compromise in the language of this bill. It is just that simple." (Congressional Record, 23 September 1981, p. H6511)

Ashbrook's amendment passed handily, by a vote of 226 to 181 and the House approved the amended bill overwhelmingly, 354 to 56.

The result of the House vote was salutary, as reported by the United Press International 5 November 1981: "Covert Action Information Bulletin said today it will no longer publish the identities and posts of CIA agents working abroad until proposed legislation forbidding such practice is resolved in the courts."

Mort Halperin remained adamant in his opposition to the Intelligence Identities Protection Act, announcing upon the bill's signature into law by President Reagan, that the ACLU would provide legal assistance to "those whose ability to speak or write is threatened by this legislation or effort[s] to enforce it by the Justice Department." (Washington Post, 24 June 1982, p. A3)

Conclusion

As Congressman Ashbrook pointed out in the hearing of 27 March 1980 cited above, during the darkest days of the Cold War, Halperin opposed all human intelligence collection and covert action. Only when that position became politically untenable did he resort to proposals that amounted to a network of "brierpatches" whose clear effect—if not their intent—would be to impede the ability of the U.S. intelligence agencies to carry out critical missions. Sometimes Halperin's suggestions succeeded; fortunately, they often failed. Still, to suggest that Halperin was attempting to facilitate the work of our intelligence agencies is absurd on its face.

THE HALPERIN DEFENSE CONCERNING THE CLASSIFICATION OF DOCUMENTS

"[Halperin] does not oppose all government classification. He supports balancing the need for security against the public right to know." (p. A1)

". . . Halperin made [statements] in the early 1980s in response to a Reagan Administration effort to require all former senior officials to submit for prior review all of their writings on national security matters. This proposal was objected to by many former officials as well as by groups concerned about nuclear war. It was ultimately withdrawn when it became clear that bipartisan majorities in both Houses of Congress would move to block its implementation. As the quote itself indicates, Halperin was warning against greater security and draconian measures such as prior restraint on the writings of former officials. He has consistently supported the need for classifying information, including information about the manufacture of nuclear weapons.

"Moreover, Halperin has consistently stated that neither current or former government officials have the right to decide on their own to release classified information. thus, in his testimony objecting to the Reagan order, Halperin stated:

"The obligation not to reveal classified information even when one leaves the government exists now and would not be effected by the implementation of these new rules. Perhaps it would be wise to systematically remind senior officials of this obligation when they leave the government and urge them to voluntarily submit material if they have any doubt as to whether it is classified." (Testimony, Hearings, House Post Office and Civil Service Committee, Subcommittee on Civil Service, 29 February 1984, p. 140.) (p. B7)

"Halperin has never 'held forth about the need to end all government security classification.' In fact, in his writings and testimony over the past 20 years, Halperin has consistently argued for a reduction in government secrecy while supporting the administrative sanctions and criminal penalties for government officials or who disclose classified information learned as a result of official duties.

"Halperin first wrote about the issue of government security in a book published in 1977 (with Daniel Hoffman Top Secret: National Security and the Right to Know, Washington: New Republic Books, 1977). In that book, he laid out a proposal for classification which he has consistently supported. The proposal suggests dividing information into "three broad categories: (1) automatically released, (2) presumptively classified and (3) requiring the exercise of discretion, with explicit consideration of the information's value for enlightened public debate." (Top Secret, p. 57)

"The first category includes 'information necessary to congressional exercise of its constitutional powers to declare war, to raise armies, to regulate the armed forces, to ratify treaties, and to approve official appointments.'" (Top Secret, p. 57)

"The second category 'entitled to a heavy presumption against public disclosure,' includes: weapons systems, plans for military

operations, diplomatic negotiations and intelligence methods. (Top Secret, p. 58)

"For all other information there must be a balancing of the costs to national security of disclosure against the value of the information for public debate." (Top Secret, p. 58)

"Halperin presented this basic approach to the Congress on a number of occasions, most recently on March 18, 1992 when he testified on behalf of the ACLU before the House Committee on Government Operations (Testimony, Hearings, House Committee on Government, Subcommittee on National Security and Legislation, 18 March 1992). In that testimony, *he argued that information that was not automatically released or presumptively withheld could be classified if its release would reasonably be expected to cause serious identifiable harm to the national security and the harm outweighs the public interest in disclosure.* As the testimony noted, this proposal closely paralleled the Carter Executive Order on Classification.

"Halperin has also supported administrative sanctions for those who leak classified information. He has also testified that criminal laws penalizing disclosure of information which are 'narrowly drawn' and 'which apply to Executive Branch officials are appropriate.' (Testimony, Hearings, House Intelligence Committee, 8 April 1987, p. 110)" [Emphasis added.] (pp. C1-2)

THE TRUTH

In fact, the totality of Morton Halperin's writings and public statements reflects a consistent attitude of hostility toward—if not outright contempt for—secrecy in government. His acceptance of the need for some classification, reflected in statements like the foregoing, is at best a sometime thing.

Halperin's Public Record on Secrecy:

Halperin's defense certainly flies in the face of his relentless assault on the legitimacy, constitutionality and morality of governmental secrecy. This assault by Halperin—and those organizations like the Center for National Security Studies, the Campaign to Stop Government Spying/the Campaign for Political Rights and the American Civil Liberties Union with which he has held leadership positions for years—has had, as a practical matter, the effect of undermining public support for the classification of any information—even that Halperin ostensibly accepts should be kept secret. The following statements appear more accurately to reflect Halperin's public record on secrecy in the U.S. government than do those selections from that record being cited in his defense:

"Secrecy . . . does not serve national security. . . . ("Just Say No: The Case Against Covert Action," The Nation, March 21, 1987, p. 363)

"Secret operations are anathema to democracy." (Top Secret)

"Perhaps the most entrenched legacy of the Cold War is a carefully structured system of government information controls—a system steeped in secrecy: Secret agencies, secret budgets, secret documents, and secret decisions affecting issues of life and death, war and peace. . . . There are intelligence agencies whose very existence is secret, whose charters and budgets are secret, and whose activities include secret paramilitary operations abroad.

"And millions of government documents on critical policy matters are needlessly classified, preventing essential information on foreign policy from reaching the public domain, even though disclosure would cause no appreciable harm to the national security. Such a system runs counter to the constitutional design for an open and accountable government." ("Ending the Cold War at Home," Foreign Policy, Winter 1990-1991, p. 129)

"Clandestine government means that Americans give up something for nothing—they give up their right to participation in the political process and to informed consent in exchange for grave assaults on basic rights and a long record of serious policy failures abroad." (The Lawless State: The Crimes of the U.S. Intelligence Agencies, 1976)

"While the most flagrant abuses of the rights of Americans associated with the Cold War are thankfully gone from the scene, we have been left behind with a legacy of secrecy that continues to undermine democratic principles." (Boston Globe, 26 July 1992, p. 57)

Halperin's "Brierpatch" Stratagem Toward Secrecy:

As with his long-running campaigns against covert operations, clandestine intelligence collection and the protection of agents' identities, Halperin's general opposition to secrecy in government periodically had to be tempered by political realities. On such occasions, he would employ the "brierpatch" approach criticized above by Rep. John Ashbrook by seeking to impede—or at least seriously to encumber—the activities he opposed where they could not be banned outright.

For example, in the March/April 1992 edition of the Center for National Security Studies' newsletter First Principles, Halperin and Leslie Harris urged in an article entitled "Classification System Under Fire as Cold War Ends":

"[Congress should] provide penalties for willful classification and overclassification of documents that do not meet standards of statute in order to conceal incompetence, wrongdoing, error, avoid embarrassment, circumvent laws or otherwise prevent release of information that does not bear on the national defense or conduct of foreign affairs or does not meet the standards of classification."

Obviously, the effect of such penalties would be to oblige officials to err on the side of disclosure of sensitive information, encouraging them to place personal considerations—like the risk of prosecution for "over-classification of documents"—over concerns about the risks to the national security of under-classification.

Irresponsible Views on What Should Be Classified:

Even in those instances where Halperin has, for tactical (or other) reasons, acknowledged the necessity for classification, he has exhibited the same poor judgment that characterizes many of his recommendations in other national security areas. For example, in testimony before the House Government Operations Committee in 1974 he recommended that the following types of sensitive information should be declassified:

"Commitments to employ American forces; American combat advisors; American civilians or foreign mercenaries in combat or as combat advisors; financing of combat operations; U.S. troops abroad; nuclear weapons abroad; military assistance programs; research on a new weapon system; current and estimated costs of weapon systems; diplomatic negotiations; existence, budgets and authorized functions of intelligence organizations; and executive branch financing or ownership of private organizations." (Testimony, Hearings on "Security Classification Reform," House Committee on Government Operations, 11, 25 July and 1 August 1974, p. 276)

Halperin subsequently backed-and-filled on what should be considered "legitimate secrets," for example writing in a January 1975 article in Playboy Magazine that these include "details of military plans, of technical means of intelligence gathering, of weapons design * * *." In this article, however, he reaffirmed his position on the need to publicize sensitive information concerning the deployment of U.S. forces, among other things: "Never again should the Executive be able to urge war, provide military aid, make commitments or deploy troops without making its actions public." ("Removing Kissinger's Cover," Playboy, January 1975, p. 45)

What is more, with regard even to what Halperin apparently now accepts as legitimately classified information—namely "technical means of intelligence gathering," his recommendations are problematic. For example, in the March/April 1992 edition of First Principles, Halperin recommended that Congress "provide that intelligence sources and methods should be treated no differently from other national security information." Such a proposal suggests a degree of unconcern about the fragility of intelligence collection operations that is consistent with Halperin's longstanding opposition to the use of clandestine sources but inconsistent with prudent policy; if adopted, it could jeopardize such sources and methods with serious consequences for U.S. intelligence.

Looking to the Future:

It is particularly striking that Halperin, who claims to have "new ideas for the post-Cold War period," is so entrenched in his thinking about the U.S. government's intelligence collection and classification activities that he refuses to acknowledge the need for such activities to adapt to the emerging challenges of this period. Notably, in the same First Principles article, he warns ominously:

"National security agencies would prefer to expand their domains to cover such matters as international crime, international economic problems, overpopulation, AIDS, global hunger and the environment. Congress must understand, therefore, that unless it enacts a classification statute that explicitly excludes such information from the national security secrecy system, there is a substantial danger that the intelligence agencies, the President and ultimately the courts will treat these issues by the same unaccountable standards as they now treat national security matters.

"Whatever is to remain of the secrecy system after the Cold War, it must not be permitted to expand into new areas outside of its narrow domain." (First Principles, March/April 1992, p. 6)

THE HALPERIN DEFENSE CONCERNING HIS ROLE IN THE RELEASE OF THE CLASSIFIED PENTAGON PAPERS

"Halperin actually left the government in September 1969, long before the unauthorized publication of the Pentagon papers. He had responsibility for the production of the Pentagon Papers while serving as a Deputy Assistant Secretary of Defense. He played no role in the disclosure of the Pentagon Papers. There is nothing in any record to suggest that he did." (p. C1)

In a letter being circulated on Halperin's behalf—and, evidently, with his authorization—by Jeremy Stone, Alton Frye and Arnold Kanter, an even more categorical defense is offered on this score: "There is nothing in any record to suggest Halperin contributed in any way to the disclosure of the

[Pentagon] Papers." For the full text of this letter, see the Center for Security Policy's Decision Brief entitled, Civics 101: Halperin Nomination Won't Be Saved by Amateurish Write-in Campaign, (No. 93-D 74, 1 September 1993). Copies may be obtained by contacting the Center.

THE TRUTH

While Halperin did resign from his position on the National Security Council staff in September 1969, he remained associated with the government as a consultant to the NSC until May 1970. In this capacity, he wrote two studies concerning Vietnam. (Washington Post, 12 May 1970.)

Interestingly, Halperin found it expedient on 6 May 1970 to emphasize the fact that his tie to the Nixon Administration had continued beyond his departure from its full-time personnel rolls (and, therefore, "into the early 1970s"): On that date, several days after the U.S. incursion into Cambodia, he formally and with considerable fanfare severed his consulting relationship with the NSC in protest of President Nixon's continuing efforts to "escalate the war." (Ibid.)

What the Record Says About Halperin's Actual Role in the Pentagon Papers Affair:

Assertions that "[Halperin] played no role in the disclosure of" the thousands of pages of highly classified documents that came to be known as the Pentagon Papers appear highly misleading. Consider the following documented aspects of Halperin's involvement in this illegal release of sensitive national security information:

Item: Halperin Was Directly Involved in Giving Daniel Ellsberg Access to the McNamara Study on U.S. Involvement in Vietnam:

While a Deputy Assistant Secretary of Defense, Halperin not only "had responsibility for the production of the Pentagon Papers"; along with his deputy at the Pentagon, Leslie Gelb, Halperin had organizational responsibility for deciding who was brought in to participate in the preparation of this study and who would have access to its products. Gelb, with Halperin's knowledge and assent, in late 1967 asked Daniel Ellsberg—once a colleague of Halperin's at Harvard—to work on part of the study. Numerous books have documented Ellsberg's involvement in the drafting of the Pentagon Papers and in their ultimate, unauthorized release. For example, see Harrison Salisbury's Without Fear or Favor: An Uncompromising Look at the New York Times (Ballantine Books, New York, 1980) and Sanford J. Ungar's The Papers and The Papers: An Account of the Legal and Political Battle Over the Pentagon Papers (Columbia University Press, New York, 1972 and 1989).

According to Ellsberg, Gelb and Halperin's boss, then-Assistant Secretary of Defense Paul Warnke, gave Ellsberg a commitment "that [he] would be able to read this thing [the full compilation] ultimately. No other researcher got that commitment on the study. * * * I was authorized by the Assistant Secretary of Defense to have personal access to the entire study." (Interview in Look Magazine as cited by Ungar, The Papers and the Papers, p. 56.) If true, Halperin presumably, would have been privy to—if not directly involved in—such a decision by his superior and his subordinate.

Item: Halperin Had Reason to Believe That Ellsberg Was a Bad Security Risk

Interestingly, Halperin's organization granted that access to this highly classified ("top-secret/sensitive") study even though, as Gelb subsequently testified, he had denied Ellsberg's request for access on two occasions in the Spring of 1969. (Sworn testimony by Leslie Gelb in the course of criminal proceedings against Ellsberg in connection with his release of the Pentagon Papers to the New York Times, as reported in the Washington Post, 21 April 1973.) According to Gelb, Ellsberg had told him six months before Ellsberg had photocopied the documents that "[Ellsberg] thought they were of great importance and should be in the public domain."

Halperin was clearly aware of what Gelb knew about Ellsberg's attitude. After all, Halperin told FBI agent Earl C. Revels in an October 1971 interview that he had thought that Ellsberg might be "indiscreet" in handling the documents (Washington Post, 25 April 1973). Such indiscretion was particularly likely given Ellsberg's known—and ever more vehement—opposition to the Vietnam War. Indeed, on 8 October 1969, Ellsberg signed an open letter with five other RAND employees denouncing the war and calling for "the United States to decide now to end its participation in the Vietnam War, completing the total withdrawal of [U.S.] forces within one year at the most." (Originally publicized in a New York Times article on 9 October 1969 and subsequently published in full in the Washington Post three days later.) At best, granting an individual with such views access to extremely sensitive classified documents was an official act of gross negligence; at worst, it was tantamount to inviting their unauthorized disclosure.

Item: Ellsberg And Halperin Were in Close Contact During Period When Portions of the Pentagon Papers Were Being Illegally Copied, Stored

Halperin's involvement with the Pentagon Papers affair does not end there, however. For a number of months during 1969 and 1970—as Halperin was himself becoming an outspoken critic of the war—Ellsberg actually lived in Halperin's home. It was apparently about this time that Ellsberg made what New York Times journalist Harrison Salisbury (no friend of either the Pentagon or the Vietnam War) described as "a selection of his documents [i.e., the Pentagon Papers he had illegally expropriated] principally of the years 1962-64, available late in 1969 to the anti-war Institute for Policy Studies [an organization with which Halperin had numerous associations] for use by Ralph Stavins, Richard J. Barnet and Marcus G. Raskin in a study of Vietnam was decision making . . ." (Without Fear or Favor, p. 74.) At the same time, Ellsberg was assiduously, but ultimately unsuccessfully, trying to recruit a Member of Congress who would be willing to exploit his legislative immunity to release these classified documents.

Item: Halperin Was Aware That Ellsberg Was Making Unauthorized Revelations About the Pentagon Papers Prior to Their Publication by the New York Times

In September 1970, Halperin participated in a major IPS conference on "U.S. Strategy in Asia" together with Daniel Ellsberg, Les Gelb and a number of other former or serving government officials. Not surprisingly—given the sponsoring organization and the participants—this conference amounted to a diatribe against the Vietnam War. Inevitably, the participation of those working at the Institute for Policy Studies was informed by their unauthorized access, thanks to Daniel Ellsberg, to the Pentagon Papers. This fact may have been evident to others, like Ellsberg—or Halperin, familiar with those documents.

Such a distinct possibility follows from a passage in Salisbury's book, Without Fear or Favor:

"There had been a disagreement between Ellsberg and his friends at the Institute for Policy Studies because of what Ellsberg thought was their carelessness in allowing access to the papers that he had given them. Ellsberg was concerned lest the FBI get on the track and he finally compelled [IPS cofounder and longtimer leader Marc] Raskin to return the documents." (p. 75)

Evidently, IPS elected to follow Ellsberg's led, however, and made its own copies of the Pentagon Pages it had illegally harbored for him. In any event, according to FBI records, when Ellsberg subsequently decided in March 1971 to turn the Papers directly over to the New York Times, he stayed at Washington's Hotel Dupont Plaza, near IPS headquarters. The Bureau suspected that Ellsberg may have done so in order to "obtain the remainder of the study from IPS for [New York Times correspondent Neil] Sheehan to xerox in the early part of April 1971." (FBI Bureau file WFO #100-447935, 5 November 1971, p. 4) Given his close associations with many of the IPS principals, his intimate ties to Ellsberg and his great sympathy for the Institute's efforts—and those of other, like-minded organizations aimed at ending the Vietnam War—it is far from clear and appears unlikely that Halperin was entirely ignorant of these activities.

It is, moreover, unquestionably true that Halperin was aware that Ellsberg was disclosing classified information about the Pentagon Papers before they were published by the New York Times. According to Salisbury (who clearly had talked to Halperin at length):

"*Halperin was delighted with inquiries* [being made in early 1971 by Tom Oliphant, a reporter with the Boston Glove, after a series of conversations between Oliphant and Daniel Ellsberg] *and helped him with the story* but Gelb was horrified and wanted no part of it. Oliphant got the impression that the Papers must be a kind of magical potion, something out of a story by the Brothers Grimm. If you read them, you were instantly turned violently against the war. Out of that came his story. It was published on page one of the Boston Globe March 7, 1971, under the headline 'Only Three Have Read Secret Indochina Report: All Urge Swift Pullout.'" (Emphasis added.) (Without Fear or Favor, p. 98)

The three individuals named in the Globe story were Morton Halperin, Leslie Gelb and Daniel Ellsberg. It is inconceivable that Halperin did not know who had given Oliphant the scoop on the existence of what "Ellsberg referred to [as] the Pentagon Papers." (Ibid.) And yet, there is no evidence that Halperin took steps to prevent further disclosure of these documents; if anything, his behavior bespeaks a desire to see such disclosures proceed. Whatever his intentions, the practical effect of Halperin's behavior was the same: It helped Daniel Ellsberg pursue his efforts to publish the highly classified Pentagon Papers.

Item: Halperin Defended Daniel Ellsberg

Finally, Halperin played a central role in mounting Ellsberg's legal defense when Ellsberg was subsequently prosecuted for criminal conspiracy, violation of the espionage act and the theft of government classified documents. As Halperin himself recounts:

"The Nixon Administration's attempt to prevent the publication of the Pentagon papers and then to put Daniel Ellsberg and Anthony Russo in jail was the first episode that

threw me actively into this arena. Having had administrative responsibility for the production of the Papers, I knew they contained nothing which would cause serious injury to national security. I watched with amazement as the Justice Department, without knowing what was in the study, sought to persuade court after court that they should be suppressed.

"When the Supreme Court refused to enjoin publication and the case moved into a criminal phase, I found myself more and more actively involved as a consultant to Ellsberg's defense lawyers. I ended up spending some five months in Los Angeles at the trial getting my first exposure to a court of law and at the same time coming to understand how dangerous it would be to permit the government to monopolize all of the 'national security' expertise in a case involving a clash of interests." ("Where I'm At," First Principles, September 1975, p. 15) In fact, according to some accounts, a more accurate description of Halperin's role in the Ellsberg defense would be that of Chief of Staff, rather than a mere technical "consultant."

In this context, at least, Halperin seems to be justifying his activities on behalf of a confessed leaker of classified information by asserting, on the basis of his own judgment, that the leaked documents "contained nothing which would cause serious injury to national security." This view speaks volumes about Halperin's past attitude toward classified information (see the discussion of Issue #3 above): If a self-appointed individual determines classified information would not, if divulged, "cause injury to national security," it should not be deemed legitimately classified. Needless to say, if adopted as policy, such an attitude would make it impossible to maintain the security of any information held by the U.S. government or to prosecute anyone who chose to violate U.S. security laws.

Conclusion

The Center for Security Policy believes that—given the many serious questions raised by the foregoing review of the real record of Mort Halperin's involvement with the Pentagon Papers affair, questions that certainly raise fundamental doubts about Halperin's flat assertion of having "no role in the disclosure of the Pentagon Papers"—the Senate Armed Services Committee must examine this area of Morton Halperin's record with special care.

Not the least reason for such a review is that Halperin is today in a Pentagon position of trust with daily access to highly classified information, some of which may involve issues or policies with which he is not in agreement. The Committee, the Senate and the American people are entitled to know the full truth about this nominee's previous conduct—both with respect to the Pentagon Papers and with regard to any other instances in which Halperin was investigated for improper disclosure of sensitive national security information—if only to permit an informed evaluation of his ability to safeguard information to which he is now, or will in the future be, gaining access.

In light of Halperin's declared commitment to the "automatic release" of "information necessary to congressional exercise of its constitutional powers . . . to approve official appointments" (see Issue #3 above in which Halperin lays out his defense of his record on government classification policy and in particular the reference to his recommendations published in Top Secret: National Security and the Right to Know, p. 57), the Center for Security Policy cannot imagine that any objection to the immediate public release of all such information would now be heard from the nominee.

COMPARATIVE BIOGRAPHIES

The Halperin Biography Being Made Available by the Defense Department:

"Morton Halperin is currently a Senior Associate of the Carnegie Endowment for International Peace and Baker Professor of International Affairs at George Washington University. He was previously Washington Office Director for the American Civil Liberties Union and Director of the Center for National Security Studies. He has taught and conducted research on nuclear strategy and arms control issues at a number of universities, including Columbia, Harvard, M.I.T., and Yale. From 1966–1969, he served in government as Deputy Assistant Secretary of Defense for International Security Affairs and as a Senior Staff member of the National Security Council staff. Halperin, the author, co-author, or editor of more than a dozen books, holds a B.A. from Columbia College and a Ph.D. from Yale University."

An Annotated Biography Compiled From Unofficial, Publicly Available Information:

November 1992–Present: Within days of the 1992 presidential election, Halperin began working essentially full-time in the Pentagon as a "consultant." On 31 March 1993, the White House announced the President's intention to nominate Halperin to the newly created position of Assistant Secretary of Defense for Democracy and Human Rights. His activities prior to his nomination raise questions as to whether he conformed with limitations on the roles consultants are permitted to play.

What is more, following the announcement of President Clinton's intention to nominate him to this senior post, Halperin appears to have exceeded congressional and departmental restrictions on the involvement of nominees in policy-making prior to their confirmation. Mr. Clinton did not formally nominate Halperin until 29 July.

1 November 1992–Present: Halperin is, as noted in the "official" biography above, formally still a Senior Associate at the Carnegie Endowment for International Peace and Baker Professor at George Washington University's Elliott School of International Affairs. Although he left his position as Director of the Center for National Security Studies last November, he has remained as the Chairman of the CNSS Advisory Committee.

1988: Halperin, together with Richard Barnet and a number of other individuals long associated with the radical left Institute for Policy Studies (IPS), was identified in press reports as a member of presidential candidate Jesse Jackson's "brain trust."

August 1985–1992: Halperin served as Director of the Washington Office of the American Civil Liberties Union with responsibility for the national legislative program of the ACLU.

1984–31 October 1992: Halperin served as the Director of the Center for National Security Studies (CNSS). This organization was the lineal descendent of the Project for National Security launched in 1972 by the institute for Policy Studies under the direction of its top personnel including Robert Borosage and Marc Raskin. In 1974, the Project was spun off to become a nominally independent entity funded by the Fund for Peace (a major source of financial support for IPS) and the ACLU Foundation. When Halperin moved to the ACLU, CNSS moved with him. CNSS' declared mandate is concern for the "alarming growth of state power in the name of 'state security.'" It works "to inform Americans about the dangers of the CIA's covert action programs."

1977–1984: Halperin served as CNSS' Deputy Director under Robert Borosage

"Late 70's–Early 80's": Halperin asserts that his only connection with the Institute for Policy Studies was teaching he did during this period at the IPS "university."

1977: Halperin was one of the founders and the director of the Campaign to Stop Government Spying, an umbrella group for anti-intelligence agitation which changed its name the following year to the more benign sounding Campaign for Political Rights. The Campaign's member groups included such dubious organizations as the National Committee Against Repressive Legislation (reportedly a Communist Party front), the National Lawyers Guild, the National Emergency Civil Liberties Committee and Philip Agee's CounterSpy Magazine.

Also in 1977, while serving as the deputy director of the Center for National Security Studies, Halperin went to London to help in the defense of Philip Agee. At the time, Agee was in the process of being deported from Great Britain as a security risk for collaborating with Cuban and Soviet intelligence.

1975: Chief Editorial Writer of First Principles, a monthly publication of the Center for National Security Studies.

1973: Begins work with the Center for National Security Studies.

1972: Political consultant to presidential candidate George McGovern

1970–1973: Senior Fellow, Foreign Policy Division of the Brookings Institution and aide to Sen. Edmund Muskie and consultant to the Senate Government Operations Subcommittee on Intergovernmental Relations

1970: Served on the Executive Council of the Committee for Public Justice created by the ACLU in 1970, an organization aimed at curbing the intelligence operations of the FBI and Justice Department

September 1969–May 1970: Consultant to the National Security Council, Southeast Asia specialist.

January–September 1969: Member of senior staff of the National Security Council during the Nixon Administration with responsibility for program analysis and planning. During this period, the information concerning secret U.S. bombings of targets in Cambodia was leaked to the New York Times. Then-NSC Advisor Henry Kissinger suspected Halperin and colleague Anthony Lake of the leak and authorized FBI wiretaps on their office and home phones.

1967–1968: Deputy Assistant Secretary of Defense for Plans and Arms Control under Assistant Secretary for International Security Affairs Paul Warnke

1967: Special Assistant to Asst. Secretary of Defense for International Security Affairs Warnke

1961–1967: Assistant Professor, Harvard University and Associate with the Harvard Center for International Affairs

1961: Ph.D. International Affairs, Yale University

1959: M.A., Yale University

1958: B.A., Columbia College

Mr. Speaker, in fairness for self-research here is a list of relevant publications by Morton Halperin:

BOOKS

A Proposal for a Ban on the Use of Nuclear Weapons, Special Studies Group, Study Memorandum Number 4, Washington, 1961.

Strategy and Arms Control, with Thomas C. Schelling, The Twentieth Century Fund, New York, 1961.

Limited War: An Essay on the Development of the Theory, Center for International Affairs, Harvard University, Cambridge, 1962.

China and the Bomb, Frederick A. Praeger Publishers, Washington, 1965.

Communist China and Arms Control, with Dwight H. Perkins, East Asian Research Center—Center for International Affairs, Harvard University, Cambridge, 1965.

Is China Turning In? Center for International Affairs, Harvard University, Cambridge, 1965.

China and Nuclear Proliferation, Center for Policy Studies, University of Chicago, Chicago, 1966.

Contemporary Military Strategy, Little, Brown and Company, Boston, 1967.

Defense Strategies for the Seventies, University Press of America, Washington, 1971.

The Lawless State: The Crimes of the U.S. Intelligence Agencies, with Jerry J. Berman, Robert L. Borosage and Christine M. Marwick, Center for National Security Studies, Washington, 1976.

Freedom Versus National Security, with Daniel N. Hoffman, Chelsea House Publishers, New York, 1977

Top Secret: National Security and the Right to Know, with Daniel N. Hoffman, New Republic Books, Washington 1977.

Nuclear Fallacy: Dispelling the Myth of Nuclear Strategy, Ballinger Publishing Company, Cambridge, 1987.

Self-Determination in the New World Order, with David J. Scheffer and Patricia L. Small, Carnegie Endowment for International Peace, Washington, 1992.

ARTICLES

"Nuclear Weapons and Limited War," *Journal of Conflict Resolution*, June 1961.

"On Resuming Tests: Lessons the Moratorium Should Have Taught Us," *The New Republic*, April 30, 1962

"The President and the Military," *Foreign Affairs*, January 1972

"Led Astray by the CIA," *The New Republic*, June 28, 1975

"The Most Secret Agents," *The New Republic*, July 26, 1975.

"CIA: Denying What's Not in Writing," *The New Republic*, October 4, 1975.

"The Cult of Incompetence," *The New Republic*, November 8, 1975.

"National Security and Civil Liberties," *Foreign Policy*, Winter 1975–1976.

"Secrecy and the Right to Know," with Daniel N. Hoffman, *Law and Contemporary Problems*, Summer 1976.

"Oversight is Irrelevant if CIA Director Can Waive the Rules," *The Center [for National Security Studies] Magazine*, March/April 1979.

"American Military Intervention: Is It Ever Justified," *The Nation*, June 9, 1979.

"The CIA's Distemper," *The New Republic*, February 9, 1980.

"NATO and the TNF Controversy: Threats to the Alliance," *Orbis*, Spring 1982.

"The Freeze is Arms Control," *Bulletin of the Atomic Scientists*, March 1983.

"The Key West Key," with David Halperin, *Foreign Policy*, Winter 1983–1984.

"We Need New Intelligence Charters," *The Center [for National Security Studies] Magazine*, May/June 1985.

"Secrecy and National Security," *Bulletin of the Atomic Scientists*, August 1985.

"The Case Against Covert Action," *The Nation*, March 2, 1987.

"The Nuclear Fallacy," *Bulletin of the Atomic Scientists*, January/February 1988.

"Lawful Wars," with Gary M. Stein, *Foreign Policy*, Fall 1988.

"Ending the Cold War at Home," with Jeanne M. Woods, *Foreign Policy*, Winter 1990–1991.

"Guaranteeing Democracy," *Foreign Policy*, Summer 1993.

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THE PENNY-KASICH DEFICIT REDUCTION AMENDMENT

The SPEAKER pro tempore (Mr. FILNER). Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 60 minutes.

Mr. KASICH. Mr. Speaker, I would like to claim the 60 minutes to talk about what it is like to fight the Washington establishment. While at first we were under the Penny-Kasich amendment, which by the way cuts the gigantic sum of a penny out of a dollar over a period of the next 5 years to reduce the Federal operating deficit by about $90 billion, you would think from being here within the beltway that we were planning to knock down the Washington Monument, shut down the Lincoln Memorial, board up Jefferson, head over to the White House and tell them they have got to move to Camp David or back to Arkansas, or wherever they want to go, of course close down the Capitol, except for the Appropriations Committee.

I would say to the gentleman from Minnesota, I am going to ask unanimous consent to reduce the postage available to the Appropriations Committee for these letters that they have sent out to our Members indicating that they would lose their projects if they happen to vote for this proposal; but you were living in Washington, DC, and you heard about this Penny-Kasich proposal that cuts this one penny on the dollar, $90 billion, and here we are going to increase the national debt by about $2 trillion over the next 5 years, and all we are trying to do is reduce the operating budget by $90 billion, think about it. That is barely a spit in the ocean when you are comparing $90 billion to a $2 trillion increase. Of course, that is added on to a $4½ trillion national debt.

Of course, the American people, Mr. Speaker, want the budget deficit to be cut. They want the budget to be balanced. They want fiscal sanity restored to the U.S. Government, and yet in this modest effort to reduce this penny on the dollar, we have been charged by the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of the Treasury, the Librarian of the Library of Congress, the Vice President of the United States, the First Lady of the United States, and the President himself of wanting to decimate, shut Washington, DC down and change civilization as we know it.

Now this cabal of opponents to change in Washington have been joined by both the majority and minority members of the subcommittees of the Appropriations Committee who have seen fit to send out letters to Members of this Congress telling them that if they would dare to vote for the Penny-Kasich budget amendment that cuts a penny out of a dollar over 5 years for a total of $90 billion, that if they dare vote for it that projects in their districts that the appropriators have control on would be yanked out of their districts. That is what we are facing, Mr. Speaker.

This is the kind of crude politics that drives the American people to demand term limits, it is the kind of crude politics that gets our folks around this country to support the anti-government campaign of Mr. Perot. It is the kind of crude politics that creates Rush Limbaugh to be the No. 1 political commentator in this country, because he rails against the Washington establishment and the status quo.

When are we ever going to learn in this town that if we do not change business as usual, if we are not willing to make some change in the way this establishment works, we are going to hand future generations a bankrupt, weakened United States of America.

Now, as I said about the gentleman from Texas [Mr. PICKLE], he did not get paid any extra for taking these special orders. The gentleman from Minnesota [Mr. PENNY] and I do not get paid any extra for offering this amendment, with the gentleman from Ohio [Mr. FINGERHUT], the gentleman from Connecticut [Mr. SHAYS], and a group of five partisan Republicans and Democrats who wanted to make a contribution to solving the fiscal problems of this country, a first step in just solving the fiscal problems of this country, and now we have to come to the floor and have our colleagues come to us, some of whom are shaken by the idea that their vote in favor of this penny on a dollar over the next 5 years, $90 billion in controlling Federal spending, if they vote for this, it may result in their projects being devastated in their districts. We cannot have that here anymore, I say, Mr. Speaker.

We have got to have some real change.

The reason why the President, the Vice President, the Cabinet, and members of the Appropriations Committee are fighting to defeat Penny-Kasich is for one basic reason, because we threaten the status quo and we threaten the Washington establishment and they are afraid of change. That is why the American people have to call tomorrow their Members of Congress and say, "We support change. We don't like business as usual. We don't like the threats. We don't like the special interest groups dominating the agenda in Washington, DC."

It is up to the American people, Mr. Speaker, as to whether we can pass this and override the special interest groups and the crude politics of this House at times.

Let us get started on a real change agenda that serves the people of this country.

Mr. Speaker, I am glad to yield to my colleague, the very distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding to me. I thank the gentleman from Ohio [Mr. KASICH] for his outstanding leadership on this issue.

This budget reduction plan does fundamentally challenge the status quo here in Washington, DC.

I did not expect committee chairmen to be excited about these budget cuts, because of course they were responsible for creating many of the programs that would be reduced if this amendment is adopted.

I did not expect the White House to be enthusiastic about the budget cuts, because clearly they had trouble identifying enough budget cuts to reduce the deficit by a larger amount over the next few years.

I did not expect special interest groups who benefit from public expenditures to get excited about these budget cuts, because this tells those groups that they have contributed to the Federal deficit and must now share part of the burden of reducing this national debt.

But while I expect some degree of opposition from all those parties and others, I did not expect this kind of overkill.

I believe the reason we have seen over-statements, I believe the reason we have seen this kind of atomic bomb dropped on the Penny-Kasich package is because of what we do to the heart of the power structure here in Washington, DC.

We challenge the spenders by suggesting that all of our cuts go to deficit reduction, not to new spending initiatives.

We challenge the interest groups who are only concerned about their own piece of the pie and never think about the bottom line.

We challenge committee chairmen who for years and years have presided over policies that have led to this sort of deficit spending, and consequently the reaction to the Penny-Kasich budget reduction plan has been a fire storm of resistance, a fire storm of resistance from the White House, from the administration, from the special interest groups and from the leaders here on Capitol Hill.

This sort of resistance to spending reductions is exactly why we have $300 billion worth of red ink, when the leaders of my own party call together special interest advocacy groups and urge them, in fact request of them that they send mailings to their membership all across America, mailings which misstate and overstate the implications of these budget cuts, mailings which then instruct those special interest groups, those individuals who are members of those special interest groups, to write to Washington, DC, or to call Washington, DC, in opposition to these cuts, that sort of collusion is really uncalled for.

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It would be bad enough if we were dealing with the facts, if they simply shared with these interest groups the basic facts about what is in our bill, but the overstatements and exaggerations about the cuts in our package are what make this sort of collaborative effort between the Democrat Party leadership and these interest groups so unconscionable.

People are calling to oppose cuts that are not even in our package, and in a sense they are being enlisted in a campaign to keep up the deficit spending. That is what it boils down to, innocent Americans who in good conscience join a variety of interest groups, are now being used by those who are opposed to deficit reduction, and those calls are designed to get Members to vote against Penny-Kasich which results in continued deficit spending.

Here on Capitol Hill committee chairmen have been less than subtle in the sorts of letters they have sent around to members of both the Democratic and Republican caucuses suggesting that, if we would have the audacity to vote for Penny-Kasich, certain projects in their State or in their district might be jeopardized. Now they do not have to be explicit. They do not have to say, "We are going to knock out your project if you vote for Penny-Kasich." The implication is there, it is clear, it is intimidation. If this were the private sector, it would be a crime.

This kind of pressure against Members of Congress is irresponsible. It is the sort of pressure that emanates from a fear of change, and yet the gentleman from Ohio [Mr. KASICH], and I and our allies have proposed less change than is actually required. Imagine, imagine the reaction if we proposed a budget reduction package that would actually balance the budget within the next 5 years instead of simply taking $100 billion off the deficit over the next 5 years. If we get this much resistance to this small increment of change, I shudder to think what would happen within Washington, DC if we pursued a more aggressive budget reduction agenda.

Mr. Speaker, this package of cuts moves us one step closer to fiscal responsibility and a balanced budget. It is not the end of the debate, and those who have pulled out all the stops to defeat Penny-Kasich have to take full responsibility for the deficit that faces this Nation. A vote against Penny-Kasich is the vote for the status quo. A vote for Penny-Kasich is a vote against business as usual.

Tomorrow we do more than reduce the deficit if Penny-Kasich passes. We change the way Washington operates, and that is the significance of this vote.

Mr. KASICH. Mr. Speaker, let me ask the gentleman a question. I want to ask the gentleman what he would think about somebody who would vote for a balanced budget amendment that calls for $700 to $800 billion over the next 5 years in spending cuts, but votes against the $90 billion proposal in the Penny-Kasich task force proposal.

Mr. PENNY. Well, clearly it is an example of supporting deficit reduction in the abstract but not having the willingness, or the courage, to vote for the specific and painful choices that are required to get to that balanced budget, and I do not think it is very consistent.

I have two colleagues on the Democrat side that have done yeoman's work in putting this package together and rounding up votes.

Mr. KASICH. Mr. Speaker, I yield to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from Ohio [Mr. KASICH] for yielding to me, and I would simply state my admiration for both my friends, JOHN KASICH and TIM PENNY, for leading this fight.

I want to talk a minute about the campaign against Penny-Kasich because I am a new Member of this House, and I have to say that, even though I have been involved in politics at the local level and, obviously, in my own campaign for Congress, that I still am shocked by what I have seen and what I have heard over these last few days. In fact, I say to the gentleman from Ohio, "Mr. KASICH, you said that there are Members who are shaken by the charges that have been made about what will happen to them if this amendment were to pass," and I would say that tonight I am a little shaken myself about some of the things that have been said and done in the name of opposing this amendment.

We all know that any package of spending cuts is not going to be perfect, that certainly an amendment put together by two gentleman like this who do not have the resources of the whole White House, and do not have the resources of the Office of Management and Budget, and do not have the resources of the majority leadership of this House, that there is going to be something here or there, a comma misplaced, a decimal point out of place, and certainly we are willing and able to make any changes that are necessary. But I remember very clearly when the President's budget was before the House for the first time, and I remember when they called me and asked me for my vote.

Mr. Speaker, I told them that there were problems with the budget, that I did not think that this issue or that item was correctly addressed, and they said to me, "Congressman, this is just a first step. We need to keep this process going forward. If we're going to have significant deficit reduction, we

need to move on to the Senate. We have got time to fix things. Nothing is ever going to be perfect." They said "Congressman FINGERHUT, you have got to understand that if we want to do this, we have got to be willing to accept some things that we don't like," and I went along with them, and now, when we have this amendment that cuts $100 billion, $90 billion now in spending from the Federal budget, they come to me and say:

"But we can't pass this because this isn't perfect; this item, and this item, and that item isn't perfect."

And when I asked them what happened to the philosophy that says we have got time, we will work through this, you work with us, we will make the changes, they said, "That doesn't apply anymore."

And then they accused the gentleman from Minnesota [Mr. PENNY] and the gentleman from Ohio [Mr. KASICH] of double counting. Essentially they accused them of being dishonest. They said that the Penny-Kasich proposal includes things that we have already counted in other areas. Particularly they mentioned the personnel reduction, the 250,000 person reduction in the Federal work force that is included in the Penny-Kasich amendment.

They said, "We have already counted that other places."

Well guess what happened this week? Now that the leadership wants to propose an alternative that will at least give Members some cover; they are looking for cover, to vote for some deficit reduction, and all of a sudden it is not double counting anymore, and now they have included in their alternative; have they not, Mr. KASICH, the same personnel reductions that are in the Penny-Kasich proposal, the same personnel reductions that were criticized as being double counting a week or so ago? Is that not right?

Mr. PENNY. Mr. Speaker, if the gentleman from Ohio [Mr. KASICH] would yield, if I might take the time, if ours was a double count, then their use of these same personnel reductions in their budget plan must be a triple count.

Mr. KASICH. I just want to compliment the gentleman from Ohio [Mr. FINGERHUT]. That is about as astute an observation as can be made. I say to the gentleman, "Can you imagine that Mr. PENNY and I go to the budget Committee and have the chairman of the House Budget Committee accuse us of double counting and saying our numbers are not right? And then turn around and take our proposal and claim it as his?"

Mr. FINGERHUT. I could not agree more, and I just have to say what bothers me about that the most is the charge of double counting is essentially a charge that we have in some way been dishonest or misleading, and in fact I think that has been overwhelmingly disproven, and then the next argument came on the subject of health care, and here again I have to say I do not blame people for disagreeing with us. There are reasons to disagree with us. But I have to say how shocked I am at the method in which this argument has gone forward.

The first argument that came on the subject of health care was, if we were to pass the reductions in health care that are proposed in this plan, that we would be using and taking some of the reductions that the administration had planned on using in their health care reform for savings.

□ 2300

They said we need to save and preserve those efforts that we are going to make for the health care reform debate. That appeared to me to be at least a logical argument.

But now the calls I am getting and the comments I am hearing from the Director of the Office of Management and Budget, for whom I have so much respect that I cannot express how much my disappointment is in these comments, and the comments we are getting back from the interest groups that the gentleman from Minnesota [Mr. PENNY] is referring to, that have been called by the insiders here in Washington, are "that these cuts are immoral. They are going to hurt people."

Well, how can they be the same cuts that are proposed by the administration that we should enact next year? They are not immoral next year, but they are immoral this year.

Mr. KASICH. You know, I have got to just reclaim my time for a second. I mean, we are being told that the provisions that eliminate the Federal subsidy for wealthy people on Medicare part B are immoral to the tune of $35 billion, but their cut of $124 billion, that is moral? I mean, it is just incomprehensible to me they can even make that argument, even in this town.

Mr. FINGERHUT. I appreciate that. And I just have one more point, because there are others that want to speak. Because finally, the last argument that I have been getting now from outside Washington, that is coming clearly from inside this institution and being spread out to call back to us, is that somehow this program threatens the essential benefits for people, like the Head Start Program, like the WIC Program, which I know, because I was in that room, that we specifically protected from being proposed for cuts in all these.

When you ask them why is it that these proposals would hurt those programs, even though we specifically exempted them, they say, "Well, if you lower the budget caps, then we obviously have to make some cuts. If we make some cuts, then we are obviously going to have to affect these programs for the least among us in our society."

I think that making that kind of extenuated argument to scare people, people who are in need and people who we help, is really wrong.

Finally, you all have referred to the letters that we are now receiving from the chairpeople and the ranking minority members of the Appropriations Committee. And I have received two of those letters myself. I have only had time to check out one of them, and I can tell you that the project referred to in one of them is dead wrong, unless they intend to go back to my predecessor's ability to secure funding for an essential project and go back into previous years and wring that out. But I know that those are efforts to scare people. Frankly, it is just blackmail of another term.

My friends who are here to support this effort, I want to yield back so everyone else can respond. But I have to say that this is precisely the kind of vote that we are going to take tomorrow, that I knew and I expected that I would have to take as a Member of Congress. Because I knew that when I was elected to Congress, at a time of a $4 trillion national debt and an annual deficit built in, unless we took action, of $250, $400, $500 billion, whatever the real number is, nobody quite knows, that I would have to look some of my constituents in the eye and tell them that there are going to have to be changes that affect them and that hurt them. I know this day would come.

What I did not know was that when that day came, that we would not be standing together telling the people what they need to hear, but rather the people inside this institution would be reaching outside to have them call back to us to defeat us.

Now, I am not going to let it happen. I do not think the American people will let it happen. And I thank everybody here who is here to join this effort.

Mr. KASICH. I want to compliment the gentleman from Ohio on an outstanding statement and outstanding contribution to this process. I would say to the gentleman, do not let the calls fool you. You see, the calls come from the special interests, as the gentleman from Minnesota [Mr. PENNY] so articulately and accurately pointed out. This is not from the people. These calls do not come from the public. They come from the orchestrated special interest groups who stand to lose under this proposal.

I want to yield now to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Thank you very much for yielding.

Tomorrow we are going to have an opportunity to see whether the Members of this House understand two propositions that I think the vast majority of the American public understands very well. The first proposition is that what has gone on here for a long time, by Republicans and Democrats,

in this House and in the other body, under Republican Presidents and Democratic Presidents, is posturing, puff, and rhetoric. Every Member of this House, Mr. Speaker, has a speech that he or she goes home and gives to the Rotary Club, or to the chamber of commerce, or to local high school graduations, about the danger of the deficit. Everyone here is against the deficit, in theory. And very, very few people here are willing to go home and say they are ready to vote to take dollars out of their own district and their own State. It is hard to do.

But our constituents want it done. And tomorrow we have a chance to do that.

The other proposition that the American public understands very well, if tonight we were to go to a fire hall, or a diner, or a restaurant, or a senior citizen's home across this country, urban, rural, or suburban, and ask this question, I think we know what the answer would be.

The question is, do you think the Federal Government could get along just fine with 95 cents of every dollar that it is spending right now? Do you think that we could just take 95 cents out of your pocket instead of a dollar and still make the trains run on time, and still defend the borders, and still inspect the meat, and still light the Washington Monument at night?

People know there would be some sacrifice, they know there would be some real change. They understand that it is not all $500 toilet seats and mohair subsidies. But they understand it could be done. It has been done, by city governments across America, by corporations, by churches, by universities, by synagogues, by institutions across this country. People have understood that they can make do with just a little less.

Now, the proposal offered by my friends, Mr. KASICH and Mr. PENNY, does not do that. It does not do nearly that much. Because they had to bend for practical purposes to what might get past this House, and they are very, very close to getting this proposal past this House. They are not saying let us get by on 95 cents out of the dollar. They are saying let us get by on 99 cents out of a dollar.

The people in this Capitol, Mr. Speaker, plan over the next 5 years to spend $10 trillion of the public's money—$10 trillion.

This plan says let us try to spend just 1 percent less than that over the next 5 years. What a radical, earthshaking, unbelievable idea that is. One penny. One percent off of that.

And do you know what this plan does, Mr. Speaker? It starts with us. It says let us cut the funding for the President by 5 percent. Let us cut the funding for this Congress by 7.5 percent. Let us cut the franking privilege, the rule that says that we can send free mail to our constituents, by 20 percent. Let us start here.

It cancels weapons systems. It gets the Government out of businesses it should not be in. It terminates 11 boards and commissions. It is just a start. It is just a start. And we are so close to accomplishing what it is that we want to accomplish.

Mr. Speaker, before I finish tonight, I would ask each of our colleagues to think about the thought process they went through last August as the whole country watched this Chamber and the President's economic plan teetered on the brink, one vote away from success or failure. Our colleagues should ask themselves tomorrow, or tomorrow in the middle of the night when I suspect that we will be voting on this proposal, they should ask themselves this: How many of our colleagues said "I voted with President Clinton's plan, for President Clinton's plan, because it is a good start to cut the deficit, but we must do more"? How many people went home to the Rotary Club, or the high school graduation, or the chamber of commerce, or the editorial board, and said that? We must do more.

Then how many people are like me, who stood up and said, "I don't think raising taxes is the solution to our problem. I think it is our problem, and we should cut spending first."

How many of us said that before we cast a "no" vote last August? Mr. Speaker, I would submit to all of our colleagues, if they made either of those arguments, tomorrow is the time to stand and deliver. Tomorrow is the time to move beyond the happy rhetoric at the Rotary Club about balanced budget amendments and reducing spending, and it is the time to act.

□ 2310

It is the time to do what city governments and churches and synagogues and small businesses and universities and hospitals across this country have done. Look in the mirror, look at the bottom line and make some hard decisions.

Mr. Speaker, we are very close to passing this bill, very, very close. And its future hangs in the balance, and it sits in the hands of those who are willing to be consistent and principled about their rhetoric.

If in August, Mr. Speaker, a Member said, "I am with the President, but we have to go further," then tomorrow go further. If a Member said in August, "I am not with the President, because I want to cut first and tax later," then tomorrow is the time to cut.

I thank my colleagues. I offer my hand of support, and I hope we win tomorrow.

Mr. KASICH. I just want to say that whenever a team gets ahead about 14 nothing and a guy gets up and hits his third home run, they say, how about saving a little for the next time. I hope you did not use yourself up here tonight, because I must tell the gentleman that this is the first time I have had an opportunity to really sit back and listen to him speak.

I am always going down to Mr. SHAYS' office saying, "What the heck am I doing this for? Are we not getting anywhere? Look at how they are bashing us."

He always is the one to say, "JOHN, the glass is three-quarters full, not a quarter empty."

We have tonight three Democrats, three Republicans singing from the same song sheet. I say to my colleague from Minnesota, who has bashed his head many times up against the wall as I have, maybe we are making some progress here. Maybe we really are gaining. That is what the gentleman from Connecticut always says to me.

I want to compliment the gentleman and hope he will be with us tomorrow.

I yield to my dear friend, the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. I have to tell you, this is a very special time to be participating with three of my colleagues on the other side of the aisle and two on this side of the aisle, to just be talking in simple terms about what is so essential.

The only reason why we deserve to be here is to do the right thing. And I looked at what would happen if President Clinton's package had not passed and we just continued with what seems to be happening. Spending would have gone up 27 percent. The national debt would go up 48 percent. But with his package, spending still goes up 23 percent, and the national debt still will go up 40 percent.

And the administration, and I say this not being critical of a Democrat versus a Republican, I say this by the mere fact that the administration seems content with this 40-percent increase in the national debt. They have to be content with it, because you have a good faith effort on the part of Democrats and Republicans to reduce this deficit more. And I feel like this is a group that should be nurtured. I think there should be press just doing everything they can to get this story out.

We need the American people to know that there is a bipartisan effort to cut this national deficit so we just do not keep adding to the national debt. Forty-percent increase in the national debt. People say that is a smaller increase than in past years. It is, but it is on such a higher base. The absolute increase in the national debt is $1.6 trillion in the next 5 years.

One reason I am not discouraged, JOHN, when you do come to my office—sometimes I am discouraged when you are not around—but you have given me a tremendous feeling of participating in something that is so important, and you, TIM PENNY. I am as grateful as I can be for the both of you. You have

helped lead a coalition of Republicans and Democrats. If you were not there, we would not have that kind of leadership. We would all be frustrated in our own way.

We are a force, a smaller force now. But the reason I know we will gain in momentum is, the problem is not going away. That is the thing. The problem is still there. It is getting worse.

I had a meeting with a high administration official. And since it was a one-on-one meeting, I will just say it was someone very high up. I went to plead with that individual that they at least, if they cannot support the Penny-Kasich deficit reduction plan, do not oppose it. Let the House argue on it. Because if the administration were just neutral, this would pass.

What we are dealing with right now is a concerted effort to kill and destroy and stamp down on something that is starting to grow that could help the administration.

I consider my three colleagues on the Democratic side the best friends the administration has. And the sad thing is, they do not seem to know it. I think we are the best friends they could have, because the problem does not go away.

I went to this high Government official. I said, "The national debt is 4 trillion now. In 5 years it is going to be 6 trillion. Interest on the national debt is going up 27 percent in the next 5 years.

I am thinking that is money we could be spending on programs, and we would not be just spending it on interest on the national debt. More than 50 percent of our personal income goes to pay interest on the national debt. It blows my mind. When I am paying all my taxes and you are paying all your taxes, 50 percent of it is going to pay interest on the national debt.

You know what I do when I have people come and complain about the Penny-Kasich plan? I say, "I'm going to spend as much time as you want to talk about it, but first I want to tell you something. I want to tell you that the national debt is going up 40 percent, that it is going up $1.6 trillion, and that we are going to be spending $250 billion on interest on the National Debt in the fifth year that could be going for other programs $250 billion, not $250 million, $250 billion interest on the national debt. That is why I am voting for the Penny-Kasich plan."

And one of these groups said to me, "But, wait a second, there is $100 million of real good programs in here."

I said "You are right. There is $100 million of real good programs. In fact, there are even some more that I like. But I am supposed to vote against the Penny-Kasich plan because there is $100 million that I like and yet this cuts $90 billion? So I am going to prevent us from cutting $90 billion, because I want to save $100 or $200 million?"

I said, "Is that not the reason why we are in this mess?"

The one thing that I remember, and I will conclude this way, I remember when President Jimmy Carter talked about his daughter and he, talking to his daughter about national defense. And we all laughed. But there are times you look at your daughter or your child or your children's friends and you say, when they ask me what did I do, was I part of the problem or part of the solution. I want to tell them, I was part of the solution.

I will conclude by saying this: I am absolutely convinced that whether or not Penny-Kasich passes, and I pray on bended knee it passes, but if it does not, this is the beginning. Because we are not going to go away. We are not going to give up. We are tough enough to deal with this.

These letters that we are getting from chairmen that are saying, if you vote against us, you are going to lose out, you know, they are one kind of view. They are the old kind of view. But they have no impact, ultimately, because the problem is not going away. And we are going to have to deal with it now or later.

The only problem is, if we wait later, the medicine may almost kill the patient. We have to act now, as soon as possible.

I wanted to conclude and say, Praise the Lord for Members on both sides of the aisle, you, Mr. PENNY, and Mr. FINGERHUT and Mr. ANDREWS and your colleagues that are with you, you are doing the right thing. It is really an honor, a privilege to be part of this with you. You helped restore my faith that what we are doing means something.

Mr. FINGERHUT. I know I am speaking out of turn here. Mr. CASTLE is next. But I just want to say two very brief things. One is that back during the Budget debate, as a new Member, some of us were frustrated about the fact that this place had broken down into a partisan debate. And frankly, that the warfare was escalating. There were a few of us on this side and a few on the other side who tried to get a dialog going, a dialog that I believe in many ways has come to fruition because you, JOHN KASICH, and you, TIM PENNY, are willing to be our leaders.

□ 2320

There were a number of freshmen, and the gentleman from Delaware [Mr. CASTLE] was one of them, who came and tried to talk this particular thing through. There were not a whole lot more senior Members, however, who were willing to come sit with us and hold our hands and guide us. The gentleman from Connecticut [Mr. SHAYS] was one of them who consistently came and talked with us and taught us and tried to help.

I just wanted to say that his leadership and that of the gentleman from Minnesota [Mr. PENNY] were very much appreciated.

I wanted to say one other thing to something that the gentleman from Connecticut [Mr. SHAYS] said. He talked about the support of the administration and how we were their supporters, and the gentleman is so right. I was elected with this President. I support this administration. I know the kinds of programs and policies that they want to adopt to help people. Many of them are things that you and I, even though on opposite sides of the aisle, agree on.

However, how are we ever going to help people if 20 cents of every dollar has to go to pay interest on the debt? How are we ever going to help people if every dollar, practically, of income tax we collect from people has to go to pay interest on the previous debt? So the gentleman is right, we are helping people by getting this debt and deficit under control. I thank the gentleman from all his efforts. I will not interrupt any more.

Mr. KASICH. I yield to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. If I might, Mr. Speaker, follow on as well to a remark made by the gentleman from Connecticut [Mr. SHAYS], it is not just interest groups that might call saying they object to some small cut in this $90 billion package, and therefore they want Members to vote against the entire package because of that small item.

We have Members of Congress that shy away, if not run away, from a tough vote like this for that very same reason. Someone chairs a subcommittee, and maybe one project under that subcommittee's jurisdiction is nicked 5 or 10 percent by this package of cuts.

Forgetting about the deficit, that subcommittee chairman, out of the pride of ownership or turf protection, whatever it might be, announces to those of us that are advocating this package of cuts that he or she cannot support our plan because it affects a program in their jurisdiction.

Or someone gets a letter from the chairman of a subcommittee on the Committee on Appropriations saying, "Even though Penny-Kasich does not cut this particular Federal facility in our district, or this particular project in our State, if we have to face cuts like Penny-Kasich, we are going to have to look again at projects like those in your back yard."

As a consequence of that threat, and there is no better word to use, Members say, "How can I jeopardize some little project, a few hundred thousand, perhaps, a few hundred thousand dollars only, that is sort of important, not critical, certainly, but sort of important to my constituents in either my district or my State? How can I jeopardize that by voting for Penny-Kasich?

The challenge we have to pose to these special interest advocates, the

challenge we have to pose to our own constituents who may have some interest in some part of this package that causes them a little pain, the challenge we have to pose to our colleagues here on Capitol Hill, who either have a chairmanship with jurisdiction over an issue, or a project that is threatened by some other chairman who implies that they will withhold that project if they vote for this plan, the challenge we have to pose to all of these individuals is to look at the big picture.

We cannot rid this country of $250 billion worth of red ink annually if we run away from the tough choices and use these small little excuses. That is what gave us this mountain of red ink. It is that kind of thinking that has to change, and tomorrow, within this institution, we need to challenge our colleagues to rise to a higher standard and cast the right vote.

Mr. KASICH. Mr. Speaker, I yield to the gentleman from Delaware [Mr. CASTLE], former Governor of the State of Delaware, but I want to just comment briefly on what the gentleman just said.

It is our watch. It is our watch, isn't it, now, and what happens in this country—see, we are going to have to answer to people for what we did on our watch.

If we sit at a sentry post and the enemy comes in, they say, "Did this happen on your watch?" And some day, we are the sentries, in a sense, for our country. This is our watch. Some day these kids who get brought on this floor, little kids, two, three years old, they come on, the sons and daughters of Members, grandchildren of Members, they are going to grow up and they are going to become members of this third millennium group, a group that is starting to say, "Wait a minute. What are you doing to my future?" They are going to take a look at us and they are going to say, "What did you do on your watch?"

Now tell me, and you know, we can let out all the rhetoric as a Member of Congress, and I loved the statement made by the gentleman from New Jersey about the happy speech over at the Rotary Club, but inside your gut, inside your gut you cannot run away from your record on your watch. You cannot run away from it.

People have to take this opportunity to serve in Congress, to serve this country. They have got to take this seriously. It is not somebody else's job, man, it is not somebody else's job, it is our job.

I had a Member tell me tonight, "I can't vote for this. I might have a courthouse affected in my district." I mean, a courthouse affected in their district, and they have got to vote against only $90 billion, I say to that Member, "What is going to happen when we actually have a vote to try to get us to a balanced budget? What are you going to do, run, hide? Hide in the cloakroom?"

We called it, "the frog pond," didn't we, back in the legislature? You would say to the gentleman from Ohio, "Just go back there, run away." Is that what they are going to do? No, we cannot do that here in this House. This is our chance and our opportunity. It is our watch.

Mr. Speaker, now we have this guy, he has to be pinching himself every day that he is here, the former Governor of the State of Delaware. He had to run a State, he had to balance books. He was the chief executive of the State of Delaware. I do not know why he would even want to stay here now, because he sees how difficult it is.

Yet the gentleman comes to these meetings. Governors do not go to meetings unless they get, you know, golden invitations. He went to the task force. He participated like a normal person. This is incredible. I cannot wait to hear what he has to say.

I yield to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I feel like a prizefighter, pumped up. I thank the gentleman for yielding to me.

Mr. Speaker, I would just like to say, when the gentleman from Ohio [Mr. KASICH] asks you to come to a meeting the way he just said when he said that, you go to the meeting, you don't ask any questions about that, so that is relatively simple.

I cannot, Mr. Speaker, thank the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] enough for what they have done to really in my judgment, and I think in the judgment of all six of us who are handling this debate tonight, to energize this particular issue for true cuts in Washington, DC.

Every single one of us in this building goes home, and when we go home we see the individuals who have lost their jobs or those who have had to cut back on their expenditures because they did not have enough money, or their spouse lost a job, or a child is sick, or whatever it may be, we have seen businesses which are not making it for various reasons, and some drop by the wayside, they go into bankruptcy, and they have to go on and do something else, but they have to pay their bills. They know that eventually they are going to have to pay the piper in some way or another, and they are going to have to somehow or another be able to earn the money in order to do that.

We see our local governments, we see our city governments, we see our county governments, and we see our State governments. They are doing the same thing. They are fighting like heck to balance their budgets. As a matter of fact, practically every State in the United States of America has now adopted a balanced budget amendment, I think all but one at this point have done it, because they understand and the people have stressed the importance of balancing that budget.

We ran for office and then we go out there and we talk about the Federal Government. I will guarantee that those same Rotary meetings that the gentleman from New Jersey [Mr. ANDREWS] referred to, that people raise their hands and say, "Why can't the Federal Government balance its budget? Why does the Federal Government have so many programs? Why does the Federal Government spend so much money?"

There were, I guess, about 30 of us that the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] brought together for the idea of talking about can we make a difference as far as this is concerned. It was a group of individuals who care a great deal about this country, about their President and about what is happening in the United States of America.

We sat down and talked about the issues. We broke up into little groups and we figured out what we could really do that would make true budget cuts in the United States of America, but would not harm people or programs in such a way that they could not function in the future.

We went over this. We went over this. We went over it at different levels. We eventually debated it. It got done. I believe every single program that is included in there is something that can indeed handle the reductions which have been proposed.

□ 2330

And where is the opposition coming from? It is coming from the White House, it is certainly coming from within this building, it is coming from the appropriators. And we all have our letters threatening various projects that may not get renewed if indeed we try to cut this particular money and vote the wrong way tomorrow. It comes from the interest groups. And I do not know how extensive they are, but I know of one union in my home which wrote and said, "Gee, we don't want you to cut back on the cost of living increases and raise retirement ages." And then when we took some of that out, because there was so much opposition to it, they indicated that they did not want to be in a union with other people who were going to have their retirement ages raised, even if they were not, which is an incredible rationale when you get right down to it.

Are the arguments we are hearing really sound? Would it destroy changing health care? I do not think so. Would it really depress the economy? You heard the figures, and I think the gentleman from Ohio [Mr. FINGERHUT] used some of the figures, as did others, and it is a very slight reduction.

As far as economic progress of the United States is concerned, will it destroy Government programs? That has got to be a joke. I do not know how small cuts such as this could possibly destroy any Government programs, most of which are already overfunded.

Will it decimate our defense beyond repair? Again, that is just beyond reason to be able to make that representation.

But the real issue is maybe not what is happening at the White House, and not what the appropriators and the chairs of the committees think that we work with, or even what these interest groups that have contacted us think. The real issue is what do the people of the United States think. What about that 99.-some percent that we have not heard from at all? Where are they tonight? What are they thinking? If they are smart, they are home in bed asleep. But what are they thinking at this point?

I would suggest that they are thinking why can we not live here in Congress the way they live at home, with those businesses that are trying to make it, with the accountants at home where it is a struggle to meet the bills each week and each month. Why can we not eliminate the waste we have heard so much about, and clearly is there? Why can we not sunset outdated programs? Why cannot the Government run more efficiently? Why cannot runaway government be checked in some way or another?

What should we do about it as Members of Congress? I have a lot of ideas. I personally think we should pass line-item veto. We got within 21 votes this year. We should have a balanced budget amendment in the United States, and that is going to be difficult to do because it would have to be done in the future. We should sunset some programs. We probably should go to 2-year budgeting. I am not sure I understand that concept, but it seems to make sense from what I have read about it.

But the truth of the matter is we are going to have one real great opportunity before we go home this year, before we go home to the chamber of commerce to give the speech in the editorial board to say what we are doing to cut expenditures in the U.S. Government, to make Congress balance its budget, and we are going to have that chance tomorrow when we look at the Penny-Kasich bill, and we make our decision if we are going to vote yes or no. More or less in the range of 218 of us are going to have to vote yes on that particular very significant piece of legislation. We are going to have to cast aside the special interests and those who feel their oxes being gored, and we are going to have to think about the people of the United States of America, and what they really want, and where we can really begin this process.

And it is only a beginning. There is a tremendous amount more that we have to do if we are really going to deal with the concepts of balancing budgets and making government programs funded in such a way that they are streamlined, and they meet the methodologies of going ahead that we should follow in this country. But this is the opportunity. This is the time for Republicans, this is the time for Democrats to stand up and to cast their votes in what is going to be in my view the most significant vote we are going to cast in the Congress this year.

I hope the whole country is looking at that vote tomorrow, and I hope when that vote is called for that we deliver the majority needed in order to have a real victory before this year is out.

And I thank the gentleman for yielding.

Mr. KASICH. Mr. Speaker, I want to yield to the gentleman from New Jersey, and then I want to spend just a few minutes talking about the phony alternative to the Penny-Kasich amendment, and the gentleman from Connecticut [Mr. SHAYS] has a little bit more time. He has time coming, so we are not in a hurry. We need to spend a little bit of time talking about that phony-baloney proposal.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I thank the gentleman for yielding. I wanted to pick up on one of the points the gentleman from Delaware [Mr. CASTLE] made about the incredibly specious argument that the economic recovery that some people think we are in—I cannot find many people outside of here who think we are in one, but the economic recovery some people think we are in will somehow be jeopardized by the notion of the Federal Government spending, really borrowing $1 billion less over the next 5 years.

It is important to point out the reasons why that argument is wrong, as my friend from Delaware just did. We are being told that if the Federal Government does not spend and borrow this $100 billion over the next 5 years that the recovery will screech to a halt.

Let us think about what will happen if we do not spend and borrow that $100 billion. If we do not borrow it from domestic capital markets, that means that $100 billion that people here would decide how to spend will be spent by someone else, by loan officers at the banks, by credit managers at the consumer credit companies, by people in the private sector who will make that capital available to business people across this country, who will take risks, expand their business and hire people.

If it is not drawn from the foreign capital markets, it will have the consequence of not adding to the imbalance that has been created with the influx of private foreign investment in this country. So the argument that somehow or another slowing the pace of growth of Federal spending is going to reduce economic growth is the most bizarre twist on Keynesian economics I have ever heard, and the administration people making that argument really need to go back to the graduate school they came from if they believe that.

The second point I would make very quickly is about the impact on health care. I have had a number of Members tell me, Mr. Speaker, the last couple of days that they are worried that if the Penny-Kasich plan would go through it will severely impinge on the administration's ability to change the national health system. I believe that the administration is already, as the gentleman from Ohio [Mr. KASICH] said, taking greater Medicare savings and putting them toward deficit reduction anyway. If anybody is double counting here, it is them.

But let us take their argument at face value for a moment, and let us assume that money that we are talking about from the slowdown in the rate of growth of Medicare, let me repeat that nobody's Medicare benefits are being taken away, we are slowing down the rate of growth of Medicare spending. Let us assume for a moment that we are taking that away from the administration's health care plans. Let us quantify it for just a moment.

Medicare is presently growing at a rate of about 15 percent per year. The administration's health care plan assumes they can slow that rate of growth to 6 percent per year, and they want to take that 9 percent difference and plug it into subsidizing care for uninsured people. Nine percent of this year's Medicare program is about $9.6 billion. The $9.6 billion is less than 2 percent of all of the revenue that will flow into the administration's health care proposal, so even if they are right, and I do not think they are, but even if you take their argument at face value, the maximum impact of this proposal on their health care plan would be to take away 2 percent of their revenues 6 or 7 years from now, maybe, maybe. And I would challenge, Mr. Speaker, anyone who disagrees with that assertion from the administration, or their advocates in this Congress, to tell me why I am wrong, because I cannot see why I am wrong.

Mr. KASICH. If the gentleman will yield, just keeping hanging out with us and you are going to get a thousand reasons why they think you are wrong, none of them will be right, but you will get a thousand different reasons.

Mr. ANDREWS of New Jersey. If we are being told that a vote for Penny-Kasich is a vote for slowdown and no economic growth, that is the strangest economics. That is not trickle-down, that is being trickled on, frankly, and

if we are being told that passing Penny-Kasich is going to cripple the administration's health care initiative, if you cripple something by taking away less than 2 percent of its revenues, it is not in very good health to begin with.

Mr. FINGERHUT. If the gentleman will yield at that point, I will argue, and I have argued to Members of this House, that not only does this not jeopardize the health care reform effort, but it actually assists, because if the reaction from your constituents is anything like mine, and I have been going home every weekend as I know you do, and I have been holding townhall meetings solely dedicated to the subject of health care reform. And we put up the charts, and we lay out what all of the proposals are. And frankly, virtually every proposal, whether it is Republican or Democratic proposal, relies on significant reductions in the rate of growth in the Medicare and Medicaid programs.

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Without any question, the first reaction from my constituents in every meeting is, "How can we believe that you are going to make any of those savings from those programs? And should I not assume that what is going to happen if you will not make those changes, but you will add: You will not make those savings, but you will add the new benefits, and we will end up with an even bigger deficit than you had before?"

So I would argue if we can show the courage to make the cuts in the growth of the Medicare program and Medicaid program that is proposed here which is a tiny amount as you have indicated and is the same as that proposed by the administration for their health care reform program, as we talked about before, that we would strengthen the credibility of this House and of this Government with respect to the furtherance of health care reform.

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

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

There was no objection.

THE PENNY-KASICH AMENDMENT CONTINUED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ANDREWS] for his observations. I have been really enjoying listening to him.

Mr. ANDREWS of New Jersey. I would like to make a very brief point before I yield back in that it is very, very important that we not leave this debate tonight or tomorrow with the lingering impression that we are taking money away from Medicare recipients, because that kind of demagogery is being thrown around this country. Let us set forth once and for all the facts.

Under present law we can anticipate, without changes, that the taxpayers of this country over the next 5 years will pay something in the order of magnitude of $1 trillion for Medicare unless we change something. The change that we are proposing would have us spend about $35 billion less than that $1 trillion, about 3.5 percent less.

So we are saying this: Let us take a program that is growing at 15 percent per year, and let us slow down the rate of growth of that just a little bit so that we spend about 96 percent of what we are going to spend on that program over the next 5 years.

I will tell you what, if that is a cut, then everybody in America should hope their pay gets cut the same way, because what it is is a slowdown in the rate of growth by about 4 percent per year. That is it. For people to talk about demagogery about Medicare cuts is unconscionable.

For people to talk about taking away from seniors and children is unconscionable.

The people who would be called to accountability are not the children receiving child care, not the senior citizens receiving meals. It is the people sitting at desks writing memos, filling out forms, generating red tape. And those are the ones being put on the firing line by this proposal. And those are the ones, I say to the gentleman from Connecticut [Mr. SHAYS], we are hearing from, and I am sure that you are going to refute for us tonight.

Mr. SHAYS. If I could, I would just like to read just a few passages from some of the groups that have endorsed this plan, and, you know, kind of give you a little bit of faith that people are listening.

One is the Citizens for a Sound Economy. They say that citizens for a sound economy hopes this initiative will help make cutting spending as routine an exercise on Capitol Hill as the appropriations process. The Penny-Kasich commonsense plan was formulated by bipartisan working groups committed to follow through on the President's promise to enact spending cuts following the passage of the budget reconciliation package this summer. They go on and say the Penny-Kasich plan would make about $90 billion in program cuts in personnel reforms over a 5-year period through more than 80 deficit-reducing proposals. It would shave nearly 1 cent from every Federal dollar expected to be spent over the next 5 years.

Just a few more, the National Taxpayers' Union, the Penny-Kasich plan is an important step forward on the long road to deficit reduction. The upcoming House vote on the Penny-Kasich package will be one of the most important, if not the most important, spending-cut votes in 1993. The Penny-Kasich package is made up of sensible spending cuts that should appeal to both sides of the aisle.

Let me read more: The Financial Executive Institute, the Penny-Kasich plan does what the President's proposal fails to do, significantly reduce the budget deficit over the next 5 years. The Penny-Kasich plan achieves real deficit reduction by making the difficult choices and then they go on to say that, "We favor the Penny-Kasich plan because it is a truly bipartisan effort. It represents a broad cross-section of House Members from both sides of the aisle that put aside their personal preferences to develop a package of spending cuts which affect their constituents which is necessary for the long-term health of the economy."

You know, they go on. I mean, we have groups like the Institute for Research on Economics of Taxation, the Concord Coalition, just pointing out that the Penny-Kasich amendment is bipartisan; it cuts $90 billion, major addressing for the first time entitlement problems that are realistic and credible as a solution; the Responsible Budget Action Group, the Third Millennium, the NFIB, and it goes on and they just keep coming in. These are groups that are even seeing cuts to programs that they may like, but they realize that this is a group that should be nurtured. This is a group that should be encouraged not discouraged, and I just say that we are not going to be discouraged. We are going to keep after this.

If we have colleagues like the gentleman from New Jersey [Mr. ANDREWS] who is not even part of this group be so articulate and so knowledgeable about the problem and obviously, as he has been working on so many other areas, I mean, if there are more like you out there, I say to the gentleman from New Jersey [Mr. ANDREWS], we are going to win by an overwhelming majority.

I yield to my friend, the gentleman from Ohio [Mr. KASICH].

It is kind of fun for me to have power here. I can take it away at any time, and I can shut you up at any time I want.

Mr. KASICH. I just want to take a few minutes to talk about the phoney baloney amendment, and I would like the gentleman from Minnesota to participate if he could in this.

I mean, the problem that we are going to have tomorrow is that we are

going to have a phoney baloney amendment come to the floor. This amendment is going to be designed to have a reshuffling of the dollars that flow through our budgets.

Now, the gentleman from Minnesota, the chairman of the Committee on the Budget, will have an amendment that will not apply any of the proposed cuts that he will make to reducing the deficit. Any of the changes that he makes in his proposal are being used to shuffle out the new programs and more spending, and so tomorrow we are going to have a good opportunity to reject a phoney proposal that gives us zero deficit reduction versus the Penny-Kasich proposal where all 90 billion dollars' worth of change goes to reduce the operating deficit of this country, and so there should not be any confusion tomorrow, Mr. Speaker, when our Members are watching the debate here.

Some may get for a moment confused about, well, what is the difference, what is the impact. Well, the impact of the Sabo proposal will be zero, but the impact of Penny-Kasich would be a $90 billion cut in the operating budget of this country.

I yield back to the gentleman from Connecticut.

Mr. SHAYS. And I will yield to just allow the gentleman from Minnesota [Mr. PENNY] to respond.

Mr. PENNY. I thank the gentleman.

I, too, want to weigh in on this particular issue.

We should be somewhat flattered, I say to the gentleman from Ohio [Mr. KASICH], that the leadership of this institution which originally trashed our proposal for spending cuts now has developed a plan with remarkable similarities to our package. Clearly we still have the advantage here, because our plan cuts $90 billion over 5 years, while the leadership plan cuts roughly $37 billion over 5 years, and as the gentleman mentioned just a minute ago, our plan reduces the deficit. Their plan does not.

We lower the spending caps so that the deficit goes down. We do not spend these cuts in some other area.

They make these cuts only to spend the money somewhere else. So in that sense it is a phoney sort of game. It is the sort of thing that happens here in Congress all too often.

The attitude goes like this: Let us give Members that want to pretend that they are against the deficit a vote that pretends to cut spending. That is what is going on tomorrow with the Sabo amendment.

Mr. KASICH. If the gentleman will yield for a second, I guess then tomorrow we should think of this as, and the gentleman hit on something here, that it seems to me as though we ought to refer to that amendment as the great pretender.

Mr. PENNY. It pretends to cut spending, but when you allow that money to be shifted to other programs, it does not reduce the deficit, and we know better than that in Washington, but the leadership, by proposing this package of cuts, is counting on the fact that the public will not know the difference.

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And so they are going to give some legislators a vote to cut and they are going to guarantee that those cuts do not do one thing to reduce the deficit. But, again, we should be flattered that we have even driven them to this degree because just a short time ago, as the gentleman from Ohio and I were called before the House Committee on the Budget, the chairman of that committee criticized virtually every specific item in our spending reduction package. Now, here just a week and a half later we are looking at a package developed by Chairman SABO which has a remarkable amount of overlap with the Penny-Kasich plan. In the area of agriculture they call for the reorganization of the department and the downsizing of the field offices; that is in the Penny-Kasich plan. They call for elimination of the honey support program; that is in the Penny-Kasich plan. They call for eliminating or merging the polar satellite program; that is in the Penny-Kasich plan. They call for reorganizing the Army Corps of Engineers and downsizing the number of field offices; that is in the Penny-Kasich plan.

They call for selling the Alaska Power administration, and that is in the Penny-Kasich plan. We could go item by item by item, and most of what they have proposed as their alternative tomorrow is in the Penny-Kasich package.

They take the 250,000 Federal workforce reduction and count it one more time. It is in the Penny-Kasich plan.

It is now in the Sabo Democratic alternative. So we should be flattered that they found all of a sudden that they found some items in our package of cuts that are acceptable, but they are being too cute by suggesting that they will take these cuts as long as they do not reduce the deficit. And that remains the key distinction between the Penny-Kasich package and all other alternatives. When we vote tomorrow, you will have three amendments that deal with spending cuts: the Penny-Kasich package, the Sabo Democratic alternative, and the Frank-Shays amendment. Only Penny-Kasich reduces the deficit.

We are flattered that they have picked up on some of our items, but if you do not reduce the deficit, it is simply a charade, and we hope our colleagues know better tomorrow and cast a vote accordingly.

Mr. SHAYS. Reclaiming my time and inviting JAY DICKEY to participate, who came in here—I do not know what brought JAY into this room; he was probably watching his television and said to himself, these guys need help.

I want to emphasize a point that the gentleman has made, that is, the gentleman from Minnesota. It is not the issue of pride of authorship, and if the administration took this entire package and adopted it as its own, we would all be grateful.

The Penny-Kasich plan actually reduces the deficits further, whereas by capturing some of their cuts but not lowering the caps, may not in essence reduce the deficit at all. It may or may not.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. FINGERHUT. I thank the gentleman for yielding.

I just want to respond also to the gentleman from Minnesota's comments because it really does go to the core of the matter and it goes to the core of what is going to happen tomorrow.

As new Members of this body, as JAY DICKEY, Governor CASTLE, and I are, all freshmen, you sometimes learn as you go. I see them shaking their heads, they know what I mean. I remember earlier in the year when a number of us who believed that there was room to cut in the budget, we started asking our more senior colleagues, wondering how does this work, when do you get a chance to propose spending cuts? I dare say in every one of our campaigns we each walked around with a list of cuts that we supported, and probably took it, as the gentleman, Mr. ANDREWS suggested, before the Rotary Clubs and the Chambers of Commerce. The answer was, "Well, during the appropriations process, the bills come to the floor, they always, almost always, come to the floor with open rules, which means you will have a chance to offer any amendments you want. And that is the time we can vote for cuts."

Indeed, there were a number of amendments that were offered this year, and we did vote to make cuts in some of the appropriations bills that came out of the committees. But what we did not know at the beginning but what we understand now is that none of those cuts that we voted on, that every one of us is going to go out and highlight to our constituents, none of those cuts went to reduce the deficit. Unless those amendments explicitly said, which none of them do because that rider was not allowed because it was always considered not to be germane—though I cannot imagine how reducing the deficit is not germane to cutting appropriations—but unless you explicitly say that this money, if saved, will go to the deficit, then it simply goes back into the general pool of funds that can be used for any other purpose.

So the point that Mr. PENNY makes is so important because we will hear a lot of talk about cuts tomorrow, but

there will be only one amendment on he floor that has as part of the language of the amendment the stipulation that if we make the cuts, it goes to reduce the deficit.

So let us not be fooled again that votes to cut spending are always votes to reduce the deficit. They are not, unless it explicitly says so.

Only one amendment tomorrow explicitly says so, and that is Penny/Kasich.

Mr. SHAYS. I thank the gentleman, and I invite Mr. DICKEY to explain why he came here at 11:55. Was it a siren call and the gentleman felt he just had to come to the floor? I yield to the gentleman.

Mr. DICKEY. The gentleman is fishing for a compliment, and I will give it to him.

Mr. SHAYS. No, no.

Mr. DICKEY. I will give it to you.

Mr. SHAYS. It is great having you here.

Mr. DICKEY. I know you mean that. And I thank you for the time.

I got one of the letters that specified that two of my projects would be in jeopardy if I voted for this Penny/Kasich bill.

I got upset, but now I am thankful that I got it, and I wanted to share with you all as to why I felt this way.

I am a freshman, of course, and I have my concerns about how I am representing my people. But what that letter does is it implies that the most important thing that I have for me is reelection and that I should guide what I do and how I vote based on whether or not I am reelected. The second thing it says is that these two projects that I have worked hard to get are in fact my route to reelection and it is what my people in the Fourth District of Arkansas really want.

Well, I am going back in my mind, when we had the tax bill, what the people of the Fourth District wanted when they said cut spending first. It did not make any difference what was said, how it was said, it was cut spending first.

So what I have come to conclude in listening to this debate—and I am certainly identifying with it—is that my reelection is up to the people of the Fourth District. What I have got to do is obey what they say. I cannot listen to the chairman of this committee or that committee coming around and saying, "We do not do things that way. We do things this way. You will never get reelected if you do not do that." Reelection is not as important to me as being responsive to the people of the Fourth District. It is up to them to reelect me. It is their problem as to whether to reelect me. I have got to do what I think is right inside and what I was assigned to do when I got voted into this particular office at this particular time.

I am for cutting spending first. The people of the Fourth District and I are not going to change, and I do not care who threatens me with anything other than my own integrity.

Mr. SHAYS. Praise the Lord for that statement.

Gentlemen, I am in control here. You all will have to be patient. I will yield to the gentleman from Ohio [Mr. KASICH] but he is going to have to wait.

I yield to the gentleman from Minnesota.

Mr. PENNY. I know plodding after those remarks does not do justice to that statement because there are so few of us here. But I do hope that some people across America are staying up late tonight and listening to this debate because you hit right to the heart of what is wrong on Capitol Hill: Too often we end up voting for or against a measure because some caucus leader or some committee chairman puts the arm on us or threatens our future in this institution or a project in our district. It has to end, it has to end. We have mountains of red ink because Members are too often talked out of doing the right thing because of these kinds of threats.

The implication of the letter sent around today is quite clear. It may not have been stated in blatant terms, but the implication is there that the subject is in jeopardy if you vote for these spending cuts. That is what we are fighting against tomorrow on this vote as much as anything else.

Having complimented Mr. DICKEY, I also want to compliment Mr. SHAYS because there will be another amendment tomorrow dealing with a variety of spending reductions, many items that have come very close to being approved on a vote earlier this year in this House. He has identified with that amendment. It is the Frank-Shays amendment.

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I believe that it is meritorious and I intend to support it.

Mr. SHAYS. It has merit, but reclaiming my time, Mr. Speaker, it has to be pointed out, it may or it may not reduce the deficit, depending on when we cut out those programs and what Congress decides to do.

Mr. Speaker, I notice Mr. KASICH wants to talk, and I know I am in trouble if I do not yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I will tell the gentleman, Mr. Speaker, if he does not give me some time, I am going to tackle him.

I have to tell these gentlemen something.

The gentleman from Minnesota [Mr. PENNY] is leaving because he is frustrated. I do not know how long you can keep coming at it like crazy and trying to do the right thing, but I have got to say, what the gentleman from Arkansas [Mr. DICKEY] said here tonight has made every bit of what I have done here with my colleagues worth every second of it, to have him here.

I want to say to the gentleman from Arkansas, we were together not long ago helping out another colleague, he was saying, "You know, what is the best thing to do and how do you do it? How do you know where to go?"

Do you know what it is? It is all about your heart. That is what it is all about in this place. It is what made the gentleman a great basketball player. You get the ball and you know you are going to go to the hole, not the opposition, not the coach, not the fans, nobody was going to keep you from doing what you wanted to do. That is what makes a Member of Congress. It is the passion to do what they think is right. That is what the public wants.

They want you to do what you believe is right in your heart. I think that is what John Kennedy wrote about. How appropriate. We missed it by a few minutes, but that is what John Kennedy wrote about in "Profiles in Courage". You do what you believe is right inside and you can never, ever, lose.

I just want to thank the gentleman from Arkansas. He represents the President's home district. They can cut him up in tiny pieces if they want to, and he comes to this floor tonight at 10 minutes to 12.

Mr. SHAYS. You know, we have another gentleman who has joined us. I would love to recognize the gentleman from North Carolina [Mr. TAYLOR].

What makes his presence so unique is that he is also a member of the Appropriations Committee. He spends the money. It is just really a pleasure to have such a distinguished Member of this House here, and it is nice to greet him at 12 midnight.

Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Well, Mr. Speaker, I wish we were doing it earlier when more people could see it, but we have to speak when we can.

I appreciate the gentleman taking the time to do this with the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] in their stands.

You know, I took the President at his word both during the campaign and in his State of the Union Message when he pointed out how important cutting spending was and balancing the budget was. Certainly the people in my district felt that way overwhelmingly.

So when I was selected to serve on the Appropriations Committee and the two subcommittees that I sat on, it was my task to cut.

It is not a question of not meeting national needs or not spending money. We took in, counting Social Security, almost $1.4 trillion in revenue. Our problem is, we are spending somewhere close to $1.7 trillion, if you take the Social Security and so forth involved.

What I am saying is that had we spent the over $1 trillion and met needs, we could have balanced the budget. It is a question of selecting priorities.

There is always another item out there that we can spend money on, but what the people want us to do is to spend that money we are taking in on the best priorities possible, and that ought to be what we are struggling to do. That is what I wanted to do.

In the first subcommittee on the legislative branch, we went through the hearings and then put together over 25 percent of very low priority items that we thought we could cut, consolidating, not a meat-ax approach, not across the board, that sort of thing, but a consolidation, a real business effort toward that.

We wrote the President and asked him since he publicly began making these statements to join in. We were ready to sign on for budget cutting.

He replied, and in his first paragraph he said:

DEAR REPRESENTATIVE TAYLOR: Thank you for your letter expressing support for my efforts to reduce the federal deficit. I am glad to know that you and other Members of Congress are ready to help in cutting wasteful government spending.

Then he tells me he is unable to help, but he says:

But I urge you to pursue your efforts as a member of the Subcommittee on Legislative Appropriations to achieve other meaningful Congressional spending cuts.

Now, what he has said publicly and what he has said by this letter I am trying to do. I think the Members who have spoken here tonight are trying to do that.

Unless he has changed his attitude or his written word and his spoken word, then he should be on the phone, not cajoling people to go the other way, but to get behind these cuts, because many of these cuts he made himself.

I serve on the Subcommittee on Commerce, Justice and State, and in his budget report he had a $20 million reduction in there for the Justice Institute.

The gentlemen that put this report together have a $20 million reduction for the Justice Institute, exactly as the President recommended, and yet in committee when I made that motion, I could not get but a few dollars cut from the Criminal Justice Institute.

Now, I wanted the gentlemen here, both Democrats and Republicans who put together the Penny-Kasich amendment, the President says he wants it. Why do we have opposition now with both parties and the President of our country wanting the same thing? How can we propose this and not be terribly hypocritical in the eyes of the public?

Mr. SHAYS. Mr. Speaker, I just want to say, this is one of our quandaries, where we are feeling this effort should be something the President nurtures and encourages a continued effort on.

Remember early on the President said, "If you have suggested cuts, tell me where."

He was partly responsible for unleashing this effort. He encouraged people like the gentleman from Ohio [Mr. KASICH] and others to seek other ways to cut.

What makes the gentleman's remarks so appreciated is that he is really right in the center of this as a Member of the Appropriations Committee. The gentleman has been such a force for trying to control growth and spending as a member of that committee. That is what to me is extraordinarily important about the gentleman's message and appreciated.

Mr. TAYLOR of North Carolina. Well, I think it is extremely important that the public know, unless someone is being hypocritical, unless someone has withdrawn all the statements, unless the administration has withdrawn all its recommendations, part of the cuts that the Penny-Kasich bill outlines, such as the one in Commerce and Justice with $20 million for the Criminal Justice Institute, is a recommendation the President made, a recommendation the gentleman made, a recommendation I made and failed to get any response inside the committee.

So why can we not make it?

I think unless there is a formal withdrawal by the President saying, "I was wrong last spring. I really didn't want to cut the deficit. I really don't want these items I listed taken out of the budget," then I see no reason why we should not, because both parties and the President seem to be heading the same way, or wanted to at that time.

Mr. SHAYS. Mr. Speaker, I really thank the gentleman.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I want to tell the gentleman, we ought to start all special orders at 10 minutes to 12 from here on out, because the testimony of the gentleman from Arkansas [Mr. DICKEY] and the gentleman from North Carolina [Mr. TAYLOR], you know this guy is on the Appropriations Committee, I say to the gentleman from Minnesota. I do not know if they got any special clubs or wherever the heck they hang out. I do not know whether he will get in the inner sanctum.

But do you know what? This is what leadership is all about.

I just say to the two gentlemen who came here tonight, will not quit my efforts. I think we just become a stronger team. This is what the gentleman from Connecticut [Mr. SHAYS] has been telling me. We just become a stronger team for doing what is right.

What choice do we have? You might as well quit if we are not going to do what is right.

Mr. TAYLOR of North Carolina. I would say as a member of the Appropriations Committee, if the gentleman will allow me, I did not sign on to the Penny-Kasich amendment when it first came out, because I had not had time to focus on it. I have not had time to look at it.

I spent time looking at it, and I can tell the gentleman, if I drew it there might be an item here or an item there that I might add to or change, but they are not Draconian measures. The measure in the area of Medicare, I have one of the largest districts because of a lot of retirement and elderly people in my district and I watch very closely what we do in that area, those are reasonable recommendations. They are recommendations that I can support and go home and talk to my folks.

We held 17 town meetings last fall in August and September.

□ 0010

We hold 17 in the spring, and that is as many as I am sure as are held anywhere, and we have large crowds of people. People come in and are very active, and by and large they are all saying exactly what the gentleman from Arkansas [Mr. DICKEY] said, "Let's cut spending first. Let's do something. I'm ready to make the sacrifice on my part. I'm ready to do something."

And the people are way ahead of where we are right now, and I think, if those Members tomorrow who vote on this will show that courage, I think they will find that they are rewarded by the people, not the politicians. They will be rewarded by the people in their districts for having the courage to take those stands. I am prepared to do it, and I can tell my colleagues, as a member of the Committee on Appropriations, that these cuts are justified. I would love to go further; I think we all would. But I think this is certainly an excellent start, and it is an indication to people all over this country whether or not we are even the least bit serious about heading in the right direction.

I appreciate the item from the gentleman.

Mr. SHAYS. I say to the gentleman from North Carolina, "You made our day," because I so appreciate that a member of the Committee on Appropriations would come here at 10 minutes after 12 to take the kind of stand he has taken, which he has taken for a long time, and I also say to the gentleman, "It is great you have shared with us your feelings."

And the gentleman from Ohio [Mr. FINGERHUT] has been very patient, unlike my colleague [Mr. KASICH].

Mr. FINGERHUT. I thank the gentleman from Connecticut [Mr. SHAYS] and say, "I actually have taken more than my fair share of time, but, you know, Mr. KASICH, you said something that got me thinking a moment ago. You pointed to the clock, and you mentioned the day. It's now 10 after 12, which means it's Monday. It's November 22. It's the 30th anniversary of the

day that President Kennedy was killed. And each one of us has our own personal reasons for being in this business. I know sometimes it seems glamorous, but we all know that it has its moments when it is not, and I believe that we are all here because we're committed to public service."

I have been reading the recent biography of President Kennedy's administration by Richard Reeves in my spare time, carrying it on the plane with me back and forth, and a couple of things really struck me when JOHN made that reference. First, on a personal level it is because of the call to public service that President Kennedy and Robert Kennedy were known for that I was inspired to try and do this myself.

Mr. SHAYS. I say to the gentleman, "You must have been a very small little kid."

Mr. FINGERHUT. I was very small, but I read a lot of history books, and there is a point that was made in that book that also relates to something else that CHRIS said. He talked about how it was President Kennedy's rhetoric, the statements that he made on the subject of civil rights, which I know the gentleman in the chair, the gentleman from California [Mr. FILNER] was so personally involved in, that unleashed the movements all around the country, and sometimes it went even faster than the President wanted, and sometimes it went beyond his control a little bit. But every time he would say, "Why are they doing these things out there?", Richard Reeves reports in his book the response back to the President was, "Because they are listening to you, Mr. President, they are listening to you, Mr. President."

And I would submit what the gentleman said was absolutely right, and there is an historical analogy on this day. President Clinton came here, and I was on my feet cheering because I was so excited about it. He came here——

Mr. SHAYS. Those guys had us stand up 15 times when he spoke.

Mr. FINGERHUT. It was the beginning of his administration, and he called for change, which I support. He called for fiscal responsibility, which I support. He submitted a list of spending cuts and, yes, some tax increases, which I supported because it called for sacrificing the American people, and then he called on anybody else who agreed or disagreed with his plan to put their own plan forward and to say that, "If you want to share in this sacrifice, if you want that, "If you want to share in this sacrifice, if you want to share in this time of national renewal, join in," and I think the part of what is happening on the floor today is that we are responding in that way, maybe faster than he would personally like, and maybe we are going a little beyond what he would personally like at this moment, but the answer, Mr. President, and I hope that he is listening because he knows that I support him and admire him; I do hope he is listening; the answer, Mr. President, is:

"We are here tonight, and we are going to be voting on Penny-Kasich tomorrow because we listened to your words, and we are following your lead, and we are going, maybe, farther down the hill faster than you would like, whatever the sports analogy is tonight, but we are listening and following."

It is that same spirit of leadership, and I know it is corny, but remember what it was that President Kennedy said that made him so famous in his inaugural address? He said, "Ask not what the country can do for you, ask what you can do for your country."

Tomorrow, and I did not even think about it when we got this voting date, but maybe it was better that it was pushed off from Saturday to Monday because tomorrow, on the 30th anniversary of the day President Kennedy was slain, we have a chance to do what is right for our country and to say to our constituents, "It's not time now to ask what our country can do for us, but the other way around."

Mr. SHAYS. Mr. Speaker, I thank the gentleman from Ohio [Mr. FINGERHUT], and it is just so important that the American people call tomorrow and encourage their legislators to do the responsible thing and vote for the Penny-Kasich plan.

I see the gentleman from Arkansas [Mr. DICKEY] has been very patient, and that must be his southern way, and I appreciate it and yield the floor to him.

Mr. DICKEY. Mr. Speaker, I thank my friend, the gentleman from Connecticut [Mr. SHAYS].

I think the other mention of midnight should be this, that so much of the time that we, as politicians, are up at midnight trying to plan things is when that might be against the will of the people. I think that tonight we ought to hand it to the people and say, "Get in on this conversation with us. That is not a conversation where lobbyists are coming to elected officials and saying, 'We want to keep you here, we want to keep you here, and this is the way we can keep you, if you vote this way, and this way, and this way. Then you will get this project and this project.' It's not the conversation where it's just between an elected official and some committee official where they say, 'We can get you elected.' "

Mr. Speaker, what we want is for the American people to get in the conversation, to come and discuss it with us, and to know what is happening, and to know what is going on right now. There is this very significant vote tomorrow. We want the American people in the conversation. We want to use midnight to bring sunlight to the discussion, and I say, "You all are the only sunlight. The voters are the only sunlight. We want to respond to you. If you want us reelected, we want you to reelect us."

If someone else comes to us and says, "This is the way. You don't understand. Things work around here another way," we are saying, "We don't want to understand."

We want to understand what our constituents have for us, and I say to them, "You're the sunlight."

Mr. SHAYS. Reclaiming my time, and we can wrap this up and allow the very hard-working people who work in the Congress to go home and get some sleep before a very long 24 hours tomorrow, but when I was first a legislator in 1974, there was a lot of pressure to vote a particular way on the part of the leadership. That next morning I went to the hall of the house in Hartford and sat down in the chamber, and there was no one else there. I was the only person there, and I looked around and said, "You know, my leaders aren't going to be with me when I go back to my constituency and tell them why I did what I did. They are not going to be there, and I can't say, 'Well, I did it because my leaders made me,' or 'My leaders told me to,' or so on." The bottom line was I had to defend my vote to my constituents, and I think that is the point.

The bottom line is we represent a constituency, and we may differ on how we feel about an issue based on our views and also the views of our constituency, and I say to my colleagues, "Your constituency is different from mine, but I bet on one thing they agree, that they agree that we need to cut spending and put our financial house in order, and they expect us to do what we think is right in our hearts, and, if all the Members of Congress voted what they felt was right in their hearts, we would not be having a long debate on Penny-Kasich. It would just pass by acclamation.

I just give the opportunity to any of my colleagues to kind of make some closing comments, or we can just kind of end it.

Mr. Speaker, I will just thank my colleagues for coming. I thank the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. PENNY] for their great leadership, and the gentleman from Delaware [Mr. CASTLE] for coming. It is really a privilege to have a Governor who has had to balance budgets here on this opportunity, and the gentleman from Ohio [Mr. FINGERHUT], Mr. ANDREWS, Mr. TAYLOR, and Mr. DICKEY, it has been a great evening for me.

I guess we owe an apology to people we have kept up late, but this was important for us.

The SPEAKER pro tempore (Mr. FILNER). The Chair thanks the gentleman from Connecticut [Mr. SHAYS] for his respect for the employees and for the Chair.

□ 0020

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 60 minutes, today.

Mr. SHAYS, for 60 minutes, today.

Mr. KINGSTON, for 60 minutes, today.

Mr. DORNAN, for 5 minutes today, in lieu of 60 minutes.

(The following Member (at the request of Mr. WYNN) to revise and extend his remarks and to include extraneous material:)

Mr. PENNY, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TRAFICANT, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,938.

SENATE BILLS, A JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills and a joint resolution and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 423. An act to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes; to the Committee on Energy and Commerce.

S. 431. An act to amend the Motor Vehicle Information and Cost Savings Act to provide for vehicle damage disclosure and consumer protection; to the Committee on Energy and Commerce.

S. 738. An act to promote the implementation of programs to improve the traffic safety performance of high risk drivers; to the Committee on Public Works and Transportation.

S. 871. An act for the relief of Nathan C. Vance, and for other purposes; to the Committee on the Judiciary.

S. 1059. An act to include Alaska Natives in a program for native culture and arts development; to the Committee on Education and Labor.

S. 1457. An act to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II, to the Committee on the Judiciary.

S. 1762. An act to amend the Nutrition Labeling and Education Act of 1990 to impose a moratorium with respect to the issuance of regulations on dietary supplements, to the Committee on Energy and Commerce.

S. 1765. An act to designate the Federal building located at 300 4th Street, Northeast, in the District of Columbia, as the "Daniel Webster Senate Page Residence", and for other purposes; to the Committee on Public Works and Transportation.

S.J. Res. 154. Joint resolution designating January 16, 1994, as "Religious Freedom Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 36. Concurrent resolution expressing the sense of Congress that United States truck safety standards are of paramount importance to the implementation of the North American Free-Trade Agreement; to the Committee on Public Works and Transportation.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1268. An act to assist the development of tribal judicial systems, and for other purposes.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 20 minutes a.m.) under its previous order, the House adjourned until today, Monday, November 22, 1993, at 9 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSI: Committee of conference. Conference report on H.R. 3167. A bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes (Rept. 103-404). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 321. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes (Rept. 103-405). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 322. Resolution agreeing to the request of the Senate for a conference on the bill (H.R. 1025) to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearms; and waiving a requirement of clause 4(b) of rule XI with respect to the consideration of a resolution reported from the Committee of Rules on the legislative day of November 22, 1993, providing for the consideration or disposition of a conference report to accompany that bill (Rept. 103-406). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California (for himself, Mr. VALENTINE, Mr. MINETA, Mrs. LLOYD, Mr. BOEHLERT, Mr. SWETT, Mr. KLEIN, Ms. ESHOO, Mr. TRAFICANT, Mr. TANNER, Mr. BACCHUS of Florida, Mr. BARCIA of Michigan, Mr. FINGERHUT, Ms. HARMAN, Mr. JOHNSON of Georgia, Mr. COPPERSMITH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MINGE, Mr. DEAL, Mr. SCOTT, Mr. BECERRA, and Mr. RUSH):

H.R. 3603. A bill to promote the research and development of environmental technologies; jointly, to the Committees on Science, Space, and Technology, the Judiciary, Education and Labor, Banking, Finance and Urban Affairs, Public Works and Transportation, Energy and Commerce, and Government Operations.

By Mr. HILLIARD:

H.R. 3604. A bill to establish the Birmingham National Industrial Heritage District in the State of Alabama, and for other purposes; to the Committee on Natural Resources.

H.R. 3605. A bill to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama; to the Committee on Natural Resources.

By Mr. ORTON:

H.R. 3606. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide an exemption from funding limitations for multijurisdictional gang task forces and child abuse response programs; to the Committee on the Judiciary.

By Mr. SLATTERY:

H.R. 3607. A bill to revive and extend until December 31, 1996, the suspension of duty on certain chemicals, and for other purposes; to the Committee on Ways and Means.

H.R. 3608. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Ways and Means.

H.R. 3609. A bill to improve the competitiveness of American industry in the markets for telecommunications equipment and customer premises equipment, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Ms. SLAUGHTER:

H.R. 3610. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from a controlled foreign corporation to a U.S. shareholder shall be excluded from gross income if at least a portion of the distribution is invested in certain property located in the United States and in the employment of new employees in the United States; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. DELLUMS, Ms. PELOSI, Mr. HORN of California, Mr. MATSUI, Mr. LANTOS, Ms. WOOLSEY, Mr. HAMBURG, Ms. ESHOO, Mr. MILLER of California, Mr. FAZIO, Mr. GALLEGLY, and Mr. MINETA):

H.R. 3611. A bill to establish the California Urban Environmental Research and Education Center; jointly, to the Committees on Science, Space, and Technology and Education and Labor.

By Mr. YOUNG of Alaska:

H.R. 3612. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Natural Resources.

H.R. 3613. A bill entitled, "The Kenai Natives Association Equity Act"; jointly, to the Committees on Natural Resources and Merchant Marine and Fisheries.

By Mr. HILLIARD:

H.J. Res. 299. Joint resolution designating May 1, 1994, as "National Youth Day"; to the Committee on Post Office and Civil Service.

By Mrs. MALONEY (for herself, Mr. BILIRAKIS, Mr. ENGEL, and Mr. PORTER):

H. Con. Res. 186. Concurrent resolution in support of the United National Secretary General's current efforts regarding Cyprus; to the Committee on Foreign Affairs.

By Mr. TORRICELLI:

H. Con. Res. 187. Concurrent resolution relating to the December 1993 Presidential election in Gabon; to the Committee on Foreign Affairs.

By Mr. PALLONE (for himself, Ms. LOWEY, Mr. SCHUMER, Mr. Frank of Massachusetts, Mr. MENENDEZ, Mr. LANTOS, Mr. ZIMMER, and Mr. BERMAN):

H. Res. 323. Resolution relating to the treatment of Hugo Princz, a United States citizen, by the Federal Republic of Germany; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 465: Mr. GOODLATTE.

H.R. 466: Ms. KAPTUR and Ms. DANNER.

H.R. 507: Mr. SANTORUM.

H.R. 723: Mrs. VUCANOVICH AND Mr. ROYCE.

H.R. 739: Mr. GOODLATTE.

H.R. 823: Ms. LONG, Mr. FINGERHUT, and Ms. SHEPHERD.

H.R. 1483: Mr. GOODLATTE.

H.R. 1487: Mr. GOODLATTE.

H.R. 1860: Mr. ZIMMER.

H.R. 1887: Ms. MCKINNEY and Mr. QUINN.

H.R. 2569: Mr. ZELIFF.

H.R. 2735: Ms. DELAURO.

H.R. 3023: Mr. FAZIO, Mr. EVERETT, Mr. YOUNG of Florida, and Mr. HEFLEY.

H.R. 3080: Mr. SAXTON.

H.R. 3128: Mr. MILLER of California, Mr. SYNAR, Ms. BYRNE, Mr. EVANS, Mr. KLUG, and Ms. FURSE.

H.R. 3203: Mr. HILLIARD, Mr. HUGHES, and Ms. FURSE.

H.R. 3349: Mr. KASICH, Mr. STRICKLAND, Mr. GILLMOR, Mr. HOBSON, Mr. BOEHNER, Ms. PRYCE of Ohio, Mr. FINGERHUT, Mr. PORTMAN, and Mr. REGULA.

H.R. 3367: Mr. ARMEY, Mr. DELAY, Ms. PRYCE of Ohio, Mr. ROYCE, and Mr. EWING.

H.R. 3477: Mr. OBERSTAR.

H.J. Res. 230: Mr. ACKERMAN, Mr. ANDREWS of New Jersey, Mr. BARRETT of Wisconsin, Mr. BLILEY, Mr. BONIOR, Ms. BYRNE, Mr. CALLAHAN, Mr. CARDIN, Mr. CASTLE, Mr. CLEMENT, Mr. WALSH, Mr. MCDERMOTT, Mr. MCNULTY, Mr. INSLEE, Mr. JEFFERSON, Mr. CRAMER, Mr. DEUTSCH, Ms. ESHOO, Mr. EDWARDS of Texas, Mr. ENGEL, Mr. FAZIO, Mr. UNDERWOOD, Mr. FROST, and Mr. ABERCROMBIE.

H.J. Res. 272: Mr. BAESLER, Mrs. MINK, and Mr. MANN.

H.Con. Res. 90: Mr. KLUG.

H.Con. Res. 100: Mr. HAMBURG.

H.Con. Res. 122: Mr. HORN of California, Mr. YATES, and Ms. FURSE.

H.Res. 281: Mr. HUFFINGTON, Mr. MCHUGH, Mr. GILMAN, Mr. CONDIT, Mr. LANCASTER, Ms. CANTWELL, Mr. ROBERTS, Mr. ISTOOK, Mr. POMEROY, Mr. HALL of Ohio, Mr. SHARP, Mr. TEJEDA, Mr. TAYLOR of Mississippi, Mr. BARLOW, Mr. HOUGHTON, Mr. FROST, Mr. DUNCAN, Mr. ROHRABACHER, Mrs. BENTLEY, Mr. GREENWOOD, Mr. MILLER of Florida, Mr. PORTMAN, Mr. SHAYS, Mr. THOMAS of California, Mr. FRANKS of New Jersey, Mr. PENNY, Mr. GUNDERSON, and Mr. ORTIZ.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3080: Mr. BURTON of Indiana.

H.J. Res. 268: Mr. MANZULLO.

EXTENSIONS OF REMARKS

KENAI NATIVES ASSOCIATION EQUITY ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today to correct a significant inequity in Federal law respecting land uses of property conveyed to the Kenai Natives Association, Inc. [KNA]. The legislation, which will mark a final outcome of a process begun nearly 14 years ago and which was the subject of a congressional hearing last year and the enactment of one interim law, would correct the land entitlement inequities of KNA by authorizing and directing the completion of a land exchange and acquisition package. The legislation will allow KNA for the first time to make economic use of the majority of lands conveyed to the corporation under the Alaska Native Claims Settlement Act of 1971.

During the last Congress, we began the final stage in this process by directing, through enactment of Public Law 102–458, an expedited negotiation of a land acquisition package between the Fish and Wildlife Service and KNA. Over the past year, negotiations were completed, resulting in a package which is identical to the elements of the legislation I am introducing today.

It is my understanding that a final review of this package is being undertaken by the Office of Management and Budget. This review is not likely to be completed prior to the end of the first session of this Congress. While I am confident that the review will be positive, I believe it is important to proceed to introduction of this legislation so that the acquisition and land components of the legislation are understood.

I am pleased with the effort by KNA, its President Katherine Boling, and Board of Directors as well as the U.S. Fish and Wildlife Service to finalize this acquisition. Setting aside past differences, KNA and the Fish and Wildlife Service set about earlier this year to meet the objectives of Public Law 102–458 and to finally resolve the land use disagreement which has prevented KNA from using most of its lands conveyed under ANCSA. At the same time, another purpose of Public Law 102–458 and, a Federal goal, was acquiring for public ownership a key land acquisition along the Kenai River. These missions would be accomplished by the legislation I am introducing today.

The Service has completed all the necessary negotiations on land acquisitions and exchange components and completed the necessary public review and legal reviews required for exchanges in Alaska. I commend the Service for their effort to acquire a key parcel of land along the Kenai River, inside the boundaries of the Kenai National Wildlife Refuge, for public use. This acquisition is the crucial component of this legislation. Just as crucial is the need to allow KNA to make economic use of lands conveyed to the corporation to settle Native land claims. It is wrong under any sense of fairness or the law to convey lands to Native corporations in settlement of recognized land claims yet at the same time prohibit the use of those lands.

The key components of the bill are as follows:

Sections 1 and 2 contain the short title and findings and purposes of the legislation.

Section 3 contains the definitions for the terms of the bill.

Section 4 provides for the exchange and acquisition terms, including lands to be exchanged, lands to be acquired by the Federal Government through the Land and Water Conservation Fund and provides for the general provisions applicable to the acquisition and exchange. Included is the removal of KNA lands from the Refuge.

Section 5 provides for the necessary boundary adjustments and status adjustments to the federally-owned lands.

Section 6 provides for the creation of a surplus property account in the amount determined by Congress using existing appraisals to be necessary to equalize values of the exchange.

Section 7 provides for the authorization of appropriations to carry out the purposes of the act.

Mr. Speaker, we will need innovative measures to resolve land use conflicts in Alaska. Secretary Babbitt has noted the need for innovative exchanges throughout the Nation to properly manage Federal lands. This legislation represents a fine example of an exchange which resolves a longstanding land dispute on a voluntary basis.

I believe we can and should resolve this dispute on a voluntary basis. If we fail to do so, the result will only be ill-will, an extreme inequity to the Alaska Natives of KNA, litigation and the loss of an important opportunity to acquire in public ownership riverfront lands along the Kenal River. Further, there will remain a significant doubt that any land use conflict involving Federal lands in Alaska can be resolved in a cooperative fashion.

Mr. Speaker, I have worked closely with the distinguished chairman of the Natural Resources Committee, Mr. MILLER on this matter, stretching back several years. I believe we are at the finish line and we have an unequaled opportunity to correct an inequity, acquire valuable habitat and show that innovative answers to land use problems will work in Alaska. I look forward to moving forward on this legislation or agreed-upon substitute legislation which resolves this matter on a voluntary, willing seller basis early next year.

HOLY COW! THE SCOOTER'S NOT IN THE HALL?

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. BOEHLERT. Mr. Speaker, "I think that my head shrinks a little in this indoor stadium," laments Phil Rizzuto as he settles down behind the microphone to call another game for Yankee fans. He's having trouble adjusting to the unfriendly environs of the Metrodome, "The mike is getting bigger. And I have to tighten it." A man who has lived and breathed baseball for every single one of his 75 years just can't reconcile himself to the monstrous steel edifice the Yankees are playing in this night.

Alternately displaying a tremendous command of the absurd and the dazzling, Rizzuto has thrilled New Yorkers for years with such commentary as this, from a 1991 Yanks-Jays game:

> Fly ball, right field. It's gonna drop in! No, it's not gonna drop in. Happy 46th wedding anniversary, Thomas and Mary Anne Clearwater. That's it. The last 3, 6, 9, 12 Yankees went down in order. So that's it. The game is over.

Commenting on his style of announcing, Rizzuto declared, "If ever I tried to analyze what I do, I'd be a professional. And I'd be out of work. I'm a fan. I get excited, I get mad, just the way a fan would."

But before he was the prolific voice of Yankee baseball and spokesman for a certain currency store, Phil Rizzuto was a great baseball player, and a key member of the tremendous Yankee dynasty of the 1940's and 1950's. During those years, Rizzuto helped lead the Yankees to 10 pennant championships and 9 World Series appearances, winning 7.

Scooter grew up playing stick ball in the streets of Brooklyn, dreaming of one day making it as a professional baseball player. Standing only 5'6", however, he was too small to play in the big leagues, or so he was told. But he persevered, developing a deft touch in the field and craftiness at the plate.

He broke into the Yankee line-up in 1941. In that inaugural season, the young Rizzuto batted an impressive .307 and earned a permanent place on the team. That also happened to be the year that Joe DiMaggio set baseball's immortal record, hitting in 56 straight contests, and the Yankees went on to beat the Brooklyn Dodgers in the World Series.

During a game early on in that season, Rizzuto was called to the mound by the Yankee ace Lefty Gomez. "Kid, is your mother in the stands?" Lefty inquired. "Yes, sir, Mr. Gomez," Phil replied. "Well stay here and talk to me a little; she'll think your giving advice to the great Lefty Gomez." Later that day Rizzuto hit his first home run.

Unfortunately, on December 7, 1941, the Japanese bombed Pearl Harbor and Rizzuto was called to serve his country. However, Rizzuto went on to play 13 seasons for the Bronx Bombers.

There is no doubt in anyone's mind that Rizzuto was an outstanding ball player. But sharing the field with the likes of DiMaggio, Mantle, Berra—it is understandable why many have overlooked his great accomplishments. Perhaps his greatest season was in 1950. That year he led all American League shortstops with an incredible .982 fielding percentage. He also batted .324, higher than any shortstop in Yankee history, and was the league MVP.

But what sets Rizzuto apart is his unadultered enthusiasm for America's favorite pastime. Mel Allen once proclaimed, "His Value transcends statistics, Rizzuto was the heart and guts of the ball club." While he didn't hit many home runs, his tenacious competitiveness was displayed in other, less assuming ways. Rizzuto was especially renowned for his bunting ability and his tenacity on the bases, talents that don't generate headlines.

But for decades now, Rizzuto has been denied baseball's ultimate honor, induction into the National Baseball Hall of Fame in Cooperstown, NY. I can only hope that the Baseball Hall of Fame Committee on Baseball Veterans sees its way clear to correcting this oversight, by recognizing the outstanding achievements of a man who has dedicated his life to baseball, the greatest fan in the world, Philip Francis Rizzuto.

SPEECH BY EDWARD YAMBRUSIC

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. TRAFICANT. Mr. Speaker, last Thursday night I had the honor and privilege to attend an awards dinner given by the National Confederation of American Ethnic Groups, Inc., here in the Capitol. At this time, I would like to insert into the RECORD the very moving and insightful remarks made by the confederation's president, Dr. Edward Slavko Yambrusic:

SPEECH BY DR. EDWARD SLAVKO YAMBRUSIC

Today, it is fitting and proper to recall the noble aims and purposes of the National Confederation of American Ethnic Groups (N.C.A.E.G.), most important among them are:

1. Unite its collective and individual members for a greater American unity and democracy.

2. Develop pride in and love for our system of Government and its institutions.

3. Oppose Communist conspiracy at home and abroad, work toward the liberation of all enslaved nations and individuals, support the American principles of liberation, self-determination and full sovereignty for all peoples and nations, and oppose unprincipled expediency.

4. Oppose fascism and other totalitarian movements, teachings, and ideas which are contrary to our basic American concepts of freedom, democracy, social equality, and justice.

5. Eradicate discrimination based on race, religion, and national origin.

6. Uphold the rights of minorities in their freedom to speak, write, and worship; and encourage the ethnic groups to make a fuller more vigorous contribution to the American way of life.

7. Enable the ethnic groups to share fully in the rights and privileges, as well as the responsibilities, of citizenship, to which they are entitled under the constitution. This includes full and fair representation in the higher courts, in Congress, and in all policy making bodies of Government.

As you can see, we are an organization of idealists. Established in the 1950's, at the peak of the cold war, we were often dismissed by the Washington pundits, and the so-called "experts of the region" or the area "specialists"—as sentimentalists whom time has passed by, evicted from the "global village."

They had pretty much written off the aspirations of our people for self-determination in spite, of their schizophrenic existence under the various versions of Communism—from the one with the so-called "human countenance" generally attributed to Marshall Tito, to the hard core of Stalinism and Maoism. To our people this was distinction without a difference, insofar as their quality of life was concerned as individuals and members of a community of nations deeply rooted in their histories, traditions and general western orientation.

We have kept the faith for them, though mostly ignored by the media, we faithfully commemorated "The Captive Nations Week" year after year, until it suddenly happened—the wall of the "Iron Curtain" literally and figuratively crumbled—shell-shocking the liberal establishment and their "think tanks".

As our ancestral lands—one by one—began courageously declaring political independence and national sovereignty, one of the most noble purposes of the Confederation has been fulfilled. The historic nations—Armenia, Croatia, Slovenia, Slovakia, Ukraine, Belorus, the Baltic States of Lithuania, Latvia, and Estonia, and other peoples of the former Soviet empire—have raised their flags of freedom and democracy, discovering once again after decades, even centuries of neglect the beauty of their national heritage.

So, as a Croatian American, it gives me a great deal of pleasure, personal pride and satisfaction to have with us this evening his excellency, Dr. Peter Sarcevic, the Ambassador from the Republic of Croatia to the United States. His presence this evening has, you might say, fulfilled my dream and in some way completed my task in the Confederation. So it is true with my colleagues: Dr. Szaz for Hungary, Dr. Genys for Lithuania, Commissioner Maleski for Slovakia, Mr. Swider and Mr. Plonski for Poland, Dr. Dobrianski for Ukraine, and Judge Stocker for all of the above. Indeed, each of our members has carried in his or her heart a special place for the country of his or her roots.

So, let us celebrate tonight and give special honor and recognition to those distinguished Americans that have believed in the rightousness of our cause, the moral and spiritual strength of our people, and helped us to see the day of the emancipation of our people from the shackles of Communism and various shades of its hegemony.

We are neither separatists nor nationalists—we are freedom fighters—dedicated to the principles of self-determination of peoples, ordered liberty and democracy.

Today we have new challenge in the helping of our people as they go through a difficult period of transition from dictatorship, planned economy and such euphemisms as "self management" to democracy and free market economy. In this new struggle, we especially must not forget the people of Croatia and Bosnia and Hercegovina who have been exposed to the vestiges of barbaric Communism, chauvinist Serbian ultra-nationalism, and neo-fascism predicated on the arrogance of prejudice and hatred carried out in the most abhorrent systematic, calculated, policies of "ethnic cleansing" national and cultural genocide, rape, carnage, and destruction of irreplaceable cultural monuments, churches, mosques, and Jewish cemeteries, unprecedented in the history of mankind.

This indeed is the most bizarre conflict wherein a Serbian minority in Croatia-eleven percent—and in Bosnia and Hercegovina—thirty three percent—is destroying majority under the hypocritical pretext that the international community through the United Nations protective forces—unprofor—is protecting the belligerent minority from the destroyed majority that declared itself for a democratic system of government.

The clear undisputable acts of Serbian aggression and war crimes must not and cannot, as some have tried, unfortunately with some success, be equated with the victims and their occasional excesses, regrettable and reprehensible as they are, committed at the moment of desperation knowing that the free world, especially their ideal—the United States of America—does not care. But I do not accept the general alibi that the United States people does not care. The current U.S. establishment does not care. For Americans are compassionate people. We, as Americans do care and are totally disappointed with the current U.S. foreign policy without vision and moral considerations. For once we do agree with the Washington Post that the "line up" should be changed, but the roll call starts from the top.

So, on this auspicious occasion, we must urge and plead with President Clinton, his administration, Members of Congress, and, indeed, the whole civilized world, do not betray the sacred trust of western civilization. Do not permit any longer the destruction and holocaust of the very people that throughout history stood gallantly on the frontiers of western civilization defending and preserving the very shared values that have made this country the great Nation that it is.

If Western Europe—that benefited the most—has now abdicated its international responsibility—we, in the United States and you Mr. President, cannot and must not, because the faith and indeed the responsibility for ensuring the fundamental minimum standards of civilized behaviour is in your confidence and trust. The vital national interests of the United States are different from those of the now second rate powers that justify and hide their cowardliness and latent prejudice against Croatian people in the inaction and impotence of the still underdeveloped international organizations and institutions.

Yes, we are at the threshold of a new era of historic challenges and opportunities to shape and guide mankind to a new world order through law that reflects the commonality of what is good in the civilized heritage of man as a rational human being. In this effort, we must be willing to exert our highly superior military strength, and show decisively the moral and political resolve of the most powerful Nation in the world.

Barbarism in the heart of Europe must be stopped and those responsible for it must be punished in accordance with the normative standards of international law and order. Your's is the awesome responsibility Mr. President. You are the Commander-in-Chief. You must lead and show the way. If Nato is an American driven alliance, as the Europeans seem to perceive it and are waiting for a signal from the United States to go ahead then, Mr. President, give the command to stop this unparalleled human suffering and despair in the heart of Europe.

History shall not judge those who are no longer making history. The history will judge and hold us accountable—yes—the United States of America—entrusted in this period of human development with the protection of the innocent and helpless aganist the tide of brutal aggression. The noble values of our western heritage must not be betrayed less the manifest destiny become an empty phrase of a nation that has failed to answer the call at the pinnacle of its greatness.

If we are a nation of brave men, as I believe we are, we must not leave unanswered the desperate cries of innocence and human suffering. The occasional stretching out of the hand of humanitarian aid is not the answer to these outbursts of pleas to human decency and our humanity. The peacekeepers of the illusory nonexistent peace must be replaced with the peacemakers of the peace based on justice, equality, and human dignity. Thank you.

DRUG POLICY REPORT

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. OXLEY. Mr. Speaker, in the weeks and months leading up to House approval of the North American Free-Trade Agreement Wednesday night, critics of the agreement forecast any number of cataclysmic scenarios which would follow if NAFTA were enacted. Among these was the assertion, dubious in my opinion, that we would see a dramatic increase in drug trafficking across the United States-Mexican border.

In light of these statements, I wish to bring the following drug policy newsletter to the attention of the House. This is the preview issue of "Drug Policy Report," edited by Richard J. Baum, formerly of the staff of the House Select Committee on Narcotics Abuse and Control. "Drug Policy Report" promises to be an excellent resource for drug control policymakers. I recommend it to the attention of my colleagues.

[From the Drug Policy Report, Nov. 17, 1993]

DRUG EXPERTS FAVOR NAFTA—ANTIDRUG COOPERATION AT RISK WITH REJECTION, 70 PERCENT SAY

The vast majority of drug experts favor NAFTA, according to a national survey conducted by Drug Policy Report. Over 70% of those responding said NAFTA's rejection would severely harm U.S./Mexican antidrug cooperation. John Walters, Former Acting Director of the Office of National Drug Control Policy, said that because NAFTA "brings the U.S. and Mexico closer as neighbors it strengthens our anti-drug efforts, not harms them."

Robert C. Bonner, DEA Administrator until his resignation last month, said in a written response to the survey, that "[a] rejection of NAFTA is likely to adversely affect our overall bilateral relationship with Mexico," and "that it could also reduce the level of cooperation between the U.S. and Mexico in counter-narcotics matters."

Mexico seized almost 40 metric tons of cocaine last year, second only to the U.S. in worldwide seizures. Mexico has also cut its harvestable poppy production by 50%, its marijuana production by two-thirds, stepped up its air interdiction program, fired 3,000 Customs Police for corruption, and extensively deployed its military and police in drug control operations. It is estimated that 50-70% of cocaine entering the United States crosses the 2,000-mile-wide U.S./Mexico border.

Survey participants soundly rejected the contention of Ross Perot, that NAFTA would increase drug trafficking. In our survey 66% said it would make no difference, while 33% claimed that it would.

Rensselaer Lee, President of Global Advisory Services, said NAFTA would make trafficking "somewhat easier." William von Raab, who served as Customs Commissioner under President Ronald Reagan, told us that "NAFTA will worsen the narcotics situation" because of the increased pressure Customs officials would be under to keep border traffic moving.

New York based drug policy expert Dr. Rachel Ehrenfeld, stated that NAFTA will not only make trafficking drugs easier, it will also make money laundering easier. She further noted that businesses in Canada, America, and Mexico were "turning a blind eye" to money laundering. She is not against NAFTA, but suggests that as a condition of NAFTA the U.S. demand Mexico's full compliance with all American money laundering laws.

Most experts, however, said that NAFTA would not make any difference. Typical was the response of Bonner, who said that the implementation of NAFTA, would "* * * not significantly affect the flow of illegal drugs from Mexico to the U.S.," since the "vast majority of all illegal drugs seized at the border result not from random searches but from prior investigation and resulting intelligence information."

Former Customs Commissioner Carol Hallett, who served under President Bush believes that law enforcement agencies on both sides of the border are ready to handle any increase in trade. Hallett told Drug Policy Report of the extensive preparations that Mexico has gone through in anticipation of NAFTA.

Two years ago Mexican Customs Policy secretly trained "1200 new Customs Inspectors for the border and gave notice to 3000 Customs inspectors" suspected of corruption. Currently Mexican Customs officials are moved every 6 weeks to different places on the border so they don't become "too chummy," with individuals in any specific area. They are also subject to annual lie detector tests. Hallett stressed the "outstanding relationship" between U.S. and Mexican Customs, saying "If we don't have good cooperation, we can't deal with problems that will arise." She added that the U.S. has boosted its Customs Service, adding 1,000 new inspectors along the border (to a total of 3,000) and spending $350 million on site improvements and equipment to enable the inspectors to more effectively search vehicles and cargo containers.

Survey participants repeatedly pointed out how critical NAFTA was for the overall U.S./Mexico relationship. Former Deputy Assistant Secretary of State for International Narcotics Matters (INM), Bill Olson says "NAFTA marks an important breakthrough. Its rejection will "poison our ability to cooperate on a whole range of issues" and "set back relations a generation."

Ann Wrobleski, former Assistant Secretary of State for INM adds that NAFTA's rejection will reverberate throughout Latin America and "bodes disastrously for everyone with whom we cooperate on narcotics." She also praised the Mexicans for taking over the costs of their antidrug program, which was once funded primarily through U.S. aid.

Stephen Flynn, Co-Director of the Brookings Global Addiction Project, predicts NAFTA's rejection will significantly damage U.S./Mexican relations and result in the revival of Mexican sovereignty concerns. Previous Mexican Administrations have rejected antidrug surveillance activities on sovereignty grounds.

Two well known academic experts told Drug Policy Report that the NAFTA/drug linkage had been oversold. Harvard's Mark Kleiman said that NAFTA "will not have any impact" on cocaine traffic. Rand's Peter Reuter called the connection a "damn red herring," explaining that NAFTA would not affect border drug trafficking.

Former DEA Administrator Jack Lawn raised the analogy of intra-border changes in the European Community, which is something U.S. law enforcement has been concerned about for a number of years. However, Lawn said the situation with Mexico differs because neither the U.S. nor Mexico intend to eliminate border inspections as has been done in the EC.

Drug Policy Report's NAFTA survey adds weight to the argument that NAFTA's rejection would make drug control harder by damaging the cooperative counter-narcotics relationship that has been established between Mexican and American authorities. The survey offers Members of Congress concerned about drug trafficking some clear advice on NAFTA along the lines of the Hippocratic oath—first do no harm. Rejecting NAFTA would surely damage U.S./Mexican relations and thus seriously harm border drug control.

NO SURRENDER IN DRUG WAR

Welcome to Drug Policy Report. In the months and years ahead we will be investigating and reporting on all aspects of the struggle against illegal drugs around the world. We hope you will join us as charter subscriber.

This brief special preview issue focuses on the NAFTA/drug issue, but future issues will be much more comprehensive. Each month we will report on the activities of U.S. Drug Agencies, both in Washington and around the world. We will also use our expertise, and that of our many friends in Washington and abroad, to analyze what the news means and to predict where it will lead.

Every issue will open with an original piece of investigative journalism, examining important narcotics issues that have yet to be sufficiently covered by the mainstream media. Every regular edition will also include an opinion column from a distinguished expert in the antinarcotics field.

This newsletter is designed to serve as the voice of the international narcotics control community. We are looking forward to giving those of you knowledgeable about drug policy a forum to express your views. Starting next month we will also include your letters.

As many of you know, some of the key people behind this newsletter used to work for the House Select Committee on Narcotics Abuse and Control, which was eliminated in May as a budget savings measure. Fortunately, the Committee has been revived as a Legislative Service Organization led by former Select Committee leaders Charles Rangel (D–NY) and Mike Oxley (OH). Drug Policy Report will follow their activities closely.

However, the elimination of the Narcotics Committee was only the first of many recent setbacks for antidrug efforts. The Clinton Administration has lowered the priority of drug control and severely weakened the Office of National Drug Control Policy through staff and budget cuts. Resources for both international narcotics control and interdiction programs have also been reduced. Most importantly, the U.S. has surrendered moral leadership of the international drug war by failing to press the issue with our allies.

However, it is not too late to turn things around. Those assuming key narcotics jobs in the State Department have long experience with drug issues and could provide a needed boost to antidrug efforts.

Our recommendation: President Clinton should schedule the next drug summit. Of course, he should consult privately with the Andean Governments on the details, but Clinton has to take the initiative. The Administration might even consider making this summit inclusive of the entire Western Hemisphere. Such an event would get the Administration and the world to focus on the challenges posed by the burgeoning global narcotics trade.

In the words of Brookings narcotics expert Stephen Flynn "a national war on drugs makes as much sense as a national war on ozone depletion." Every government, including America's, must find the will and the resources to combat both the foreign and domestic elements of the drug problem.

AUTHORIZING A CALIFORNIA URBAN ENVIRONMENTAL RESEARCH CENTER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. STARK. Mr. Speaker, today I am introducing legislation to authorize the Environmental Protection Agency [EPA] to establish a California Urban Environmental Research and Education Center.

I am honored to be joined in this effort by twelve, bipartisan, California colleagues: Mr. DELLUMS, Ms. PELOSI, Mr. HORN, Mr. LANTOS, Mr. MATSUI, Mr. MILLER, Mr. HAMBURG, Mr. GALLEGLY, Mr. FAZIO, Ms. WOOLSEY, Mr. MINETA, and Ms. ESHOO.

This center would bring the considerable research and technical expertise of California's universities to bear on the employment and environmental challenges of California's base closures and defense conversion. Among other activities, the center would:

Seek alternative uses for closed military installations and facilities;

Encourage the transfer of Government technology to the private sector;

Coordinate CSU and UC research on California's environment;

Assist small businesses in meeting environmental regulations;

Foster public-private partnerships to solve environmental problems;

Hold conferences on defense conversion, ecology, and economic development;

Develop educational curricula, fellowships, and grant programs for colleges and universities; and

Advise State and Federal policymakers on the economic and environmental implications of development.

The program would be initially managed by representatives from five California State University [CSU] campuses—Hayward, Sacramento, San Francisco, Sonoma, and San Jose. Within 2 years it would expand to include all public and private universities interested in participating. Each member university would have representation on the governing board. The center priorities will include involving the University of California and CSU campuses throughout California.

The center's initial office will be located in northern California, near the five campuses which have already committed to the effort. However, the center's work will be statewide from the start, and the board of governors are directed to establish within 2 years an office in southern California, convenient to the member universities.

This bill authorizes $2.5 million for 1995 and such sums as necessary for 1996–99; it does not require new appropriations. This funding could come from the EPA's Office of Research Development which received a 4.9 percent—$15 million—budget increase this year. The ORD already funds nine other research centers, none of which have this distinctive, defense conversion focus, and none of which are located in California, which bore 40 percent of the recent defense cutbacks and base closures.

CSU, Hayward will act as the initial fiscal agent and will guarantee a 20-percent match of the Federal funds provided. The center is required to leverage additional contributions from the State government, the private sector, and the member universities.

I hope my colleagues will help California with its defense conversion by becoming an original cosponsor of this important legislation.

INTRODUCTION OF H.R. 3599

HON. LYNN SCHENK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Ms. SCHENK. Mr. Speaker, I rise today to inform my colleagues about a piece of legislation which I have introduced, H.R. 3599. As we all know, recent and necessary regulation to protect dolphins has placed a burden and responsibility on the U.S. tuna fishing industry. This regulation has been successful in protecting marine mammals, and the U.S. industry has worked hard to comply. This compliance has, of course, come at a price.

In the other body, Senator JOHN BREAUX of Louisiana has taken notice of the industry's difficulty and introduced legislation which will help U.S. tuna vessels to leave the eastern Pacific and fish in other waters where tuna and dolphins do not swim in tandem. H.R. 3599 is a companion bill to Senator BREAUX's bill, and I am happy to follow the Senator's lead by introducing this bill in the House.

One of the difficulties an American tuna fisherman confronts when trying to move operations to a new fishery is that many of those fisheries are in the waters of other Nations, and their laws prohibit fishing by foreign flagged vessels. This legislation allows the U.S. owner of a U.S.-registered tuna fishing vessel acquired, constructed, or reconstructed with money from that person's capital construction fund account to transfer the registry of the vessel to a foreign flag without the tax liability the owner would normally incur. The vessel must continue to be owned and operated, directly or indirectly, by an American. The vessel must be operated in compliance with the Marine Mammal Protection Act, and the vessel would be required to comply with all other requirements of participation in the capital construction fund.

This legislation helps to strike an appropriate balance between the conservation of precious natural resources and maintaining an important fishing industry.

Again, I want to commend Senator BREAUX for his hard work and leadership on this issue. I ask unanimous consent that the text of H.R. 3599 be included in the RECORD immediately after this statement, and I urge my colleagues' support for this bill.

H.R. 3599

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

SECTION 1. TRANSFER OF REGISTRY FOR CERTAIN FISHING VESSELS.

(a) IN GENERAL.—The transfer of registry of a tuna fishing vessel which is an agreement vessel documented under the laws of the United States to foreign registry shall not be treated, for purposes of the Merchant Marine Act, 1936, or any other law of the United States, as—

(1) a disposition of such vessel, or

(2) a failure to meet any substantial obligation under an agreement entered into between the owner or operator of the vessel and the Secretary,

if the vessel continues to be owned, directly or indirectly, by a United States person and to be operated in compliance with the first section 307 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1417).

(b) DEFINITIONS.—For purposes of this section—

(1) any term defined in section 607(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177(k)) that is used in this section shall have the meaning given that term in that section; and

(2) the term "United States person" has the meaning given that term in section 7701(a)(30) of the Internal Revenue Code of 1986 (26 U.S.C. 7701(a)(30)).

(c) EFFECTIVE DATE.—This section shall apply to any transfer of registry effected before January 1, 1996.

A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT, AND FOR OTHER PURPOSES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce a bill to amend the Alaska Native Claims Settlement Act of 1971 at the request of the Alaska Federation of Natives. This bill is the result of the work of the Legislative Council of the Alaska Federation of Natives to correct existing technical problems with the Alaska Native Claims Settlement Act [ANCSA] and the Alaska National Interest Lands Conservation Act [ANILCA]. I am introducing the bill at the end of this session to start the review process by, and to receive the input of, the State of Alaska, various Federal agencies, Native entities and individuals affected by this bill. It is important that all interested parties understand that this is a beginning point for this process. I fully expect the input process to refine and expand the legislation, and invite such input.

I have discussed this bill briefly with Chairman MILLER of the Natural Resources Committee and he has expressed his interest in working with me, the Alaska Federation of Natives, the State of Alaska, Departments of Agriculture and Interior and other agencies affected by this bill to resolve any differences we may have with specific provisions in the bill. Further, we look forward to receiving further suggestions for additions to this package and working with Alaska Senators TED STEVENS and FRANK MURKOWSKI to perfect the package. Ultimately, it is our intention to investigate and resolve controversial provisions which would prevent final passage of this bill.

This bill makes a number of technical changes to ANCSA and ANILCA. It also makes a number of substantive additions which address issues not anticipated at the time of passage of ANCSA. Because of Alaska's relative youth as a State of the Union and the unprecedented amount of Alaska-specific Federal legislation passed since statehood, it is imperative that we respond to occasional oversights and/or quirks in the overlapping laws to ensure that unintended consequences do not occur. This effort is designed to rectify such instances.

As the legislation is designed to resolve specific problems, it contains many individual provisions, and will probably contain more as a result of the hearing and input process. To offer a flavor of the nature of the legislation, a few illustrations are in order.

For example, the bill would make it possible for the Caswell and Montana Creek Native groups to receive approximately 11,520 acres of land pursuant to a February 3, 1976, agreement and subsequent March 26, 1992, letter of agreement with Cook Inlet Region Inc. [CIRI]. This will fulfill their land entitlement from CIRI under the ANCSA.

Another provision would relieve ANCSA corporations of liability for hazardous wastes or contaminants left in, or on, ANCSA lands prior to their conveyance to Native corporations. It also directs the Secretary of the Interior to remove all contaminants left by the United States, an agent of the United States, or lessees prior to conveyance of these lands to the Native corporations. In some instances, the Government has conveyed lands and property interests to Alaska Natives which have been rendered valueless because of such contamination. It was clearly not the intention of ANCSA to extinguish Native claims by conveying contaminated property to recipients.

The Chugach Alaska Kageet Point land selection provision would allow Chugach Alaska Native Corp. to select a specific tract of land at the edge of its own current boundaries.

Mr. Speaker, I offer this bill at this time to begin the process of reviewing each of these important provisions and others which affect Alaskans. I welcome input to add to, subtract from, and amend this proposal so that a noncontroversial substitute may be offered next year.

SOLAR CAR CONTINUES TO PROVE ITSELF

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. KIM. Mr. Speaker, I would like to bring to my colleagues' attention the continuing accomplishments of the Cal Poly Pomona's solar energy team.

Despite very difficult conditions, including 4 grueling days in Australia's outback, Cal Poly Pomona's solar car, the Intrepid, finished the World Solar Challenge as the best car in North America and the top United States car.

Clearly, Cal Poly is proving that harnessing solar energy, even for transportation, is not only possible but efficient and practical. The Intrepid completed the 1,900-mile course with a personal best of 47.4 hours at an average speed of 63.64 kilometers per hour, placing it eighth overall. That's ahead of all other American teams. And, while others like Japan's Honda Dream may have finished ahead of Intrepid, they also spent a great deal more money. Cal Poly Pomona's certainly got more mileage for the money.

The student-built and operated Intrepid is a quality demonstrator that continues to push the limits of current solar technology. The efforts of these pioneers are to be recognized and commended.

I know that we can expect even greater future accomplishments from Pomona's solar energy team, and I look forward to their next important milestone in developing new alternative forms of transportation.

HAPPY 80TH BIRTHDAY TO FORMER CONGRESSMAN PAUL A. FINO

HON. DAVID A. LEVY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. LEVY. Mr. Speaker, it is with great pride and pleasure that I rise today to honor a former Member of this body on the occasion of his 80th birthday.

Mr. Speaker, my constituent, former Congressman Paul A. Fino, has dedicated his life to public service in a career which spanned four decades. From his election to the New York State Senate in 1944, his tenure as Civil Service Commissioner of the city of New York, his service as a distinguished member of this body, to his appointment as a justice of the New York State Supreme Court, Congressman Fino consistently demonstrated the fundamental qualities of a true leader: Hard work, honesty, a commitment to integrity and a willingness to make tough political choices.

Throughout his years in the House of Representatives where he served as chairman of the New York State Republican delegation, Congressman Fino was widely known as a tireless advocate of the little guy. Despite his prominence in this body and on the national and State political scenes, Congressman Fino never strayed from his roots. Known as the Bronx's Mr. Republican, Congressman Fino always remembered and fought for the issues that were important to those to whom he dedicated his career and, throughout the years, Congressman Fino managed to touch the lives of many of the people of New York's 25th Congressional District.

Somewhere in this great Nation there walk 150 middle-aged men who can cite one of many examples of how Congressman Fino touched the lives of his constituents. You see, these middle-aged men many years ago, as boys, played little league baseball in the Bronx. But in 1955 when these young boys of the Bronx were 10 years old and eager to partake in America's beloved pastime, they were told that there would be no baseball in the Bronx that summer because the city of New York was unable to provide a field on which to play. Congressman Fino refused to allow a part of the childhood of each of these boys to be taken from them. So with his usual vigor and tenacity, Congressman Fino marched up to the powers that be in New York and less than a month later, a baseball diamond was installed at Pelham Bay Park. One small gesture yes, but surely a feat of magnanimous proportion to those 10-year-old boys of the Bronx and the men they have become. This is but one of the hundreds, probably thousands, of examples of the importance Congressman Fino placed on the needs of his constituents, even those too young to vote.

During his time in the House, Congressman Fino's political skills were unquestioned. Election after election he surmounted incredible odds and won reelection to the House. Congressman Fino was elected to the House eight times despite the fact that voter registration in his district was 3 to 1 against him. After 16 years in the House, Congressman Fino retired in 1968 to become a justice of New York's Supreme Court. Upon his retirement, then minority leader, Gerald Ford, remarked: "Above all, Paul Fino has been an advocate of the little people-working man, the civil servant and the elderly. He can look back with satisfaction on his eight terms in the House of Representatives for his has been a strong record in the civil service, labor, and housing field." Ford went on to add "* * * the House of Representatives will lose some of its spark and fire with

the departure of Paul Fino, a stand-up political fighter, a real sock-it-to-'em guy."

Today, Congressman Fino resides in Atlantic Beach, Long Island, a small town in the western portion of my district. Although he is now retired from public service, he continues to be active in many local civic and charitable organizations. He has been a devoted husband to his wife Esther for over 50 years and he is proud father of two and grandfather of five. Mr. Speaker, it is truly a privilege and an honor to wish Congressman Fino a very happy and healthy 80th birthday.

CONGRATULATIONS TO BELLA VISTA LODGE FOR 25 YEARS OF COMMUNITY SERVICE

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. SANTORUM. Mr. Speaker, it is a great pleasure, and an honor, as an Italian-American to take this opportunity to pay tribute to a most deserving community group on the occasion of its 25th year of service.

On December 1, 1968, James D. Trovato, Domenic Ross, along with Alvina Trovato and Sandra Collura, received a charter to form one of the most energetic and spirited lodges of the Italian Sons and Daughters of America. It is a lodge of which I am proud to be a member.

Bella Vista Lodge #253 is a Fraternal order which actively celebrates its Italian heritage. Jim Trovato has served as president and Sandra Collura as financial secretary for 25 years. Beginning with 100 members and growing to over 350 members to date, lodge members participate in many philanthropic works. For example, the lodge's program of adopting a seniors residence in Brookline, PA, is one of the finest examples of community outreach to be found anywhere. Lodge members make seasonal visitations to seniors, bringing small gifts and welcoming the residents to be guests of the lodge for their dinner meetings.

The lodge works to help friends and relatives in their time of need, whether that need be financial or emotional. The lodge has also created a scholarship program for all youth members attending college. During Christmas time, members entertain the children, and if a member is sick or hospitalized, the lodge is there to help with greetings and a gift.

As our Bella Vista Lodge celebrates its 25th year of service to the community and preservation of Italian heritage, I congratulate its members for their past achievements, and encourage a continued dedication to community service, and honor for the Italian-American cultural identity.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

KEY DOCUMENTS

SOURCE E

a. The source is an executive board member of the Federation who was previously arrested and convicted through the enforcement efforts of officer Occhipinti. The source confirmed in a consentually monitored conversation that based on personal knowledge, it was Simon Diaz who formulated the case against officer Occhipinti.

NEW YORK POST INVESTIGATION

a. I read articles published in the New York Post by investigative reporter Mike McAllary in which he conducted an in depth investigation into officer Occhipinti's case. Mr. McAllary confirmed the Federation set up conspiracy. The investigation alleged that the Federation used its political influence within the Dinkins Administration to have officer Occhipinti selectively prosecuted. The investigation implicated Federation Vice President Erasmo Taveras in the set-up conspiracy. Mr. Taveras, the owner of many currency exchange houses in the Dominican Republic and New York City, was recently convicted in the State of New York for the illegal wire transfers of 70 million Dollars. According to the Post and New York Times the New York State Attorney General also implicated Mr. Taveras in loan sharking activity. Exhibit "J"

JOURNALIST TEO RODRIGUEZ

a. Mr. Rodriguez, an independent Hispanic journalist covering officer Occhipinti's trial, admitted to me that his sources have confirmed the existence of the Federations set up conspiracy. Moreover, one of his sources confirm that complainant Jose Liberato is the reputed drug lord of the CIBAO DRUG CARTEL, which allegedly uses juveniles in his drug trafficking activity.

b. Mr. Rodriguez' sources confirm that complainant Rene Suarez, is the kingpin of a major Cuban gambling operation. In fact, when Mr. Suarez testified at trial he was accompanied by a major Cuban organized crime figure.

c. Mr. Rodriguez stated that due to the political and economic power of the Federation, he was stopped from publishing his article which was favorable to officer Occhipinti.

d. Mr. Rodriguez stated that he saw first hand many of the prosecutorial abuses in the court room.

e. Mr. Rodriguez stated that his sources are afraid of testifying to the above in fear of retaliation.

JOURNALIST MANUEL DE DIOS

a. Mr. De Dios, a spanish journalist with an expertise in Dominican organized crime admitted that his investigation and source interviews confirmed the existence of the "set-up" conspiracy and the Federation involvement in criminal activity.

b. Mr. De Dios stated that after he had published his newspaper articles which exposed the set up conspiracy and the Federations involvement in criminal activities, he received death threats. In addition, he alleges that the Federation attempted to put him out of business via a boycott of his newspapers by Federation merchants. It should be noted that the Federation conducted a similar boycott against the New York Post in retaliation of the McAllary articles.

c. Mr. De Dios alleged that one of his sources is a Dominican merchant heavily indebted to complainant Jose Liberato, a known loan shark. The source has allegedly defaulted on the loan and is in fear of assassination. Exhibit "K"

d. Mr. De Dios alleged that he has evidence that many of the staff members of the El Diario Newspaper are allegedly involved with Drug trafficking activity with the Federation. It should be noted that El Diario publicly claimed credit for officer Occhipinti's conviction since it was their articles that exposed the Federations allegations.

e. Mr. De Dios agreed to cooperate with any Justice Department and/or Congressional investigation.

CONFIDENTIAL POLICE SOURCE

a. In a transcript of a consentually monitored conversation, I read an exchange between a confidential police official and officer Occhipinti. The police officer confirmed through the intelligence community that officer Occhipinti was intentionally set up through the efforts of certain Dominican organized crime figures. The source alleged the principal co-conspirator was Pedro Alegria, the former Minister of Tourism to the Dominican Republic. The source alleges Mr. Alegria has reputed ties to the Colombian drugs cartel and the Federation. The source alleged that officer Occhipinti was set up because his enforcement activities was hurting Dominican organized crime operations. The source also alleged that the same cartel was successful in 1988 in closing down a major US Customs drug trafficking and money laundering investigation.

The Customs case number for this investigation was NY02AR8NY003. It should be noted that this case was allegedly implicated in the failed BCCI bank scandal.

CONCLUSION

It would be criminal to allow the system and those who misuse its processes to convict with impunity a law enforcement officer with the brilliant record of officer Occhipinti. It is clear from the voluminous pieces of materials and newly developed evidence of the conspiracy described herein, that the appropriate legal investigatory bodies conduct an immediate investigation. This investigation was requested by over 300 major police organizations, civil rights organizations and elected officials nationwide, however, was callously denied by the Justice Department. It is speculated that the Justice Department's decision was based upon erroneous conclusions drawn from the Southern District of New York, where we allege prosecutorial misconduct.

It is my duty as an officer of the court to respectfully request that a hearing be ordered by the Second Circuit Court of Appeals into this matter. Secondly I urge the Congress of the United States and the United States Senate conduct an appropriate investigation into this travesty of justice.

ANGEL NUNEZ, Esq.

STATE OF NEW YORK,
County of New York, ss:

Richard L. Callaghan being duly sworn deposes and says:

1. I currently reside at * * *

2. I am presently the President of the Federal Agents Policemen's Benevolent Association (PBA) Local 121, a fraternal police association representing Federal Agents in the New Jersey Tri-State area. I am a retired federal agent and senior criminal investigator.

3. On May 20, 1992 at approximately 4:20 PM I interviewed Jaime Caba, the owner of The

Broadway Deli located at 3750 Broadway, New York, New York. I identified myself as working for Joseph Occhipinti and specifically not for the government.

4. During the interview he acknowledged that on March 27, 1990 at approximately 4:10 PM he was interviewed by Joseph Occhipinti regarding the fact that he had been in a travel agency operated by Reymundo Tejeda, A26-164-013. While Agent Occhipinti and Agent Williams were in the Uptown travel agency seizing various pieces of fraudulent documents Caba was observed in the travel agency. Occhipinti and Williams subsequently interviewed Caba on March 27, 1990 at his deli.

5. Mr. Caba advised me that Agent Occhipinti identified himself and asked for documentation. At the time he asked for the identification, Agent Occhipinti secured the front door. Caba said he was courteous at all times, that Agent Occhipinti asked and received a consent of search.

6. He stated to me that there were large sums of money on the premises that were for cash payments for deliveries of Pepsi Cola and other goods. Agent Occhipinti was courteous and made no attempt to seize any money. No contraband was found.

7. Mr. Caba is a former police officer in the Dominican Republic and fully understood what Agent Occhipinti was doing and was more than willing to cooperate. Although he was annoyed that the front door was locked, he, being a former police officer, understood that it was proper procedure to lock the door.

8. He stated to me that at no time did he complain to anyone that his civil rights had been violated. He was interviewed by investigators and an attorney from the Southern District of New York. He refused to press charges and he refused to go to the Southern District to testify. He also indicated to me that he would be more than happy to testify on Agent Occhipinti's behalf.

RICHARD L. CALLAGHAN.

STATE OF NEW YORK,
County of New York, ss:

Richard L. Callaghan being duly sworn deposes and says:

1. I currently reside at * * *

2. I am presently the President of the Federal Agents Policemen's Benevolent Association (PBA) Local 121, a fraternal police association representing Federal Agents in the New Jersey Tri-State area. I am a retired federal agent and senior criminal investigator.

3. May 20, 1992 at approximately 3:00 PM I interviewed Yehye Abuzaid, legal permanent resident, no. A 382131351. I identified myself as working specifically for Mr. Occhipinti and not the Government. Mr. Abuzaid is the owner of the Uptown Deli and Grocery located at 82 West 125th Street, New York, New York.

4. In reference to an interview by former Agent Joseph Occhipinti on March 28, 1989 at 6:55 PM subject acknowledged the interview of March 28, 1989. He stated that Agent Occhipinti, accompanied by two other agents, identified themselves and asked if he had his Immigration Identification. He indicated that he did not. Mr. Abuzaid was handcuffed until the agents could verify that he was a legal alien.

5. The agents requested and received a consent to search the premises for illegal aliens and contraband. They located a locked safe in the back store room. Mr. Abuzaid indicated that the safe was not his and that he had no idea what was inside the safe. He gave permission to Agent Occhipinti to obtain assistance in opening the safe. Agent Occhipinti contacted NYCPD Emergency Service who arrived at the location, verified with the subject that the safe was not his and that they had permission to open it which they did. The safe was empty.

6. The Government alleges that two agents accompanying Agent Occhipinti left the premises rather than witness the opening of the safe. The two agents subsequently allege that they located the business that they were looking for at 290 Malcolm X Boulevard on their own. I asked Mr. Abuzaid if that were true. Mr. Abuzaid indicated to me that he advised the agents that he was the owner of the location of 290 Malcolm X Boulevard and that he told the two accompanying agents the location. He further advised the agents that he had sold the premises and that he was aware there was illegal activity taking place on that premises.

7. When questioning Mr. Abuzaid as to whether he felt his civil rights were violated, he answered in the negative. He stated that he had voluntarily signed a consent to search form prior to any search conducted by Agent Occhipinti.

8. He also stated that the United States Attorneys Office contacted him to give statements and testimony on two different occasions. He indicated that he refused both requests.

RICHARD L. CALLAGHAN.

AFFIDAVIT

STATE OF NEW YORK,
County of Richmond, ss:

Ray Hagemann, being duly sworn, deposes and states:

1. I am presently employed by Staten Island Borough President Guy V. Molinari. On or about October 1991 I was designated as one of three chief investigators in order to investigate the prosecution and conviction of former Federal Agent Joseph Occhipinti for civil rights and related violations. The purpose of the investigation was to ascertain if Mr. Occhipinti's conviction was the result of a well orchestrated conspiracy by the Dominican drug lords he was investigating. Moreover, to ascertain if any prosecutorial, political or judicial misconduct occurred during his prosecution that prevented Mr. Occhipinti from receiving a fair trial.

2. I was designated as a chief investigator because of my prior training, experience and employment as a Federal Agent for the United States Departments of Justice and the Treasury and U.S. Small Business Administration.

3. My (post conviction) investigation clearly disclosed overwhelming, credible and undisputed evidence and witnesses providing the alleged drug cartel conspiracy. In addition, the cartel peddled it's political influence to have Mr. Occhipinti selectively prosecuted through the efforts of New York City Mayor Dinkins and others. During the prosecution, there were numerous, well documented instances of prosecutorial and judicial misconduct which were referred to the United States Department of Justice, Office of Professional Responsibility. Investigation further disclosed evidence that the majority of the Governments' chief witnesses (Dominican merchants) who were portrayed as *"law abiding"* are in fact involved in ongoing, organized crime activity. This evidence was referred to the U.S. Department of Justice, but unfortunately, as part of a cover-up they blatantly refused to investigate the allegations. In view of these alleged improprieties, the Office of Special Counsel has agreed to conduct a preliminary investigation into the alleged conspiracy and cover-up by the Justice Department. Investigation also disclosed the real possibility that the foregoing witnesses and informants may be in imminent danger of assassination due to their cooperation and potential court testimony.

(1) As part of my investigation I interviewed potential witnesses, and others who had information that was not available to the defendant, Joe Occhipinti at or before his trail.

(2) I discovered that S.D.N.Y. Prosecutors filed one original and two superseding indictments. The reason for the second superseding indictment was that prosecutors discovered that a witness against Joe Occhipinti committed perjury. This count was dropped and prosecutors took no action against the individual who committed perjury (Richard Knniping). I discovered that David Lawrence Deputy Chief of Criminal Division SDNY had encouraged Joe Occhipinti to actually commit civil rights violations in Project Red Eye which preceded Project Bodega (summer 1989). My memo dated 12/27/91.

(3) In early 1992 I became acquainted with a C.I. who informed me that he had personal contact and dealings with Jose Liberato, Elias Taveras, Leonides Liberator, Jose Prado and Altagracia Crucey who were chief prosecution witnesses against Joe Occhipinti. At my direction this C.I. initiated a series of undercover discussions with Elias Taveras and Joe Prado to learn if they testified truthfully against Joe Occhipinti. This C.I. was able to record certain conversations with Elias Taveras and Jose Prado in spanish. These conversations indicated that Mr. Taveras and Mr. Prado lied in the Grand Jury and Trial. Affidavits dated 4/21/92 and 6/1/92.

(4) In order to verify the authenticity of one of the taped conversations between C.I. #1 and Mr. Taveras I engaged the services of a voice analysis expert, Tom Owen and under scientifically controlled conditions Mr. Owen stated "similarities do exist between the voice on the unknown tape and the voices on control 1 & 2. Pitch, quality, mannerisms and accent are similar." C.I. #1 also provided me with a tape of a conversation he had with Jose Prado in which Mr Prado admitted he received $35,000 to falsely testify against Joe Occhipinti. Mr. Prado also implicated Jose Liberato, Altagracia Crucey, Rhadames Liberato and "a few others" in giving false testimony at the trial of Joe Occhipinti. C.I #1 also related in affidavit form a conversation with Jose Liberato in which Mr. Liberato admitted he falsely testified against Jose Occhipinti in court. The affidavit is dated April 21, 1992.

(5) I also interviewed other people who gave affidavits that either directly or indirectly confirm the fact that Jose Occhipinti was convicted of civil rights charges based on perjurious testimony by many of the chief prosecution witnesses. I have attached these affidavits to my affirmation.

DEFENSE WITNESSES AND INFORMANTS WHO EXECUTED AFFIDAVITS

1. Dr. Angel Nunez, Attorney at Law. Evidence of drug cartel conspiracy.

2. Manuel De Dios, Journalist. Evidence of drug cartel conspiracy Affiant was assassinated by reputed drug lords.

3. Richard Callaghan (Former Federal Agent). Evidence that complainant Rene Suarez submitted to the court forged documents & committed perjury.

4. Source A (HR). Evidence that the majority of the complainants are involved in ongoing organized crime activity (confirms motive for conspiracy & trial perjury.

5. Source B (AC). Evidence of conspiracy implicating the law offices of Aranda & Guttlein. Evidence of prosecutorial misconduct (failure to turn over exculpatory evidence.

6. Source C (RA). Evidence of the conspiracy & prosecutorial misconduct.

7. Source D (HN). Evidence of conspiracy.

8. Source E (PN). Evidence of conspiracy & perjury implicating complainants Reymundo Tejeda, Nury Brito & others, supported by consensually monitored tapes.

9. Source F (VL). Evidence of prosecutorial misconduct (supported by consensually monitored tapes). Evidence of conspiracy implicating complainants Jose Liberato.

DEFENSE WITNESSES AND INFORMANTS

1. Lenny Lemer: An independent DEA Task Force investigation by this source uncovered documentary evidence of the conspiracy, S/A Jarret (FBI) and AUSA Valerie Cabroni (EDNY) debriefed the source.

2. Lou DellaPizzi: An investigation by the Manhattan District Attorney disclosed that Attorney Aranda attempted to frame the source on fabricated civil rights charges (similar to the Occhipinti case. (An indictment is expected).

3. Source L (CB): Evidence of conspiracy implicating complainant Jose Liberato.

Evidence of ongoing organized activity implicating complainants. A video statement was taken from the source. The source was debriefed by FBI S/A Lionel Baron, and other law enforcement agencies.

4. Source M (C): An Internal Affairs undercover bribery corruption investigation has implicated complainant Leonidas Liberato-Checo (Medina Grocery) for bribery of public officials. The bribes were intended for police protection of the Liberato-Checo gambling operation. Mr. Occhipinti has assisted the Checo crime syndicate. Criminal arrests are expected. The IAD investigation proves the conspiracy motives to frame Occhipinti after he turned down attempted bribes and continued in his enforcement efforts.

5. S/A Lionel Baron: This FBI Agent has interviewed sources relative to the Occhipinti conspiracy, in addition, He recruited confidential informants to do continued undercover work for the FBI, which never materialized. The agent formally advised me that it was paramount for the defense to get access to his investigative files under FOIA. We are formally refused by the FBI access to S/A Baron's reports, which we know contain exculpatory evidence of Mr. Occhipinti's innocence.

6. S/A John McAllister: This agent provided testimony that government witness S/A Ng gave perjured testimony against Mr. Occhipinti. Moreover, he reported the perjury to the U.S. Attorney who failed to investigate it or notify the defense.

7. Source G: There are two consensually monitored taped conversations where complainants Jose Prado & Elias Taveras admitted bribes were paid by complainant Liberato to certain prosecution witnesses to provide perjured testimony. Attached as exhibits "V" and "W" are copies of the transcript. In addition, attached as exhibit "X" is an independent forensic expert report confirming the voice authenticity on one of the tapes.

8. James Fox, Asst. Dir.: Mr. Fox has publicly confirmed that an FBI investigation had uncovered a exculpatory evidence that may prove Mr. Occhipinti's innocence. Moreover, he publicly told certain law enforcement sources that Mr. Occhipinti deserves a new trial.

On April 30, 1992 I participated in a video taped debriefing of Alma Camerena, a former employee of the said firm of Aranda & Guttlein. This debriefing indicated the beginning of a conspiracy by these attorneys to frame Joe Occhipinti on false charges because he was a problem to several of their clients. I also participated in video taped debriefing of other witnesses who provided evidence of a conspiracy to file false charges against Joe Occhipinti (a list is attached).

In spring 1992 I worked with a team of investigative reporters from the T.V. show "Inside Edition". This work was incorporated into a ½ hour show shown nationally. The highlight of the show was Mr. Taveras admission on camera, that he gave false testimony against Joe Occhipinti. I interviewed FBI Lional Baron by telephone as to his role in investigating the Joe Occhipinti case. I asked Mr. Baron if he ever "unofficially" investigated the case because it was my information that the FBI *did not* investigate this case until the summer of 1992 after Joe Occhipinti was in prison. Mr. Baron indicated he did investigate this matter and stated that he "was not allowed as an FBI agent to unofficially investigate these matters". He strongly urged me to seek FBI records through the F.O.I. Act method. To my knowledge the FBI has never released any information to anyone about the Joe Occhipinti case in spite of the fact that they may have information directly relevant to the proof of Mr. Occhipinti's innocence.

I also interviewed FBI agent Ron Davis in early 1992 regarding prosecution witness Raymundo Tejada. Mr. Davis confirmed to me that Mr. Tejada a major prosecution witness against Joe Occhipinti, is now a fugitive from federal prosecution for crimes committed by him out of his travel agency before, during and after the trial of Joe Occhipinti. Mr. Tejada was given immunity from prosecution for his testimony at the trial of Joe Occhipinti.

The FBI was directed by the Justice Department to investigate the Occhipinti case in the summer of 1992 after Mr. Occhipinti was imprisoned. The FBI investigation was flawed in many ways including the administration of Lie Detector Tests to confidential informants working with me. On August 4, 1992 I personally delivered C.I. #1 to the FBI for a lie detector test and was subsequently informed that the C.I. failed this test. I have an affidavit (attached) from the C.I. dated 8/11/92 that indicates the test was improperly administered and the result is invalid. In May of 1993 I was informed by N.Y.C. Police Department Internal Affairs officers that they were involved in an investigation that involved Bodegas and witnesses in the Joe Occhipinti case. I was informed that bribes had been paid to undercover police officers in order to protect illegal activities at 1502 St. Nicholas Avenue and other locations. This verifies Mr. Occhipinti's original claim that these Bodegas were involved in illegal activity. This investigation is ongoing.

The source confirmed that Mr. Occhipinti's trial Attorney had visible psychiatric and suicidal tendencies one week prior to the Occhipinti trial. That testimony was corroborated by ADA. We also possess hospitalization and police reports to confirm the same. Clearly, that documentary evidence confirmed the fact Mr. Occhipinti never received a fair trial and draws to light alleged prosecutorial and judicial misconduct.

Miscellaneous evidence uncovered by the investigation

(1) The reinvestigation of the Occhipinti prosecution by the FBI intentionally stonewalled credible exculpatory witnesses and evidence. That matter has been referred to appropriate investigative and Congressional bodies.

(2) Investigation clearly disclosed overwhelming evidence that Mr. Occhipinti had at trial ineffective assistance to counsel.

(3) To be prepared.

In conclusion. The investigation clearly disclosed credible undisputed and compelling evidence of the drug cartel conspiracy against Mr. Occhipinti. Moreover evidence of an alleged Justice Department coverup of the evidence and prosecutorial "criminal" misconduct.

RAY HAGEMANN.

SALUTING JUNIOR ACHIEVEMENT OF DECATUR

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. POSHARD. Mr. Speaker, I rise today to draw the attention of my colleagues to some special students from Macon County, IL.

In 2 weeks, students from 10 different Macon County high schools will spend the day preparing for the future. These students have been selected by Junior Achievement of Decatur to participate in a special program called Running the U.S. Economy. Divided into teams and using a sophisticated computer system, the students will compete at balancing the budget by controlling Government spending, the money supply and tax rates—while limiting the impact of their policy decisions.

Sponsored by Illinois Power and Decatur Advantage, the competition is a unique way to orient students to elements of our national economy; to increase their understanding of inflation, unemployment, interest rates, consumer spending, the balance of trade, and Government taxing policy.

Mr. Speaker, these are issues we strive every day to wisely address. I am proud that students from the 19th Congressional District are preparing now for the day when they will be called upon to confront these challenges as leaders in our communities.

I extend my best wishes to the participating students and teachers of Mt. Zion, Blue Mound, Decatur Eisenhower, Decatur MacArthur, Stephen Decatur, Macon, Maroa-Forsyth, Niantic-Harristown, St. Theresa, and Warrensburg-Latham.

VOTE "NO" ON PENNY-KASICH

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. SABO. Mr. Speaker, the Budget Committee has already received letters of opposition to the Penny-Kasich amendment from 138 groups. The diversity of letters is striking. We have heard from veterans groups, major health organizations, State and local government, elderly groups, labor, university and other education and research organizations, child welfare advocates, arts and humanity organizations, and many more.

These letters again and again underscore the same negative features of the Penny-Kasich amendment which are:

The amendment proposes $34 billion in new Medicare cuts which threaten the President's health care reform proposals and which represent a piecemeal approach to health reform. The proposals are unfair to elderly and disabled Medicare recipients. These cuts have been proposed through an ad hoc procedure, without the intense scrutiny and debate necessary for such far-reaching legislative changes.

Discretionary spending is not the cause of our deficit problem. Under current law it is subjected to an unprecedented hard outlay freeze through 1998.

The amendment reduces the discretionary caps by an additional $42.5 billion and could harm priority education, health, research and development, physical investment, basic Government operations, social services, and State and local assistance programs.

These reductions below the existing caps may also compromise forthcoming welfare reform, job training expansion, anticrime legislation, and other key investment proposals.

The amendment proposes significant policy changes which simply have not been subjected to vigorous analysis and debate. Examples abound, from the $34 billion in Medicare cuts, to the creation of a new Department of Science, to the termination of the Department of Commerce.

There are probably many citizens and public interest groups who wonder if anyone ever listens to them or reads the letters they send. I want to cite some of the important issues raised by the 138 organizations who have contacted us.

Medicare: The equity and efficacy of the Medicare cuts are questioned over and over again. These cuts would come on top of the $56 billion in Medicare cuts in OBRA 1993 and the $43 billion in 1990. Last summer when we approved the latest round of Medicare reductions, we agreed to forestall even deeper cuts because they would be needed to help pay for whatever health care reform plan that is enacted next year. Use of these savings for deficit reduction now sabotages chances for health reform. This truly is ironic because health care spending is what is driving our long-term deficit, and without comprehensive health reform we will never be able to bring that deficit under control.

Furthermore, the Medicare reductions are unfair and inequitable to senior citizens. The Penny-Kasich proposal to relate Medicare premiums to income would require some seniors and disabled persons to pay more in premiums than the cost of the services that they receive. Can this be fair? The Penny-Kasich plan proposes that Medicare beneficiaries in over 96 percent of the counties in this country pay a nationally determined premium that exceeds the cost of care in their local areas.

Health programs: Lowering the discretionary caps would impact adversely on important discretionary public health programs including biomedical and behavioral research, prevention and treatment of diseases like aids, tuberculosis and heart disease, health professions training, and the delivery of health services to some of our Nation's most vulnerable populations—NORA coalition.

Veterans programs: The Disabled American Veterans and the American Legion both object to the amendment. The Legion's letter points out that the use of a prospective payment system was tried before and failed and would likely "* * * endanger the quality of patient care given to Veterans."

Retirement: The American Legion and the Military Coalition—24 organizations—have informed us that they agree with Secretary of Defense Aspin that the military retirement COLA proposal "would have immense implications for recruiting, retention and morale."

Labor groups have pointed out that raising the retirement age to 65 for new civilian hires is totally out of line with practice in the private sector where 98 percent allow pre-age 65 retirement.

Head start: The National Head Start Association states, "this legislation will have an extremely negative impact on the efforts to further Head Start expansion (National Head Start Association)."

Education: Education groups have highlighted the threat to chapter 1, the President's Goals 2000 program, Pell grants, and reauthorization of the Elementary and Secondary Education Act. For example, it is estimated that "* * * Over 3 million children who are eligible for chapter 1 services do not receive the supplemental instruction (International Reading Association)." It was pointed out that student loans were reduced by $4.3 billion in OBRA 1993—Council of Chief State School Officers.

Science programs: A multitude of letters object to creating a new Department of Science through consolidating the functions of the Departments of Commerce and Energy, NSF, NASA, and the EPA without appropriate analysis and debate. Other letters cited that the proposal to cap the indirect cost reimbursements for research does not reflect the reforms that have been accomplished in this area.

State and local governments and unfunded mandates: As stated by the National League of Cities, the amendment would have the net result of further reducing "* * * the proportion of Federal mandates for which the Federal Government bears any liability or share."

Low-income housing: It is argued that proposals to move to an all-voucher program would actually be more expensive in the long run. Additional refutation is raised regarding the termination of operating subsidies for vacant units. This type of information underscores the need for full and indepth analysis of these proposals—not a rush to judgment in the name of deficit reduction.

These letters present overwhelming objections to both the substance and process involved in a great many of the Penny-Kasich proposals and collectively they urge a no vote on Penny-Kasich. Following is the list of organizations we have heard from.

THE 138 GROUPS OPPOSING PENNY-KASICH

AIDS Action Council.
Alliance for Aging Research.
American Academy of Medicine and Rehabilitation.
American Arts Alliance.
American Association for Clinical Chemistry.
American Association of Bioanalysts.
American Association of Classified School Employees.
American Association of Colleges for Teacher Education.
American Association of Community Colleges.
American Association of Dental Schools.
American Association of Retired Persons.
American Association of School Administrators.
American Association of State Colleges and Universities.
American Association of University Affiliated Programs for the Developmentally Disabled.
American Association of University Professors.
American Clinical Laboratory Association.
American College of Rheumatology.
American Congress of Rehabilitation Medicine.
American Council on Education.
American Counseling Association.
American Federation of Government Employees.
American Federation of Labor & Congress of Industrial Organizations (AFL–CIO).
American Federation of School Administrators, AFL–CIO.
American Federation of State, County, and Municipal Employees.
American Federation of Teachers, AFL–CIO.
American Foreign Service Association.
American Friends Service Committee.
American Heart Association.
American Legion.
American Library Association.
American Medical Technology.
American Network of Community Option and Resource.
American Nurses Association.
American Planning Association.
American Psychological Association.
American Public Health Association.
American Society for Clinical Laboratory Science.
American Society of Clinical Pathologists.
American State of the Art Prosthetic Association.
American Symphony Orchestra League.
American Vocational Association.
Amputee Coalition of America.
Arts Action Coalition.
Association of Academic Psychiatrists.
Association of Art Museum Directors.
Association of Community College Trustees.
Association of Maternal and Child Health Programs.
Association of Performing Arts Presenters.
Association of Schools of Public Health.
Bread for the World.
California State University.
Career College Association.
Center for Law and Social Policy.
Center on Budget and Policy Priorities.
Center for Women Policy Studies.
Child Welfare League of America.
Children's Defense Fund.
Church Women United.
Clinical Laboratory Management Association.
Coalition on Human Needs.
Coalition for Recreational Trails.
Committee for Education Funding.
Council for Exceptional Children.
Council of Chief State School Officers.
Council of Graduate Schools.
Disabled American Veterans.
Environmental Action.
Epilepsy Foundation of America.
Families USA.
Family Service America.
Food Research & Action Center.
International Reading Association.

International Society of Clinical Laboratory Technicians.
International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, AFL–CIO (IUE).
March of Dimes Birth Defects Foundation.
Military Coalition.
Mon-Valley Unemployed Committee.
National Alliance to End Homelessness.
National Association of Children's Hospitals and Related Institutions.
National Association of College Admission Counselors.
National Association of Community Health Centers.
National Association of Developmental Disabilities Councils.
National Association of Elementary School Principals.
National Association of Federally Impacted Schools.
National Association of Independent Colleges and Universities.
National Association of Protection and Advocacy Systems.
National Association of Rehabilitation Facilities.
National Association of Rehabilitation Research and Training Centers.
National Association of Secondary School Principals.
National Association of School Psychologists.
National Association of State Boards of Education.
National Association of Social Workers.
National Association of Private Schools for Exceptional Children.
National Coalition for the Homeless.
National Community Action Foundation.
National Community Development Association.
National Community Mental Healthcare Council.
National Council of Teachers of Mathematics.
National Easter Seal Society.
National Education Association.
National Family Planning and Reproductive Health Association.
National Farmers Union.
National Mental Health Association.
National Neighborhood Coalition.
National Rural Letter Carriers Association.
National School Boards Association.
National Treasury Employees Union.
National Urban League.
National Women's Law Center.
NETWORK: A Catholic Social Justice Lobby.
New York State Board of Regents.
New York State Education Department.
Nichols Institute.
Office of Federal and National Education Issues Advocacy.
Office of Superintendent of Public Instruction, Washington State.
Opera America.
Parent Action.
People for the American Way Action Fund.
Professional Management Associates Inc.
Public Employee Department, AFL–CIO.
Puerto Rico Lab Owners Association.
Service Employees International Union.
The Arc.
The College Board.
The Human Rights Campaign Fund.
The Learning Disabilities Association.
The Pauline Oliverous Foundation Inc.
The Retired Officers Association.
Theater Communication Group.
United Cerebral Palsy Association Inc.
US Catholic Conference.
US Conference of Mayors.
United States Steelworkers.
United States Student Association.
University of California.
Washington State Office of Public Instruction.
Women Strike for Peace.
YWCA of the USA.

TRIBUTE TO MRS. LILLIE BROWN CROWDER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to one of South Carolina's outstanding natives, Mrs. Lillie Brown Crowder.

As a young woman, Lillie Crowder left her home in Georgetown, SC, to attend South Carolina State University where she received a bachelor of science degree in architectural engineering in 1958. Armed with the tools and the knowledge of her trade, she returned to Georgetown to teach mechanical drawing at Chopee High School. After 2 years, Lillie's quest for excellence led her to New York City, where she currently resides.

During her tenure at Wilbur Smith & Associates Consulting Engineers, Lillie served as chief draftsman and later garnered the title of junior project engineer. In 1967, she joined the New York City Board of Education school planning and research division as an assistant architect and held various administrative positions at the board through the years. In 1991, she assumed her present position as senior project liaison in the Office of Capital Administration, at the division of school facilities. Currently, Lillie supervises a team of assistant architects and assistant mechanical engineers in developing programs and monitoring the planning phases for the modernization of existing schools and construction of new schools.

In 1982, Lillie received her master of arts degree in urban education/planning from Long Island University. She is certified to teach vocational education and architectural drafting and is licensed to teach architectural drafting in New York City.

The list of her accomplishments and services is long and impressive. As one of the founding members of the Association of Black Women Architects, to her work as a volunteer in emergency admittance at Harlem Hospital, Lillie displays a commitment witnessed by many. It is only appropriate that November 28, has been proclaimed Lillie Brown Crowder Day by the City Council of New York, the borough president of Queens, and the Black American Heritage Foundation.

On behalf of the State of South Carolina, it is indeed an honor to celebrate the achievements of one of our own—Mrs. Lillie Brown Crowder.

STEPHEN E. HIGGINS HONORED FOR 32 YEARS OF SERVICE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, November 21, 1993

Mr. HOYER. Mr. Speaker, it is with great pleasure that I rise today to give tribute to the accomplishments of a friend in the law enforcement community, Stephen E. Higgins.

Steve was the Director of the Bureau of Alcohol, Tobacco and Firearms from March 1983 until October 31, 1993. When Steve took the reigns as Director, actions to abolish ATF were being contemplated. Morale was at an all-time low, as employees prepared to either be laid off or split between other Treasury Department agencies. Steve inspired ATF's employees by formulating progressive plans to lead the agency into its future—a future that has been punctuated with remarkable accomplishments.

Steve began his Federal career in 1961, as an inspector in Omaha, NE, for ATF's predecessor agency. Recognized for his intelligence and leadership abilities, Steve rapidly rose through the ranks of ATF in various management positions.

Throughout his career, Steve has been recognized by the U.S. Government and the law enforcement community for his leadership abilities and impeccable reputation.

Steve has twice been recognized for his leadership, in 1980 and 1985, as a recipient of the Meritorious Executive Award. In 1988, the President presented Steve with the highest award in the Senior Executive Service, the Distinguished Executive Rank Award. In presenting the award, President Reagan cited Steve as a front-line commander in the fight against armed career criminals and armed drug traffickers, as well as for pioneering the use of firearms laws against drug cartels.

Steve was a recipient of the National Sheriffs' Association 1985 President's Award; the 1990 Roger W. Jones Award for Executive Leadership, which is granted annually by the American University to recognize Federal career executives for excellence in leadership; and the 1991 U.S. marshals America's Star Award for lifetime achievement in criminal justice and law enforcement.

In 1992, Steve was named a fellow in the National Academy of Public Administration, an organization chartered by Congress to stimulate improvements in managing the Federal work force.

Mr. Speaker, as you can see, Steve Higgins is someone who is deserving of recognition for his accomplishments as a dedicated and caring Federal employee and senior executive. I thank you for taking this time to recognize such a distinguished member of the Senior Executive Service upon his retirement after 32 years of service to a grateful Nation.