HOUSE OF REPRESENTATIVES—*Thursday, May 19, 1994*

The House met at 9:30 a.m.

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

We are grateful, O God, that the tasks of today are made easier by the loyalty and commitment of those who have gone before. On this day we remember with gratitude and recognition those who have served in this place with distinction and honor. With thanksgiving we recall the challenges of other days and the responsibilities of another time. We pray, O gracious God, that Your spirit of justice and good will, will encourage and inspire those who today are the custodians of the traditions of this land that in all things, we will do justice, love mercy, and ever walk humbly with You. 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 Mississippi [Mr. MONTGOMERY] please come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY 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.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, May 12, 1994, the Chair declares the House in recess, subject to the call of the Chair, to receive the former Members of Congress.

Accordingly (at 9 o'clock and 32 minutes a.m.) the House stood in recess subject to the call of the Chair.

RECEPTION OF FORMER MEMBERS OF CONGRESS

The Speaker of the House presided.

The SPEAKER. The Chair would like to have an opportunity at this point to welcome our former Members, who have come again for this wonderful opportunity for us to share their friendship and remembrance and recollection of previous service together. I am delighted to have the opportunity now to recognize distinguished Members who are former Members of the House, but before I do that, I would like to recognize the distinguished Republican leader, Mr. MICHEL.

Mr. MICHEL. Thank you, Mr. Speaker. May I simply say to our former Members that we are always glad to see you come back. I think our ranks look a little depleted this morning. Maybe we ought to convene this meeting about 1 or 2 o'clock. As we all get a little older, we do not like to get up early in the morning, but the Speaker is obliged to do so, and so is the minority leader. We are here, Johnny-on-the-spot.

I would like to tell the former Members that things keep changing around here. I doubt whether any one of the former Members would have experienced a period of time during their tenure when in one class there were 110 new Members. That happened this last time around. People talk about a renewal of the Congress, or the need for term limits or some such thing. When we think about it in practical terms, a quarter of the House renewed last time. This year already we have retirement announcements that will almost rival last year's, including resignations and those running for Governor, Senator, et cetera. We are going to have, after the next election, a House of Representatives where nearly 50 percent will have less than two terms. It is going to be quite a different House of Representatives, as I see it.

As many of you know, I have announced my own intention to bow out, and have made that official. I already have a successor hopefully on the right track to succeed me. I guess it could be said that next year at this time I will be joining your ranks.

It is a funny thing how people approach you about it. I was kind of taken aback when even back home they are congratulating me, and I said, "What for?" "Well, for announcing your retirement." You kind of get mixed emotions about that. It seems that they are darn glad you are leaving, you know.

It is nice to have those of you who do come back from time to time to visit with us. One of the things I have missed, particularly since the advent of our electronic voting, is the fact that we can observe so much of what goes on here on the floor on the television monitor back in our office. It might be good for the American people, but the bad part about it for the institution is that we are not communicating with one another across the aisle as frequently as we did. Let's face it, all those debates you listened to were not always the most sparkling, interesting, or enlightening kinds of things. There were dull moments, but when we were here we used those dull moments to visit with one another, get to know each other better. It was a different kind of institution at that time than it is today.

I guess all I can do is satisfy in my own mind that times do change. The Republic has endured. This House and the Senate, they have changed dramatically over a period of years, so I guess we will just simply have to live with it.

Again, I say thanks to all of you for coming back and giving us an opportunity to renew our friendship.

The SPEAKER. The Chair might make a comment that in addition to having a 1993 class of the 103d Congress of 110 Members, the largest since 1948, most expectation is that next year, when on January 3 I hope and expect to be swearing in the first session of the 104th Congress, it is now estimated that probably half of the House will have served 4 years or less on that day, and many of us have to be reminded that the vast number of Members of this Congress did not serve in President Carter's administration, an increasingly great number did not serve in President Reagan's administration, and have only been recently elected, so you will see a number of new faces, a great number of new faces, as the Members come into the Chamber.

Particularly for us who have had the honor and pleasure of serving with so many of you, it is a wonderful opportunity to see you again and to greet you and to welcome you back to the House.

It is now my great pleasure to ask the gentleman from Arizona, the distinguished former Republican Leader of the House, John J. Rhodes, Jr., to come forward and take the gavel and the chair, and to preside over this session.

Mr. JOHN J. RHODES, JR. (presiding). This is a real pleasure, it always is. I want to say something to my friend, BOB MICHEL. When I led the applause when you announced that you were about to retire, it was because of my deep affection for you and the fact that you are going to be a member of the Association of Former Members. I must admit that that was half of me. The other half was sorry that you are

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leaving the House, because as my successor as the Republican leader. I have always been proud of you, and I still am, and I thank you for the fine service that you have given.

One of the things which I often thought has taken away from some of the collegiality that we used to have is the difficulty in getting to know other people, particularly those who serve on the party which is not your party. If you will recall, most of you, when we had the rollcall by the Clerk, you could be on the floor and somebody, the Clerk, would say, "Lindsay," and somebody would say, "Here," and you could say, "There is Lindsay," and that is the way you got to know the faces, at least, and later you got to know the individual.

□ 0940

I am not suggesting that we turn the clock back and go back to the old days of calling the roll, but I do think that there ought to be some better way than I think there is for the Members to get to know each other. I am just naive enough to believe that if that could occur, the whole attitude of a lot of the Members might change to be more like it was back in the old days.

The Clerk will now call the roll of former Members of Congress.

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

ROLL CALL OF FORMER MEMBERS OF CONGRESS ATTENDING THE 24TH ANNUAL SPRING MEETING, MAY 19, 1994

J. Glenn Beall, Jr. of Maryland;
Edward P. Boland, of Massachusetts;
William S. Broomfield, of Michigan;
Donald C. Brotzman, of Colorado;
Clarence J. Brown, of Ohio;
James T. Broyhill, of North Carolina;
Elford A. Cederberg, of Michigan;
Charles E. Chamberlain, of Michigan;
Floyd J. Fithian, of Indiana;
Louis Frey, Jr., of Florida;
Robert N. Giaimo, of Connecticut;
Robert A. Grant, of Indiana;
James M. Hanley, of New York;
William L. Hungate, of Missouri;
David S. King, of Utah;
Horace R. Kornegay, of North Carolina;
Peter N Kyros, of Maine;
John V. Lindsay, of New York;
John Y. McCollister, of Nebraska;
Daniel A. Mica, of Florida;
Abner J. Mikua, of Illinois;
John S. Monagan, of Connecticut;
Frank E. Moss, of Utah;
Shirley N. Pettis, of California;
Richard B. Ray, of Georgia;
John J. Rhodes, of Arizona;
John J. Rhodes, III, of Arizona;
Philip E. Ruppe, of Michigan;
Harold S. Sawyer, of Michigan;
Mark D. Silhander, of Michigan;
Henry P. Smith, III, of New York;
James W. Symington, of Missouri;
Charles W. Whalen, Jr., of Ohio;
Edward L. Winn, Jr., of Kansas; and
Lester Wolff, of New York.

Mr. JOHN J. RHODES, JR. (presiding). The Chair recognizes the gentleman from Missouri, Jim Symington, the President of this august assemblage.

Mr. SYMINGTON. Thank you, Mr. Speaker.

Mr. Speaker, on behalf of my colleagues, I am pleased to present our 24th Annual Report to the Congress. Although marked by a grievous loss to which I shall later refer, it has been a full and productive year.

The Association has continued its successful Congressional/Campus Fellows Program in which former Members of Congress visit college, university and high school campuses for 2 to 5 days to share their practical political experience with students, faculty and community representatives to help them better understand the Congress. To date, 71 former Members of Congress have made a total of 230 such visits to 164 institutions in 49 States. Most recently our colleague, Lindy Boggs, former Louisiana Representative, combined a high school visit and a college visit in one highly successful trip to Minnesota's Twin Cities. Both institutions reported what should be no surprise to us that "Lindy wowed them." The Congressional/Campus Fellows Program was begun in 1974 under a grant from the Ford Foundation and has been continued through a number of other corporate and foundation contributions. In the light of what I think it is fair to say can be perceived as an erosion of respect for this national representative body, the Members of our Association believe it is very important to take advantage of every opportunity to encourage young people to learn about the political process and to participate in it. We know the need is great for this program and would like to expand it as, and if, appropriate resources become available.

Mr. Speaker, I ask permission to insert in the RECORD at this point the list of the institutions that have been visited by former Members of Congress.

COLLEGES, UNIVERSITIES AND HIGH SCHOOLS VISITED UNDER THE CONGRESSIONAL FELLOWS PROGRAM

COLLEGE/UNIVERSITY/HIGH SCHOOL, LOCATION, FELLOW, AND STATE/COUNTRY

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

Connecticut College, Connecticut, Ralph W. Yarborough (Texas).
Converse College, South Carolina, Jed Johnson, Jr. (Oklahoma).
Dartmouth College, New Hampshire, John O. Marsh, Jr. (Virginia).
Dartmouth College, New Hampshire, William S. Mailliard (California).
Davis & Elkins College, West Virginia, Frank E. Moss (Utah).
Davis & Elkins College, West Virginia, J. Glenn Beall, Jr. (Maryland).
Denison University, Ohio, Frank E. Moss (Utah).
DePauw University, Indiana, Hugh Scott (Pennsylvania).
Dillard University,[1] Louisiana, Georg Kahn-Ackermann (Germany).
Doshisha University, Japan, Catherine May Bedell (Washington).
Duke University,[1] North Carolina, Georg Kahn-Ackermann (Germany).
Eckerd College, Florida, William L. Hungate (Missouri).
Elmira College, New York, Charles W. Whalen, Jr. (Ohio).
Friends University, Kansas, Henry P. Smith III (New York).
Furman University, South Carolina, Jed Johnson, Jr. (Oklahoma).
Furman University, South Carolina, Charles W. Whalen, Jr. (Ohio).
Georgetown University, Washington, DC, Celio Borja (Brazil).
Grinnell College, Iowa, Neil Staebler (Michigan).
Guilford College, North Carolina, Gale W. McGee (Wyoming).
Gustavus Adolphus College, Minnesota, Charles W. Whalen, Jr. (Ohio).
Hamilton College, New York, William S. Mailliard (California).
Hartwick College, New York, Ralph W. Yarborough (Texas).
Hiran College, Ohio, Howard H. Callaway (Georgia).
Hiram College, Ohio, Roman L. Hruska (Nebraska).
Hope College, Michigan, Walter H. Judd (Minnesota).
Hope College, Michigan, Gale W. McGee (Wyoming).
Hope College, Michigan, Catherine May Bedell (Washington).
Idaho State University, Idaho, John R. Schmidhauser (Iowa).
Indiana State University, Indiana, Gordon L. Allott (Colorado).
Indiana Univ. Northwest, Indiana, Neil Staebler (Michigan).
Indiana Univ. Northwest, Indiana, William L. Hungate (Missouri).
Indiana Univ. Northwest, Indiana, Tom Railsback (Illinois).
Jackson State University, Mississippi, Allard K. Lowenstein (New York).
Johns Hopkins University, Maryland, Hugh Scott (Pennsylvania).
Johns Hopkins University,[1] Washington, DC, Celio Borja (Brazil).
Kansai University, Japan, Frank E. Moss (Utah).
Kansas-Newman College, Kansas, Henry P. Smith III (New York).
Kansas State University, Kansas, Paul N. McCloskey, Jr. (California).
Keio University, Japan, Frank E. Moss (Utah).
King College, Tennessee, Charles W. Whalen, Jr. (Ohio).
King's College, Pennsylvania, Philip Hayes (Indiana).
Kirkland College, New York, William S. Mailliard (California).

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Kwansei Gakuin University, Japan, Frank E. Moss (Utah).
LaGrange College, Georgia, Ralph W. Yarborough (Texas).
Lake Forest College, Illinois, Ralph W. Yarborough (Texas).
Lindenwood College, Missouri, Gaylord Nelson (Wisconsin).
Longwood College, Virginia, Paul W. Cronin (Massachusetts).
Luther College, Iowa, Gilbert Gude (Maryland).
McNeese University, Louisiana, William S. Mailliard (California).
Macalester College, Minnesota Lindy Boggs (Louisiana).
Marshall University, West Virginia, John J. Gilligan (Ohio).
Mary Hardin Baylor College, Texas, Brooks Hays (Arkansas).
Matanuska-Susitna Community College, Alaska, William L. Hungate (Missouri).
Mesa Community College, Arizona, Gale W. McGee (Wyoming).
Miami University-Middletown, Ohio, James Roosevelt (California).
Miami University-Middletown, Ohio, James W. Symington (Missouri).
Mid-America Nazarene College, Kansas, John B. Anderson (Illinois).
Mid-America Nazarene College, Kansas, John Dellenback (Oregon).
Millsaps College, Mississippi, Allard K. Lowenstein (New York).
Minnetonka High School, Minnesota, Lindy Boggs (Louisiana).
Montclair State College, New Jersey, Walter H. Judd (Minnesota).
Montclair State College, New Jersey, Ralph W. Yarborough (Texas).
Morehead State University, Kentucky, Dan Kuykendall (Tennessee).
Morehouse College, Georgia, William S. Mailliard (California).
Morehouse College, Georgia, William L. Hungate (Missouri).
Morris Brown College, Georgia, William S. Mailliard (California).
Morris Brown College, Georgia, William L. Hungate (Missouri).
Mount Vernon College, Washington, DC, Martha Keys (Kansas).
Murray State University, Kentucky, Brooks Hays (Arkansas).
Nanzan University, Japan, Catherine May Bedell (Washington).
New Trier High School, Illinois, John V. Lindsay (New York).
New York University, New York, George McGovern (South Dakota).
Northern Illinois University, Illinois, William L. Hungate (Missouri).
Northern Kentucky University, Kentucky, Martha Keys (Kansas).
North Park College, Illinois,[1] Karin Hafstad (Norway).
Northwestern University,[1] Illinois, Karin Hafstad (Norway).
Oklahoma State University, Oklahoma, Ralph W. Yarborough (Texas).
Oregon State University, Oregon, Martha Keys (Kansas).
Otterbein College, Ohio, James Roosevelt (California).
Purdue University—Calumet, Indiana, William L. Hungate (Missouri).
Purdue University—Calumet, Indiana, Tom Railsback (Illinois).
Randolph-Macon College, Virginia, Gale W. McGee (Wyoming).
Randolph-Macon College,[1] Virginia, Hugh Scott (Pennsylvania).
Revere High School, Ohio, John B. Anderson (Illinois).

Rockhurst College,[1] Kansas, Karin Hafstad (Norway).
Rose Hulman Institute of Technology, Indiana, Gordon L. Allott (Colorado).
St. Cloud State University, Minnesota, Charles W. Whalen, Jr. (Ohio).
St. Lawrence University, New York, Roman L. Pucinski (Illinois).
St. Mary-of-the-Woods, Indiana, Gordon L. Allott (Colorado).
St. Mary's College, Vermont, Gale W. McGee (Wyoming).
St. Michael's College, Vermont, Walter H. Judd (Minnesota).
St. Norbert's College, Wisconsin, Martha Keys (Kansas).
St. Olaf College, Minnesota, William S. Mailliard (California).
Salem College, North Carolina, Martha Keys (Kansas).
Sangamon State University, Illinois, Andrew J. Biemiller (Wisconsin).
Sangamon State University, Illinois, Martha Keys (Kansas).
Sangamon State University,[1] Illinois, Alan Lee Williams (United Kingdom).
Sangamon State University,[1] Illinois, Alastair Gillespie (Canada).
Siena College, New York, Frank E. Moss (Utah).
Siena College, New York, Charles W. Whalen, Jr. (Ohio).
Southeast Comm. College, Kentucky, Donald E. Lukens (Ohio).
Southern Illinois University, Illinois, John R. Schmidhauser (Iowa).
Southwestern College, Kansas, Henry P. Smith, III (New York).
Spelman College, Georgia, William S. Mailliard (California).
Spelman College, Georgia, William L. Hungate (Missouri).
SUNY-Binghamton, New York, John B. Anderson (Illinois).
SUNY-Plattsburg, New York, L. Richardson Preyer (North Carolina).
State University of Oswego, New York, Martha Keys (Kansas).
Syracuse University, New York, Charles W. Whalen, Jr. (Ohio).
Talladega College, Alabama, Ted Kupferman (New York).
Tougaloo Southern Christian College, Mississippi, Allard K. Lowenstein (New York).
Transylvania University, Kentucky, James M. Quigley (Pennsylvania).
U.S. Air Force Academy,[1] Colorado, Alan Lee Williams (Great Britain).
U.S. Coast Guard Academy, Connecticut, Ralph W. Yarborough (Texas).
U.S. Naval Academy, Maryland, John S. Monagan (Connecticut).
U.S. Naval Academy, Maryland, William S. Mailliard (California).
U.S. Naval Academy,[1] Maryland, Alan Lee Williams (Great Britain).
University of Alaska, Alaska, William L. Hungate (Missouri).
University of Alaska, Alaska, William S. Mailliard (California).
University of Arizona,[1] Arizona, Celio Borja (Brazil).
University of Arkansas, Arkansas, Gale W. McGee (Wyoming).
University of Arkansas, Arkansas, Charles W. Whalen, Jr. (Ohio).
University of California—Berkeley, California, Robert N. Giaimo (Connecticut).
University of California—Berkeley, California, Henry S. Reuss (Wisconsin).
University of California—Berkeley, California, Newton I. Streets, Jr. (Maryland)
University of Dayton, Ohio, Catherine May Bedell (Washington).

University of Delaware, Delarare, John J. Gilligan (Ohio).

University of Delaware, Delaware, Henry S. Reuss (Wisconsin).

University of Georgia,[1] Georgia, Georg Kahn-Ackermann (Germany).

University of Georgia, Georgia, Otis Pike (New York).

University of Georgia,[1] Georgia, John M. Reid (Canada).

University of Georgia,[1] Georgia, Alan Lee Williams (United Kingdom).

University of Hawaii, Hawaii, Paul N. McCloskey, Jr. (California).

University of Maine—Orono, Maine, John Rhodes (Arizona).

University of Michigan—Flint, Michigan, Gale W. McGee (Wyoming).

University of Mississippi, Mississippi, Tom Railsback (Illinois).

University of Nevada, Nevada, Gale W. McGee (Wyoming).

University of New Mexico,[1] New Mexico, Alastair Gillespie (Canada).

University of New Mexico,[1] New Mexico, Celio Borja (Brazil).

University of New Orleans,[1] Louisiana, Georg Kahn-Ackermann (Germany).

University of New Orleans,[1] Louisiana, Jacques Soustelle (France).

University of North Carolina, North Carolina, Robert P. Hanrahan (Illinois).

University of North Dakota, North Dakota, Neil Staebler (Michigan).

University of Oklahoma, Oklahoma, Catherine May Bedell (Washngton).

University of Oklahoma, Oklahoma, Dick Clark (Iowa).

University of Oklahoma, Oklahoma, Martha Keys (Kansas).

University of Oklahoma, Oklahoma, William S. Mailliard (California).

University of Oklahoma, Oklahoma, Charles W. Whalen, Jr. (Ohio).

University of Oklahoma, Oklahoma, Frank E. Moss (Utah).

University of Oregon, Oregon, Martha Keys (Kansas).

University of Redlands, California, Catherine May Bedell (Washington).

University of South Carolina,[1] South Carolina, Alan Lee Williams (United Kingdom).

University of South Carolina, South Carolina, Gale W. McGee (Wyoming).

University of South Dakota, William L. Hungate (Missouri).

University of Texas,[1] Texas, Alastair Gillespie (Canada).

University of Texas,[1] Texas, Celio Borja (Brazil).

University of Utah, Utah, Robert N. Giaimo (Connecticut).

University of Utah,[1] Utah, Jacques Soustelle (France).

Univerisity of Utah,[1] Utah, Alan Lee Williams (United Kingdom).

University of Washington,[1] Washington, Alan Lee Williams (United Kingdom).

University of West Virginia,[1] West Virginia, Georg Kahn-Ackermann (Germany).

University of West Virginia,[1] West Virginia, Jacques Soustelle (France).

University of Wisconsin,[1] Wisconsin, Georg Kahn-Ackermann (Germany).

University of Wyoming, Wyoming, Frank E. Moss (Utah).

Urbana University, Ohio, David S. King (Utah).

Valparaiso University, Indiana, Neil Staebler (Michigan).

Vanderbilt University, Tennessee, Ralph W. Yarborough (Texas).

Vanderbilt University,[1] Tennessee, Celio Borja (Brazil).

Virginia Military Institute, Virginia, Gale W. McGee (Wyoming).

Wake Forest University, North Carolina, William L. Hungate (Missouri).

Wake Forest University,[1] North Carolina, Georg Kahn-Ackermann (Germany).

Washington College, Maryland, Gale W. McGee (Wyoming).

Washington & Lee University, Virginia, Gale W. McGee (Wyoming).

Wayne State College, Nebraska, Gale W. McGee (Wyoming).

Westmont College, California, Ronald A. Sarasin (Connecticut).

Wheaton College, Massachusetts, Charles A. Vanik (Ohio).

Whitman College, Washington, Frank E. Moss (Utah).

William & Mary College, Virginia, Hugh Scott (Pennsylvania).

Wofford College, South Carolina, Jed Johnson, Jr. (Oklahoma).

230 visits—71 Fellows—164 institutions—49 states.

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

The Association has continued serving as the secretariat for the Congressional Study Group on Germany, which is the largest and most active exchange program between the U.S. Congress and the Parliament of another country. It is a bipartisan group involving more than 100 Representatives and Senators which provides opportunities for Members of Congress to meet with their counterparts in the German Bundestag to facilitate better understanding and greater cooperation. The Congressional Study Group on Germany is an unofficial and informal organization open to all Members of Congress.

In addition to hosting a number of Members of the Bundestag and other German Government leaders at the Capitol this past year, the Study Group hosted the Sixth Annual German-American Day Celebration in October 1993. Dr. Klaus Kinkel, Vice Chancellor and Foreign Minister, and Dr. Dieter-Julius Cronenberg, Vice President of the Bundestag, participated in the celebration along with a delegation of Members of the Bundestag and representatives from the German Foreign Ministry. In April 1994, the 11th Annual Congress-Bundestag Seminar was held on the Outer Banks of North Carolina in which seven Members of Congress and six Members of the Bundestag participated, along with former Members of Congress and the Bundestag and German and American speakers and other guests.

This program is funded principally by the German Marshall Fund of the United States. It has included joint meetings of the Agriculture Committees of Congress and the Bundestag and visits by Members of the Bundestag to observe the Illinois Presidential Primary and the Iowa Caucus, as well as to Congressional Districts throughout the country with Members of Congress to learn about the U.S. political process at the grassroots level. Because of the election schedules in the United States and Germany in 1994, a German-American Day celebration is not being planned, but it is hoped that a seminar can be held to introduce the new Members of Congress and the Bundestag to the importance of United States-German relations. This year's chairman of the Congressional Study Group on Germany in the House is Representative H. MARTIN LANCASTER of North Carolina. The Vice Chairman is Representative BILL EMERSON of Missouri. Senators WILLIAM V. ROTH, Jr. of Delaware and THOMAS A. DASCHLE of South Dakota serve as cochairmen of the Congressional Study Group on Germany in the Senate.

In March of this year, the Association, in cooperation with the Herbert Quandt Foundation and the Paul H. Nitze School of Advanced International Studies of the Johns Hopkins University and funded by the Quandt Foundation, convened an international conference on "The United States and Europe: Transatlantic Relations Beyond 2000." Political leaders, scholars, business and media representatives from the United States, Western and Eastern Europe discussed these issues and deliberated on the future of the Transatlantic Community.

Another project of the Association's, in cooperation with the East-West Center, is the Congressional Japanese Study Group, which was initiated in January 1993. It is currently led by Senator WILLIAM V. ROTH, Jr. Delaware as chairman and Representative LEE H. HAMILTON of Indiana as vice chairman. An unofficial, informal and bipartisan group open to all Members of Congress, it has 67 members and an additional 34 Members of Congress have asked to be kept informed of activities. The objectives of the study group are to develop a congressional forum for the sustained study and analysis of policy options on major issues in United States-Japan relations, and to increase opportunities for Members of Congress to meet with their counterparts in the Japanese Diet for frank discussion of those key issues. Initially, the Study Group is focusing attention on four major areas of concern to legislators in both countries: aid to Russia; United States and Japanese role in the Asia Pacific Region; bilateral trade and economic relations; and certain global issues. In a series of roundtable discussions that have been held throughout the year, United States and Japanese Government officials and nongovernmental experts have explored these issues in-depth. Initial funding to launch the Study Group and to support its programs has been provided by the Ford Foundation, the Japan-United States Friendship Commission, and the Laurasian Institution.

A special project grant from the Center for Global Partnership gave support for the "United States-Japan Issues

Meeting" in Lanai, HI in February of this year which brought together current and former Members of Congress and the Japanese Diet, academicians, business representatives, and other government personnel to discuss major issues of mutual concern. Its signal success leads us to hope regular opportunities of this kind may be provided.

Another facet of the Association's program with Japan was the continuation of the Japanese Congressional Fellows Program. In the past, staff members participating in this program had been selected from nominations made by the Secretaries General of the House of Councillors and the House of Representatives of the Japanese Diet. In 1993, the Association broadened the program to invite nominations from the Japanese political party structure so that in the fall of 1993, under funding from the Center for Global Partnership, two staff members from the Policy Research Councils—one from the Liberal Democratic Party and one from the Komeito Party—participated in the program. They spent approximately 60 days in the United States, during which time, the Association arranged for them to serve in congressional offices and to meet with staff in the Congressional Research Service of the Library of Congress, the Congressional Budget Office, and other support institutions of the U.S. Congress. The fellows also attended special academic lectures and visited congressional districts with Members of Congress.

The Japanese Congressional Fellows Program has proven to be extremely helpful to the staff members of the Diet and to the political parties. The experiences of the fellowship benefit not only the participants but also the colleagues with whom they share their experience. The time spent by the Japanese fellows in offices also has been extremely beneficial to United States congressional staff members by refining their understanding of the Japanese political process, and of Japan, per se.

The Association's program to aid the emerging democracies in Central and Eastern Europe also has continued to expand. In September and October 1993, the Association, under a grant from the United States Information Agency, hosted a delegation of four parliamentarians from the Czech Republic for a 2-week visit in the United States. During their week-long visit in Washington, the parliamentarians met with a number of current and former Members of Congress, including Representative MARTIN FROST of Texas, Chairman of the House Task Force on Eastern Europe, other government representatives and personnel of congressional support institutions. They also traveled to Cleveland and Chicago for discussions with business, academic, and community leaders who have particular interests in the Czech Republic, as well as with State legislators and local government leaders.

Also under the grant from the United States Information Agency, our first Congressional Fellow, Bulcsu Veress, successfully completed his second year providing technical assistance to the Parliament of Hungary. It is evident from a letter received from the President of the Hungarian National Assembly that Dr. Veress' 2 years in Hungary were highly productive. His counsel was welcomed by the administrative staff of the National Assembly. He assisted in the drafting of the new rules of the House and translated into English for further comparison and analysis the entire yearly legislative output of the Hungarian National Assembly.

Building upon this first successful venture of sending a Congressional Fellow to provide technical assistance to a new Parliament, the Association applied for and received a grant from the Pew Charitable Trusts. Under this grant, one Congressional Fellow has been sent to Slovakia, Jon Holstine, and another to Ukraine, Clifford Downen, for 1 year, with the possibility of renewal for a second year, to work with the members and staffs of those respective Parliaments. It is anticipated that a third Congressional Fellow will be sent to Bulgaria later this year or next year on a similar assignment.

The Association has continued its program of hospitality and orientation for distinguished international visitors, parliamentarians, cabinet ministers, judges, academicians and journalists here at the Capitol. This program, originally funded by the Ford Foundation, has been continued under grants from the German Marshall Fund of the United States. It has enabled us to host 292 events—breakfasts, luncheons, dinners and receptions—for visitors from 82 countries and the European Parliament. It has proved a genuine resource for communication and understanding between Members of Congress and leaders of other nations.

Two invaluable comparative studies have been prepared by the Association in connection with these ongoing initiatives: "The Japanese Diet and the U.S. Congress" and "The U.S. Congress and the German Bundestag." The latter has been particularly helpful to the new parliamentarians of Central and Eastern Europe.

Mr. Speaker, needless to say, these programs could not be conducted without financial support, and on behalf of the Association, I want to thank our many contributors who continue to make them possible. At this point, I would like to insert in the RECORD the list of our financial sponsors.

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In addition to our work with current parliamentarians, we maintain close relations with associations similar to ours, that is, former members of the parliaments of other countries. In this connection, Mr. Speaker, I am pleased to recognize and welcome several representatives of those associations who are with us today: Jack Ellis and Barry Turner of the Canadian Association of Former Parliamentarians; Georg C. Ehrnrooth of the Finnish Association of Former Members of Parliament; Ellen Lauterbach of the Association of Former Members of the German Bundestag; and Giuseppe Vedovato of the Association of Former Parliamentarians of the Italian Republic. These relationships have been particularly rewarding, and we look forward to exploring further cooperative efforts to promote and assist parliamentary forms of government.

Mr. Speaker, it is now my sad duty to inform the House of those persons who have served in the Congress and who have passed away since our report 2 years ago:

Jerome A. Ambro of New York;
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George M. Wallhauser of New Jersey;
Charles L. Weltner of Georgia;

I would like to ask for a moment of silence in their memory.

It is now my happy duty to report that nominated to be our Association's new President is our colleague Philip Ruppe of Michigan, and as Vice President, Lindy Boggs of Louisiana. So the leadership of the Association will be in capable and experienced hands.

Each year, the Association presents a Distinguished Service Award. This award rotates between political parties as do our officers. Last year's recipient on the Democratic side was former Illinois Representative Abner J. Mikva. This year the Republican recipient is the distinguished former Ohio Representative Clarence J. "Bud" Brown.

Clarence J. "Bud" Brown's 17 years as the Representative for the Seventh District of Ohio built upon a family tradition of legislative service, for Bud succeeded his own father after the latter had served 13 terms from 1939 to 1965. Bud would likely have equaled or exceeded his Dad's legislative tenure had he not won the GOP nomination for Governor of Ohio half way through his ninth term. In 1983, he accepted the post of Deputy Secretary of the U.S. Department of Commerce. Serving beside his good friend, and one of the Nation's greatest Secretaries, Malcolm Baldrige, Bud won instant recognition for his sound policies and administrative skills. A U.S. Navy veteran of both World War II and the Korean war, Bud graduated from Duke University with a degree in economics, and won his MBA at Harvard at the age of 21. A shining example of the Former Members' axiom that public service does not end with public officer, Bud brought his skills to the Kennedy School of Government, and the American Enterprise Institute, as a fellow of both institutions. A devotee of American history and tradition, Bud found the perfect expression of these interests when, in September 1992, he was named President and Chief Executive Officer of the U.S. Capitol Historical Society, succeeding the Honorable Fred Schwengel. Finally, it should not only be noted but emphasized that Bud Brown's tenure as President of the U.S. Association of Former Members of Congress did us all proud. His extraordinary vigor, perception and dedication mark his service to our Association.

So, it is my great pleasure to present to him, on behalf of our Association, a volume of letters from his former colleagues in the Congress and this plaque and gavel which commemorate this special occasion and this award presented on behalf of his colleagues who served with him in the Congress.

Mr. Speaker, I yield to Bud Brown.

□ 1000

Mr. BROWN of Ohio. Jim, thank you for those kind words. If the acting Speaker will forgive, and if my Republican colleagues will forgive and certainly if the current Speaker will forgive me, I will speak from this podium rather than the one I normally spoke from when I was in the Congress. It looks OK, does it?

Jim, I thank you for those kind words, and I thank all of my friends in the Association of Former Members of Congress for the award, which I choose to call historic. In my current role as president of the U.S. Capitol Historical Society, I am now looking at everything in historic terms, and some of that, of course, may be the result of advancing age.

However, I must assure you that without much thought, I can count many other Members with whom I served or who have served since I left the Congress who are much more deserving of this honor than I. Even more embarrassing, several of them are in this room today.

I am not naming them because it might stimulate some kind of a recall petition and I certainly do not want that to happen.

As a matter of fact, when I informed one of my former colleagues that I had taken the post I now enjoy with the Capitol Historical Society, he thought for a minute and said to me, "It is probably a good idea, Bud, since you couldn't make history when you were in the Congress, at least you can now rewrite it," a temptation that has occurred to me from time to time.

That reminds me also to thank Jim for the very graceful way in which you handled, Jim, my race for Governor in 1982. With a Republican President that year in the White House, I was trying to succeed a term-limited Republican Governor in Ohio in the worst economy we had experienced since 1932, when my father ran for Governor of Ohio as a Republican and lost.

We just do not learn a hell of a lot in my family about politics, one generation over the next.

Like Jim Symington, though, I must say I am also proud of Jim and the wonderful job he has done this year, perhaps, except for this selection, heading up the Association of Former Members at a time we had some very severe challenges with the death of Jed Johnson. But, Jim, you did a nice job with that comment. Like you, I am proud of my dad and my family heritage in politics. After 27 years here, my dad died in office. I believe he would have been amazed that I succeeded him; my mother, of course, would have been justified, but both of them would be very proud today.

My dad never got to be a former Member of Congress, but he would have enjoyed this organization because he liked nothing more than telling stories about political personalities, old-time events in politics.

One of his homilies was to assure me that if I ever went into politics, there was no good way out of it. You either retired to do something else, he said, in which case no one remembers your name about 6 months later, or you get defeated, which tends to discredit you, or you die at the height of your power and there is damn little comfort in that.

Well, I went through that experience. First, I want to say it is a demanding and consuming job and, as 110 of our colleagues who left last year will tell you, it takes a while to get over it.

Soon after I left the House, I ran into a former colleague and an old friend I had admired very much, Bob Giaimo of Connecticut, the first chairman of the Committee on the Budget, who had retired a few years earlier. "How are you handling retirement," Bob said in a very gracious way. "Oh, fine," I told him, "I didn't like losing the Ohio gubernatorial race to an Italian Democrat, but I am taking it all right." I said that without any effort at political correctness.

Somewhat more gently, with a hand on my arm, he said, "Seriously, Bud, how are you handling it?" I said, "Well, I dreamed the other night I had heard the bells ringing and I was late for a vote that I hadn't decided how I was going to cast, and I think I am driving Joyce crazy. But other than that, everything is OK." He smiled and patted my arm, and he said, "Well, you'll get over it. Give it another 6 months or so, you should be OK after the next election." Indeed, Bob, it turned out that way. You had the experience that you shared with me, and I appreciate it.

My dad loved this body, and his friends and adversaries on both sides of the aisle. And we do have adversaries on both sides of the aisle. There is nothing quite like the infamy of one of your own colleagues who votes the wrong way on an issue that you feel strongly about.

He hated to see it deprecated unless, of course, he was doing the deprecating. And that is true of all of us, too.

One of dad's friends from across the aisle, an Ohio colleague of his and mine later, was a great American whom some of you will remember. I will not identify him, but he had a 3rd grade education because he had left school to go to work in the mines, the coal mines in Ohio, when he was 9 years old. He had a pet project for his district which he never got quite through the congressional process, in spite of considerable power and the promises that he had received from many of his colleagues that they thought it was a good idea and they would support it. When he would get frustrated, he used to say that he met more gentlemen in the mines than he ever met in the U.S. Congress.

Well, unfair though it was, I think sometimes you felt that way when you got mad. That seems a tough remark when we have just recently laid to rest Bill Natcher, with whom so many of us served. Judge Natcher would probably get a unanimous vote as one of the best examples of a true gentleman that any of us ever met, but not all of us are gentlemen. As a matter of fact, there are some in this room who are not, and I intend to identify them at this moment.

□ 1010

First I want to point out Representative Pettis of California. I do not know were Representative Boggs of Louisiana is, but that is another, and of course there were others here who were not gentlemen: Griffiths of Michigan, Jordan of Texas, and many, many

more, and I expect one of those ladies would say, any one of those ladies would say, as one of my great colleagues from Ohio, Frances Bolton, once said to a group of her male counterparts when she discovered them discussing legislative matters in terms that were very ungentlemanly, and she was embarrassed when she walked into the room at that time; she said, "Don't worry, fellows. Just think of me as one of the boys."

But all of us did get frustrated, did get frustrated from time to time, as are many of the Members serving in Congress today and as many of Americans are with Congress and other of our institutions. I remind them all that the blessing we have in our Democratic Republic is that we have within our hands the power to make whatever reforms we like, sometimes wisely, sometimes unwisely.

I am reminded in my historical activities that almost a century ago the House rebelled against omnipotent Speaker Uncle Joe Cannon to establish the Committee on Rules and the seniority system for selecting chairmen. Uncle Joe used to pick them out of the group by his own choice. Within my time of service junior Members of Congress on both sides upended the seniority system to select their own chairmen instead of relying on the winnowing system of seniority, and just last year, at the apex of the furor over term limits, over one-fifth of the Members of Congress did not return to serve.

Patience sometimes serves us better than revolution, but we do have those means within our own hands. It does not work perfectly, this system of ours, and it does not always satisfy us. But it does work, and this system has made us the greatest Nation and the most envied Nation in the history of mankind.

The dome above us under which we have all served and labored sincerely, even among our differences, makes this building and what goes on here the best-known edifice in the world. There is not a person beyond our Nation's shores who would not be pleased to be governed under this dome.

I assure my colleagues, particularly my colleagues and friends on the other side of the aisle, that I will not rewrite any history in my new role, but candor advises me to admit one of the reasons I accepted that responsibility with the Historical Society. I hope to be able to use the position to bring about a better public perception of the U.S. Congress and the people who serve in it. I feel more deeply than I can adequately express that service in the U.S. Congress is one of the highest callings there is, and it is one of the greatest honors a person can be given by fellow citizens of this country.

Our Nation's founders must have shared that view because the Congress, this body in which we have all had the honor to serve, was the first to be established by our Constitution. We, the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and to our posterity do ordain and establish this Constitution of the United States of America. Article I, section 1, all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of the Senate and a House of Representatives given the responsibility to fulfill that opening of the Constitution.

What higher calling? The Supreme Court? The President of the United States?

At the next State of the Union Address look at the audience wherein sit the invited Chief and Associate Justices and at the lower podium wherefrom the invited President speaks. All are beneath the chairs of the Speaker of this House and the presiding officer of the Senate. Mr. Speaker, that means that there is no higher calling in public service in this country than serving as a Member of the U.S. Congress.

It is a demanding job, as I said. We are all proud to have had the opportunity, and I am particularly proud today, as a former Member of Congress, to receive your honor. I say, "Thank you very much."

[Applause.]

Mr. JOHN J. RHODES, JR. (presiding). The Chair recognizes the gentleman from Missouri.

Mr. SYMINGTON. I thank the distinguished gentleman from Ohio for his comments, advice, and counsel.

Mr. Speaker, before adjournment, I have one last function to perform as this year's president of the Association. As we all know, to our grief, last December we lost our esteemed executive director, Jed Johnson. Those of you who were unable to attend the services for Jed should know that there was an outpouring of sentiment, reminiscence and love that did justice to the career and the character of the man. His one shining term as a Member of Congress was later supplemented by 20 years of absolutely devoted and selfless service to our Association. It is no exaggeration to say he was the Association.

Looking back over those years and the voluminous record of interparliamentary and educational endeavors which engaged us, it is almost impossible to believe that all the planning, all the diplomacy, all the energy and all the detail necessary to conceive, carry out, promote and fund our activities arose full blown from the mind, heart and tireless spirit of that ever young gentleman from Oklahoma. He left us so quickly, and so unexpectedly, that the award we would have wanted him to have in his lifetime must now be posthumous. Even then it is but a mere symbol of the enormous gratitude we bear for Jed and his life of service.

We are honored today by the presence of Jed's gracious widow, Sydney Herlong Johnson, their two daughters, Alice and Sydney, and Jed's sisters, Mrs. Janelle Seiberlich and Mrs. Joan Stauffer. I would ask at this time that Mrs. Johnson approach the well to receive this small reminder of the gratitude and affection which reads,

In Memoriam. The Honorable Jed Joseph Johnson, Jr. December 27, 1939–December 16, 1993. Representative from the Sixth District of Oklahoma 1965–67. Executive Director, U.S. Association of Former Members of Congress 1974–93. In recognition of his selfless and invaluable service to this Association, the nation and the cause of peace. Presented to his widow, Sydney Herlong Johnson, by the United States Association of Former Members of Congress on the floor of the House of Representatives. Washington, DC. May 19, 1994.

Sydney, this if for you, and it comes with the pledge that the Association Jed served so well will continue in his spirit.

□ 1020

Mrs. SYDNEY HERLONG JOHNSON. Thank you all very much. I really appreciate this expression of your gratitude.

Jed loved his work with former Members of Congress, and I am really grateful that he had so many years to work for a cause that he believed in so deeply. I feel that I am among our treasured and wonderful friends today, and I want you to know that I thank you all so very much, not only for what you have done in the past but for what you are doing to continue the important work that he loved and treasured so deeply. Thank you.

[Applause.]

Mr. SYMINGTON. Thank you, Sydney.

Mr. Speaker, this concludes the 24th Annual Report to the Congress by the United States Association of Former Members of Congress. We are grateful as always to you, Speaker FOLEY, and the Members of his House on both sides of the aisle for this pleasant chance to share a review of the activities of its former Members and to renew our commitment to the spirit of this place; to touch, as it were, a few of what Mr. Lincoln called "the mystic chords of memory."

Finally, we thank you, Mr. Speaker, for the continuing opportunity to lend bipartisan support for the interparliamentary and educational exchanges which the Congress deems of value.

With renewed appreciation and respect, Mr. Speaker, we take our leave. Thank you.

[Applause.]

Mr. JOHN J. RHODES, JR. (presiding). I thank the gentleman from Missouri.

The Chair has the gavel, and that gives me certain prerogatives, and among those is to say what he has in mind, and I have several things in mind.

Sydney is not only the wife of a Congressman but the daughter of my very good friend, Syd Herlong. We extend to you and your daughters our absolute sincerity and sympathy in the passing of Jed. As a former president of the Association, I had the privilege, of course, of serving very closely with Jed. I have never known an individual any more dedicated to his job and to an organization than Jed was to this. I think most of us would agree with me that if it had not been for Jed Johnson, this organization might well have passed into oblivion sometime ago.

So, Sydney, we do appreciate you, because I know that without a wife a man really is not worth very much. And I can say that from personal experience. I hope that you will not only give our love to your daughters but to your father and mother also.

Now, Jim, I want to congratulate you on a great term. You had the misfortune to be president of this organization during what I will say was a watershed year, but it was much more than that. I was a difficult year because of the fact that Jed is no longer with us. You have handled it beautifully, and I know you will be passing the gavel to Phil Ruppe, who will also handle it beautifully. It is amazing how people who have served in the Congress have all sorts of capabilities that you do not get to really exercise unless you are in the leadership of the Congress. It is really wonderful and it is heartwarming when people who have served in the Congress take over as leaders of this organization and do such a magnificent job. In fact, I do not remember any officer of this organization who has not done a great job. I am looking right at Ab Mikva right now who certainly was a close associate of mine during that time.

I need to announce that there have been 32 Members who have announced their presence. Are there any former Members of the Congress in the House who would like to have their presence recorded whose presence has not previously been recorded? If not, I have one other announcement.

Those of you who desire to take the Capitol tour will assemble in the Speaker's Lobby behind the podium here.

Before I close, let me give my thanks to the Speaker, as well as to the Parliamentarian and his staff, for all the kindnesses that you have shown the former Members, not only this year but in other years past. We thank you, Sir.

The House will stay in recess until 11 a.m. eastern daylight time, of course, and again may I thank all of you who are here and pray that we will all be together at this time next year.

Without motion, I now declare the session of the Association of Former Members of Congress in the House of Representatives adjourned.

Accordingly (at 10 o'clock and 25 minutes a.m.), the House continued in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. VISCLOSKY] at 11:05 o'clock a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1485. An act to extend certain satellite carrier compulsory licenses, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S.J. Res. 168) "Joint Resolution designating May 11, 1994, as 'Vietnam Human Rights Day'.".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side.

FOCUS ON THE PROBLEMS OF THE HOMELESS

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

Mr. SARPALIUS. Mr. Speaker, I rise today to commend President Clinton and Secretary Henry Cisneros for their leadership in finally addressing the homeless problems that this country is facing.

All of us as Members of the House, when you drove to this Capitol today, you saw people sleeping on the streets. We have a serious problem that must be addressed.

During the Reagan and Bush years, we saw housing assistance was cut by 78 percent, elementary and secondary education by a third, job-training programs by 48 percent, child nutrition by 19 percent. We saw many mental institutions beginning to let people out on the streets. Today nearly a third of the homeless people came from mental institutions.

By 1987, the homeless population more than doubled. Dropouts increased. Teen pregnancy increased. Domestic violence increased. Today we have over 600,000 families in this country who are homeless.

But the sad part is the fastest growing population among the homeless are children. We have 1.5 million children in this country who do not have a home. We are now in the second generation of children growing up in shelters, and one-third of those children are not going to school.

So, Mr. Speaker, I challenge my colleagues to focus on the problems of the homeless in this country.

AN EMPLOYER MANDATE FAVORS MACHINES OVER PEOPLE

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

Mrs. JOHNSON of Connecticut. The real world, Mr. Speaker, is tough. When the cost of hiring goes up, as it will when even the smallest employer has to provide a health plan richer than Xerox's plan, it will simply not be worth hiring a part-time employee or even a full-time employee to do many of the jobs currently done.

We all know the employer mandate will cost jobs, but listen to this from the real world: Service industries are currently reviewing new technologies that would allow them to automate their operations. By buying technology now available, a fast-food restaurant could cut its staff from seven people to two people. Sitting in my office, they lay out spreadsheets that show the only way they can prevent increasing their prices to consumers is to substitute machines for people. These folks are not sharing with me estimates of job losses. They are sharing real world facts about options they will face if we arbitrarily increase their costs with an employer mandate.

We have already seen automation at the expense of jobs of real people in the manufacturing sector. As costs went up, machines took the jobs of real folks. My State of Connecticut is still struggling with the ramifications of such decisions.

Further, a retailer recently sat down in my office and showed me how he would have to increase the productivity of his full-time workers. He would have to have them at work when the customers were in the store. He would have to have them work split shifts, 2 hours here, 4 hours there, 2 hours later in the day. Is forcing people into split-shift work patterns wise and good? Is providing policy incentives to substitute technology for real people earning real wages wise and good? I think not.

We can reform our health care system to control costs and restore access for all. We can address the problems in our health care system without costing jobs. It's time to move forward with true bipartisan reform—now.

PRINTING OF PROCEDURES HAD DURING RECESS

Mr. WISE. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the CONGRESSIONAL RECORD and that all Members and former Members who spoke during the recess have the privilege of revising and extending their remarks.

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

There was no objection.

SUPPORT THE BLACK-LUNG BENEFITS RESTORATION ACT

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

Mr. WISE. Mr. Speaker, today the House has a chance to correct the long delays and the procedural barriers that have plagued black-lung recipients for many years.

This is the situation: Imagine it, work a mile underground for 30 or 40 years mining coal and eating coal dust, cough black dust every time you cough, then apply for the benefits that help you pay for your oxygen and medical expenses; oh, oops, you have to wait 4 to 7 years. Then you have to run through numerous medical exams, a lot of procedural hoops.

A lawyer will not take your case, because they know they will not be paid, and chances are you will be dead before the benefits are ever received.

Mr. Speaker, this bill before the House today begins correcting these inequities.

Opponents cannot require more than one medical exam of a claimant. Reasonable attorney's fees for a claimant must be paid. Death is presumed to be from pneumoconiosis if the claimant was receiving black-lung benefits or was disabled by black lung at the time of death.

Mining coal and eating coal dust to mine this Nation's energy is tough enough, Mr. Speaker. Today disabled coal miners and their families finally have a chance to get a little justice.

□ 1110

WHITE HOUSE TRAVEL OFFICE: A SHAMEFUL AFFAIR

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

Mr. CLINGER. Mr. Speaker, on this day, one year ago, 7 employees of the White House travel office were abruptly fired and publicly humiliated by the then-new Clinton administration. Today, a full year later, these former White House employees are still faced with the personal agony of public embarrassment and ever-mounting legal bills.

Despite an internal White House review that concluded that it was guilty only of not being sensitive to the appearance of being insensitive and a General Accounting Office review that avoided the really tough questions, the public's knowledge of this shameful affair has not been enhanced.

The FBI investigation, which began on the same day as the firings, still has not been completed. It is ironic to note that this investigation has lasted nearly twice as long as the investigation of much more complex allegations against Secretary of Commerce Ron Brown.

The GAO report on the White House travel office was just issued on May 2, 1994. Because it fails to fully answer many important questions, the Republican Staff of the Committee on Government Operations is reviewing the GAO work papers in order to determine the depth and objectivity of its review. Following that review, and if warranted by the information developed, as ranking member I intend to renew my previous request for hearings on this matter.

GOOD LUCK AND GOD BLESS JENNIFER CAPRIATI

(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, Jennifer Capriati, she beat Monica Seles, she beat Steffi Graf, she beat Tracy Austin, she beat Martina Navratilova. Ladies and gentlemen, Jennifer Capriati had defeated Chris Evert.

Mr. Speaker, Jennifer Capriati was busted for drugs. The Jennifer Capriati case is not about American teens, I think it is more about American attitudes and values.

When, at all costs, money, win, peewee football, little league baseball, not for youngsters to learn teamwork, but to get the big ring, put them under pressure to get it all.

Ladies and gentleman, what have we done to our country and what have we done with our kids? This is a sad day. I say this: Good luck and God bless Jennifer Capriati in her fight now to defeat a very, very big opponent. I think it is time we all take a look in the mirror and see how we raise our children and what is really happening in America.

WHITEWATER

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

Mr. GRAMS. Mr. Speaker, the Whitewater saga may not be occupying the headlines and airwaves as it did a few months ago but that does not mean the issue has gone away. The way the Democrat leadership in the House is dragging its feet on conducting hearings, you would think that Whitewater was simply a bad collective dream that we have all awoken from and quickly forgotten.

Well, sorry to be the bearer of bad news, but Whitewater may be a nightmare for the White House, but it certainly is not a dream. And until we get some answers I assure you it is not going to fade away.

It is no wonder Americans have such little respect these days for institutions of authority, including Congress and the Presidency. The double standards that exist here are enough to disgust even the casual observer. We pass laws that apply to everyone except Congress. We have conducted over 20 congressional investigations of recent Republican administrations but ignore the potential wrongdoing of the current Democrat administration.

There is a drumbeat of discontent out there. I hear it in Minnesota and all around this country. The double standard being applied to investigating Whitewater is merely symptomatic of a larger festering problem.

Mr. Speaker, it is time this body stopped turning its back on the American people. It is time to end the double standards. It is time to show the public that we are serious about democracy and justice for all, and congressional hearings on Whitewater are a good place to start.

IT IS TIME TO FIX AMERICA'S FAULTY HEALTH CARE SYSTEM

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

Mr. VISCLOSKY. Mr. Speaker, as this Congress considers ways to fix America's health care system, it is easy to get caught up in the political process. Whose plan is up; whose plan is down—all the name-calling and arm-waving that goes with any major piece of legislation. And sometimes, it is easy to forget what is really at stake here: millions of lives and billions of dollars.

Just yesterday, two devastating new studies found that we're actually paying more for less, forcing millions of Americans into emergency health care that is the most expensive for us and the least efficient for them.

These studies also found that millions of Americans are shut out of decent health insurance—and these unlucky Americans are two to three times more likely to die in a hospital as a result.

Let us be clear: we are not talking about paperwork, or bureaucracy, or even high premiums; we're talking about human lives.

In one study, the New England Journal of Medicine found that in our

cities, poor Americans have to rely on expensive emergency room care, because decent care simply is not available to them any other way. And we pick up the tab for that emergency care, often through higher premiums and higher taxes.

Another sobering study found that children without health insurance are less likely to get treatment for potentially devastating medical conditions.

What kind of health care system condemns poor children to suffer bad health just because they were not born into wealth?

What kind of health care system forces people to rely on the kinds of medical care that are least efficient and most expensive, just because we do not have the courage to do something about it?

And how can we, in good conscience, stand up for a status quo that can cost people their lives?

When we take these powerful medical studies into account, there is really no alternative: It is time to fix America's faulty health care system, and make guaranteed, affordable health care the law of the land—instead of just a perk for the privileged.

CLINTON ADMINISTRATION NEEDS COHERENT FOREIGN POLICY AND MILITARY POLICY

(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, Harry Truman once said a leader has to lead, otherwise he has no business in politics. One wonders about the Clinton administration's leadership in international affairs. We talked yesterday and will be talking again tomorrow about defense authorization, one of the most important issues that we have before us.

Mr. Speaker, a strong defense is one of the first responsibilities of the Federal Government, to defend our citizens and defend our freedom. Certainly it is also true that this is not a peaceful world. We have problems in Bosnia and in Haiti, and maybe most importantly, in North Korea and in the Russian Republics and South Africa, the continent.

But before we can describe what the new mission of the defense force is to be and how then we fund that capacity, we have to have a foreign policy. We have to have a foreign policy because the military capacity is part of that; it is the big stick; it is what makes foreign policy work.

What is our role in the world now? How do we extend democracy? Are we the policemen in the world? We have not made that decision, and it is mighty tough to have a military policy without a foreign policy. We need leadership in that area.

DO NOT LEAVE LOCAL GOVERNMENT HOLDING THE GARBAGE BAG

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

Mr. MINGE. Mr. Speaker, this week, in the decision of Carbone versus Clarkston, the U.S. Supreme Court trashed flow control laws in this country. Flow control is the power of local government to determine the ultimate disposition of garbage. This decision severely handicaps our cities and counties abilities to safely dispose of our Nation's garbage.

The Federal Government required State and local governments to dispose of solid wastes in environmentally sensible fashion. It is good, but it is a classic unfunded mandate.

It was expected that local governments could meet this mandate by building new facilities, charging for their use, and directing the flow of garbage to these facilities.

The Supreme Court overturned these local ordinances and has now forced communities to take the risks of unsafe, environmentally hazardous disposition of solid wastes, and threatens the security of $18 billion in outstanding municipal bonds.

Congress must respond by enacting legislation that will give our localities the tools they need to keep our children and our communities safe.

I implore my colleagues not to leave local government holding the garbage bag. instead we must learn how flow control is important to our communities and enact legislation to return to them the power to deal with their solid waste.

PENDING HEALTH CARE LEGISLATION WOULD BE DEVASTATING TO SMALL BUSINESS

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

Mr. HANCOCK. Mr. Speaker, I rise today to express my opposition to employer mandated health coverage included in the President's Health Security Act, and in the health reform legislation currently pending before the Committee on ways and Means. As one of the few small business owners in Congress, I can attest to the devastating effect employer mandates have on economic growth, international competitiveness, and most importantly, employee job security.

Believe me, when this mother of all mandates is handed down to America's job creating companies, businesses will close their doors for good. In fact, a recent study conducted by Consad Research Co., estimates a loss of between 850,000 and 3.8 million jobs.

Ask your constituents what is more important? A job providing income and family support, or a club membership card to a new big government health care program. I think the answer is obvious judging from the fact that the President's plan to take over health care is now dead and buried.

There are reasonable ways to ensure universal access to affordable health care without destroying small business in America. It is time to dismiss the employer mandate for the bad idea it is, and get on with fixing the true problems with our current health care system.

□ 1120

TIME FOR OUR ALLIES TO PAY FOR THEIR SECURITY

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

Mr. BROWN of Ohio. Mr. Speaker, I rise today to support the burden-sharing amendment to the Department of Defense reauthorization bill. We have a chance today to cut Federal spending, to lower the deficit and to lower defense costs without sacrificing military readiness.

The United States has protected Europe for the last 50 years. We provided our European Allies with troops and political support. It is now time that our allies come forward to share the financial burdens that are associated with this security.

The United States is faced with a huge budget deficit, and we must take care of our own financial problems. If we, as a nation, are to continue to provide the security, and the safety and strength to our European Allies, and to Japan, then they must come forward and pay for the security that we have provided them over the past 50 years.

I say to my colleagues, "I don't understand the logic at a time when many communities in the United States are struggling with the effects of base closings that we continue to subsidize the defense of wealthy countries in Western Europe and in Japan. It's time they started to pay their own way instead of relying on Uncle Sam."

THE EMPEROR HAS NO CLOTHES

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

Mr. GOSS. Mr. Speaker, in the story about the emperor, no one but a child would speak the truth and point out the emperor was wearing no clothes. Unlike the emperor, whose loyal subjects did not dare speak out, the truth on health care is coming loudly and clearly, not just from Americans, but from the President's own officials. Last week, Surgeon General Elders suggested to a congressional panel that

emphasis in health care should move away from leading killers, cancer and heart disease, and toward AIDS research, because quote:

Most of the people that die with heart disease and cancer are our elderly population, and we all will probably die with something sooner or later.

Here is the President's Surgeon General, advocating rationing of care and taking away from our seniors. Americans now see Clinton health for what it is—a misguided, Government-run bureaucracy that will lead to rationing, restricting choice, and decreased quality of care. It is no wonder Americans oppose the Clinton health plan. This emperor indeed has no clothes.

THE REEMPLOYMENT ACT OF 1994

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

Mr. KANJORSKI. Mr. Speaker, I rise today to call to the attention of my colleagues an issue that is very important to my district and to the rest of America, and that issue is jobs. Sometime within the next several months, 2,000 workers in Wilkes-Barre, PA, employed at Leslie Fay, Inc., will probably receive the proverbial pink slip indicating that their employment is no longer necessary. They will have lost their jobs in the garment industry to some country such as Guatemala or Mexico, or some other country that can compete at a lower wage than the United States.

This, Mr. Speaker, is the tragedy facing many Americans today. One of the major challenges that this Congress must face is that of creating job opportunities for Americans and reforming our existing programs to see that jobs are available.

I call my colleagues' attention to the Reemployment Act of 1994, an initiative of President Clinton and the Secretary of Labor and this Congress which is second to none. It moves away from the old principle of unemployment compensation, and the maintenance of unemployment, and moves toward reemploying people by providing one-stop shopping and the opportunity to retrain, re-skill, and move people from one industry and one job opportunity into another.

I urge my colleagues to support the President and the leadership of the Congress and join in supporting the Reemployment Act of 1994.

STRICT ENFORCEMENT OF CHILD SUPPORT ORDERS VITAL TO WELFARE REFORM

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

Mrs. ROUKEMA. Mr. Speaker, here is new evidence that we must address: The disgrace of deadbeat dads, and some moms, who can afford to, but do not pay child support is forcing mothers into endless, debasing legal battles just to get the support to which their children are legally and morally entitled. Many of these children are just one step from the welfare rolls. If we are serious about reforming our Nation's welfare system, we must get serious about child support enforcement reform.

That is why I was pleased to hear the news this morning from the State of Maine. Maine has been successful in instituting common sense child support reforms that are working. Maine's law confirms that the reforms recently proposed by the National Commission on Child Support Enforcement and included in my Interstate Child Support Enforcement Act, H.R. 1600, do work. In Maine, parents who refuse to pay child support lose their driver's and professional licenses. In the 9 months since passage of the law, State officials have collected over $1 million per month in overdue support.

My legislation includes these same provisions and more. H.R. 1600 requires all States to make it a crime to refuse to pay child support and, for the first time, would definitely allow States to serve child support orders on out-of-State parents. My bill would also enact bold new initiatives to establish paternity, in the hospital, at the time of birth. Finally, my bill would reduce paperwork, increase use of credit reporting and standardize and expand the role of the IRS.

Mr. Speaker, Americans are demanding an end to welfare as we know it. The Maine reforms are proof that strict enforcement of child support orders is essential to welfare reform. When we institute them nationwide, they will work!

PROVIDING A BRIGHTER FUTURE FOR AMERICANS

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

Mr. GEJDENSON. Mr. Speaker, Secretary Reich and the President are to be commended for the Reemployment Act of 1994.

Mr. Speaker, we have been living with a system that was primarily focused on unemployment and unemployment compensation, but with the changes that are occurring in today's economy in my district and across the Nation that is not enough. Many defense workers, who will be laid off from their jobs, will not be going back to that same plant or facility. A decade ago providing unemployment to bridge a temporary loss of work was adequate. Today the system is simply not working. More than 2,000,000 people have annually lost their jobs, and more than 75 percent of those will not go back to the original jobs.

Mr. Speaker, we need a system that will help train people, sustain them through an education and training period, provide support for them and their families, and then make sure that at the completion of that training they will know where the jobs are, those jobs that will continue into the future. Using the data base that the Secretary of Labor has designed working with various State and Federal agencies, Mr. Speaker, we can help Americans go back to work at jobs that will bring them a brighter future.

IT'S THE STUPID SPENDING

(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, 2 days ago the Washington Post carried a story that read: "White House Wonders Why Interest Rates Keep Rising."

If this is true, then someone needs to buy the White House a mirror.

During the 1992 campaign, the Clinton team had a slogan. It had been: "It's the Economy, Stupid," but since entering office has been the stupid spending.

The only things this administration has cut are either painted camouflage or salute. Last year President Clinton's budget deal was 3 to 1 tax increases to spending cuts.

Not only can the President not bring himself to cut spending, but he opposes anyone else trying to do so as well.

He has opposed Republican attempts to cut spending in each of the last 2 years. He opposed the Penny-Kasich amendment last November, opposed a bipartisan balanced budget amendment this year, and is opposing the A to Z spending cut plan today.

With this kind of record, it is no wonder the Federal Reserve feels it had to do what the administration will not.

THE REEMPLOYMENT ACT OF 1994

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

Mr. FARR of California. Mr. Speaker, I rise to endorse the President's Reemployment Act.

This legislation is long overdue. Our current retraining and job placement effort is a miasma of programs, a cross-stitch of agencies, and a confusing network of support systems that sometimes work, but more often do not.

The President's Reemployment Act creates clarity out of chaos and simplicity out of confusion by consolidating similar job-training and job placement programs into a single program.

Under this bill, no longer will the emphasis be on why a worker lost his

or her job, but how to put hard-working people back into the workplace.

I can testify first-hand that the President's Reemployment Act will work. A similar program is in operation in my district right now. The Monterey County Regional Job Opportunity Center is a one-stop resource and information center for job training, job placement, and worker benefits and assistance.

This job opportunity center assists job seekers with identification of skills and abilities, job retraining, job search preparation and the directed job search. For employers, the job opportunity center assists with recruitment, screening and referral, employee training reimbursements, and identification of potential tax credits.

The President's bill seeks to do the same. It pairs the unemployed with employers who need good, solid workers, and it does it in a simple, straightforward way.

Let us get the President's bill moving so we can put America back to work again!

□ 1130

A MEDICAL MIRACLE IN CALIFORNIA

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

Mr. BAKER of California. Mr. Speaker, I want to talk today about a little girl 13 years old in Laguna Beach named Lauren. Lauren's grandmother, Jean Meredith, is one of my dearest friends. About a month ago they discovered, as they were looking for a genetic defect in little Lauren, that she had an aneurysm in the middle of her brain, and it is right where the blood vessel comes to the optic nerve.

So within 30 days they interviewed three doctors, one in the University of California in San Francisco, one in Stanford, and one in Arizona, who were specialists—yes, specialists in this area. Within 30 days they scheduled an appointment, and they operated and went into her brain and sealed this aneurysm just 2 days ago.

She did not have to go to a regional health alliance; she did not have to go before a regional health board or a national health board that sets global budgets; she did not have to queue up as they do in Canada or in Great Britain. She did not face a shortage of medicine because of price fixing; she did not have to be concerned about a shortage of specialists because everybody in Government here believes all people should be general practitioners.

I would like to say something you cannot say in a public school. I would like to thank God for the miracle in saving Lauren's life. I would like to thank God for the greatest medical system in the world here in the United States. I would like to pray to God that he continue to give us his blessings and keep this Nation No. 1. Let us defeat the health care plan.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WISE). The Chair would remind those sitting in the gallery that they are here as guests of the House. We welcome your attendance, but we would ask you to refrain from any kind of demonstration of approval or disapproval.

PASSAGE OF REEMPLOYMENT ACT OF 1994 WOULD REVERSE WORKER DISLOCATION TREND

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

Ms. DELAURO. Mr. Speaker, all of us have read the good news about jobs. Our economy is creating jobs—many of them good jobs. But, Mr. Speaker, for many working Americans the news is not good.

This year, over 2 million working Americans will find themselves dislocated from their jobs—set adrift through downsizing, defense cuts, and fundamental structural shifts occuring throughout our economy. This is the highest rate of worker dislocation ever recorded in our history. The average length of unemployment for these dislocated workers is at near post-war records.

Mr. Speaker, it is vital that we act to help these millions of workers make the connection to new and good jobs. The President has taken the first step. The Reemployment Act of 1994 takes our antiquated unemployment program transforms it into a reemployment system that would give dislocated workers, and other unemployed workers, the job search, counseling, training, education and income assistance they must have to connect with and compete effectively for good new jobs.

Now it is up to us to work with the administration, pass the Reemployment Act, and get it to the President's desk for his signature this year. The 2 million Americans losing their jobs this year deserve no less.

SCHOLAR-ATHLETES FROM PENNSYLVANIA'S SEVENTH DISTRICT VISIT WASHINGTON

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

Mr. WELDON. Mr. Speaker, I rise today to welcome and to pay tribute to 43 of the best and brightest young people that I have in my congressional district in Pennsylvania.

Each year I invite every high school in my district to send their outstanding male and female scholar-athletes to Washington for a day so that we can share with them the experience of our Federal Government and have individuals who have been able to combine athletics with academics here in Washington. In the past we have had Senator BILL BRADLEY, who has been a very capable speaker. Today I will have Senator BEN NIGHTHORSE CAMPBELL. These are individuals who have combined athletics and academics in the pursuit of their career goals.

I am very happy to have representatives here today from 24 high schools, from Delaware, Chester, and Montgomery Counties. I am proud of them. I am proud of what they have done, but, more importantly, they are the hope and the opportunity of the future for this great Nation. I look forward to working with them as the future leaders of America.

Mr. Speaker, the list of the visiting scholar-athletes is included as follows:

1994 7TH DISTRICT SCHOLAR-ATHLETES

Academy Park: David Briggs; Shana Houlihan.
Chichester: Joseph Pearson; Kara Rill.
Unionville: Steve Betts.
Spring-Ford Area: Joseph Evans.
Cardinal O'Hara: Justin Reger; Kathleen Heyman.
Pheonixville: Michael Currie; Christing Miller.
Spring-Ford Senior: Gregory Wilson; Sarah Walters.
Devon Prep: Ryan Todd.
Penncrest: Adriene Lee; Byrne Remphrey.
Archmere Academy: Dannielle Kissel.
Sun Vally: Jennifer Herker; Ronald Withelder.
Conestoga: Kelley King; Mark Matz.
Villa Maria: Katrine Prndergast.
Great Valley: Joshua Snyder; Jennifer Devine.
Strath Haven: Amy Speckhals; Matthew (Rocky) Russel.
Ridley: Jaime Schemberg; Gavin Trverso.
Radnor: Raghav Gupta; Kathryn Bergsteinsson.
Springfield: Angie Svernick; Bill Bullard.
Upper Merion: Michael Fabrizio; Daphne-Leigh Hoonce.
Haverford: Sarah Pusey; Zachery Hafer.
Upper Darby: Christoper Rickards; Kathleen Bielli.
Garnet Valley: Chris Meon; Kendra Shambach.
Marple Newtown: Matthew Bayley; Cheryl Videon.
Interboro: Lauri Senkow; Fred Kunze.

COST CONTAINMENT

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

Mr. OLVER. Mr. Speaker, health care costs are out of control.

Americans will spend nearly $4,000 this year on health care.

Their employers spend 12 percent of payroll on health care.

And more than 14 percent of our GDP—$1 trillion—is spent on health care.

Mr. Speaker, these spiraling costs are bleeding our companies and breaking the financial back of our citizens and our companies.

As health care reform moves through the various committees, we must mount a real attack on these staggering costs.

The health care our people receive should be based on their need, not on their ability to pay.

I hope, Mr. Speaker, that when health care reform reaches the floor later this year, we will have an opportunity to vote on the single payer system, which offers the toughest possible measures for controlling these spiralling health care costs.

DEDICATION OF PERKINS PORTRAIT SCHEDULED FOR TODAY AS BLACK LUNG LEGISLATION IS CONSIDERED

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

Mr. RAHALL. Mr. Speaker, I rise to alert my colleagues to an event that is occurring this afternoon that is directly related to legislation that this body will consider as well during the course of today. I inform my colleagues that at 2:15 today in the House Committee on Education and Labor we will unveil the portrait of the late Honorable Carl D. Perkins. At the same time on the floor of this body today, we will be considering legislation to reform the Federal Black Lung Program.

There could be no better tribute to the legacy and to the remarkable career of the distinguished gentleman from Kentucky, Mr. Carl D. Perkins, than to pass this legislation through the House of Representatives today, the day that we unveil the portrait of Carl D. Perkins.

Mr. Speaker, this legislation is all about human justice. I salute the leadership and commend them for scheduling this bill today, and I salute the distinguished chairman of the full Committee on Education and Labor, the gentleman from Michigan [Mr. FORD], as well as the subcommittee chairman, the gentleman from Pennsylvania [Mr. MURPHY], for their leadership in bringing this long overdue legislation to the floor. It may not be a perfect bill, but indeed it is progress over the current system, and it will help to alleviate and help to end the cold bureaucratic nightmare many of our Nation's coal miners have been traveling through in order to obtain their just and legitimate benefits.

CONFERENCE REPORT ON S. 24, INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1994

Mr. BROOKS submitted the following conference report and statement on the Senate bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-511)

The committee of conference on the disagreeing votes of the two Houses on the bill (S. 24), to reauthorize the independent counsel law for an additional 5 years, and for other purposes, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1994".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1994".

SEC. 3. ADDED CONTROLS.

(a) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

"(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

"(3) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.".

(b) INDEPENDENT COUNSEL PER DIEM EXPENSES.—Section 594(b) of title 28, United States Code, is amended—

(1) by striking "(b) COMPENSATION.—An" and inserting the following:

"(b) COMPENSATION.—

"(1) IN GENERAL.—An"; and

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

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per diem, and subsistence expenses in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—

"(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended by 6 months if the employee assigned duties under subsection (l)(1)(A)(iii) certifies that the payment is in the public interest to carry out the purposes of this chapter.

"(B) RELEVANT FACTORS.— In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), such employee shall consider, among other relevant factors—

"(i) the cost to the Government of reimbursing such travel and subsistence expenses;

"(ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

"(iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that such travel and subsistence expenses would not be incurred; and

"(iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES-4 of the Senior Executive Service Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.".

(d) ETHICS ENFORCEMENT.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) of title 28, United States Code, is amended—

(1) by striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply";

(2) by adding at the end the following: "To determine these policies and policies under sub-

section (l)(1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.";

(3) by striking "An independent" and inserting the following:

"(1) IN GENERAL.—An independent"; and

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

"(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.".

(g) ANNUAL REPORTS TO CONGRESS.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.".

(i) AUDITS BY THE COMPTROLLER GENERAL.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) AUDITS.—(1) On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

"(2) The Comptroller General shall—

"(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

"(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Operations, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each such statement.".

(j) THRESHOLD INQUIRY.—Section 591(d)(2) of title 28, United States Code, is amended by striking "15" each time it appears and inserting "30".

(k) RECUSAL.—Section 591(e) of title 28, United States Code, is amended to read as follows:

"(e) RECUSAL OF ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

"(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

"(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to such information.".

(l) DISCLOSURE OF INFORMATION.—Section 592(e) of title 28, United States Code, is amended by inserting after "Except as otherwise provided in this chapter" the following: "or as is deemed necessary for law enforcement purposes".

(m) CLARIFICATION OF AUTHORITY TO USE DEPARTMENT OF JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended by adding at the end the following: "At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.".

(n) ATTORNEYS' FEES.—Section 593(f) of title 28, United States Code, is amended—

(1) in the last sentence of paragraph (1) by inserting before "Attorney General" the following: "the independent counsel who conducted the investigation and"; and

(2) in paragraph (2)

(A) by striking "may direct" and inserting "shall direct such independent counsel and"; and

(B) by striking all after "subsection," and inserting the following: "addressing—

"(A) the sufficiency of the documentation;

"(B) the need or justification for the underlying item;

"(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

"(D) the reasonableness of the amount of money requested.".

(o) FINAL REPORT.—Section 594(h)(1)(B) of title 28, United States Code, is amended by striking ", and the reasons" and all that follows through the period and inserting a period.

SEC. 4. MEMBERS OF CONGRESS.

(a) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS.—

"(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

"(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

(b) POSTEMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (6) and (7);

(2) by redesignating paragraph (8) as paragraph (6), and, at the end of that paragraph, striking the period and inserting "; and"; and

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

"(7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.".

SEC. 5. GROUNDS FOR REMOVAL.

Section 596(a)(1) of title 28, United States Code, is amended by striking "physical disability, mental incapacity" and inserting "physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),".

SEC. 6. REPORT ON WHITE HOUSE OFFICE PERSONNEL.

(a) SUBMISSION OF REPORT.—On July 1 of each year, the President shall submit a report described in subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) CONTENTS.—A report under subsection (a) shall, except as provided in subsection (c), include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office; and

(2) with regard to each individual described in paragraph (1), the individual's—

(A) name;

(B) position and title; and

(C) annual rate of pay.

(c) EXCLUSION FROM REPORT.—If the President determines that disclosure of any item of information described in subsection (b) with respect to any particular individual would not be in the interest of the national defense or foreign policy of the United States—

(1) a report under subsection (a) shall—

(A) exclude such information with respect to that individual; and

(B) include a statement of the number of individuals with respect to whom such information has been excluded; and

(2) at the request of the Committee on Governmental Affairs of the Senate or the Committee on Government Operations of the House of Representatives, the information that was excluded from the report shall be made available for inspection by such committee.

SEC. 7. TRANSITION PROVISIONS.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act shall apply with respect to independent counsels appointed before, on, or after the date of enactment of this Act.

(b) ASSIGNMENT OF EMPLOYEE TO CERTIFY EXPENDITURES.—An independent counsel appointed prior to the date of enactment of this Act shall assign to an employee the duty of certifying expenditures, as required by section 594(l) of title 28, United States Code, as added by section 3(a), by the date that is 30 days after the date of enactment of this Act.

(c) OFFICE SPACE.—The Administrator of General Services, in applying section 594(l)(3) of

title 28, United States Code, as added by section 3(a), to determine whether the office of an independent counsel appointed prior to the date of enactment of this Act should be moved to a Federal building, shall take into account the moving, legal, and other expenses that might arise if the office were moved.

(d) TRAVEL AND SUBSISTENCE EXPENSES.—For purposes of the restrictions on reimbursement of travel and subsistence expenses of an independent counsel and employees of an office of independent counsel contained in paragraph (3) of section 594(b) of title 28, United States Code, as amended by section 3(b), as applied to the office of an independent counsel appointed before the date of enactment of this Act, the 1-year service period shall begin on the date of enactment of this Act.

(e) RATES OF COMPENSATION.—The limitation on rates of compensation of employees of an office of independent counsel contained in the last sentence of section 594(c) of title 28, United States Code, as amended by section 3(c), shall not be applied to cause a reduction in the rate of compensation of an employee appointed before the date of enactment of this Act.

(f) PERIODIC REAPPOINTMENT.—The determinations by the division of the court contained in the last sentence of section 596(b)(2) of title 28, United States Code, as amended by section 3(h), shall, for the office of an independent counsel appointed before the date of enactment of this Act, be required no later than 1 year after the date of enactment of this Act and at the end of each succeeding 1-year period.

(g) REPORTING REQUIREMENTS.—No amendment made by this Act that establishes or modifies a requirement that any person submit a report to any other person with respect to an activity occurring during any time period shall be construed to require that a report submitted prior to the date of enactment of this Act, with respect to that time period be supplemented to include information with respect to such activity.

(h) REGULATORY INDEPENDENT COUNSEL.—Notwithstanding the restriction in section 593(b)(2) of title 28, United States Code, the division of the court described in section 49 of that title may appoint as an independent counsel any individual who, on the date of enactment of this Act, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Federal Regulations. If such an individual is so appointed, such an independent counsel shall comply with chapter 40 of title 28, United States Code, as amended by this Act, in the same manner and to the same extent as an independent counsel appointed before the date of enactment of this Act is required to comply with that chapter, except that subsection (f) of this section shall not apply to such an independent counsel.

(i) WHITE HOUSE PERSONNEL REPORT.—Section 6 shall take effect on January 1, 1995.

And the House agree to the same.

JACK BROOKS,
JOHN BRYANT,
DAN GLICKMAN,
BARNEY FRANK,
Managers on the Part of the House.

JOHN GLENN,
CARL LEVIN,
DAVID PRYOR,
BILL COHEN,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 24) to reauthorize the independent counsel law for an additional 5 years, 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 House amendment to the text of S. 24 struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and House amendment. The differences between the Senate bill, House amendment, and substitute agreed to in conference are noted below, except for clerical corrections, structural changes, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 591(b)(6) AND (7): LENGTH OF POSTEMPLOYMENT COVERAGE

1987 law

The 1987 independent counsel law applied on a mandatory basis to certain high level executive branch officials, not only while they occupied a covered office or position, but also for a period of time after they left that office or position. The length of mandatory postemployment coverage varied from a minimum of one year to a maximum of three years.

Senate bill

The Senate bill reduces mandatory postemployment coverage from a maximum of three years to a maximum of one year. For persons who leave a covered office or position within 90 days of a new president's inauguration, the Senate bill eliminates the one-year period of postemployment coverage.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the Senate and House provisions by limiting mandatory postemployment coverage to one year after a person leaves a covered office or position, regardless of whether the departure occurs during the term of office of the President who appointed that person or after the expiration of that President's term.

SECTION 591(c): DISCRETIONARY COVERAGE AND MEMBERS OF CONGRESS

1987 law

The 1987 law provided the Attorney General with discretionary authority to use the independent counsel process for any person whose investigation or prosecution by the Department of Justice "may result in a personal, financial or political conflict of interest." This discretionary authority permitted the Attorney General, if a conflict of interest were present, to use the independent counsel process to investigate Members of Congress. However, Members of Congress were not specifically identified as falling within that general category of coverage.

Senate bill

The Senate bill gives the Attorney General specific discretionary authority to use the independent counsel process to investigate Members of Congress. It broadens the standard for invoking the process with respect to Members from requiring a conflict of interest to requiring the Attorney General to find it would be in the public interest. This broader standard would permit the Attorney General to use the independent counsel process for Members of Congress in cases of perceived as well as actual conflicts of interest. In addition, the Senate bill rewords the general discretionary provision to simplify it and to authorize the Attorney General to use the independent counsel process to investigate a "matter" as well as a person.

House amendment

The House amendment also gives the Attorney General specific discretionary authority to use the independent counsel process with respect to Members of Congress. The House amendment does not otherwise change the general discretionary provision that appeared in the 1987 law.

Conference agreement

The conference agreement follows the Senate bill, except that the language giving the Justice Department general discretionary authority to use the independent counsel process to investigate a "matter" as well as any person is deleted, because it would in effect substantially lower the threshold for use of the general discretionary provision. The conference agreement makes no change from the 1987 law in the substantive reach or scope of the general discretionary provision.

SECTION 591(e): RECUSAL BY ATTORNEY GENERAL

1987 law

The 1987 law set forth the standards and procedures governing recusal by the Attorney General in a matter being handled under the independent counsel law.

Senate bill

The Senate bill rewords the provision to make it clear that recusal is automatic in any matter in which the Attorney General is personally involved.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the Senate bill.

SECTION 592(a)(2)(B): CRIMINAL INTENT

1987 law

The 1987 law set forth with the Attorney General could close a matter under the independent counsel law based upon a determination that an investigatory subject lacked the intent necessary for a crime to have been committed. The law prohibited any consideration of intent in the context of a threshold inquiry under section 591(d), and permitted closure of a matter after a preliminary investigation under section 592 only if the Attorney General determined there was "clear and convincing evidence" of a lack of criminal intent.

Senate bill

The Senate bill permits the Attorney General to close a matter after either a threshold inquiry under section 591(d) or a preliminary investigation under section 592, if the Attorney General determines there are "no reasonable grounds to believe that the subject acted" with criminal intent and "no reasonable possibility that further investigation would develop such evidence."

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the House bill. Congress believes that the Attorney General should rarely close a matter under the independent counsel law based upon finding a lack of criminal intent, due to the subjective judgments required and the

limited role accorded the Attorney General in the independent counsel process. Congress also believes that at least one Attorney General abused his authority in this area, that this abuse was the impetus for the statutory restriction in the expired law, and that a statutory restriction remains necessary to prevent future problems.

SECTION 592(e): DISCLOSURE OF COURT FILINGS

1987 law

The 1987 law prohibited employees of the Justice Department and of an independent counsel from disclosing any filing with the special court to any person outside their office without first obtaining a court order.

Senate bill

The Senate bill creates a limited exception to this nondisclosure provision by authorizing disclosure of court filings to outside persons for law enforcement purposes.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the Senate bill with a minor change. The Congress intends that this exception should be narrowly construed to permit, for example, giving copies of court filings to an IRS investigator to facilitate examination of a tax matter under the independent counsel's purview or to an agency Inspector General or state prosecutor performing a separate but possibly related criminal investigation to determine whether coordination of the criminal case is appropriate.

In determining whether a proposed disclosure is deemed necessary for law enforcement purposes, Congress intends independent counsels and attorneys for the government to be guided by the law enforcement exception to the grand jury secrecy rules found in Rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure. That rule allows otherwise prohibited disclosures to be made "to such governmental personnel (including personnel of a state or subdivision of a state) as are deemed necessary by an attorney for the government to assist an attorney for the government in the performance of such attorney's duty to enforce federal criminal law." If no such law enforcement purpose is present, a court order must be obtained prior to disclosure.

SECTION 593(f): ATTORNEY FEES

1987 law

The 1987 law set forth the standards and procedures governing when persons may recover attorney fees incurred in response to independent counsel proceedings. Essentially, to recover fees, a person must have been an unindicted subject of an independent counsel's investigation and incurred fees which would not have been incurred but for the requirements of the independent counsel law. Fee requests were decided by the special court which could ask the Attorney General to file a written evaluation of the reasonableness of the amounts requested, the supporting documentation and the need or justification for each expense.

Senate bill

The Senate bill follows the 1987 law, but adds a sentence stating that no award of attorney fees may be made for fees that would have been incurred if the investigation had been conducted by the Department of Justice. The purpose of this sentence is not to change the standard for awarding fees, but to help illuminate application of the provision which permits reimbursement of only those fees that "would not have been incurred but for the requirements of the independent counsel law" (the "but-for" requirement). The new language indicates that, in judging whether the but-for requirement has been met, a significant factor the special court must consider is whether these fees would have been incurred if the Justice Department had handled the investigation instead of the independent counsel. The Senate bill also expands the written analysis by the Justice Department on fee requests by allowing it to comment on whether the but-for requirement has been satisfied.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the Senate and House provisions. It retains the Senate language requiring an expanded analysis of each attorney fee request, and adds a provision directing the special court to obtain this analysis from not only the Department of Justice, but also the independent counsel who handled the investigation. The conference agreement drops the Senate language conditioning payment of attorney fees on whether the same fees would have been incurred if the matter had been handled by the Justice Department, because that concept is already addressed in the existing but-for requirement.

Since the inception of the attorney fee provision, Congress has intended it to be narrowly construed. The conferees believe detailed analyses of fee requests by both the Department and independent counsel, including application of the but-for requirement, will aid the special court in keeping to a narrow construction.

Since the last reauthorization of the independent counsel statute in 1987, a number of decisions awarding attorney fees have been issued by the special court. The conferees believe that several of these decisions were overly generous in interpreting the attorney fee provision.

Illustrative of the conferees' concerns is the 1993 decision awarding attorney fees to former Secretary of State George Shultz *In re: Oliver L. North, Shultz Fee Application*, December 7, 1993). In that decision, the court found that the but-for requirement was met in part because, "in the experience of the Court, it is not reasonable to expect that a professional prosecutor" would begin to treat a witness as the subject of an investigation "four and one-half years after the commencement'" of the case. Congress did not intend the but-for requirement to be used as a vehicle for the special court to rule on the wisdom or timing of an independent counsel's prosecutorial decisions. The opinion also held that the but-for requirement was met in part because the investigation centered on violation of the Boland Amendment, which the Justice Department had determined was not a criminal statute. In fact, the independent counsel subsequently indicated that the Shultz investigation centered on false testimony and concealed documents relating to Iran arms sales and not at all on the Boland Amendment. This misreading of the basis of the investigation may have been the result of the court's decision to handle the fee application under seal, on an ex parte basis, and without its usual practice of affording the independent counsel an opportunity to comment. In another case, the court appears to have awarded attorney fees to a subject, because it surmised that had the Attorney General been able to use a grand jury during the preliminary investigation, the case might have been closed after "a non-public summary investigation."

Such recent court decisions suggest that the special court may be viewing the attorney fee provision as one which should routinely result in fee awards. That has not been Congress' intent because, were it not for the existence of the independent counsel statute, the Department of Justice may well have investigated these same matters and, had it done so, no attorney fees would be recoverable under any circumstances. The court has, on occasion, accurately quoted legislative history stating that an attorney fee award under the independent counsel law "is warranted, if at all, in only rare instance" and "should not become a routine event." In reauthorizing the statute, the Congress reaffirms its original intent, as reflected in legislative history, that the special court construe the but-for requirement of the attorney fee provision narrowly.

Finally, the conferees not the special court's decision in the *Shultz* matter that an hourly rate of $370 is reasonable under the law. The court observed that the Justice Department describes this rate as "extraordinarily high," but stated that the law "provides no particular guidance for our determination of standards of reasonableness." It also cites two opinions from 1989 and 1990, subsequent to the 1987 reauthorization of the law, approving similar hourly rates.

In response to the court's invitation to provide guidance in evaluating the reasonableness of hourly rates requested by defense counsel under the independent counsel law, the conferees note that Congress did not intend that properly recoverable attorney fees under this statute be construed to be what the market will bear in the private sector. Rather, Congress intends that the reasonableness of attorney fee requests under the independent counsel law be judged, not solely with reference to the rates commanded by expensive legal counsel, but also with reference to what cost is reasonable for the taxpayers to bear.

Three statutes provide the special court with the guidance it seeks in evaluating the reasonableness of attorney fees requested by defense counsel under the independent counsel statute. First, by law, the independent counsel is compensated at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule, which is currently set at $115,700. At that annual rate of pay, the independent counsel's compensation is approximately $55 per hour. Second, the Equal Access to Justice Act, Public Law 96–481, which allows Federal courts to award attorney fees to private parties in suits against the United States, limits the amount of attorney fee recovery to "$75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." 28 U.S.C. 2412(d)(2)(A). Third, fees to private defense counsel who are paid by the United States pursuant to the Criminal Justice Act of 1984, Public Law 88–455, to represent indigent defendants in Federal criminal cases, are currently limited to "$60 per hour for time expended in court or before a United States magistrate and $40 per hour for time reasonably expended out of court, unless the Judicial Conference determines that a higher rate of not in excess of $75 per hour is justified for a circuit or for particular districts within a circuit, for time expended in court or before a magistrate and

for time expended out of court." 18 U.S.C. 3006A(d)(1).

These three statutes identify hourly rates, ranging from $40 to $75 per hour, which Congress has determined are reasonable and may be fully reimbursed with taxpayer dollars. Although by design the independent counsel law does not impose a specific ceiling on the hourly rates payable to defense counsel, hourly rates of $300 and $400 generally so far exceed other statutorily approved rates that they should not be fully recoverable under the independent counsel law. While individuals remain free, of course, to employ any defense counsel they choose, they should be on notice that the independent counsel law may not authorize payment of taxpayer dollars to reimburse fully all of the fees they incur.

SECTION 594(b): INDEPENDENT COUNSEL TRAVEL EXPENSES

1987 law

The 1987 law contained no explicit direction on whether an independent counsel was subject to federal law regarding travel expenses, whether executive or judicial branch requirements applied, or whether expenses were reimbursable for travel to and from an independent counsel's primary office if that independent counsel resided elsewhere.

Senate bill

The Senate bill provides that independent counsels and their staffs are subject to the same restrictions on travel expenses as other federal executive branch employees. It also states that, after one year of service, independent counsels and their staffs are not entitled to travel and per diem expenses to commute to and from the city in which their primary office is located or subsistence expenses at such location, except that an independent counsel's certifying official may approve payment of these expenses for an additional three months if the official determines the investigation "will likely be concluded within that time period."

House amendment

The House amendment contains similar provisions to those in the Senate bill, except that the one-year limit on reimbursement of expenses relating to the primary office may be extended for successive 6-month periods if the certifying officials, after considering certain specified factors, determines payment would be in the public interest.

Conference agreement

The conference agreement follows the House amendment, except that the one-year limit on reimbursement of expenses relating to the primary office may be extended for only one 6-month period. The conference agreement also makes it clear that the prohibition on reimbursement of travel, per diem and subsistence expenses applies only to expenses incurred by independent counsels or their staff in commuting to and from their primary office, and does not prohibit reimbursement of their expenses for traveling elsewhere.

SECTION 594(c): STAFF COMPENSATION

1987 law

The 1987 law specified that staff hired by the independent counsel could not be compensated at a rate exceeding the maximum rate of pay payable for GS–18 of the General Schedule under section 5332 of title 5. The law provided no other guidance on staff compensation.

Senate bill

The Senate bill states that employees hired by the independent counsel may not be paid at a rate greater than Level IV of the Executive Schedule under 5315 of title 5. This rate is comparable to the GS–18 rate which no longer exists under the current General Schedule. In addition, the bill directs the independent counsel to compensate staff at levels not to exceed those payable for comparable positions in the U.S. Attorney's Office for the District of Columbia.

House amendment

The House amendment provides that no more than 2 employees of the independent counsel may be compensated at a rate equal to Level V of the Executive Schedule and that remaining staff may not be compensated at a rate greater than GS–15 of the General Schedule.

Conference agreement

The conference agreement strikes a compromise between the House and Senate provisions. It specifies that no independent counsel staff may be compensated at a rate greater than Level 4 of the Senior Executive Service Schedule, as adjusted by locality pay applicable to the District of Columbia, and that no staff compensation level may exceed that payable for comparable positions in the U.S. Attorney's Office for the District of Columbia. It is the intent of these provisions that independent counsels pay reasonable salaries commensurate with an employee's experience and job responsibilities and that only the most senior assistants receive the maximum rate allowable for staff. No independent counsel should pay all or even most staff attorneys at the maximum permissible rate, nor should part-time counsel be paid at the billable hourly rate they receive when privately employed. Congress intends by these provisions to conserve taxpayer dollars, while ensuring staff salaries in an independent counsel's office are comparable to those paid to other federal prosecutors.

SECTION 594(D): JUSTICE DEPARTMENT ASSISTANCE

1987 law

The 1987 law provided that the independent counsel may request assistance from the Department of Justice in carrying out the law, and the Department was required to provide that assistance, including use of Department resources and personnel.

Senate bill

The Senate bill requires the independent counsel to request such assistance, and the Department to provide it.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the House and Senate approaches, by clarifying the existing authority of independent counsels, at their option, to ask the Department of Justice to detail to their staffs, on a reimbursable or nonreimbursable basis, prosecutors, administrative personnel, or other persons employed by the Department. Independent counsels have already made frequent use of FBI detailees, who are employees of the Justice Department; it is the intent of this provision to clarify, not alter, the authority for that practice. While the Justice Department is encouraged to support the work of independent counsels by facilitating details, it does retain the authority to decline an independent counsel's request for a specific detailee.

This provision is intended to allow independent counsels to take advantage of the expertise of Justice Department personnel. Department employees accepting a detail under this law must understand that, during the detail, they owe their allegiance solely to the independent counsel, and it would be a serious breach if they were to violate that allegiance by, for example, providing unauthorized information to the Department or other parties. This obligation must be made clear to the detailee by both the Department and the independent counsel.

SECTION 594(F): COMPLIANCE WITH JUSTICE POLICIES

1987 law

The 1987 law required independent counsels to comply with Department of Justice policies on criminal law enforcement "except where not possible."

Senate bill

The Senate bill requires independent counsel compliance with Department policies on criminal law enforcement "except to the extent that to do so would be inconsistent with the purposes" of the independent counsel law. It also requires the independent counsel to consult with the Department on its law enforcement and spending policies "to the extent possible throughout his or her term of office."

House amendment

The House amendment contains the same provision as the Senate bill, except that it does not require independent counsels to consult with the Department on law enforcement and spending policies "except where to do so would be inconsistent with the purposes" of the independent counsel law. This standard is consistent with the rest of the section and signals the need for independent counsels to balance the goal of handling matters in the same way as other federal prosecutors with the goal of retaining appropriate independence. By including this provision, Congress affirms its intent that independent counsels engage in appropriate consultation with the Department of Justice.

SECTIONS 594(H)(1) AND 595(A)(2): INDEPENDENT COUNSEL REPORTS

1987 law

The 1987 law required independent counsels to file with the special court semi-annual expense reports under section 594(h)(1)(A), and a final report under section 594(h)(1)(B) "setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel." In addition, independent counsels were permitted under section 595(a)(2) to "submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel consider[ed] appropriate."

Senate bill

The Senate bill amends section 595(a)(2) to require independent counsels to report to Congress quarterly on "all monies expended" and annually on "their activities, including a description of the progress of any investigation or prosecution * * * adequate to justify the expenditures" made. In addition, the Senate bill narrows the scope of the final report required under section 594(h)(1)(B) by removing requirements that it be full and complete and that it explain the reasons for not prosecuting any matter.

House amendment

The House amendment adopts the Senate's proposed change to section 595(a)(2) requiring independent counsels to report to Congress annually on their activities, but does not

otherwise amend the reporting requirements contained in the 1987 law.

Conference agreement

The conference agreement strikes a compromise between the House and Senate approaches.

First, in response to the desire to increase fiscal controls on independent counsels, the conference agreement replaces the Senate requirement for quarterly expense reports by independent counsels with requirements for increased financial oversight by the General Accounting Office (GAO). The conference agreement requires GAO to conduct a financial review of independent counsel expenditure statements at mid-year, a full audit at year-end, and another full audit at termination of each independent counsel's office. Requiring this additional oversight by a third party auditor, rather than requiring additional reports by an independent counsel, is believed to be a more effective fiscal control on expenditures. The conferees also direct independent counsels when preparing their expenditure statements to consult with GAO and to prepare them in a format which will facilitate GAO's financial oversight.

Second, in response to concerns about the proper scope of the final report, the conference agreement retains the requirement in the 1987 law that these reports include a full and complete account of the independent counsel's activities, but eliminates the requirement that the independent counsel explain the reasons for not prosecuting any matter.

Requiring a prosecutor to file a final report that may become a public document is unique to the independent counsel process; other federal prosecutors are neither required nor expected to issue such a public report. The final report requirement thus must be understood to be an exception to the norm.

This exception is justified by the unique environment in which an independent counsel must operate—without direct and ongoing supervision by senior Justice Department officials. It serves as an important check on independent counsel investigative and prosecutorial activities by requiring them to identify and explain their actions.

Because this reporting requirement is unique in the federal criminal justice system, the conferees recognize the importance of making the objectives and intended limits of the report clear.

The conference agreement reaffirms the duty of independent counsels to provide a full and complete description of their work. Congress continues to view this requirement as a key measure for insuring accountability. Under this provision, independent counsels are expected to provide a summary of the key steps taken in the investigatory and prosecutorial stages of their work and to explain the basis for their decisions.

Congress also wants to clarify, however, that independent counsels are not expected to and should not take additional investigative steps, such as additional interviews or document requests, in order to produce a detailed report. No investigation by an independent counsel should be lengthened or deepened simply because of the final report requirement. The report should instead reflect only the work required for a prosecutor to execute his or her normal investigative and prosecutorial responsibilities.

The conference agreement eliminates the requirement that independent counsels explain, in every instance, their reasons for not prosecuting any matter within their jurisdiction. Other federal prosecutors do not normally provide public explanations of decisions not to indict and, in deviating from this norm, independent counsels must exercise restraint. The power to damage reputations in the final report is significant, and the conferees want to make it clear that the final report requirement is not intended in any way to authorize independent counsels to make public findings or conclusions that violate normal standards of due process, privacy or simple fairness.

The conferees believe that, in assessing whether an explanation should be provided with respect to a specific unindicted individual, an independent counsel should base the decision on whether it would be in the public interest for such information to be disclosed. The public interest encompasses a wide range of concerns which need to be carefully balanced, including understanding the basis for the independent counsel's decision not to indict; taking into account the extent to which the individual was central or peripheral to the independent counsel's jurisdictional mandate; exonerating the innocent; and protecting individual rights to due process, privacy and fairness. For example, it may be in the public interest to report that the evidence did not sustain the allegations that gave rise to the investigation or that the evidence demonstrates an individual's innocence.

With regard to an individual whose conduct was only tangential to that of the person for whom the independent counsel was appointed, an independent counsel should normally refrain from commenting on the reason for not indicting that person unless it is to affirm a lack of evidence of guilt. On the other hand, the conferees consider to be crucial a discussion of the conduct of the person for whom the independent counsel was appointed to office. This discussion should focus on the facts and evidence and avoid use of conclusory statements in the absence of an indictment. However, in the rare event that an indictment is forestalled because of an event beyond the control of the independent counsel, public accountability may well require such independent counsel to express a professional opinion on whether the grounds for an indictment had been present.

The same concerns apply to the new requirement in both House and Senate bills for independent counsels to file annual reports on their activities. The conferees caution independent counsels to exercise the same degree of restraint and responsibility in issuing those interim reports.

SECTION 594(H)(2): DISCLOSURE OF FINAL REPORT

1987 law

The 1987 law authorized the special court to release a final report filed by an independent counsel after making provisions to ensure that the rights of any individual named in the report and any pending prosecution are protected.

Senate bill

The Senate bill follows the 1987 law.

House amendment

The House amendment follows the 1987 law, but adds language encouraging the court to release the report and associated material if the court determines it would be in the public interest and would be consistent with maximizing public disclosure, ensuring a full explanation of the independent counsel's activities and decisionmaking, and facilitating the release of information which the independent counsel had determined should be disclosed.

Conference agreement

The conference agreement follows the Senate bill. The conferees agree that the standards in the 1987 law on releasing a final report to the public are not overly restrictive, as evidenced by the special court's decision to release the final report in the Iran-Contra matter despite numerous motions by persons named in the report to repress all or portions of it. For this reason, the conferees have determined that additional statutory language encouraging disclosure is unnecessary.

SECTION 594(1)(2): ADMINISTRATIVE SUPPORT

1987 law

The 1987 law did not address the issue of administrative support for independent counsels.

Senate bill

The Senate bill states that the Administrative Office of the U.S. Courts "Shall provide administrative support and guidance to each independent counsel." It also relieves the Administrative Office of any obligation to disclose information about an independent counsel's operations without the express authorization of that independent counsel. The bill also requires the independent counsel to authorize such disclosure by the Administrative Office unless to do so "would interfere with a pending investigation or prosecution."

House amendment

The House amendment contains a similar provision as the Senate bill, but is not specific as to when an independent counsel should authorize disclosures by the Administrative Office.

Conference agreement

The conference agreement follows the House amendment. The purpose of this provision on administrative matters is threefold. First, it clarifies the responsibility of the Administrative Office to provide administrative support for independent counsel operations. The Administrative Office has been providing this support informally for many years, but the statutory basis for its actions has not been explicit.

Second, the provision makes it clear that the Administrative Office should provide independent counsels with not only the administrative services they need, but also guidance on complying with federal personnel, administrative and procurement requirements. This guidance is sorely needed by offices that have a limited duration and little familiarity with federal procedures. To provide this guidance and develop an institutional memory for how matters have been handled by past independent counsels, the conferees strongly urge the Administrative Office to develop written material to assist new independent counsels in establishing their offices, hiring staff and conducting their work.

By using the words "support and guidance" to describe the Administrative Office's functions, Congress intends for the Administrative Office to provide independent counsels with informed advice, but not to exercise decisionmaking authority for specific actions. Actions taken by an independent counsel's office remain the responsibility of the independent counsel in charge. At the same time, the support and guidance provided by the Administrative Office can serve independent counsels unfamiliar with federal requirements by providing them with the information needed for informed decisions.

The third purpose of this provision is to shield the Administrative Office from conflicts that may arise when Congress, the

press or others seek, information about independent counsel activities. In the past, some pressed the Administrative Office to provide information which an independent counsel had declined to provide. This provision makes it clear that an independent counsel's decision not to release information may not be circumvented by directing information requests to the Administrative Office. Moreover, Senate language directing independent counsels to authorize the Administrative Office to disclose information "unless it would interfere with a pending investigation or prosecution" is not included, because this language could encourage information requests to be directed to the Administrative Office instead of directly to an independent counsel.

It is the intent of Congress that independent counsels, not the Administrative Office, have sole responsibility for responding to information requests. When confronted with such requests, independent counsels have the same disclosure obligations that apply to the Department of Justice, except where such disclosure would be inconsistent with the purposes of this Act. The independent counsel is also subject to the disclosure requirements of the Freedom of Information Act, and Congress urges all independent counsels to be responsive and forthcoming to such requests for information.

SECTION 593(H): GOOD CAUSE REMOVAL

1987 law

The 1987 law states that an independent counsel may be removed from office by the Attorney General "for good cause."

Senate bill

The Senate bill follows the 1987 law, but adds a sentence indicating that good cause for removal would include an independent counsel's failure to follow written Justice Department guidelines and violation of applicable canons of ethics.

House amendment

The House amendment follows the 1987 law.

Conference agreement

The conference agreement follows the House amendment. By eliminating the Senate language, the conferees do not mean to suggest that a refusal to follow important Department guidelines or that a serious violation of ethics could not be grounds for removal; they—like many other circumstanes—do provide potential grounds for removing an independent counsel from office.

SECTION 596(B): PERIODIC REAPPOINTMENT

1987 law

The 1987 law authorized the special court, on its own motion or at the request of the Attorney General, to terminate an independent counsel's office if that independent counsel's work had "been completed or so substantially completed that it would be appropriate for the Department of Justice to complete" any remaining tasks.

Senate bill

The Senate bill retains the 1987 provision, but adds a requirement that the special court determine whether termination is warranted under the provision "no later than 2 years after the appointment of an independent counsel or the reported expenditures by such independent counsel have reached $2 million, whichever occurs first, and at the end of each succeeding 1-year period."

House amendment

The House amendment retains the 1987 provision, but adds a requirement that the special court determine whether termination is warranted under the provision "no later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period."

Conference agreement

The conference agreement strikes a compromise between the House and Senate provisions, requiring the special court to determine whether termination is warranted under the provision no later than 2 years after appointment of an independent counsel, at the end of the succeeding 2-year period, and then at the end of each succeeding 1-year period.

The purpose of this provision is to ensure that the special court inquiries on a periodic basis, with respect to each independent counsel, as to whether that independent counsel's work is complete. It is not intended to establish deadlines for the completion of this work. Nor is it intended to provide the special court with new termination authority that did not exist at the time the law was reviewed by the Supreme Court in *Morrison* v. *Olson*. that case formulated a narrow construction of the special court's termination authority, and Congress intends for this new provision to be construed within the bounds of that narrow construction. The sole purpose of the new provision is to ensure that the special court exercises its Constitutionally-defined authority on a periodic basis.

The special court is expected to make the required determination within the statutorily specified period. If it should fail to do so, however, the relevant independent counsel would not be affected. Rather, the court would be obligated to make the needed determination as soon as possible. Until then, the relevant independent counsel would be authorized to continue in office.

OTHER PROVISIONS

With minor changes, the Senate recedes to the House on section 3(a)'s provision creating a new section 594(1)(1)(A) (certifying official); section 3(e)'s provision creating a new section 594(f)(2) (national security procedures); and section 5's amendment of section 496(a)(1) (removal for physical or mental disability). The House recedes to the Senate on section 2's provision relating to the five-year reauthorization; section 3(a)'s provision creating a new section 594(1)(3) (office space); and section 3(j)'s amendment of section 591(d) (30-day period to determine need for preliminary investigation).

REPORT ON WHITE HOUSE PERSONNEL

Senate bill

The Senate bill contains a non-germane provision requiring the White House to file a semi-annual report identifying the names and salaries of persons employed or detailed to the White House.

House amendment

The House amendment has no comparable provision.

Conference agreement

The conference agreement follows the Senate bill with simplifying changes and an exception for disclosures which would not be "in the interest of national defense or foreign policy." The conferees intend that this exception be construed narrowly, and that it be applied in a manner similar to section 552(b)(1)(A) of the Freedom of Information Act, which permits the withholding of information "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy." The conference agreement requires the report to identify the total number of individuals for whom information is excluded, and requires that access to this excluded information be provided to the Senate Governmental Affairs Committee or House Government Operations Committee, upon the Committee's request. The conferees intend that, upon receiving such a request, prompt access to the excluded information be provided to the person or persons (including Committee staff) designated by the requesting Committee to review such information.

EFFECTIVE DATE AND TRANSITION PROVISIONS

Senate bill

The Senate bill is effective on the date of enactment, except for the provisions limiting staff salaries which are applied only to staff hired after the date of enactment of the law. The bill does not address the status of the 1987 law.

House amendment

The House amendment is effective on the date of enactment. In the section reauthorizing the law, the amendment states that the 1987 law must be considered as if it had not expired.

Conference agreement

Both the House and Senate intend to reauthorize the independent counsel law for an additional five years. In December 1992, the 1987 independent counsel law ceased to be effective except with respect to independent counsel proceedings then pending. Because two of the three independent counsel proceedings then in existence remain ongoing, the 1987 law has remained on the federal statute books and in effect for those proceedings.

The conferees agree that because this law has remained on the books and in effect for ongoing independent counsel proceedings, and because it has never been repealed, it can be amended to reauthorize the law for all purposes. Accordingly, section 2 of the conference agreement reauthorizes the law, as amended, for an additional five years, and section 7(a) applies the amended law to existing independent counsel proceedings, subject to certain transition provisions.

The transition provisions in section 7 primarily resolve how to apply specific provisions in the amended law to ongoing independent counsel cases.

Section 7(b) states that existing independent counsels shall have 30 days after the date of enactment to appoint the certifying official required by the new section 594(1)(1)(A)(iii).

Section 7(c) states that, in applying to existing independent counsels the new requirement in section 594(1)(3) to use federal office space unless other arrangements would cost less, the Administrator of the General Services Administration is directed to take into account moving, legal and other costs that may arise if an independent counsel is required to move to new offices.

Section 7(d) states that the new restriction on reimbursement of certain travel expenses added by section 594(b)(3) shall apply to existing independent counsel operations by restricting expenses incurred one year after the enactment of this Act. The new restriction on travel expenses is not intended to be applied retroactively.

Section 7(e) states that the compensation restrictions added by section 594(c) shall not be applied to cause a reduction in the compensation paid to any employee appointed before the date of enactment of this Act.

Section 7(f) states that the new requirements added by section 596(b)(2) shall be ap-

plied to existing independent counsel operations to require, for each independent counsel, a determination by the court one year after the date of enactment of this Act and thereafter at the end of each succeeding 1-year period.

Section 7(g) states that, in applying new reporting requirements to existing independent counsel operations, these provisions should be interpreted so as not to require any retroactive reports.

Section 7(h) addresses a different concern, involving pending independent counsel proceedings which are regulatory rather than statutory in nature. It creates a transition provision for "any individual serving, at the time of enactment of this Act, as a regulatory independent counsel under Parts 600 and 603 of title 28 of the Code of Federal Regulations."

The 1987 independent counsel law and this reauthorization prohibit the special court from appointing as an independent counsel "any person who holds any office of profit or trust under the United States." 28 U.S.C. 593(b)(2). That provision ensures that the effectiveness of individuals who are chosen to serve as independent counsel will not be impaired as a result of divided loyalty or perceived conflicts of interest.

While the conferees believe that this provision should be continued, the conferees also believe that special circumstances exist with regard to the regulatory independent counsel who was appointed in In re Madison Guaranty Savings and Loan Association. That counsel was appointed from outside the Federal Government by the Attorney General, pursuant to 28 C.F.R. Part 600 et seq., during the period in which the Attorney General lacked the authority to seek appointment by the court of a statutory independent counsel for new matters. Given those circumstances, the conferees believe that it is appropriate for the special court to have the option to appoint the same person as the statutory independent counsel, should the statute be triggered with regard to the allegations that such regulatory independent counsel is currently investigating.

The conferees express no opinion on whether the statute will or should be triggered. That decision rests solely with the Attorney General. Nor do the conferees express any opinion on whether, if triggered, the special court will or should appoint the current regulatory independent counsel as the statutory independent counsel. That decision rests solely with the special court.

The conference agreement requires any regulatory independent counsel, if appointed by the special court as a statutory independent counsel, to abide by the provisions of the independent counsel law, as amended by this Act, to the same extent as statutory independent counsels appointed prior to the enactment of this Act. The only exception is that section 7(f)'s accelerated schedule of court reviews of existing matters to determine whether their termination is appropriate would not apply; instead, the provisions of section 596(b)(2), as amended by section 3(h) of this Act, would apply.

Finally, section 7(i) states that the new reporting requirements for White House personnel added by section 6 of the Act shall take effect on January 1, 1995.

And the House agree to the same.

That the Senate recede to the House's amendment to the title of the bill, so that it will be the "Independent Counsel Reauthorization Act of 1994."

JACK BROOKS,
JOHN BRYANT,
DAN GLICKMAN,
BARNEY FRANK,
Managers on the Part of the House.

JOHN GLENN,
CARL LEVIN,
DAVID PRYOR,
BILL COHEN,
TED STEVENS,
Managers on the Part of the Senate.

BLACK LUNG BENEFITS RESTORATION ACT OF 1994

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

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. 2108) to make improvements in the Black Lung Benefits Act. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 401(b)(1) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed three hours (excluding time consumed by recorded votes and proceedings incidental thereto). It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 4415. The amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. 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 amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1140

The SPEAKER pro tempore (Mr. WISE). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 428 is an open rule providing for the consideration of H.R. 2108, the Black Lung Benefits Restoration Act.

The rule waives section 401(b)(1) of the Congressional Budget Act against consideration of the bill only. That section of the Budget Act prohibits consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported. This is a technical waiver which will be corrected by the substitute which this rule will make in order. The original bill as reported from the Committee on Education and Labor did not contain an effective date and therefore theoretically could have allowed spending to occur in fiscal year 1994.

The rule makes in order an amendment in the nature of a substitute consisting of the text of H.R. 4415 as an original bill for the purposes of amendment. The substitute is identical to the reported bill except for adjustments to include an effective date. Therefore when the new text is made in order upon passage of the rule, there will not be any Budget Act violation.

The substitute shall be considered as read.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

The rule further provides for a limit of 3 hours, excluding the time for votes, for consideration of the bill for amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 2108, the bill for which the Rules Committee has recommended this rule, would amend the Black Lung Benefits Act to ensure that process of determining eligibility for black lung benefits is objective and that beneficiaries and their families and survivors are treated fairly.

In a series of oversight hearings since 1990, the Education and Labor Committee discovered that the Black Lung Benefits Program had been restricted to the point that only 5 percent of miners' claims are approved. The committee heard repeated testimony that retired miners and their families have been terrorized by unscrupulous collection agencies hired by the Government to reclaim benefits legally paid to claimants while their cases were on appeal.

H.R. 2108 is designed to make the determination of eligibility for black lung benefits fairer and speedier. In addition, the bill would remove the overpayment repayment requirement if those receiving interim benefits are later found to be ineligible.

Mr. Speaker, I ask my colleagues to support this open rule so that we may proceed with consideration of the merits of this important legislation.

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

Mr. QUILLEN. Mr. Speaker, I thank the gentlewoman from New York for yielding.

Mr. Speaker, I am pleased to rise in support of this open rule providing for consideration of the Black Lung Benefits Restoration Act. We all know the problems in the coal mining areas which bring about the black lung disease, and they need help.

Mr. Speaker, I am pleased that this is an open rule. Unusual, indeed, but nevertheless, welcome.

Initially there was a great deal of concern that this bill violated the budget act because it technically could have allowed new entitlement authority in this fiscal year.

Although the rule does waive section 401(b)(1) of the Budget Act, it also makes in order substitute text containing an October 1, 1994, effective date. Therefore, upon adoption of this rule, there will be no violation of the Budget Act.

The Federal Black Lung Program provides monetary reimbursements to current and former coal miners who are totally disabled by black lung disease. The program also provides benefits for dependents and survivors.

There are many problems with the current program. It is extremely difficult for claimants to obtain benefits. The Black Lung Trust Fund is about $3.9 billion in debt, and the financing is causing a financial hardship on the coal industry. This bill attempts to address these problems and others, but there are substantial concerns over many provisions of the bill, some of which I share.

This open rule will allow Members to offer germane amendments to address their particular interests.

Mr. Speaker, I submit for the RECORD a comparative chart on open versus restrictive rules, and I urge my colleagues to adopt this rule so we can proceed with the consideration of this legislation.

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)	66	14	21	52	79

[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 May 18, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number and 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. 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 (Oct. 6, 1993).
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)	F: 191–227. (Feb. 2, 1994).
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)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV. (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV. (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171. (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176. (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote. (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote. (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209. (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote. (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165. (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote. (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	176 (D–118; R–58)		A: 369–49. (May 18, 1994).

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 yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

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

Mr. Speaker, I, too, rise in support of the rule. It is not all that I would like in the sense that it does waive the Budget Act in regard to section 401(b)(1). But as has been indicated, that is a technical objection. Yes, but it is a real problem, waiving pay-go for an entitlement program, because part of the deep problems of the Black Lung Benefits Act is indeed the fact that the trust fund, which represents all of those owners who cannot be found and who have to react to a workman's compensation claim from the miners of America who are suffering from black lung disease, that black lung fund is $4 billion in debt and has been bailed out by the taxpayers once before by waiving all interest for several years. That is a deep, deep problem which we will be discussing later.

So I would have hoped that we would have faced that before bringing this to the floor, and at least be able to take the roughly $200 million of added expense on the black lung fund and at least cut in other areas under the domain of the Committee on Education and Labor, so that there will be no threat upon the various allocations which the committee has already set forth for the fiscal year 1995.

But we do rejoice in having an open rule. I think that is fine. A lot of us believe this is a very important act. Unfortunately, Congress has been a terrible, terrible insurer, you might say, which is what the black lung fund is, for the Workmen's Compensation Act, known as the Black Lung Benefits Act. If we were in private business, we long ago would have been closed and bankrupt and ridiculed for the terrible job that Congress has done in handling this. But that will all come in the debate.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURPHY] chairman of the subcommittee.

Mr. MURPHY. Mr. Speaker, I rise to urge my colleagues to approve House Resolution 428, the rule providing for consideration of H.R. 2108, the Black Lung Benefits Restoration Act of 1994. After receiving testimony from majority and minority members of the Committee on Education and Labor, the Committee on Rules approved H.R. 428 and now recommends its adoption by the House. I support the recommendation of the Committee on Rules and urge prompt ratification of the rule.

H.R. 428 makes in order an amendment in the nature of a substitute to H.R. 2108, consisting of the text of H.R. 4415 as original text for the purpose of amendment. H.R. 2108, which is similar to a black lung reform bill approved by the House during the last Congress (H.R. 1637–102d Cong.), was ordered reported by the Committee on Education and Labor, April 13, 1994, and is described in the committee report filed last week. (House Report 103–507, May 12, 1994.)

The text of H.R. 4415, which this rule would substitute for the text of H.R. 2108, is identical to the committee-reported bill, except for the effective date. The language of H.R. 2108 would have the legislation effective upon enactment. The text of H.R. 4415 makes the legislation effective on the first day of the next fiscal year, October 31, 1994.

The effective date provision of H.R. 4415 and other conforming language which would be substituted for the text of H.R. 2108 cures a technical inconsistency with section 401(b)(1) of the Budget Act of 1974. That provision of the Budget Act requires the spending contained in our bill begin after the fiscal year in which it is enacted. The effective date in the text of H.R. 4415 brings H.R. 2108 into compliance with this provision of the Budget Act.

The rule, H.R. 428, which we have before us, waives section 401(b)(1) of the Congressional Budget Act (prohibiting consideration of new entitlement authority which becomes effective prior to October 1 of the year in which it is reported). Adoption of the rule cures any Budget Act infirmity and provides that all points of order against consideration of the bill for failure to comply with section 401(b)(1) of the Budget Act of 1974 are waived.

With respect to the nature of the rule, the Committee on Rules has recommended an open rule. The chairman of the Education and Labor Committee and I, in testimony before the Rules Committee, recommended a modified closed rule making in order three amendments submitted to the Rules Committee on Monday, May 16. Republican members of our committee urged the Rules Committee to grant an open rule with no limit on the number of amendments and generous debate time.

Reluctantly, I agreed to the minority's demands because I did not want our committee to be accused of being unfair or attempting to prevent a full debate on this important issue.

The Committee on Rules, in H.R. 428, has granted the minority's wish.

They have the open rule they asked for.

They have no limits on the number of amendments as they requested. Yesterday our minority members told the Rules Committee they would have seven or eight amendments. I hope that is still true today and we haven't opened the gate to a flood of amendments designed to delay consideration of black lung reform legislation.

They have 1 hour of debate on the rule, another hour of general debate on the bill, and 3 hours of debate on amendments. That's a total of 5 hours, not counting time consumed for votes.

I assume, since the minority has gotten everything they requested in the rule, we can count on their support for adoption of the rule.

Having participated in our committee's presentation to the Rules Committee, listening to the minority's demands, reluctantly assenting to their demands, and seeing their demands incorporated in the rule, I would consider it disingenuous to turn around and oppose the rule. Furthermore, since we have agreed to everything the minority wanted in the rule, I think we should dispense with further debate on the rule and proceed to substantive consideration of H.R. 2108.

I urge my colleagues to approve H. Res. 428, the rule providing for consideration of H.R. 2108, and allow us to proceed to bring comprehensive black lung reform legislation before the body for the second time in approximately 18 months.

The last time the Education and Labor Committee brought a similar bill (H.R. 1637) before the House it was approved by a voice vote. I certainly hope we will enjoy the same success again today. The victims of this debilitating disease, some of whom traveled to Washington yesterday in the hope of seeing justice done today, have waited too long already.

□ 1150

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in strong support of this rule and strong support of this bill. I think it is time. It is justice long overdue. It is not complete justice. It will not take care of all the inequities, but it is a start.

It is a start, for instance, for those claimants who have been in this process year after year after year, who retire because of pneumoconiosis or black lung, as it is popularly known, and then begin to go through all the administrative hoops and procedural barriers of the black lung programs.

It is the case, for instance, of people who have cases pending anywhere from 7 to 10 years. It is the case, for instance, of somebody who knows that they will never receive their benefits. Their one hope is that they will last long enough and so finally there will be victory and their spouse, usually their widow, will receive those benefits.

This would, for instance, end the practice of running claimants around to different medical examiners until there is a decision adverse to them. So that it ends the practice of making them go to doctor after doctor after doctor trying to get that decision that will eventually rule against them. It would assume, for instance, that death that would come from pneumoconiosis, if the claimant was receiving benefits or was disabled by pneumoconiosis at the time of death.

That makes sense, does it not? Unfortunately, not in the administration of the black lung program.

Some of my colleagues, and I understand some of them are not from coal-mining country, they wonder why, what is the problem here? Why can Medicare, as has been suggested, not cover it or COBRA. Nobody can afford COBRA that I have been able to see, but why COBRA cannot cover it.

Let me try and create the picture for my colleagues of a mine. First of all, turn the lights out in here. Then, after that, pretend like there are cutting machines going in every corner. And just to make it complete, start the fans going that blow black coal dust at you and blows at you and you breathe it day after day after day, 30 or 40 years. We will not even get into the occupational safety aspects of it, the fact that the roof is creaking overhead. We have to worry about roof falls. We have to worry about it being the most hazardous industry in the country.

We will talk about the hazards that come after people retire and they are going to retire. And if they have worked in there 20 years at least, they are going to retire with black long. There is no way around it. They are going to be disabled, and it is going to be steadily degenerative as a result.

My colleagues, they cannot eat and inhale black coal dust day after day after day without having severe respiratory problems resembling emphysema that are going to get worse and worse. Every day they walk out of that mine and, indeed, often for people long after they have left the mine, every time they cough, they are going to cough black dust.

That is what black lung is. Most of us are fortunate. We do not have to worry about that. Men and women who work underground every day do. So that is what this program is about.

After they have worked all that time, they ought not be frustrated by a program that is really procedurally almost designed to frustrate them.

This is a chance to bring some justice. It is a chance to remove some of the administrative barriers. It is a chance, finally, to bring a little bit of light to an occupation that does not see a whole lot of it.

Mr. Speaker, I urge adoption of this rule and the bill.

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

Mr. Speaker, I urge adoption of the rule. If Members sat in the chair back in the district that I sit in, they would hear from claimants for black lung who have waited 5 or 10 years for benefits. And they beat around the mulberry bush.

It is time that we take the burden off of the coal-operating companies and that we acknowledge obligation and we do something about it.

By allowing these amendments on the floor of the House to be debated and the bill itself, we will get down to the business of helping and not destroying the lives of so many people.

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

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. RAHALL). Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2108.

□ 1156

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2108) to make improvements in the Black Lung Benefits Act, with Mr. WISE in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. FAWELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support H.R. 2108, the Black Lung Benefits Restoration Act of 1993. The bill is essentially the same as the one which passed the House near the end of the 102d Congress. That bill was severely scaled back to meet both substantive and budgetary considerations. There are many provisions that we left out of this bill that I personally favored. We gave them up to get a bill that could and should pass the House of Representatives.

Black lung is an occupational disease that destroys the lives of those who mine the coal on which this country depends. It is a savage disease that debilitates tens of thousands of once strong and energetic miners by denying them the very breath of life. No one who has visited the coalfields of this country can deny the horrible consequences of pneumoconiosis.

In 1969, under the leadership of my good friend John Dent, who cared deeply for the people of the coal fields, we passed the first Black Lung Act, as part of the Federal Coal Mine Health and Safety Act of 1969. The need for a compensation program for disabled miners was compelling then and is no less compelling today. Over the years, we have amended and reamended this law as we have attempted to better balance the demonstrable need for disability compensation with fiscal responsibility by ensuring that the legal standards establishing eligibility and causation were clear. This has not been an easy task. Unclear and inconsistent evidence with regard to work histories over long periods of time and the lack of conclusive medical evidence in this field has always plagued this program through no fault of either the miner or the operator.

In 1981, the following other changes to the act in 1972 and 1977, this Congress severely restricted the presumptions of causation used to determine eligibility. As a result, the approval rates for claimants has dropped dramatically, virtually nullifying the act. This is especially true for the widows and survivors of miners.

The current system is so stacked against the claimant that even the clearest case is often difficult to establish. The evidentiary standards and the lack of presumptions as to work histories and causation almost ensure that the party with the most money for the greater number of examinations and the greater number of expert witnesses wins—wins not on the basis of the quality of the evidence, but simply by the poundage of the evidence. My colleagues, the party with such funds available is not the miner or his or her survivors.

This bill is a modest attempt to ensure a fairer and more balanced claims system for both parties to these cases. Specifically, the bill limits for all parties the number of medical examinations that can be required and the pieces of similar medical evidence that can be introduced which are derived from the same medical procedure. It also gives weight to the treating physicians of miners disabled by the disease if those physicians are appropriately qualified.

This bill reestablishes the widows/widowers presumption—that if the miner was receiving benefits at the time of death, the miner's death shall be considered to have occurred as a result of the pneumoconiosis. It establishes a procedure for early designation by the Secretary of the named responsible operator so that the claimant does not have to litigate against an array of operators, all of whom wish to avoid liability. It makes it economically feasible for attorneys to represent black lung claimants in lengthy litigation against coal operators. It also extends the act to workers who contracted black lung while working at coke ovens.

This is a good bill, a budget-conscious bill, and one that all my colleagues in the House should support. The work of miners deep inside the earth has literally powered our Nation

for decades. If you believe that over time we have eliminated the cause of black lung and therefore need not continue to provide compensation, may I just remind you of the recent dust sampling scandal which exposed miners to dust levels well above those allowed by law. Until the causes of black lung are remedied we, as a nation, owe a debt to our miners and their survivors. This bill is a repayment of that debt. The need is as important today as it was in 1969. Just ask the miner whose life is dependent on a respirator that must be carried by his side forever. Compassion for these hard-working people requires that the House pass this bill.

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

Mr. FAWELL. Mr. Chairman, I yield myself 18 minutes.

Mr. Chairman, I rise in opposition to H.R. 2108.

First of all, I want to say that all of us here today are committed to responsible stewardship of the Black Lung Benefits program and with its basic purpose as a workers' compensation program, something of which I think we lost sight of from time to time, designed to provide payments to disabled miners based on a clear showing of employment-related medical disability.

Unfortunately, H.R. 2108 would move the program far beyond congressional intent concerning the Black Lung Benefits Act and, indeed, move us backward to the 1970's.

□ 1200

Mr. Chairman, most of the people by now have forgotten that this $1.5 billion per year program was a last-minute addition, indeed an afterthought to the 1969 Federal Coal Mine Health and Safety Act, a law concerned primarily with the technical safety requirements of coal mines.

So it was that Congress with minimal debate or consideration tacked a rider on to the Coal Mine Health and Safety Act and created the Black Lung Benefits Act, a workers' compensation act.

Mr. Chairman, the original Black Lung Act was limited, limited in duration, limited to underground coal miners who could establish that they were totally disabled as defined only in regard to being totally disabled to work in the mines only, not totally disabled in general, due to black lung disease arising out of coal mine employment and limited to governmental liability, also.

But as we have seen before, Federal entitlement programs can attain a life and a momentum all of their own. In 1972 Congress decided that not enough miners were receiving black lung benefits and the so-called temporary act was suspended to cover surface miners and special presumptions were added so that miners were considered to have black lung disease simply because of the number of years that they worked in the mines, and the act ordered the review of all prior denials. Some 70,000 claimants had their claims reversed, resulting in an additional $9 billion over the lifetime of those claimants of expense to the black lung trust fund, which is set up to be able to respond insofar as illness from black lung is concerned from owners of coal companies that no longer can be found.

Mr. Chairman, in 1977 Congress proved that it could make things worse. The 1977 amendments gave a new meaning to the concept of retroactive liability. Congress again sought to ease the burden on claimants seeking benefits, so that all of the claims which were reviewed initially under the 1969 act and re-reviewed under the 1972 amendments were to be reviewed yet again under the 1977 amendments. The 1977 amendments created 125,000 claims to be refiled and relitigated which caused workers' compensation insurance companies, by the way, to deny liability for the claims they were insuring because they said, "Hey, we only really insured one bite at the apple in litigation, not several more," which caused the trust fund to go deeply into debt and caused the coal companies much consternation because they had to self-insure for black lung liability and that set the stage for 1981.

Thus in 1981 the administration, labor and management agreed on a compromise set of amendments to the Black Lung Act in order to stabilize programs and to hopefully steer the trust fund toward financial stability.

By late 1981, it was clear that funding arrangements enacted in 1978 were so inadequate that the trust fund had accumulated $1.5 billion of debt to the U.S. taxpayers with no prospect of future solvency.

Mr. Chairman, in 1981 Congress passed amendments which doubled the tax on coal to provide additional income for the trust fund and repealed, repealed, Mr. Chairman, most of the presumptions and the restrictions on evidence passed in 1969, 1972 and 1978 designed to make proof of real medical illness that much easier.

The purpose of the 1981 amendments was to ensure that entitlement of claims filed in the future would not be based on presumptions of eligibility and restrictions of evidence but on actual proof of total disability due to black lung disease arising from employment in the coal industry.

By the way, about 12,000 claims against the coal operators were transferred over to the trust fund because of the enormous responsibilities that were involved because of those 1977 amendments, which kind of rigged, and that is not possibly the best way of expressing it, but changed the mode of procedure for approving these claims.

Mr. Chairman, the result of the 1981 amendments was that the growth of the trust fund dramatically slowed, but it did not stop. So today the trust fund is approaching $4 billion of debt. All of the tax revenues which were increased in 1981 are sufficient, yes, to cover benefit outlays now and are sufficient to cover administration expenses now but not interest on the debt. So even with the 1981 reforms, the trust fund now is $4 billion in debt and growing.

Mr. Chairman, the insurance company known as the trust fund operated by Congress is in tragic shape right now. And along comes H.R. 2108. What does it do? It goes back to the 1970's, to the good old days, and it says, we will bring back irrebuttable presumptions of eligibility, we will bring back restrictions of evidence that the black lung recoveries would again not necessarily have to be based on actual proof of total disability, and that is a disservice, I say, to the miners who really are deeply sick because of black lung disease. Thus, these miners are not thus getting the benefits they deserve because of the avalanche of all these claims being relitigated and relitigated time and time again when some members of Congress and some unions do not like the results of Black Lung workers compensation litigation. So in 1972 Congress ordered re-litigation of Black Lung cases and they attempted to doctor the legal procedures to get better results. In 1977 they did the same thing, ordering 125,000 the right to re-litigate their Black Lung cases which they had lost. All of this of course is tremendously expensive and cloggs up the adjudication process.

Mr. Chairman, what are we doing? We are saying that interim benefits for total disability need never be repaid even if the claim is denied, even if it is admitted that there was no basis for the claim. A survivor widow is entitled to the irrebuttable presumption that death of the miner was caused by pneumoconiosis if the miner was totally disabled at his death regardless, Mr. Chairman, of what really caused death. He might have committed suicide, he might have had an accident. It does not matter. Automatically we extend these benefits.

That means there is less for the ones who really, really need it.

Mr. Chairman, the rules of evidence, what do we do here? The rules of evidence in black lung cases allow claimants to put three medical examinations into evidence while the trust fund, this is the people's insurance company, Congress' insurance company, and the responsible operators, the coal operators, can only offer one medical examination. Mr. Chairman, you can always find one doctor to be able to express your opinion all right. The opinion of the miner's treating physician shall be, get this, given substantial weight over the opinions of other physicians in determining the claimant's eligibility. That is a cost, by the way, of $22 mil-

lion; the interim benefits, a cost of $56 million new; and the survivor's widow case to which I referred to, $7.5 million.

Mr. Chairman, we did not stop there with this legislation. There is more. There is also extended coverage. We are going to make the Black Lung Benefits Act extend farther and farther and wider and much more coverage. We are going to be covering coke oven workers. Nobody knows how many coke oven workers might be involved under the definition of coke oven workers as set forth in this bill. CBO makes the stab $11 million more of costs, but nobody really knows.

Mr. Chairman, we also redefine the definition of pneumoconiosis to include obstructive lung disease as well as restrictive lung disease. What does that mean? Basically it means that a style of life, for instance, if someone smokes too much and has respiratory problems is no defense. We are going to just compensate all of those people, too, who happen to have had any experience in the mines.

Then for attorney fees, we also allow attorney fees and expert witness fees and costs even if the claim is denied.

Mr. Chairman, we will say that even though a claim is denied, one gets attorney fees. By the way, under those circumstances, who pays for the attorney fees for the coal operators? Guess what? The people's insurance company, the trust fund, of course.

Mr. Chairman, I do not have any problems with attorney fees being ordered. I think it is a big problem in the Black Lung Act because a lot of very competent attorneys are not in there fighting for the miners to the degree they ought to, and I support the concept that there ought to be legal fees awarded. I would even go so far as to say that unlike all the other workers' compensation statutes, that the fee does not have to come out of the recovery, although that is generally true in the States where they have a contingent fee arrangement in workmen's compensation cases. I will go along with that even. I think also that if we really wanted to do some progress in regard to getting these cases over with, we would have contingent fees on recovery the way the State do and the way basically tort law and injury law is worked. Those are just my opinions. I think it would help a great deal.

Mr. Chairman, the only thing I say is, no, no, I do not think anybody in this Congress believes that legal fees should be awarded when the claim is denied.

□ 1210

I do not think anybody believes that legal fees, when the claim is denied, then have to be shifted over to the trust fund.

So what, in reality, does H.R. 2108 do? As I have said, it goes back to the 1970's. It treats the Black Lung Benefits Act more as an entitlement program to total disability payments, not a workers' compensation act.

Mr. Chairman, you cannot go on refiling years and years and thousands and hundreds of thousands of claims over the years simply because you do not like the results that the Department of Labor is giving to you or the administrative judges. You know, what that does out in the private industry, it is absolute chaos. Yet in H.R. 2108 there is another requirement that some 87,000 miners may now—after have had their "day in court"—and their claim denied, can refile. Anyone who lost his or her case since 1981 can refile their claim. And CBO says that at least 20,000 new awards will result from being able to relitigate under changed rules of evidence.

Well, it does not bother Congress, because we just go along with those things, but let me tell you, anybody trying to run a coal business and trying to find anybody who might want to insure for workmen's compensation, you have a tough time when the insurance company says, "Well, Congress may go and just cause us to relitigate four or five times." Well, that is one of the things that we are doing. It is a trust fund buster. It is made to order for more massive bailouts.

If without the new requirements of 2108 the trust fund has added $2.5 billion to its debt since 1981 and has gone up to $4 billion, what do you think, Mr. Chairman, the new debt will be with all of these new costs and gimmicks and ways of rearranging rules of evidence in trials? This bill totally ignores the spirit of the requirements of pay-go by refusing to offset the new costs by cutting elsewhere.

But really pay-go and CBO only look ahead for 5 years, and I am telling you that is not where the big debt here is. We ought to in Congress, in operating this particular insurance company known as the trust fund, we ought to be setting up reserves which would, therefore, guarantee that we would have the money without having to be bailed out by the taxpayers again in the future when these miners who have lifetime rights to total disability payments come along and ask for their payments.

In truth, the full cost of this bill will be so immense over the years that the offsets that CBO is talking about, and they have suggested that there would be $195.5 million of pay-go violations here, but that is not going to alleviate the concern that I think the administration has, nor do I think it is going to alleviate the concerns that all of the rest of us have.

In fact, in closing, let me say that H.R. 2108 creates more inequities in the black-lung program than it corrects and would substantially increase expenditures for black lung benefits. As I said, it is a black lung-fund buster.

But do not take my word for it, Mr. Chairman. Let us look at OMB. And what does OMB say about it? I do not know if the administration has endorsed this bill yet. I do not think they have. At least, it has been relatively quiet. But even OMB recoils, and here is what they say: "The administration is very concerned about the enormous debt in the black-lung disability trust fund, and the additional debt that would result from those revisions," and, Mr. Chairman, the actuary with whom I have been working to determine what the ultimate costs will be has estimated that on the basis of DOL estimates that there will be the 80,000 refilings, that on the basis of 80,000 refilings which this bill requires, that you would have a lifetime cost of approximately $225,000 per case lifetime total disability obligation.

You multiply that by 10,000, which would be roughly the share of cases attributable to the trust fund, and you have got there alone $2.2 billion. If we were a true insurance company, we would be putting out in reserves to make sure we are not going to bankrupt the future and can pay for those 10,000 new cases. But we are not going to be doing that. That does not even include the added costs in H.R. 2108—to which we will be addressing ourselves with our amendments.

That does not, by the way, include either what the private sector is going to have to absorb, and the same actuary has stated that there we are talking about many billions of dollars upon the private sector which, as a practical matter, probably will have to be handled by new taxes, which is what Senator SIMON is talking about.

Mr. FORD of Michigan. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, if we were in a court of law, I would say this side rests at this point, because I think the gentleman has done a marvelous job of confusing the issue so badly that no one could follow his lead and vote against this bill, and ever be able to explain it later.

The fact of the matter is the numbers he is throwing around outnumber the total number of people engaged in coal mining in this country by many thousands.

If it occurs to one we could amend this bill so that a coal miner could never again, no matter how badly disabled, collect a dollar in order to get the gentleman's vote; it still would not work, because he would not vote for the bill even if we changed it in that way.

Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania [Mr. MURPHY], the chairman of the subcommittee, in order that he may allocate time to other speakers.

Mr. MURPHY. Mr. Chairman, I yield myself 4 minutes to address the remarks.

Let me say this is quite a fitting day for us to be considering the black-lung restoration benefits of 1994. Today the Education and Labor Committee is commemorating the passing and the service of our former chairman, Carl Perkins of Kentucky.

Mr. Perkins was a champion of the cause of disabled miners, particularly in his eastern Kentucky district, and we enjoyed and greatly benefited by his chairmanship during many years here in the House.

H.R. 2108, let me address that, is a very necessary matter. And let me say to all of the Members who are in their offices listening and here on the floor, for over 100 years the coal miners of this country mined the coal under our surface without safety regulations or rules imposed by the Federal Government. There were some in various States, but they were lax. they were not totally adequate to protect the health and safety of our miners.

In 1969 this Congress, with the leadership of Carl Perkins, John Dent, and BILL FORD and others addressed those concerns with passage of the first Federal health and safety coal mine act, recognizing that during our war years of 1941 through 1945, there were very little safety regulations in coal mining. Many of the miners who worked in those days could not, nor would they consider, going out on strike over health matters or safety matters. They were serving the needs of this country in providing the energy, 80 percent of the energy, that our country needed in those years which was provided by the coal industry.

□ 1220

Those miners were totally exposed to the hazards of coal mining. Pneumoconiosis was the result of their rewards for service in those years and all through the years of coal mining.

Pneumoconiosis, what is it? It is the graying and blackening of the coal miner's lungs when he is exposed day after day, hour after hour, sometimes working 10 and 12 hours during those years at the face of the coal mine where coal dust was not regulated. We recently, unfortunately, even though we passed in 1969, 1972, 1977, improvements in the Mine Health and Safety Act, we recently had a scandal of one or two of the major coal operators in this country fudging their coal air reports in their reports to our Federal health and safety divisions and to our Bureau of Mines. So we still have in some instances black lung still being acquired by those coal miners. It need not be so. If all of the mines adhere to the regulations we now have in effect, there will be no miners in 20 years or 15 years from now benefiting from these because there will not have to be. Black lung is gradually being eliminated.

But what about those older miners who had to serve in those years? They have health costs, they have living costs that far exceed what they can get from their pittance on social security to take care of them. And now most of them are in their 70's and 80's, unable to drag their oxygen tent up the steps of a bank and rob a bank, as the gentleman from Illinois would have you believe that they are doing, to sustain their needs. No, they need these amendments.

In 1972, with a Republican President and a divided Congress, the act was improved. In 1977, with a Democrat President, the act was further improved. But in 1981 the benefits were greatly reduced, and those are the benefits we are now trying to restore by this act.

Mr. Chairman, I reserve the balance of my time so that my other colleagues may have an opportunity to speak on it, and I will readdress it, if I have additional time.

Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL].

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

I again salute the committee and the gentleman from Michigan [Mr. FORD] the chairman of the committee, for bringing this legislation to the floor today.

Mr. Chairman, I rise in strong support of this legislation. There may be Members in this Chamber, or watching this debate, who may be saying to themselves: "I don't have any coal miners in my district. Why should I vote for this bill?"

Well, who do you think produces the energy to provide the lighting, heating, and cooling in this very Chamber and in your offices?

Our Nation's coal miners. That is who.

You may be from New England, from Florida, from almost anywhere in this great Nation of ours and either all or some of your electricity is generated from coal. So I would submit that you, as do I, have a substantial stake in this bill, a bill to fulfill a promise this Congress, the Federal Government, made to the coal miners of our country back in 1969.

And that promise was that we will compensate you for the black lung disease that you may contract for mining coal, for producing the energy so necessary for this Nation to maintain its industrial strength and our standard of living.

My colleagues, that promise has been broken. That is the reason for the pending legislation. As it now stands, disabled miners who suffer from the crippling effects of black lung disease are faced with a Federal bureaucracy so totally lacking in compassion to their plight, that it appears intent upon harassing their efforts to obtain just compensation at every single step of the claim adjudication process.

Today, we are witnessing less than a 10 percent approval rate on claims for black lung benefits. This figure does not attest to any reasonable and unbiased comportment of the facts.

Rather, it represents nothing less than a cruel hoax being perpetrated against hard working citizens who have dedicated their lives to the energy security and economic well being of this Nation.

We are faced with other problems as well, among them the long period of time it takes the Labor Department to process a claim; the inability to find legal representation, the denial of benefits to widowers, and perhaps one of the most insidious of them all, Government attempts to seek repayment of benefits paid under claims that are appealed years after the initial payment was made.

This was, however, originally envisioned by Congress as being a fairly straightforward program.

Yet, through years of administrative maneuverings aggravated by some extremely harmful judicial interpretations, there can be no denial of the fact that black lung proceedings before the Labor Department today are extremely adversarial in nature against the claimant.

This type of philosophy certainly does not represent the statutory commitment we made to compensate coal miners and their families.

The pending legislation, H.R. 2108, contains a number of provisions aimed at addressing the bona fide concerns of those who are afflicted with black lung.

I urge the House to approve this legislation, for make no mistake about it. Victims of black lung disease are not people who are looking for a handout. They are people who worked their lives in one of the most dangerous occupations in this country. They are people who were promised compensation by their Government, and they are people who now see their Government break that promise.

It is time, indeed, long past the time that Congress move legislation on behalf of the thousands of miners, their widows and families who are being victimized by this program, the very program that was intended to bring them relief.

Mr. FAWELL. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. I thank the gentleman for yielding this time to me.

I congratulate the gentleman from Illinois for the work he has done on this subcommittee on this and many other subjects. Certainly those miners who have been afflicted with black lung over the years, before the dangers of underground mining were understood, deserve the support of this program, and that is why it was put into effect and still continues to operate.

But I think we should all understand that this program has been fraught with problems since its inception. Part of that problem is that there are continuing to be a large number of miners who do not qualify for the program because they have diseases and other disabilities that have nothing to do with black lung.

So we continue to have a lot of people rejected from this program because of that, and there have been attempts over the years at trying to open the program up for more and more miners who have disabilities.

Now, it should not surprise any of us that Members who have brought this legislation to the floor and many of those who will speak today represent areas where there are large underground mines. I certainly understand that. But I and other colleagues in this body have a responsibility to look at the facts in this program and determine whether in fact we ought to make the changes being suggested by the gentleman from Pennsylvania.

Unfortunately, many of us believe that the Black Lung Program has become an extra pension, if you will, for a lot of those who have worked in mining areas that do have disabilities, unfortunately, coming from other problems, other than black lung.

I would like to talk about two of the problems in this bill. One is the tax increase that is in this piece of legislation, $195 billion over the next 5 years. This does not include that coal mine operators are going to be required to pay if in fact these changes are made.

Now, we have to remember there already is a $4 billion debt in the Black Lung Program that is not being addressed, and yet we want to not only exacerbate that problem but give even more benefits out, which is only going to compound the problem even worse.

The other body at least is a little more honest with their legislation; they call for a 5.5-percent coal tax increase in order to meet the extra costs in their legislation that does not appear in this legislation at all.

□ 1230

The surprising thing about the 5½-percent tax that the other body has in their legislation is that it is on surface mines as well as underground mines. It is a well-known fact that miners who work in surface mines do not contract black lung. I do not know what responsibilities surface mine operators have to this program, but, in fact, that is what the other body is attempting to do.

Another issue in this bill is the refiling area, and I will be offering an amendment later in this debate to strip out the refiling language. We have allowed those who have been denied claims, up until 1972, to refile claims, and some, in the tens of thousands of miners who have been denied claims, refiled at the time. In 1977 we had another bite at the apple where those who had been denied up to 1997 were allowed to refile, and what we are attempting to do in this piece of legislation is to allow the 87 claimants who have been denied their claim since 1981 another bite at the apple. Well, not only are we going to give them another bite at the apple, but we are going to give them another bite with new evidentiary rules. We are also going to say that the claimants can go out and get three doctors' opinions, but the defendant, the operators, can only bring one medical opinion in.

It also says in the legislation, if my colleagues can believe it or not, that preference should be given to the personal physician's statement for the claimant above all others that might want to produce evidence. All previous evidence that has been put in the file from this claim where it was denied is all off the record and not allowed to be considered. I think that we are asking for a lot of trouble here. We are opening this program up to even more abuse than what we have seen in the past, and I think it is a grave mistake for this body to continue to move in this direction with this program.

Mr. Chairman, there ought to be real reform of this program, and unfortunately this bill does not bring it to us.

Mr. MURPHY. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania [Mr. MURPHY] for yielding this time to me.

Reform with justice in the black lung benefits program is long overdue, and hopefully, with passage of this legislation today, and I might say without gutting amendments, it will bring us a lot closer to justice for senior citizens in the coal fields of our country. Only a minuscule amount of applicants, less than 5 percent of deserving applicants, are ever certified for this program. Especially tragic is a longstanding Department of Labor practice of demanding immediate repayment of sums for benefits paid under the interim benefit procedure.

Mr. Chairman, one elderly widow in my district in southwestern Indiana was told by the Bush Department of Labor to repay $60,000 in interim benefits or she would be turned over to private bill collectors. I ask my colleagues, "Can you imagine the stress and strain imposed on people in their late sixties, seventies, and eighties being told within 60 or 70 days they are going to have to pay 30, 40, 50, 60, $70,000 out or face the consequences, and in at least one case it has resulted in the loss of a home in my district, in the Eighth District of Indiana, to a miner's estate.

Mr. Chairman, black lung sufferers are senior citizens. They certainly do not have the resources or the energy to be at constant battle with the system. they have devoted their lives to working in the coal fields and want a peaceful and stable retirement. In one case an 80-year-old man lost his entire savings. In another case the Department of Labor harassed a miner for 8 years, and, when he died, his family lost his house. In my district it is estimated that 120 retired miners or their dependents are being hounded, or at least fairly regularly dunned, to repay $3.5 million in interim black lung benefits. Many of these miners, under previous practices which I understand are getting better, were not aware that the claim paid out in this process was subject to repayment. They are being punished for bringing forward their appeal to the Government.

Section 2 of H.R. 2108, the Black Lung Benefits Restoration Act, rectifies this unjust situation. It provides that a miner or if a miner's dependent receives interim black lung benefits, during the claim processing period in the final decision provides that the miner is ineligible for benefits. Any interim benefits paid will not be subject to repayment. I might say this only makes for common sense, simple justice, administrative simplicity. How are we going to ask retired working people to pay back in many cases 30, 40, or 50, in many cases $60,000? It hardly makes any sense to have a program like this if there is going to be a provision like this imposed.

I might note that they were told by qualified medical physicians that they had this condition to start with, and surely a system like this should not go on. Some have claimed this provision is a giveaway and incompatible with integrity of the black lung program. It is not true. It simply asks that simple justice be done. We have to realize that the retired miner, or their widows, do not have the resources to fight the claims. They are much outstaffed, outgunned, outspent, if my colleagues will, by the coal companies' doctors and their lawyers.

Mr. Chairman, this legislation is vitally important to our Nation's coal miners and their survivors. I want to commend again my colleagues on the Committee on Education and Labor, particularly the gentleman from Pennsylvania [Mr. MURPHY] and the gentleman from Michigan [Mr. FORD], also the leadership of the gentleman from West Virginia [Mr. RAHALL] on this concern for simple justice for miners and their families which is longstanding. I urge my colleagues to vote in favor of the legislation and against any amendments that strike sections of H.R. 2108.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I say to the gentleman from Illinois, Thank you for the time.

I rise in opposition to the bill. No one disagrees with the proper implementation of a black lung program. No one disagrees that eligible miners should receive care. Nobody says black lung victims should not receive compensation. But sometimes it seems to me on this floor we argue largely on emotion.

I recall people standing up and saying, "I'm for kids." Of course they are. "I'm for miners." Of course they are. "I'm for people." Of course they are. But what we need to look for is a balanced distribution of a program to do this.

Mr. Chairman, it is my understanding that this would amend the law to provide the revision of evidentiary standards to determine the eligibility of disability benefits, limit a defendant's ability to defend against unjustified claims, require the reconsideration of approximately 90,000 previously denied claims, provide automatic entitlement for survivor benefits even when a miner's benefit resulted totally unrelated to coal work, expand the definition of miners to include individuals whose work is unrelated to mine and coal employment.

Someone mentioned, "Does it affect you?" Yes, it affects me. I come from the State that is the largest producer of coal, and I am very much interested in it.

Mr. Chairman, the black lung program was created to provide monetary reimbursements to current and former members stricken with, miners stricken with, black lung disease, and unfortunately it has become a Federal entitlement program that is nearly $3.5 million in debt. The bill before us simply makes this worse. We act as if nothing has been done. It is my understanding that in excess of $30 billion has been expended for monthly disability and medical benefits to approximately 225,000 miners and survivors. The expenditure exceeds $1.5 billion annually and is in the hole nearly $4 billion.

No one denies we should help this horrible disease, but it is important to remember who pays for it. The ratepayers of America pay for this program, my colleagues' constituents and mine. Although the black lung disability fund is financed through excise tax on underground and surface-mined coal, the true costs, of course, are borne by consumers. So, we need to deal with this issue with some balance. It is not just an idea of saying that we ought to throw the dough out there.

Mr. Chairman, when are we going to learn we cannot continue to strap businesses with new and excessive costs? it creates unemployment and limits the economic growth across this country. This bill is not a good resolution to the problem. If we need to change the administration, we should do that. This bill goes far beyond that. It creates an unfunded Federal entitlement program that will end up costing Americans billions of dollars.

I say to my colleagues, Let's defeat this measure and start to bring a little common sense into the way we do things around here.

□ 1240

Mr. MURPHY. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. BARLOW].

Mr. BARLOW. Mr. Chairman, I thank the chairman of the subcommittee for yielding me this time.

Mr. Chairman, I would like to commend the committee very much for bringing H.R. 2108, the Black Lung Benefits Restoration Act, before us. This brings up the principle of fairness. That is what we are dealing with here, fairness.

I say that to the Members on the other side of the aisle who are focusing on this issue today. That is the word that summarizes this bill—fairness. This bill provides fairness to the miners, it provides fairness to the coke workers, it provides fairness to the families, the widows and widowers, and it even provides fairness to the operators.

Miners who received interim benefits and later were deemed ineligible have been forced to repay these benefits. Through heavy-handed methods, these benefits were collected, devastating families who had no means to save from their limited incomes. Many used that money to buy groceries and pay rent.

H.R. 2108 would not consider interim benefits as an overpayment, and miners would not be responsible for repayment.

H.R. 2108 will provide fairness to widows and widowers. If a miner dies and the cause of death is black lung, then the wife and children are entitled to the benefits. Men and women who have dedicated their lives to the mines deserve to have their families provided for if they die of black lung.

H.R. 2108 will provide fairness to the coke workers. In the past, coke workers were exposed to the same substances as miners but were not eligible for black lung benefits. These long-suffering men and women deserve the black lung benefits that this bill will provide.

H.R. 2108 gives an even playing field for the miners. It allows them to compete fairly with opposing legal expertise by providing prompt payment to their attorneys and only requesting one necessary medical examination.

H.R. 2108 provides fairness for the coal operator. No longer will the operator be falsely accused as the responsible party. This will save operators witness fees and attorney fees. This bill provides fairness for all.

I wish the Members could hear, as I do, as I go through the coal fields in my district, stories from retired miners of conditions in the mines in days gone by when you could not see your hand in front of your face, when the heat was over 100 degrees for the long hours you toiled in the mine, and then you coughed and spit mine dust for your life, for the rest of your life going forward. If Members could hear these stories, they would know that this bill is very necessary and its benefits very deserved.

The CHAIRMAN. The Chair would inform both sides that the gentleman from Pennsylvania [Mr. MURPHY] has 11 minutes remaining, and the gentleman from Illinois [Mr. FAWELL] has 5 minutes remaining. The gentleman from Pennsylvania [Mr. MURPHY] will have the right to close.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, we are waiting for a member of the committee, so I reserve the balance of my time.

Mr. FAWELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, those of us who come from Pennsylvania have a historic bond with the coal mines and the courageous people who have harvested that precious fuel over the generations. So we have almost uniformly supported the efforts to provide recompense to the miners who become afflicted with the deadly disease which is the subject of today's legislation.

So I begin this process in this debate with a hard leaning towards supporting the benefits package that is before us, but I do owe it to my own nature in watching carefully the extent of the funding and the spending that might be included in this legislation, so I will reserve final judgment on the bill as I review the amendments as they will be offered to see whether or not the process which is so important in the ultimate funding of that process would merit final support.

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

Mr. Chairman, I take this time first to assure my good friend and colleague, the gentleman from Pennsylvania, that we do not believe this is a budget-busting bill. We received estimates from the CBO that, yes, the trust fund owes the Federal Government $3.4 billion. It is not $4 billion or $3.9 billion; it is $3.4 billion. Most of that was incurred as a result of instituting the benefits following 1972.

At the present time the coal operators will pay in more than enough to pay current benefits by the extent of $20 million to $25 million more than the cost to administer the program and pay the benefits.

The interim benefits that were previously paid, and now, since 1981 and

1982, the amounts the claimants have been required to repay have not been going back to reduce the $3.4 billion that is owed by the trust fund; they are going into the general treasury. We would hope that the Treasury Department would give us credit for that, but they have not.

In addition to that, on the $3.4 billion that we owe the Treasury, the trust fund is being assessed 10½ percent interest. I would submit to the Treasury that I hope we can work that out with the Committee on Ways and Means in the coming months before we start paying benefits on this, so that they would refloat the $3.5 billion that the trust fund owes. Today they could sell the Treasury bonds in the open market for 4.2 percent, for a savings of almost $200 million a year. The trust fund could actually bail itself out if the Treasury Department would cooperate. We are going to approach the Committee on Ways and Means with this theory.

We would take the $25 million in excess, we would pay that toward the trust fund debt, we would refinance the trust fund at today's current interest rate, 4.2 percent, and we would be able to retire the debt.

In addition to that, I would say to my colleague, the gentleman from Pennsylvania, and the opponents of this measure that we are not talking about 80,000 claims being automatically reopened. We are talking about the right of those miners who are still living who have been denied benefits only since 1981 to have a right to have their claims reexamined. They must first refile, and then they would be reexamined. We are talking about probably 10,000 to 12,000 or 13,000 miners. The 80,000-miner pool is no longer out there, as it was in 1972. Yes, when the 1972 Act required a reexamination of all the claims, there were 80,000. Those miners are dead. This is 18 years later from that time, or over 20 years later. There were 18,000 since 1972 reviewed, and there were only 77,000 at that time. The number of miners that would be eligible is greatly reduced, probably to the extent of less than 10,000.

I might also say that the estimates from the administration and the Department of Labor are that even if all these provisions in today's proposed Act are approved, we are only going to have a 5 to 10 percent approval rate of all the claims filed, even if we take Mr. FAWELL's figure of 80,000, which is far in excess. Ten percent of that is 8,000. The figures they are throwing around here are just ridiculous.

Mr. Chairman, I would like to caution the Members to listen to the debate on the amendments, follow the debate, listen to the real statistics, get the CBO estimates, get the Department of Labor estimates of costs, and be guided by that in their votes.

Mr. Chairman, at this time I have no further requests for time, and I reserve the balance of my time.

□ 1250

Mr. FAWELL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MILLER].

Mr. MILLER of Florida. Mr. Chairman, I rise today in strong opposition to H.R. 2108, the Black Lung Benefits Restoration Act. This bill represents yet another expansion of entitlements without a single thought dedicated to paying for the new spending. The changes made by this legislation, far from enhancing the availability of benefits under the Black Lung Program, will only serve to undermine the long-run financial viability of the entire program.

To those in this Congress who have fought to add fiscal responsibility to the Federal budget process, the history of the Black Lung Program in an all-too-familiar tale. A last minute add-on to another piece of legislation in 1969, the costs of this small, temporary entitlement ballooned far beyond original estimates. Each successive change expanded eligibility and benefits under the program, and by the late seventies, the Black Lung Program had become a permanent entitlement and a significant burden on U.S. taxpayers.

It is easy to dole out new benefits to laudable causes, but few Members ever talk about the costs and tradeoffs each program expansion necessitates. Every new Federal dollar spent must be taken from somewhere else. All too often it comes from future generations of American taxpayers. Such careless compassion turns out not to be very compassionate at all, because it ignores the real costs associated with any budget decision.

The Congressional Budget Office estimates that the expansion of available benefits in the Black Lung Program provided for under H.R. 2108 will cost $195.5 million. Where will the money come from? Nobody knows.

Unfortunately, the Black Lung Trust Fund—intended to pay for the benefits—is already almost $4 billion in debt and that debt continues to grow. It is time for the proponents of this legislation to come clean with the American people. This latest expansion of this poorly-managed entitlement is nothing more than a raid on the Federal Treasury. I urge my colleagues to vote against this fiscal folly. Vote against H.R. 2108.

Mr. MURPHY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KLINK], a member of the Committee on Education and Labor.

Mr. KLINK. Mr. Chairman, as a cosponsor of this legislation, I rise in strong support of H.R. 2108, the Black Lung Benefits Restoration Act.

Mr. Chairman, western Pennsylvania is coal country. Thousands of our neighbors there worked in the coal mines and now many of them are afflicted with black lung.

We know that black lung is caused by overexposure to coal dust. It is a terrible disease, and bad enough by itself. But when black lung is combined with the paperwork, red tape, and bureaucracy that a victim must face in trying to obtain benefits, the situation becomes almost overwhelming.

In one of my district offices, a caseworker is working on a black lung case that is 20 years old. That is wrong.

This legislation will help ease the burden of those afflicted with black lung and restore the fairness to the black lung benefits system that has been missing since the early 1980's.

H.R. 2108 would change the requirement that beneficiaries must repay interim benefits if they are denied regular black lung benefits and provides for survivors benefits for widows of black lung beneficiaries.

The bill places reasonable limits on what potential beneficiaries must provide as evidence of a claim. The legislation also provides for the designation of a "responsible operator" or mining company responsible for black lung benefits payment and allows for reasonable attorney's fees to be paid by that operator.

Finally, the bill allows that any black lung claim denied after 1982 may be refiled as a new claim.

I want to commend my friend and colleague, Chairman MURPHY, for his diligent work on this bill and on behalf of the coal mining families of western Pennsylvania. He has earned their gratitude.

Mr. Chairman, H.R. 2108 will restore fairness and equity to the black lung system. I urge my colleagues to support this bill and oppose the amendments to it. Miners and their families have waited long enough.

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

Mr. Chairman, I would urge the body, we are going to have amendments which will address these particular concerns which have been highlighted. I think after Members carefully listen to what we have to say, they will agree with us that this is deja vu all over again. What we have here is the 1977 amendments, where once again the effort is simply to relitigate all the cases because the results did not turn out as we wanted them, and then try to set up new regulations and rules of evidence, in order to try to increase the number of awards that are being granted. That is what is being done.

But in 1977, that is when, by the way, the debt began to grow. Not before then. It came after 1977, and went up to $1.5 billion. There was a complete catastrophe, consensus legislation, that eliminated all these rules and regulations about trying to have evidence that is going to help your person win

and so forth and so on, and it has worked to a degree, but we also had mammoth taxes in the private industry.

But it is still going down hill. The trust fund is $4 billion in debt. I verified that the other day. But bit by bit, we will be taking all of these changes that are in this bill and showing you how it is not going to help the people who really need the help, who are not getting that help.

I think we can suggest, too, how you really can do the job to be able to help the Black Lung Act so that those who are most in need, those who are suffering the most from pneumoconiosis, will be helped.

The answer is not to expand this program even further, to liberalize the spending even more. The answer is fairness in regard to the program itself. The unfairness of the program is that it does not help the people that ought to be helped.

Mr. Chairman, I think our amendments, one-by-one, if we will only listen carefully to them, I think we will prove that. This is a catastrophe in terms of money for the taxpayers of the country. We must think of that also.

Mr. MURPHY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. POSHARD], in whose district we conducted one of the hearings.

Mr. POSHARD. Mr. Speaker, I grew up in the coal mines of southern Illinois, and I have been a strong supporter of legislative efforts to revise the Black Lung Benefits Act since my arrival in Congress in 1989. And I rise again today to express my support for passage of H.R. 2108, the Black Lung Benefits Restoration Act of 1994, and to thank the gentleman from Pennsylvania, Chairman MURPHY, and the others who have worked so diligently on this bill.

I personally witnessed the cruel suffering caused by black lung disease endured by coal miners of southern Illinois. It is heartbreaking to see miners denied legitimate claims, who have worked for decades in the mines and contracted this disease through no fault of their own. And there are numerous instances where a miner may be granted benefits that under current laws appeals by the coal companies prevail, and benefits are revoked, requiring a miner to pay back thousands of dollars in payments already made.

This is unconscionable, especially for the people who have spent their entire lives in the coal mines, to be dealt this kind of blow. And these situations must be remedied, and this is the bill in which they must be remedied.

Since the 1981 amendments to the Black Lung Benefits Act eliminated several presumptions and evidentiary rules which had previously assisted claimants in establishing their entitlements to benefits, the lengthy maze of litigation miners have had to tolerate in order to prove their claims has been truly inhumane.

Since the 1981 changes, Department of Labor statistics show that less than 4 percent, less than 4 percent, Mr. Speaker, of total claims submitted, are actually approved.

Imagine that, Mr. Speaker, that less than 4 percent of those miners who got up every morning, went to the coal mines, went down to the belly of the earth to bring up the plentiful energy supply that this Nation has to offer its people, who breathed the coal dust and the smoke and the gaseous fumes from those underground mines, less than 4 percent of the miners who ever applied for these benefits, not the ones who worked there, but who even bothered to apply, less than 4 percent of these people have ever been given claim to their rightful benefits that they should enjoy under this act.

□ 1300

Mr. Chairman, that, too, is unconscionable. Countless eligible miners over the years have refrained from even submitting claims, seeing the difficulties their fellow workers have encountered.

The growth of this country was powered by the coal these miners brought up out of the depths of the earth. I urge the House to take up their cause, to make a difference in the lives of these American workers who are deserving of these benefits from which they have effectively been cut off in the past decade.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of H.R. 2108, the Black Lung Benefits Restoration Act. This legislation eases the requirements necessary to qualify for black lung benefits. It provides relief for dependents and survivors of black lung victims. And most importantly, it provides that disability claimants who are later found to be ineligible for black lung benefits will not be required to pay back any of the benefits they may have already received.

Seldom do victims of black lung have the means to put aside benefit payments in the event of a later negative decision in their case. Most who receive these benefit payments find they must use them to pay for daily living expenses, making it impossible to recover these funds.

I have heard from several miners and their families in my congressional district of Tennessee who often complain of their financial hardship of trying to repay moneys long ago spent to supplement their daily living while waiting for their claim to be approved. In some cases a levy is placed against a miner's home in an effort to recover payments. Mr. Speaker, I cannot in good conscious ask the coal miners and their families of the Third District of Tennessee to suffer the devastating effects of such actions. Coal miners have given so much for our country. They have worked hard and some have died with such a disability.

It is long past time that we move legislation on behalf of the thousands of miners, their widows, and families who are suffering financially under a program that was intended to bring them relief.

I believe this bill does an excellent job of returning to a program that more closely reflects the commitment of Congress, to compensate those coal miners who suffer from the crippling effects of black lung. This legislation is in the best interest of the thousands of black lung victims who have earned the right to retire with dignity.

I urge my colleagues to restore an important measure of fairness and equity to a program that is badly in need of repair.

Mr. MOLLOHAN. Mr. Chairman, I rise in strong support of this important legislation. I want to commend my colleagues on the Education and Labor Committee, especially chairman FORD and Chairman MURPHY, for bringing this bill to the floor.

H.R. 2108 will bring needed relief to our Nation's coal miners * * * many who have suffered physical disability from years of hard labor in the coal fields of this country.

Under current law, miners are paid interim benefits while their claim is evaluated by officials at the Department of Labor. This process takes an average of 8 years.

If their claim is eventually denied, they are forced to repay these benefits. And I can tell you that these are not wealthy people. There have even been cases of miners receiving a letter from the Government and—in a panic—selling off their possessions. In one case, a miner sold his home to meet this obligation.

This policy clearly imposes a real hardship on many miners, and I think it is time for us to affect a change. Over the years, I have witnessed firsthand the problems with the current system. And I believe this bill will address these injustices.

It will expedite and improve the process through which black lung benefits are provided. By doing so, it will make the process more equitable, more accessible and more in keeping with the intent of the Black Lung Program as initially conceived.

It will make it easier for widows to receive survivor benefits, protecting such benefits upon the remarriage of a widow.

And it will allow claimants denied benefits since 1982 to refile their claims. These miners were subject to the more stringent guidelines which were enacted to protect the solvency of the trust fund.

From my experience, I believe that the strict medical and reporting requirements of the Black Lung Benefits Program too often act as a deterrent to miners who should apply for benefits. This legislation would simplify the process, and make the program more responsive to those it was meant to serve.

We all know that this is not the first time the House has considered this bill. I hope it is the last time. Our miners have greatly contributed to this Nation's energy security. And they have suffered as a result of their long years of work. We must not turn our backs on them.

I urge my colleagues to vote in favor of this bill and against any weakening amendments.

Mr. McDADE. Mr. Chairman, I rise in strong support of H.R. 2108, the Black Lung Benefits Restoration Act. I urge my colleagues to adopt these reasonable and long overdue reforms for miners disabled with black lung disease.

As a representative of a coal-mining district, I have seen thousands of miners and their families who have been disabled with black lung disease. All you have to do is listen, as I have over the years, to the difficulty these miners have in breathing to know about the health hazards they faced in the mines and the price they have paid from years of inhaling coal dust. These hard-working citizens dedicated their lives to the energy security and economic well-being of this great Nation. They are often repaid with years of bureaucratic delays and unwarranted questions about their credibility.

The legislation before us today is an entirely reasonable effort to bring simple justice to the process that was designed to provide monetary reimbursements to coal miners disabled by black lung, their survivors and dependents. The needed reforms in the bill will restore equity in a process that is all too often adversarial to the miner.

The people who are impacted by this bill are not mere statistics. The are real people with real families who have worked hard in a dangerous occupation. They are not out to bilk the government. Rather, they are honest citizens who are afflicted by a painful and deadly disease.

The bill before us does not change the intent of Congress to base benefits on sound medical evidence, but it does put the miners, who often have difficulty in even paying for a full medical exam, on a more equal footing with the operators who have the financial resources to pay for numerous exams and volumes of expert testimony.

Another measure provides that, in cases where a minor dies before a claim can be perfected, a widow need only prove that the miner was disabled with black lung at the time of death. This is a simple matter of fairness to the families of those who were afflicted, and prevents the survivors from further financial distress.

The legislation also addresses the problems miners have faced in finding legal representation with provisions providing prompt payment for the attorney at each step in the claims procedure whenever a formal decision is rendered.

Mr. Chairman, I urge passage of this legislation without weakening amendments, and I commend my colleague from Pennsylvania, AUSTIN MURPHY, for his skill, dedication, and compassion in bringing this measure to the floor.

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

The CHAIRMAN pro tempore (Mr. KLECZKA). Pursuant to the rule, the amendment in the nature of a substitute, consisting of the text of H.R. 4415, is 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 is as follows:

H.R. 4415

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Black Lung Benefits Restoration Act of 1994".

(b) REFERENCE.—Whenever in this Act (other than section 9(a)(1)) 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 Black Lung Benefits Act.

SEC. 2. BENEFIT OVERPAYMENT.

Part C is amended by adding at the end the following:

"SEC. 436. (a) The repayment of benefits paid on a claim filed under this part before the final adjudication of the claim shall not be required if the claim was finally denied, unless fraud or deception was used to procure the payment of such benefits.

"(b) The trust fund shall refund any payments made to it as a reimbursement of benefits paid on a claim filed under this part before the final adjudication of the claim, unless fraud or deception was used to procure the payment of such benefits.

"(c) the trust fund shall reimburse an operator for any benefits paid on a claim filed under this part before the final adjudication of the claim if the claim was finally denied.

"(d) If on a claim for benefits filed under this part—

"(1) the Secretary makes an initial determination—

"(A) of eligibility, or

"(B) that particular medical benefits are payable, or

"(2) an award of benefits is made,

the operator found to be the responsible operator under section 422(h) shall, within 30 days of the date of such determination or award, commence the payment of monthly benefits accruing thereafter and of medical benefits that have been found payable. If an operator fails to timely make any payment required by an initial determination or by an award, such determination or award shall be considered final as of the date of its issuance."

SEC. 3. EVIDENCE.

Section 422 (430 U.S.C. 932) is amended by adding at the end the following:

"(m)(1)(A) During the course of all proceedings on a claim for benefits under this part, the results of no more than 3 medical examinations offered by the claimant may be received as evidence to support eligibility for benefits.

"(B) During the course of all proceedings on a claim for benefits under this part, the responsible operator and the trust fund—

(i) may each require, at no expense to the claimant, not more than one medical examination of the miner, and

"(ii) may not each offer as evidence the results of more than one medical examination of the miner.

"(C) An administrative law judge may require the miner to submit to a medical examination by a physician assigned by the District Director if the administrative law judge determines that, at any time, there is good cause for requiring such examination. For purposes of this subparagraph, good cause shall exist only when the administrative law judge is unable to determine from existing evidence whether the claimant is entitled to benefits.

"(D) The complete pulmonary evaluation provided each miner under section 413(b) and any consultive evaluation developed by the District Director shall be received into evidence notwithstanding subparagraph (A) or (B).

"(E) Any record of—

"(i) hospitalization for a pulmonary or related disease;

"(ii) medical treatment for a pulmonary or related disease, and

"(iii) a biopsy or an autopsy,

may be received into evidence notwithstanding subparagraph (A) or (B).

"(2) In addition to the medical examinations authorized by paragraph (1), each party may submit one interpretive medical opinion (whether presented as documentary evidence or in oral testimony) reviewing each clinical study or physical examination (including a consultive reading of a chest roentgenogram, an evaluation of a blood gas study, and an evaluation of a pulmonary function study) derived from any medical examination or contained in a record referred to in paragraph (1)(E).

"(3) A request for modification of a denied claim under section 22 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, shall be considered as if it were a new claim for the purpose of applying the limitations prescribed by paragraphs (1) and (2).

"(4) The opinion of a miner's treating physician, if offered in accordance with paragraph (1)(A), shall be given substantial weight over the opinion of other physicians in determining the claimant's eligibility for benefits if the treating physician is board-certified in a specialty relevant to the diagnosis of total disability or death due to pneumoconiosis.

"(5) For purposes of this subsection, a medical examination consists of a physical examination and all appropriate clinical studies (not including a biopsy or an autopsy) related to the diagnosis of total disability or death due to pneumoconiosis.".

SEC. 4. SURVIVOR BENEFITS.

(a) DEATH.—Section 422 (30 U.S.C. 932), as amended by section 3, is amended by adding at the end the following:

"(n) If an eligible survivor files a claim for benefits under this part and if the miner—

"(1) was receiving benefits for pneumoconiosis pursuant to a final adjudication under this part, or

"(2) was totally disabled by pneumoconiosis at the time of the miner's death,

the miner's death shall be considered to have occurred as a result of the pneumoconiosis.".

(b) RULES FOR WIDOWS AND WIDOWERS.—Section 422 (30 U.S.C. 932), as amended by subsection (a), is amended by adding at the end the following:

"(o)(1) A widow or widower of a miner who was married to the miner for less than 9 months at any time preceding the miner's death is not qualified to receive survivor benefits under this part unless the widow or widower was the natural or adoptive parent of the miner's child.

"(2) The widow or widower of a miner is disqualified to receive survivor benefits under this part if the widow or widower remarries before attaining the age of 50.

"(3) A widow or widower may not receive an augmentation in survivor benefits on any basis arising out of a remarriage of the widow or widower.".

SEC. 5. RESPONSIBLE OPERATOR.

Section 422(h) (30 U.S.C. 932(h)) is amended by inserting "(1)" after "(h)" and by adding at the end the following:

"(2)(A) Prior to issuing an initial determination of eligibility, the Secretary shall, after investigation, notice, and a hearing as provided in section 19 of the Longshore and Harbor Workers' Compensation Act, as made applicable to this Act by subsection (a) of this section, determine whether any operator meets the Secretary's criteria for liability as a responsible operator under this Act. If a

hearing is timely requested on the liability issue, the decision of the administrative law judge conducting the hearing shall be issued not later than 120 days after such request and shall not be subject to further appellate review.

"(B) If the administrative law judge determines that an operator's request for a hearing on the liability issue was made without reasonable grounds, the administrative law judge may assess the operator for the costs of the proceeding (not to exceed $750).".

SEC. 6. ATTORNEY FEES.

Section 422 (30 U.S.C. 932), as amended by section 4(b), is amended by adding at the end the following:

"(p)(1) If in any administrative or judicial proceeding on a claim for benefits a determination is made that a claimant is entitled to such benefits, the claimant shall be entitled to receive all reasonable costs and expenses (including expert witness and attorney's fees) incurred by the claimant in such proceeding and in any other administrative or judicial proceeding on such claim occurring before such proceeding.

"(2) In the case of a proceeding held with respect to such claim—

"(A) the person or Board which made the determination that the claimant is entitled to benefits in an administrative proceeding and any other person or Board which made a prior determination in an administrative proceeding on such claim, or

"(B) the court in the case of a judicial proceeding,

shall determine the amount of all costs and expenses (including expert witness and attorney's fees) incurred by the claimant in connection with any such proceeding and shall assess the operator responsible to the claimant for such costs and expenses which are reasonable or if there is not an operator responsible to the claimant, shall assess the fund for such costs and expenses.

"(3) The determination of such costs and expenses shall be made within 60 days of the date the claimant submits a petition for the payment of such costs and expenses to a person, the Board, or court which made a determination on the claimant's claim. The person, Board, or court receiving such petition shall take such action as may be necessary to assure that such costs and expenses are paid within 45 days of the date of the determination of such costs and expenses unless a motion to reconsider—

"(A) the amount of such costs and expenses, or

"(B) the person liable for the payment of such amount,

is pending.

"(4) If an operator pays costs and expenses assessed under paragraph (1) and if the claimant for whom such costs and expenses were paid is determined in a later proceeding and expenses were paid is determined in a later proceeding not to be eligible for benefits under this part, the fund shall pay the operator the amount paid for such costs and expenses.

"(5) Section 28(e) of the Longshore and Harbor Workers' Compensation Act shall apply with respect to any person who receives costs and expenses which are paid under this subsection on account of services rendered a claimant.".

SEC. 7. ADMINISTRATION.

(a) APPEALS TO THE BENEFITS REVIEW BOARD.—No appeal of an order in a proceeding under the Black Lung Benefits Act may be made by a claimant or respondent to the Benefits Review Board unless such order has been made by an administrative law judge.

(b) ACQUIESCENCE.—The Secretary of Labor may not delegate to the Benefits Review Board the authority to refuse to acquiesce in a decision of a Federal court.

SEC. 8. REFILING.

Any claim filed under the Black Lung Benefits Act after January 1, 1982, but before the effective date of this Act prescribed by section 11(a), may be refiled under such Act after such effective date for a de novo review on the merits.

SEC. 9. DEFINITIONS.

(a) COKE OVENS.—

(1) FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.—Section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802) is amended—

(A) in paragraph (d), by inserting before the semicolon the following: "or who operates a coke oven or any machine shop or other operation reasonably related to the coke oven",

(B) in paragraph (g), by inserting before the semicolon the following: "or working at a coke oven or in any other operation reasonably related to the operation of a coke oven", and

(C) in paragraph (h)(2), by inserting before the semicolon the following: "and includes a coke oven and any operation, structure, or area of land reasonably related to the operation of a coke oven".

(2) BLACK LUNG BENEFITS ACT.—The first sentence of section 402(d) (30 U.S.C. 902(d)) is amended by inserting before the period the following: (or who works or has worked at a coke oven or in any other operation reasonably related to the operation of a coke oven".

(b) PNEUMOCONIOSIS.—Section 402(b) (30 U.S.C. 902(b)) is amended—

(1) by adding after "sequelae" the following: "which disease or sequelae is restrictive or obstructive or both", and

(2) by striking out "coal mine" and inserting in lieu thereof "coal mine or coke oven".

SEC. 10. CONSTRUCTION.

If in any legal proceeding a term in any amendment made by this Act is considered to be ambiguous, the legislative history accompanying this Act shall be considered controlling.

SEC. 11. EFFECTIVE DATES.

(a) GENERAL RULE.—[Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect October 1, 1994.]

(b) SECTION 6.—The amendment made by section 6 shall apply only with respect to claims which are filed for the first time after October 1, 1994, and shall not apply with respect to any claim which is filed before such date and which is refiled under section 8 of this Act after such date.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule for a period not to exceed 3 hours, excluding time consumed by recorded votes and proceedings incidental thereto.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHNER: Page 11, beginning in line 22, strike "subsection (b)" and insert "subsections (b) and (c)" and on page 12 add after line 6 the following:

(c) BLACK LUNG DISABILITY TRUST FUND.—The amendments made by this Act shall not take effect unless the total indebtedness of the Black Lung Disability Trust Fund is less than $600,000,000.

Mr. BOEHNER. Mr. Chairman, over 200,000 American citizens suffer from black lung disease. This disease disables the respiratory system and is irreversible.

For those who suffer from black lung, they most often die from cardiac arrest. It is a sad fate of the people who provide resources for Americans to turn on their lights and heat for their homes. The everyday conveniences in America have their root, frankly, from the coal miners. But the black lung trust fund currently owes the Federal Government $3.4 billion because current disbursements are higher than revenue received by the trust fund. Meanwhile, the interest that the trust fund owes to the U.S. Treasury on the outstanding debt is $340 million every day. Therefore, the debt owed to the U.S. Treasury continues to increase.

Now, if H.R. 2108 passes, it will cost an additional $195 million over the next 5 years to the black lung trust fund.

Let me explain that the Congressional Budget Office estimates that allowing claimants found ineligible for benefits to keep previously received benefits will cost $5 million annually. The government would also have to return any benefit repayments claimants made prior to the enactment of H.R. 2108, costing the trust fund $40 million over 3 years.

H.R. 2108 also changes the requirements for evidence to prove eligibility at a cost of, according to the CBO, $22 million over a 5-year period.

Expanding the survivor benefit provision will cost the trust fund $1.5 million annually, and expanding the payment of the attorney fees provision is going to cost the trust fund an additional $5 million annually.

It sounds like it is becoming an entitlement program for lawyers.

H.R. 2108, therefore, will necessitate a second mortgage on a house with a mortgage that has already grown by four times the prices of the house. My amendment, Mr. Chairman, makes sound business sense, something this entire bill lacks. My amendment puts the changes in current law enumerated in this bill on hold until the trust fund debt is lowered to $600 million a year.

The reason for that is, it is about $600 million a year that comes in and out of this fund that should be the minimum before we begin to put these benefits into place.

I believe the Congressional Budget Office estimation of an additional $195 million over the next 5 years is spending by the trust fund that it just does not have. It is obvious that a trust fund 3.4 billion dollars' worth of debt to the government would have to borrow this additional money from the Treasury

every year to pay for the additional benefits that we are going to give, if this bill were to pass.

I do not think that we should be passing this bill unless we are willing to pay for it, unless we are willing to fix the problems in the current system. But to hold out the hope of more benefits for those that are afflicted with this disease without coming up with the money to pay for them is irresponsible. We should not do it.

This amendment, I believe, says very clearly, no new additional benefits until such time as the trust fund debt has been paid down to $600 million and we can proceed in a more sensible way.

Mr. MURPHY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, since fiscal year 1990, the coal tonnage—I remind my colleagues that the black lung program is paid for by an excise tax on each ton of coal that is mined in the United States either by the deep or surface mine method—since 1990, coal tonnage tax receipts and penalties have exceeded benefit payments as well as administrative costs of the black lung benefits program by more than $135 million.

I will submit these individual statistics for the record showing that in each year the income exceeded the outgo.

The trust fund, I addressed under general debate, was caused in the 1972 and 1977 provisions of the act. And since 1981, every miner and miner's widow who received a notice from the Department of Justice and the Department of Labor to return their moneys to the fund, and there have been thousands of them, many in my district, they have been paying those moneys back. They have not been going into the trust fund. They have been going to the general Treasury.

Again, I reiterate, if the Treasury Department and the Black Lung Trust Fund will refinance that $3.5 billion in notes, 10½-percent notes on today's current interest, and I have knowledge that this week the Treasury notes are going for 4.2 percent, we can wipe out half of that debt.

I say to the bean counters, the gentleman from Ohio [Mr. BOEHNER] and others, this is not a matter of counting beans and counting past dollars. This is counting a benefit for miners who have been suffering for years and years with the loss of their lungs, their blackened lungs.

The gentleman from Illinois [Mr. POSHARD], the gentleman from West Virginia [Mr. RAHALL], the gentleman from Pennsylvania [Mr. KLINK], all of the Members discussed under general debate why we are pleading for this program and its continuance, because only 2 or 3 percent of those who have filed for benefits, 2 or 3 people out of the 100 who file for benefits have been awarded benefits.

In the year 2006, this program will be eliminated, and there will be more money coming in from the tonnage to pay off this trust fund debt that we are talking about. Current revenues are amortizing the cost of the program.

Let us retire this debt when there are no more 70- and 80-year-old suffering coal miners to receive the benefits. Then the debt will be paid off, unless the Treasury wants to refinance it before then, which I submit they can.

Mr. FAWELL. Mr. Chairman, I move to strike requisite number of words, and I rise in support of the amendment.

I commend the gentleman from Ohio [Mr. BOEHNER] for presenting this amendment. It is good, common sense, businesswise. It is also extremely fair to all the potential recipients of the black lung fund largess.

I think if we were to think of Congress, as I have indicated before, as being in reality an insurance company and with the obligation to look ahead every time that we have an expansion of the act, which is what this legislation does do, there was reference to the fact that some of the coal miners may be going into other occupations, there would be less applicants.

Well, we are taking care of that here. We are expanding the act to cover all coke oven workers with a very vague and liberal definition. Not even the steel companies have any idea of how many of their employees might be covered under this legislation.

□ 1310

Mr. Chairman, we are redefining pneumoconiosis, too, so we are making it much more broader and liberal in regard to the recoveries that can be made.

Congress, I know, does not like to look ahead and determine how much our children and our grandchildren are going to have to pay for our latest exercises in what sometimes I think we have to laughingly call any kind of business efforts on our part at all. But the truth of the matter is that CBO has said we are going to produce in the next 5 years about $195 million of new costs, and if Members would talk to the people at DOL as I have done and as I am sure the gentleman from Pennsylvania [Mr. MURPHY] has done, they will quickly say that what the CBO estimates for the first 5 years is surely not what the total costs of this program shall be.

Mr. Chairman, I made reference in my opening comments, in the debate portion of this bill, that actuaries make it very, very clear that we are going to have something like $225,000 for lifetime total disability benefits of claims which are allowed.

These are not my figures. DOL says there will be 20,000 claims, new claims allowed because of this legislation out of the 80,000 which are possible. If the past where we have done the same thing is any guidance, most of the miners to take advantage of refiling their claims.

The actuaries point out that if we were an insurance company, what we would do is take $125,000, slap it in the reserve, figure over the years we would get back 6-percent interest averaging over a 30-year period, average it, and lo and behold we would guarantee we would have the money to be able to meet these expenses when they come up, but why worry about 20 or 30 years from now or even more than 5 years from now? Life is short, our kids will have to take care of it. Blow it away; $2.2 billion is what the actuaries say who have lived with these problems of trying to anticipate what costs will be.

We can ask any insurance company that is in the business of insuring black-lung disease and they will say that it is about $125,000 which they will put in reserve for every one of those 20,000 cases.

Mr. Chairman, 10,000 have to be handled by the coal operators because it is their liability, but 10,000 of those cases have to be handled by, guess what, the U.S. insurance company that Congress operates. God help us.

We are not going to put any money in reserve. To heck with that. Insurance companies, actuaries will do it because, do my colleagues know why? They have to break even or they go out of business and they go bankrupt. We do not care about that because we can always tax the taxpayers some more and say, come on in and help us out where our prognosis was not very good.

Mr. Chairman, to have an amendment like this that would say, Hey look, right now, Mr. Insurance Company, U.S. Congress Insurance Company, you are $4 billion in debt, don't you think you should bring the debt down a little bit before you start expanding and going out and writing new policies?

The CHAIRMAN pro tempore (Mr. KLECZKA). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. Mr. Chairman, we do not have before us with the CBO estimates anything but the first 5 years. The testimony has already been given by the other side that, Hey, unfortunately these darn cases will take 4 to 6 years. We won't even be beginning the real cost until after 5 years.

Mr. Chairman, that is the success of congressional budgeting: Push it off, push it out of our mind and we do have to worry about it.

That is why I say as a practical matter, what we are doing is a disservice to the people who my colleagues have so ably described who need help and they are not getting it. We ought to be able once we have set this insurance company the way it ought to be set and know that we have funds, yes, we ought to be able to give more than just $400 a month for total disability and double

that if there are dependents. We could do those things perhaps if we were not running a bankrupt company.

Mr. Chairman, this amendment I think is very proper.

Mr. KLINK. Mr. Chairman, I move to strike the last word and I rise in opposition to the Boehner amendment.

Mr. Chairman, carrying the amendment to its ultimate conclusion, why do not we just cut funding to education until the Federal budget is balanced? Why do not we stop paying Social Security, Medicare, Medicaid, Federal pensions? In fact, why do not we just stop paying the military until we get the budget balanced?

Mr. Chairman, in essence what we are saying is let us go ahead and balance the budget, the Federal, budget on the health of these miners that are dying. When these gentlemen were down in the mines crawling around, in some instances 18-foot seams lying on their backs, mining the coal, breathing the dust, breathing the poisonous gases, fueling this economy, fueling our industrial age, they were what made this Nation great.

I guess it just seems that we automatically would follow the Boehner amendment and let us just go ahead and now that we have got fiscal problems in this Nation, let us wait for these men to die until we take some kind of action, and that is exactly what this amendment is saying.

Mr. Chairman, some comment was made a few moments ago about when Congress took this up in 1977. I have get news for my colleagues. There are many, many fewer miners to be concerned about today than there were back in 1977 because these people who suffer with black lung are dying every day.

We mentioned about the cases in my office, some of which are going back 20 years, where a lot of these miners are dying and even their widows are dying before these benefits are being adjudicated.

Mr. Chairman, I rise in strong opposition to this amendment. It makes absolutely no sense for the working men and women.

Mr. MILLER of Florida. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Boehner amendment because it adds fiscal sanity to this budget. This whole budget process is just an unbelievable disaster. When we realize 50 percent of our budget is in entitlements, this is how it gets out of control and this is a classic case of out-of-control spending. It is $4 billion it has cost us, now we are getting it under control where revenues have basically come up to paying for the money going out, but we are going to expand the benefits and let it get out of control again.

Mr. Chairman, we have to have some fiscal sanity. A few weeks ago we debated the issue of a balanced budget amendment. People said, we do not need a balanced budget amendment, all we need is the will to make the decisions. Here is one of those cases where we will have the chance to make the decision: Do we want to have a balanced budget and fiscal sanity?

Mr. Chairman, this is not a question of compassion. We are not talking about doing away with this program. We are saying keep the program the way it is, but let us not just open a box of unlimited benefits. That is how we got into the trouble in the 1970's. Let us keep this under control.

The CBO says it is $200 million over 5 years. Very likely it is going to be much higher because CBO has always underestimated the cost of entitlements. This is one way to say if we are going to increase the benefits, let us make sure we have fiscal sanity first.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words and I rise today in support of the gentleman from Pennsylvania [Mr. MURPHY], my good friend's bill that is pending before us, the Black Lung Restoration Act. I give personal testimony that prior to my service in Congress, I served as an administrative law judge in the Commonwealth of Pennsylvania. In this capacity, I administered and tried thousands of black-lung cases.

Mr. Chairman, the gentleman from Pennsylvania [Mr. MURPHY] is finally bringing reason to chaos. To have seen widows of miners required to take plugs of their husbands' lungs out of the mortuary in order to establish cause of death from black lung was an atrocious sight; to have seen the actual unearthing of remains in order to prove cause of death because some physician was sloppy or may not have been familiar with pneumoconiosis was unspeakable. I sat through thousands of hearings on these cases. I have listened to thousands of medical doctors testify. Often I could predict before the doctors even opened their mouths whether they were hired by the company or the insurance company. It was standard procedure for these doctors to testify that death was from almost any other cause but black lung.

□ 1320

I do not think we have a perfect system, but then, as a practical matter, I am reasonable enough to know that we are never going to have a perfect system. There are two provisions in this bill that I think are especially important: One provides that widows would not be caused to reprove the conditions for which their husbands were suffering and were receiving benefits at the time of death. That is just good government, good form, it is good practical process in the legal process. The other provision will finally end the ad infinitum hearings, the offering of testimony, and the practice of buying testimony by insurance companies and coal companies.

Finally, all of us who have been in the Congress for the last 10 years and who are at all familiar with the term pneumoconiosis have been waiting for an enlightened President and an enlightened Congress to reform the existing black-lung law. My hat goes off to the retiring Member from western Pennsylvania [Mr. MURPHY] because he has had the tenacity, the nerve, and the sheer guts to withstand this battle through his tenure here in the House. I hope that this bill passes overwhelmingly as a tribute to his skill as a legislator and to his tenacity as a human being.

I say to my friends on the other side who propose amendments that would stultify this bill or cause other barriers to occur that until you have witnessed the life, and then the death, of someone who suffers from black lung, do not be too fast to judge these people and the benefits they receive.

In my district in northeastern Pennsylvania, the heart of the anthracite coal region, I still have 19,000 recipients who gave their lives for the industrial revolution and the world-class economy this country has today. I think the least we can do here in the Congress, on behalf of the American people, is to recognize them for their wartime service. In their time of need, their latter part of life, when little exists for them other than minimal Social Security and no pension, it is our duty to assist them in living a decent life until death and to assist their widows in living a decent life by passing the Black Lung Benefits Restoration Act.

The CHAIRMAN pro tempore (Mr. KLECZKA). The question is on the amendment offered by the gentleman from Ohio.

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

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 234, not voting 15, as follows:

[Roll No. 181]

AYES—189

Allard	Burton	DeLay
Archer	Buyer	Dickey
Armey	Callahan	Dooley
Baker (CA)	Calvert	Doolittle
Baker (LA)	Camp	Dornan
Barrett (NE)	Canady	Dreier
Bartlett	Castle	Duncan
Barton	Clinger	Dunn
Bateman	Coble	Edwards (TX)
Bentley	Collins (GA)	Ehlers
Bereuter	Combest	Ewing
Bliley	Condit	Fawell
Blute	Cooper	Fields (TX)
Boehlert	Crane	Fowler
Boehner	Crapo	Franks (CT)
Bonilla	Cunningham	Franks (NJ)
Brewster	Deal	Gallegly

Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McHugh
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Ramstad
Ravenel
Regula
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—234

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hilliard
Hinchey
Hochbrueckner
Holden
Hoyer
Hughes
Hunter
Inslee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McInnis
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Myers
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickle
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—15

Ballenger
Collins (MI)
Cox
Dixon
Emerson
Faleomavaega (AS)
Fish
Grandy
Hefner
Kennedy
Neal (NC)
Parker
Torkildsen
Washington
Wilson

□ 1345

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Mrs. COLLINS of Illinois, Ms. SHEPHERD, Mr. DERRICK, and Mr. EVERETT changed their vote from "aye" to "no."

Messrs. LIVINGSTON, HOAGLAND, and CLINGER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 11, beginning in line 22, strike "subsection (b)" and insert "subsections (b) and (c)" and on page 12 add after line 6 the following:

(c) COSTS OFFSET.—The amendment made by this Act shall not take effect unless the costs of the amendments are fully offset in each fiscal year through fiscal year 1999 by changes to the Black Lung Benefits Program.

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GOODLING. Mr. Chairman, I merely want to say that the administration's position on H.R. 2108 agrees with my amendment.

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

Mr. MURPHY. Mr. Chairman, I rise briefly to oppose the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING], but mostly to request the ranking member of the committee to answer a couple of questions I may have on his amendment.

At the present time the income from the tonnage on coal is sufficient to pay the current benefits that are being paid. There is also additional surplus in that, and I guess, as I understand the gentleman's amendment, it merely states that the excise tax on the coal that is being paid will be sufficient to pay the benefits, the benefit payments, until the year 1999.

Is that correct?

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

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

Mr. GOODLING. Basically, Mr. Chairman, what it is indicating is that we follow the pay-go procedure of the Budget Act, and so I think the answer to the gentleman's question is yes.

Mr. MURPHY. If the answer is yes, then of course I have no objection to the gentleman's amendment because the excise tax now and in the future should provide sufficient benefits to pay benefits. But I would want to make sure that it does not now state that we then have to impose an additional tax on the coal operators to deal with the trust fund deficit, which is something we have been debating all morning.

Mr. GOODLING. The reason I could not give the gentleman a totally unqualified yes was simply because of CBO and their scoring procedures and so on. But in my estimation the answer would be yes.

Mr. MURPHY. With that understanding, Mr. Chairman, on behalf of the chairman of my committee I will accept the amendment, but also would respectfully address the gentleman and say that we may want to explore this in conference committee, and I would hope that my arrangement with the gentleman stands for today's acceptance providing that the gentleman and I have the same understanding.

With that, Mr. Chairman, we will accept the amendment.

□ 1350

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Strike section 3, redesignate sections 4 through 11 as sections 3 through 10, and on page 12, line 1, strike "6" each place it appears and insert "5".

Mr. FAWELL. Mr. Chairman, this amendment would delete section 3, which is the so-called evidence section.

The bill proposes a radical change to Black Lung administrative law by placing, for the first time, I might add, restrictions on the presentation of evidence by employers and by the Black Lung Trust Fund. CBO estimates that the changes made by this provision will result in direct spending of $22 million in additional Black Lung benefits over a 5-year period.

The statutory procedures for the adjudication of Black Lung claims are set forth in the Longshoremen and Harbor Workers Compensation Act and are incorporated by reference into the Black Lung Benefits Act.

The Act currently provides for a trial before an administrative law judge. Traditionally, each party has been allowed to present his or her case or defense, to submit rebuttal evidence, and to conduct such cross-examination as required for a full and true disclosure of the facts.

Section 3 restricts for the first time the medical evidence offered by a claimant to three examinations, that is, by the miner, while the defendant, being the employer or being the indebted Trust Fund, would be restricted to just one medical examination. Given the size and the crucial impact of the benefit program on both claimants and the operators and the Trust Fund, it is critical that the process of claims adjudication be fundamentally fair to both sides. The sponsors of H.R. 2108 maintain that this legislation is needed to establish a more objective process for determination entitlement to Black Lung benefits.

This bill, however, proposes a novel and unique warping of the normal adjudicative process historically established under Federal law and under the Federal Rules of Evidence and the Administrative Procedures Act. Congress has the power to set and to alter evidentiary procedures used in adjudicating administrative cases, but only so long as those procedures do not violate the Constitution.

I believe that barring defendants in a Black Lung case from submitting more than one medical examination while allowing the claimant to submit three clearly confronts the due process clause of the U.S. Constitution.

Furthermore, section 3 gives substantial weight to the treating physician's opinion in determination of the claimant's eligibility for benefits even if the other side presents a physician who is equally qualified. The claims adjudication process will become formally biased, I think, in favor of the claimant, and this will undercut the integrity and fairness of the adjudication process and its ability to act as a check against mistaken decisions.

There are many other changes made by this bill, as we have discussed, which will make it much easier for one to be able to prove a case. While it may be the intent of the sponsors of the bill to address the imbalance in resources between the claimant and the defendant where multiple examinations could place undue hardship on a claimant, I believe that the end result will be to tip the scales in favor of the claimant.

I frankly know of no law like this that can withstand constitutional scrutiny. It is just basic common law that we inherited from England and common sense that two parties that are litigating are treated the same.

The problem I think, insofar as miners are concerned, is the fact that under the law that now exists not many competent attorneys even want to take the case because they cannot get compensated until the end of the case, and then they have to be held to an hourly rate, and under the circumstances where cases may go from 4 to 6 years, there are not a whole lot of attorneys who will be able to take the case. We ought to be addressing that problem, not trying to rig the rules of evidence. That makes no sense.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strongly urge my colleagues to oppose the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The simple fact is that anyone who is from mining areas knows there is not a level playing field right now. In essence, the mining companies are able to overwhelm the claimants with unlimited resources. The committee has a record of at least one case, I say to the gentleman from Illinois [Mr. FAWELL], where the claimant was required to submit to 55 medical examinations. That basically amounts to just harassment and abuse. We think the present reform legislation basically provides for a much more fair situation, a level playing field.

Mr. Chairman, section 3 of the legislation establishes that during the course of all proceedings on a claim, the results of not more than three medical examinations offered by the claimant, the miner, may be received as evidence. The respondent, the responsible coal operator, may only require the claimant to submit to one medical examination. An administrative law judge may require the claimant to submit to a medical examination if there is good cause. Substantial weight is granted to the claimant's treating physician over the opinion of other physicians in determining the claimant's eligibility if that physician is board certified relevant to diseases associated to black lung.

Section 3 brings a basic fairness into the black lung determinant process that has not existed for years. Coal companies can no longer overwhelm a miner with their doctors whose sole purpose is to find reasons to disprove that the miner has black lung because of coal dust. They currently spend thousands of dollars on doctors and on attorney's fees to prove that miner's are not sick or that the coal company is not responsible for the miner's sickness. The miners, however, have few resources to fight the coal companies, and each day the number of lawyers who will accept a black lung benefit case grows smaller. Black lung benefit cases are not an example of David versus Goliath—David would never win if he had black lung.

I urge my colleagues to defeat this amendment. Black lung sufferers do not have the voice that other, more powerful interests groups have. Congress must be the voice and the conscience for those who suffer from black lung.

□ 1400

Mr. HOEKSTRA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Fawell amendment.

Mr. FAWELL. Will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Illinois.

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

Mr. Chairman, it was maybe one case there were 55 medical examinations. Now, that is an absurdity that may have taken place, but certainly in the halls of justice and administrative law, you do not see any judge, usually, that would ever countenance something like that.

I may say that we would have no problem if it was equal, three and three, or two and two perhaps. But you do not go around trashing the Constitution simply because you do not think that, for whatever reason, you are getting the judicial rulings that you would like to be able to get now.

I have as much heart and as much feeling for the miners of this Nation as anyone else. Let me tell you, there are millions and millions of people throughout this land who in their various occupations do have to go in and litigate under workmen's compensation statutes all over the land.

Let me tell you also that nobody bends down and gives them any particular special privileges in regard to basic constitutional due process of law. Everyone, when they walk into a court of justice, when they walk into an administrative law court, they do expect to be able to be treated equally.

Therefore, no matter how deeply and paternalistic you may feel, and understandably so, for the cause of the American miner and the particular occupational illness or injuries that he may face, you must also recognize that you cannot trample upon the Constitution.

I think this is unconstitutional and probably it will be stricken when a

court finds out about it. But it also illustrates this fact: That what we are trying to do, do you not see, is to liberalize the whole process, because we do not think we have gotten the recoveries we think we ought to get. In liberalizing the procedures and the basic laws that affect us all in courts of justice, we are saying relitigate. Relitigate 80,000 potential cases. That is taken seriously by CBO and DOL, who tell me they estimate that 20,000 indeed will then recover under these new, let us say, relaxed rules of evidence, under these presumptions, and under these kinds of restrictions.

So, please, this is not antiminer or prominer. All the working people of America have to accept basic constitutional due process of law. If you can do it here, my friends, you can do it against anybody that Congress may not particularly like. We are going to give you only one bite at the apple, but the complainant, we favor him, we like him, he is a good guy, we are going to give him more.

We do not want to do that. Are we thinking right now with our heads? No. With our hearts maybe, because we want to do something good for the miners. Actually, this bill is a catastrophe for the miners and a catastrophe for the taxpayers.

But this is just generally not a major portion, but it is one I thought everyone would accept. How can you be against basic constitutional due process of law? This is not a partisan argument here. It is justice, my friends; it is fairness. And if you have to dispel with fairness to get your way, you are not getting something, you are taking something.

So I would ask all those, maybe not the ones who have their minds made up, but all those who are listening in, please listen to this. It is something that will not stop this juggernaut from moving on, but, by George, it will bring us, and guarantee, justice.

I thank the gentleman for yielding.

Mr. RAHALL. Mr. Chairman, will the gentleman from Michigan yield?

Mr. HOEKSTRA. I yield to the gentleman from West Virginia.

Mr. RAHALL. I appreciate the gentleman yielding.

Mr. Chairman, I say in response to the gentleman from Illinois, if leveling the playing field, which is what we are doing in this legislation, if that is called liberalizing, then I plead guilty. I am for liberalizing. I would go much farther than the pending legislation would go if I had my way. I think we have struck a very good compromise in this particular piece of legislation, a compromise that would be drastically upset by the amendment of the gentleman from Illinois.

The CHAIRMAN pro tempore (Mr. MAZZOLI). The time of the gentleman from Michigan has expired.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say further that in regard to litigation that other vocations in this country have to face in regard to workmen's compensation, I would agree fully that this is a very difficult process as well. But I can think of no other group or no other profession in this country that has had to go through the catastrophe of the last 10 years before the Department of Labor, in which the process has been skewered so dramatically against the claimant. I can think of no other vocation in this country that has faced a similar experience as our Nation's coal miners have over the past decade.

The amendment seeks to strike from the bill, as I said, a compromise.

Mr. FAWELL. Mr. Chairman, if the gentleman will yield, I just want to bring out that these kinds of presumptions of alterations of evidence were in there before. They did not do what I think you would hope they would do and increase the awards that are being gathered. They were stricken by consensus of labor, management, and the administration, because they did not accomplish anything.

Mr. RAHALL. Mr. Chairman, reclaiming my time, let us go over the background very quickly to see in what frame these regulations were issued.

Mr. Chairman, it should be noted that Congress passed the Black Lung Benefits Reform Act in 1977 because of its dissatisfaction with the low approval rate for black lung benefits.

Today, in 1994, in part because the Labor Department did not fulfill its mandate under the 1977 Act, we are once again seeking legislation.

The 1977 statute required the Labor Department to adopt interim eligibility standards that were to be no less restrictive than what had been in effect on June 30, 1973; a reference to a set of standards previously used by the Department of Health, Education and Welfare.

The problem is that the interim standards promulgated by the Labor Department were far more restrictive than HEW's.

Moreover, the permanent standards adopted in 1980, and the 1981 amendments to the Act, further aggravated the situation and the number of claims approved continued to plummet.

According to a 1990 GAO report, between 1973 and 1988 less than 10 percent of claims were approved.

This low claim approval rate does not attest to any reasonable and unbiased comportment of the facts.

Rather, the low claim approval rate that Congress sought to address in 1977, and that we are again seeking to rectify with this bill, is due to years of administrative maneuverings over the program's eligibility criteria.

Under H.R. 2108, we will return to a program that more closely reflects the statutory commitment Congress, and indeed, the Nation, made to compensate those coal miners who suffer from the crippling effects of black lung.

However, and with all due respect to the committee, while the bill contains helpful provisions relating to the evidence a claimant or opposing party must provide, they do not in my view go far enough.

I would maintain that a black lung claimant need only to produce a single piece of qualifying evidence. That is what Congress originally intended.

This is however, not what the bill requires and we have a compromise here.

And this amendment would break that compromise and it would gut the bill. It is a truly killer amendment. I urge its defeat.

Mr. BOEHNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we look at this bill and dissect the problems that we have with it, one of the most major problems is in fact this language in there that changes the evidence that can be presented and allows the claimant to bring in statements from three physicians, while the company's coal company operator can bring in a statement from one physician. If that is not bad enough, it goes on to say that preferential treatment shall be given to the personal physician of the claimant in adjudicating the claim.

Now, this is entirely unfair. Congress has no business proceeding to do this type of legislating in the bill that is before us.

We are here to represent all of the citizens of the United States and to do what is fair and to do what is right, and we are given a sacred trust by the American people to carry out legislation on their behalf in fairness to all.

□ 1410

Now, we have heard for some time from the other side that the reason we have these changes coming before us in this bill is because there are a reduced number of claims being approved by the Department. That probably has something to do with the fact that over the years, as these new safety initiatives were put into place, less and less miners were contracting black lung disease.

What this bill purports to do is to give all of them a second bite at the apple, to liberalize the process. But the language that the gentleman from Illinois, who is offering this amendment, the language that he seeks to strike out is, as I believe he mentioned, unconstitutional on its face.

We have a responsibility to live under the Constitution. When we all are sworn in here, we will swear that we will uphold the Constitution. The fact is, this language is unconstitutional. It should be stripped from the bill, and the amendment of the gentleman from Illinois should be passed.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

I might say that if the gentleman from Illinois had an amendment that he was concerned with making an equal playing field, I think those of us here in the majority and the proponents of this measures would be willing to discuss it with him. But he is not proposing an equal playing field. He wants to revert to what we have now as existing law.

Let me state, one ALJ said, after he had reviewed all of the matters coming in, all of the medical evidence, "What happens is the employers inundate the record with consulting medical reports and rereadings of x rays and then argue nonentitlements to benefits based on the preponderance of the evidence."

What has been happening is that the coal companies, in defense of their claims, run the poor coal miner all over the country for additional medical reports. Time after time they request a continuance of the hearing until they can get one or more x ray reading, one more hired gun, medical gun, one more report adverse to the coal miner's interest.

The miner himself can hardly afford to pay the $200 to $250 to his own physician to come in with one single medical report, to the extent where one ALJ said, "Hiring armies of experts often results in needless expense. If such a system continues unchallenged, justice is not served while monied interests thrive."

That is what is happening today. If the gentleman were sincerely interested, he would not be striking the entire section of evidence. He would come in here with something there will be an even playing field. The coal miner treats under his family physician for years. He has a hospital record. He has a clinic record. He has x rays. He should be entitled to bring these in.

The coal company sends him to one expert for a 15-minute exam. Three months later, so that he can delay the hearing, he sends him to a hospital in Pittsburgh for another exam and x rays. Three or four months later he sends him to another medical expert. Finally, the miner dies and he then sends all of the evidence to other experts to review his death certificates. The miner cannot afford to continually fight this total weight and preponderance of the evidence that the coal companies are using as hired medical guns.

Let us make this an even playing field. I say to the gentleman from Illinois [Mr. FAWELL], he can accept an amendment as we had in the last bill two years ago, which he opposed, and then accept this bill and then we have a deal. But until that time, he is against the miners when he wants to strike all the evidentiary section.

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

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

Mr. FAWELL. Mr. Chairman, I have two basic complaints to which I made reference. Both are as unconstitutional as one can possibly be.

Mr. MURPHY. Let the courts decide that.

Mr. FAWELL. Mr. Chairman, if the gentleman will continue to yield, I would say that to all of the attorneys at least in Congress, if they have heard what we have been talking about, would concur. But my esteemed colleague, who is also an attorney, I gather does not agree, but I certainly, if it was 3 and 3 and if we removed the wording about the treating physician having to have been given substantial weight, a good treating physician for the miner, he is going to have the weight of being the treating physician. The judge is going to see his demeanor and be able to obviously decide how much weight he is going to give him.

Mr. MURPHY. Mr. Chairman, if the gentleman will withdraw his amendment, I will commit it in the conference committee. He and I will work it out so there will be an equal playing field. The identical language I had in my bill in the last session of Congress, we will put in place in this one.

Mr. FAWELL. Mr. Chairman, I appreciate the gentleman's offer.

Let me understand what we are talking about. We would be deleting then the three to one to make it three and three.

Mr. MURPHY. Three and three.

Mr. FAWELL. And we would be deleting the words that would require that the treating physician be given substantial weight over the opinion of other physicians? Obviously, a court is going to make that decision all by itself without our having to demand that that be done.

Mr. MURPHY. It probably would. But I submit to the gentleman, the treating physician, he has equal qualifications.

The CHAIRMAN pro tempore (Mr. LIPINSKI). The time of the gentleman from Pennsylvania [Mr. MURPHY] has expired.

The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore [Mr. RAHALL] assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2087. An act to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994.

The SPEAKER pro tempore. The Committee will resume its sitting.

BLACK LUNG BENEFITS RESTORATION ACT OF 1994

The Committee resumed its sitting.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I was not going to speak on the bill. And while they are working out their differences, I would just like to make a few comments. It is evident that we have a committee, subcommittee and committee that have brought to the floor legislation that seems to be friendly to an American worker's interest. Friendly to American workers, in this case, friendly to coal miners who have suffered from black lung or other dysfunctions due to the nature of their workplace. Is that not refreshing? Congress is getting a little friendly, at least in this piece of legislation where coal miners have to jump through hoops, get five different opinions, go to 90 different elements to try and confirm that they are sick, sick from their workplace and may die to get some help from Uncle Sam.

The few comments I want to make is, if you live in my area, you may have to move to Mexico to get a job in the first place. And we see a committee that is basically being attacked and challenged because they are trying to give a helping hand to members of the American workforce who are now dysfunctional because of the problems in environmental conditions that they have faced over the years.

I am not speaking about the substantive issues of the amendment of the gentleman from Illinois [Mr. FAWELL] at all. "Frankly, Scarlett, I don't give a damn."

I see a committee that has come forward trying to right a wrong that puts the American worker and the problems that the American workers face is No. 1 on their agenda. And I rise to say "Thank you, Mr. Chairman; thank you, subcommittee; thank you, committee." I hope that Congress supports their efforts. We need a few more subcommittees like that.

Mr. HALL of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague from Illinois.

Section 3 of H.R. 2108 proposes a radical and fundamentally unfair change in black lung administrative law, for the first time, differentially restricting the presentation of evidence of medical examinations of miners.

It would restrict the presently unabridged right of a claimant or defendant to submit medical examinations of the miner in support of or opposition

to a claim and, in so doing, allow the claimant to offer up to three examinations but bar the defendant from submitting more than one examination. These examinations fundamentally underlie the entire factfinding process in black lung cases.

The provision proposes a claims adjudication process formally biased in favor of the claimant, by legislatively manipulating the presentation of evidence, undercutting the adjudication process' integrity, fairness and ability to act as a check against mistaken decisions.

The provision proposes a novel and unique warping of the normal adjudicative process historically established under Federal law, the Federal Rules of Evidence and the Administrative Procedure Act. Congress has the power to set and alter evidentiary procedures used in adjudicating administrative cases, but only so long as those procedures do not violate the Constitution. I believe, barring defendants, in black lung cases, from submitting more than one medical examination while allowing the claimant to submit three examinations, clearly and squarely, confronts the Due Process Clause of the U.S. Constitution.

The Supreme Court has held that a fair trail in a fair tribunal is a basic requirement of due process and this applies to administrative agencies which adjudicate as well as to courts.

Section 3 of H.R. 2108 would legislatively bias the fact-finding of the decisionmaker in the claim-adjudication in favor of the claimant. Not only is a biased decisionmaker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness.

There is simply no governmental interest, in these cases, in preventing one party from submitting the same amount of like-kind evidence as the opposing party. In fact, there is a strong governmental interest in avoiding mistaken decisions and, in providing justice. Procedures are unreliable if they do not give a party an opportunity to test the strength of the evidence by confronting and cross-examining adverse witnesses and by presenting witnesses on its own behalf.

As Justice Brennan said in Brock versus Roadway Express, Inc., "employers * * * are entitled to a fair opportunity to cross-examine witnesses, and to produce contrary records and testimony."

Supreme Court concern for ensuring this protection by allowing litigants to present their case has been longstanding. For example, the Supreme Court said in 1941: "[o]ne of the most important safeguards of the rights of litigants and the minimal constitutional requirement, in proceedings before an administrative agency vested with discretion, is that it cannot rightly exclude from consideration, facts and circumstances relevant to its inquiry which upon due consideration may be of persuasive weight in the exercise of its discretion." *Pittsburgh Plate Glass Co.* v. *NLRB*, 31 U.S. 146, 177 (1941).

The Supreme Court maintains a particular concern for allowing litigants to ultimately present their case where presumptions are used to shift the burden of going forward with evidence, such as in the black lung program.

For the presumption to pass constitutional muster there must be some rational connection between the fact proved and the ultimate fact presumed, and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate. However, by biasing the presentation of evidence, section 3 undermines the ability of the factfinder to discover the truth and, thus, be able to reasonably find the rational connection between the fact proved and the ultimate fact presumed.

Section 3, as presently written is wrong from a policy point of view and, I believe, unconstitutional. The section is fundamentally unfair, unreasonable and contains a high risk of leading to mistaken decisions. The amendment of my colleague of Illinois striking section 3 should be adopted.

I ask that my complete statement be printed in the RECORD.

□ 1440

I think there is a lot of very much historical, legal matter; certainly Brock versus Roadway Express, Inc., where it says, "The employer is entitled to a fair opportunity to cross-examine witnesses and produce contrary records and testimony," that there is much legal background to support the fact that we should allow all litigants to ultimately present their case, and where presumptions are used to shift the burden of going forward with the evidence, such as in this program, that that gives one or the other side an unfair advantage.

I want to give those who have the problems that this addresses an opportunity to have their day in court, but I think we ought to look at it from both sides.

The CHAIRMAN pro tempore (Mr. LIPINSKI). The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The question was taken; and the Chairman pro tempore announced that the noes appear to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 238, not voting 19, as follows:

[Roll No. 182]

AYES—181

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hoke
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez

Hall (OH)
Hamburg
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Hoyer
Inslee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—19

Brown (CA)
Cox
Dixon
Emerson
Faleomavaega (AS)
Ford (MI)
Goodling
Grandy
McDermott
Michel
Nadler
Neal (NC)
Parker
Pelosi
Romero-Barcelo (PR)
Stokes
Torkildsen
Washington
Williams

□ 1442

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Mr. PALLONE and Mr. SPRATT changed their vote from "aye" to "no."

Messrs. WALSH, QUILLEN, and DICKEY, and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Chairman, during rollcall vote No. 182 on H.R. 2108 I was unavoidably detained. Had I been present I would have voted "no."

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: Strike section 6 and on page 11, line 22, strike "(a) General Rule.—" and on page 12 strike lines 1 through 6.

Mr. ARMEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Chairman, H.R. 2108, the Black Lung Benefits Restoration Act creates more problems than it solves. It already has been stated that the bill reported out of committee is one which places too heavy a burden on mine operators, violates the principle that all relevant evidence is admissible, and is fiscally irresponsible.

Additionally, as if to establish some sort of coal miners' lottery, H.R. 2108 has a provision covering the award of attorneys' fees that could potentially create a nightmare. Under current law, reimbursements for attorneys' fees are paid out of either the black lung trust fund or by the mine operator at the final resolution of the case. No final judgment, no attorneys fee awards. The amendment I am offering will return us to this state of affairs.

Unfortunately, H.R. 2108 rejects this commonsense approach, and authorizes payments to be made by the mine operator to the claimant at every stage of the process where the claimant prevails. Under what can be characterized only as a lawyers' bounty, H.R. 2108 would make a miner, who has gone down to the local Division of Coal Miners Workers' Compensation Office to file a claim, eligible to receive attorneys' fees after the claims examiner rules in his favor in an initial determination.

Such an award will have occurred even before the mine operator has even entered a Federal court. This Federal court. This outcome is unnecessary and unwarranted. The system is already generous enough. Today, any claimant who prevailed during the initial determination receives benefits from the trust fund while the case is being contested.

But apparently this is not enough. H.R. 2108 would mandate payments for attorneys' fees for requests to reconsider determinations, proceedings before administrative law judges, and appeals before the Benefits Review Board.

Remember, all of this is before the case even gets to a Federal court, and these awards are allowed even when it is the claimant that appeals or ask for reconsideration.

Now supporters of this provision will tell you that all of this does not matter, because innocent mine operators get compensated too. This has a ring of truth in it, but the facts are that the mine operator has never been allowed to recover his own attorneys' fees.

H.R. 2108 would not change this. Instead, it generously says that if the mine operator ultimately is successful, the Federal Government—via the black lung trust fund—will pay him back. Not for his own costs, but for any costs for the claimants attorneys' fees that we have forced him to pay out.

The truth is that this provision in the bill will serve as little more than an inducement for more claimants to file against an already beleaguered trust fund. Even with a case that ultimately proves to have no merit, a claimant and his lawyer will have been given new incentives to file a claim. His lawyer recognizes that win or lose, he or she will likely be paid, and paid well.

If the threat of such awards force a mine operator to settle the case, in the eyes of the trial lawyers, this is so much the better.

Well, it is not better for the trust fund and ultimately the American taxpayer who will have to be responsible when the trust fund goes belly-up.

According to the Congressional Budget Office projected expenditures for attorneys' fees is expected to be $25 million over 5 years, rivaling the administrative costs of $27 million during the same period.

The trust fund is currently $4 billion in debt. We must not compound this by providing unwarranted awards to lawyers, and unduly stimulating suits against mine operators. I urge my colleagues to vote in favor of this amendment. It is a return to fiscal sanity and its good policy.

□ 1450

Mr. MURPHY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment because it denies an entire class of people—the aged, the ill, the infirm, the unemployed miner—adequate legal representation. These individuals who filed under the harsh 1981 amendments, with their stricter standards, were unfairly excluded from eligibility. And now to deny these people sufficient representation on a rehearing is tantamount to total justice denied.

The attorneys fee section was incorporated into this bill in response to testimony received throughout our oversight hearings. Numerous witnesses discussed the great difficulty they and their fellow coal miners have in finding any legal representation.

Under the current system, attorneys are not paid until the claim is fully adjudicated. Now, contrary to what the gentleman from Texas [Mr. ARMEY] would have us believe, no attorney, no attorney would be paid any fee at all until and unless the claimant was granted benefits by the Department of Labor.

This is not attorneys fees in advance; this is only attorneys fees that accumulate if the company then files and puts the miner through an appeals process. But no attorneys fee is paid until the claim is granted. After that, not if the miner appeals—he would not

have to appeal—only if the company appeals would then the attorney be allowed to be paid and only paid for the work he has accumulated as having done at that stage of the proceedings.

We found in instance after instance in the entire State of West Virginia, half a dozen attorneys representing the miners; in the entire State of Kentucky, a dozen attorneys who were willing to represent miners. They cannot afford to tie up their time and energy until a 10-year period of appeals is up.

What we are saying is companies have their lawyers at the table all through the proceedings; let us have the miner have his attorney at the table all throughout the proceeding.

Remember, the attorney would not get paid a cent until he had received his first initial benefit; that means that he had won.

Now they put them through the appeals process, and we are saying that is when the attorneys leave them. We would like the attorney to stick with them.

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

Mr. MURPHY. I yield to the gentleman from West Virginia.

Mr. RAHALL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Pennsylvania has pointed out the fact that in the State of West Virginia there are a half a dozen that will handle these black lung cases. During hearings that the gentleman's subcommittee graciously held in my home town of Beckley, WV, 5 years ago, we heard testimony there were only a dozen lawyers at that time that would handle black lung cases. The gentleman from Illinois earlier referred to the lack of lawyers handling these cases. This is precisely why. How would we like to get paid at the end of each term rather than each month during the term?

Mr. MURPHY. And only if you got a bill passed.

Mr. RAHALL. Right. And only if you got a bill passed. So I think the gentleman's amendment is bad policy, and I urge its defeat, and I associate myself with the remarks of the chairman of the subcommittee.

Mr. FAWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is important for us to stop and really take a look at this section. There is no question in my mind, as I have indicated before—and I know that Chairman MURPHY and I have discussed this on numerous occasions—that the present system insofar as legal fees are concerned is one that is not conducive to having competent attorneys. Not that those who are handling these matters are not competent, but it is not conducive to attracting a lot of attorneys to represent miners. Progress can be made. But I think Congressman ARMEY has circled and hit a very, very important point.

Now, if you take a good long look at this section, you will find that there are two big detriments to it. No. 1 is that legal fees will be granted even in instances where the claim is denied.

Now, that just is not the case, I think, in any workman's compensation statute in the Nation. Why do we do this here when we have a number of ways that we could really make progress?

And this goes further: I think as a sweetener to kind of soften opposition, it goes further and says that legal fees which are awarded during the process of the suit when there is an ultimate denial of the claim—those legal fees must be reimbursed to the coal company employer who won the case. And guess who gets stuck with having to pay the legal fees? You are right, the "U.S. Congress Insurance Company," the trust fund, has to pick up all of those legal fees in instances where ordinarily speaking in all the other workman's compensation statutes in this Nation there are no legal fees when you lose the case.

Now, I have suggested, and I think Chairman MURPHY is entertaining this point too, that why do we not look at what the rest of the world is doing? The rest of the world both in tort actions and in workman's compensation will recognize that contingent fees are not evil. I think the Department of Labor sometimes think they are. I would not even suggest that if contingent fees were possible and you would have a lot of good attorneys coming in and doing the work, that they necessarily had to be taken out of the recovery, which, by the way, is the way all other workman's compensation statutes in the States work. It is normal.

But the chairman is quite right when he says there is no incentive if you are on hourly rate and you cannot be paid until the very end, and then if you do not win, of course you lose. You are not going to get many attorneys to buy that package.

I do not know why we have not changed this long ago. I suppose that with all the work that I have done on this matter, I could have worked to put that in. I would be glad to work assiduously on this because I want to make it easier for miners too. But I will tell you what, all the changes you are making otherwise are not going to make a hoot of difference unless you recognize that an attorney can have that contingent fee arrangement, as I said, even if you want it not to come from the recovery. I think that is the way this ought to be, but it would hurt too many feelings there, I suppose; but Mr. ARMEY is absolutely zeroing in. He is objecting to the fact that, "Hey, you don't get attorneys fees, my friends, when you lose the case." And then, "You don't go out and charge the trust fund to pick up that bill."

How much more money will that be that the trust fund has to borrow from the U.S. taxpayers in order to finance that one? Does anybody know? None of us knows, none of us knew it very much, and we do not care. We are too busy, we cannot run an insurance company this way.

I keep referring to the trust fund as an insurance company because that is the only entity that is going to be there for the miners who are suing under black lung fund when the owners have disappeared.

The CHAIRMAN pro tempore (Mr. LANCASTER). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. So Mr. ARMEY goes and hits the bulls-eye, but he is not probably going to get much reaction here. I pledge to the chairman, Chairman MURPHY, I would be more than glad to try to work with him to copy what is successful in all the other workman's compensation statutes where the attorneys do pitch in and do give the kind of representation that the miners ought to have and which they have not been getting. This is the most expensive, wasteful route you can possibly think of, and it is mollifying the coal operators. The only people left who would object are the taxpayers, here I am, one person, and there is another one over there, Mr. ARMEY, who brought this point up.

That is all I have to say on the matter.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 176, noes 250, not voting 12, as follows:

[Roll No. 183]

AYES—176

Allard	Boehner	Crane
Archer	Bonilla	Crapo
Armey	Brewster	Cunningham
Baker (CA)	Brooks	Deal
Baker (LA)	Bunning	DeLay
Ballenger	Burton	Dickey
Barrett (NE)	Buyer	Doolittle
Bartlett	Callahan	Dornan
Barton	Calvert	Dreier
Bateman	Camp	Duncan
Bentley	Canady	Dunn
Bereuter	Castle	Edwards (TX)
Bilirakis	Coble	Ehlers
Bliley	Collins (GA)	Ewing
Blute	Combest	Fawell
Boehlert	Cox	Fields (TX)

Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—250

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
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
Lazio
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Dixon
Emerson
Faleomavaega (AS)
Grandy
Nadler
Neal (NC)
Parker
Pelosi
Romero-Barceló (PR)
Torkildsen
Vucanovich
Washington

□ 1520

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Mr. HAYES and Mr. CLINGER changed their vote from "aye" to "no."

Mr. HYDE and Mr. McHUGH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr HOEKSTRA: Strike section 10 and redesignate section 11 as section 10.

Mr. HOEKSTRA. Mr. Chairman, fewer than half of the cases decided by the Supreme Court involve constitutional issues, but well over half involve the interpretation of laws (CRS Review/Sept. 1991).

Although the Court has sent mixed signals about deference to agency interpretations of statutes, there is a trend toward increased reliance on the text of law and a decreased reliance on legislative history, such as committee reports and floor debate (CRS Review/Sept. 1991).

Section 10 of this legislation is obviously a reaction to some recent opinions of the Supreme Court, particularly by Justice Scalia. In fact, I think, legal experts would say that while the Court may be more skeptical of using legislative history opinions have varied a great deal about how and when it is appropriate, and Judge Breyer's appointment, assuming he is confirmed, will add to the mix of views on this issue in the court.

But, I read somewhere that one of the things Justice Scalia has said is that efforts to use committee reports as authoritative legislative history should be discounted because they are written by staffers and members often don't even read them. Is he wrong about that? Not in my experience. I would say he is exactly right in the majority of instances. So why are we trying to undercut him? There should be more emphasis on what the statute says, and less on trying to read the minds of the staff persons who wrote the committee report.

The Supreme Court should not need to go to legislative history to interpret what it is we intend. This body needs to make sure it knows what it is authoring and putting into law and that it is not vague and overly broad. Too often, it is the intellectually and politically lazy road to draft legislation and amendments which we either don't know enough about to send definite messages or we are too chicken to make a choice between two approaches.

Ambiguity is defined by Websters as uncertainty. If we are uncertain, we had better go back to the drawing board and start the process over again.

This provision sets a brand new precedent that, in and of itself, should be thoroughly debated and analyzed—not just stuck in a bill. It is an invitation for Members of Congress to load every piece of legislation up with rhetoric, some of which may end up being contradictory.

Mr. MURPHY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to state that I do not oppose the gentleman's amendment. It is my belief that legislative intention should be reviewed by the courts when they are in doubt as to the actual ambiguity of a statute. However, though I may disagree with Justice Scalia, I do agree with the philosophy, legal philosophy, of court nominee Breyer, attorney Breyer, and I believe that perhaps these two may offset each other in the court procedure.

Therefore, I do not find it absolutely necessary to include this statutory construction-type language to encumber the black lung bill. Inasmuch there is an objection to it, I would agree to strike it at this point, and just hope the courts would more favor my legal philosophy on it than that of a strict constructionist, such as the gentleman from Michigan. But we will agree to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HOEKSTRA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FAWELL

Mr. FAWELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAWELL: Strike section 2, redesignate sections 3 through 11 as sections 2 through 10, and on page 23, line 1, strike "6" each place it appears and insert "5".

Mr. FAWELL. Mr. Chairman, my amendment strikes section 2, which deals with a very controversial and I think somewhat emotional topic, interim benefits to claimants. A little background on interim payments is helpful to better understand my amendment.

Under current law, individuals who file for black lung benefits can receive interim benefit payments, that is, total disability payments, once the Department of Labor makes an initial determination that the claimant is eligible for benefits.

Basically a claimant can be found by the Department of Labor to be entitled to benefits if the medical evidence shows that the miner has black lung disease and is completely unable to perform his or her customary coal mine work as a result of the disease.

Note, you can still be totally disabled and be able to otherwise support yourself. Total disability under this act does not mean total disability. It means total disability insofar as doing work in the mines.

A reduction of 40 percent from the expected normal respiratory function is regarded as totally disabling for coal mine workers in the absence of evidence to the contrary. Interim benefits are then paid to the claimant, and this is important, with a clear understanding that they will have to be repaid if the claimant loses his case. In other words, claim denied.

These interim benefits, again total disability benefits, have always been paid to the claimant with the understanding that they will have to be repaid if the claimant is ultimately found to be ineligible for the benefits. Section 2 of this bill would eliminate this requirement entirely. The section states that if interim benefits, total disability benefits, have been granted and paid to a claimant whose claim is ultimately denied, the claimant will no longer have to repay these funds.

□ 1530

I happen to be one that thinks that they should get these interim benefits, but they should get them after they win, then they relate back, which is the law, by the way. In other words, one can get total disability payments under this provision even it one has no right whatsoever to any total disability payments.

Additionally, section 2(b) requires the trust fund to refund any payments made to it as a reimbursement of benefits paid on a claim which was ultimately denied. Claimants do, by the way, repay interim benefits paid to them if their claim is ultimately denied. But section 2(b) would require the trust fund to retroactively reimburse any such benefits going all the way back to 1973. CBO scores this requirement as costing CBO $40 million over 3 years, 1995 through 1997.

Section 2(c) also required the trust fund to indemnify, guess who, the responsible operators for any interim benefits paid on the claim which is later denied. The trust fund, there is our insurance company again.

If we have these situations where a claim is denied but interim benefits have been ordered to be paid and they no longer have to be repaid, then the good old trust fund is going to indemnify the coal operators who were the ones who contested the claim and ultimately caused the claim to be denied.

I ask Members, what section 2 is doing in requiring that the trust fund has to subsidize the cost of interim benefits which the coal operators are under order to pay in cases where the claim is ultimately denied. Obviously, there is no justification in that.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. All of this is in spite of the fact that the Department of Labor already waives repayment in cases where a claimant demonstrates financial hardship. The Department waives repayment if the recovery of interim benefits would deprive the individual of income needed for order and necessary living expenses or otherwise is against equity and good conscience.

It makes no sense whatsoever to have an act which when a person loses the case, we have already said he loses the case and the attorney still gets paid, now we say he loses the case and it may go on for 4 to 6 years, but he can keep all the total disability payments though he never was entitled to the total disability payments. Only a bankrupt insurance company could dream up that kind of a scenario.

I know my colleagues' hearts think that is right, but it is the dumbest thing from a viewpoint of business that one could think of. Any wonder why the trust fund is $4 billion in debt and the taxpayers are now bailing it out.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this has been discussed already, but in all good will, I think the gentleman from Illinois [Mr. FALWELL] does not recognize the human element and the actual reality, and I think we from the minefields know this, as far as it affects the practical workings of people's lives and what happens to them.

What we have under this program, and as we all know the final certification on black lung eligibility has taken in some cases 6, 8, sometimes 9, 10 years. People are living in their old age, having served their Nation, having worked in the minefields, and all of a sudden that notice, and we have all seen them, comes in from the Department of Labor saying, "Dear Mr. Smith/Mrs. Jones, you owe $60,000 to the Department of Labor. You have been found ineligible for permanent black lung benefits. Please pay it back within 60 to 90 days or get in touch with us and we will talk about it. A certified check will be accepted."

That is all very fine, but how many miners and their families, who have to live on these benefits as they are ascertained on an interim basis, have $20,000, $30,000, $40,000, $50,000, $60,000? In many cases, it can cause emotional to the point of heart attack and medical problems. That is an obvious.

Many people in my district, the 8th District of Indiana, have been bewildered by this. The simple fact is that these claims were not filed fraudulently. They were filed in good will, in good faith. Even at that point they may very well have black lung. All that is is a particular certification most often after many years have gone by.

I dare say that this proposal not to have these payments have to be repaid, not only being compassionate and common sense, is also an incentive in a system for the DOL and the Federal process to get the permanent resolution of these cases ascertained.

We all know what it means for a 70-year-old retired miner or widow being told to pay, they owe $50,000, $60,000 and in some cases houses and homes have been lost. It is simply a very weird Alice in Wonderland way to treat the working people of this fine Nation.

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

Mr. McCLOSKEY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I would suggest, again, we want to do justice for the miner. We want to hope that this insurance company of ours, called the trust fund, is going to be able to exist.

Mr. McCLOSKEY. Mr. Chairman, reclaiming my time, the cost of this provision, which I initially authored and we have been working on for some years, over 5 years is $56 million. In the line of what we are talking about, this is more than a reasonable cost for simplification of the system, basic justice and, indeed, as the gentleman has said, an incentive that the system would work faster so that in essence the loss to the mine fund as to the black lung payments, would not go on so much.

I dare say, does the gentleman have any retired mine families on black lung benefits in his district?

Mr. FAWELL. Mr. Chairman, if the gentleman will continue to yield, no, I do not. But I do want to point out that the law already states that once you

win the case, the interim benefits relate back to the time you filed the case. So they are going to get those benefits if they win.

Mr. McCLOSKEY. But if they do not, as the gentleman knows, that is what we are talking about, if they lose, so to speak, at that point, is it not true that working people who are middle class, not upper middle class, they have worked their whole lives and they have spent their life savings, are in effect being told very often, let us say a typical demand is $40,000. Do my colleagues know what is means for even many of us in the Congress to be told we have to pay $40,000 within 3 months.

Mr. FAWELL. Mr. Chairman, we can say this for all the families in America who are in a position where they have to go to a workmen's compensation statute. The point is that we then best change the statute and simply provide for total temporary types of aids pending a case in action. But we have not done that.

Mr. McCLOSKEY. We have not done that.

Mr. FAWELL. When we make this change though, this is going to be around for many, many years. Actuarially speaking, we are going to bankrupt the fund.

Mr. McCLOSKEY. Mr. Chairman, we are dealing with this system today.

□ 1540

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleagues, this amendment would continue a practice that has evolved under the previous Administrations of robbing victims of black lung disease of the benefits they receive on an interim basis.

The effect of this amendment, if it should pass, is to cause black lung beneficiaries to be placed on the welfare rolls.

We are not talking about rich people here. Let us get real.

We are talking about people who are suffering from black lung. Who can barely breath. Who can hardly walk.

They receive their benefits about a ruling that they are eligible.

Once that happens, the coal companies with their legions of lawyers and doctors seek to challenge that ruling. It is commonplace. There is no discrimination in this regard. Every positive ruling of eligibility is challenged.

And so we have our black lung victim, barely able to maintain himself at a substandard level of living, faced with the challenge of trying to defend himself against these high-powered doctors.

Is it any surprise that the black lung victim may ultimately find himself being ruled against?

With this legislation we are saying that once you receive benefits, and through no fault of yourself, that their is no fraud or abuse involved, you will not be required to repay those benefits.

Mr. Chairman, I urge the defeat of this amendment.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope all of the Members who are listening in their offices and in committee will understand that interim benefits are not paid unless the miner has secured an award of benefits from the administrative Department of Labor proceedings. He must file his claim.

I had one Member ask me about a half an hour ago, "Does everybody that files a claim get interim benefits until his case is decided?" Heavens, I hope that no one is under that misapprehension. No one gets interim benefits paid unless he has secured an award. Those interim benefits are then the benefits that are paid until or unless there is an appeal process. The miner does not cause the appeal process, the coal company then appeals. They take them on for another 5 or 10 years.

If eventually, under the 1981 rules and regulations, the company is successful, which has been the case in 97 percent of the cases, then interim benefits stop, all benefits stop, and the miner gets no more.

I am pointing out to my friend, the gentleman from Illinois [Mr. FAWELL], that there perhaps is the best equity in the entire proceedings. At least the miner got half a loaf, because he was paid after he had an award, he was paid up until the time they drove him into bankruptcy with an appeal, and then they finally win because they outlasted him. Then the benefits stop. He at least got some benefits. He did not get the whole loaf.

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

Mr. MURPHY. Yes, I am glad to yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, my point, of course, is that we should not be giving interim benefits. That is not done in other workmen's compensation statutes. I do not know why it has to be done here. If you win, you will get all the interim payments.

Mr. MURPHY. Mr. Chairman, I would tell the gentleman, they are not interim payments at that point. The interim are that a person gets paid after he has won the first round.

Mr. FAWELL. If the gentleman will continue to yield, yes, but it goes back to that interim period. It covers the interim period. If the person wins, he goes back to the date he filed and is given total disability coverage.

What I am saying is that if he loses, though we should never have even thought of creating a system whereby we give interim benefit payments before the final adjudication.

Mr. MURPHY. The gentleman may be correct, if the person loses, but I am saying that he has won. He has won before he gets his interim benefits. That is the inequity we are trying to point out. He did not just file, he had to prove his case. He proved it to the DOL, and they are tough enough to prove it to. Then he was awarded his benefits.

Once he starts the benefits, then what has happened in the last 12 years, and I wish the gentleman from Illinois could have some of those poor people come into the office and say, "Here is my letter from the Department of Justice. They are going to take me to jail. They are going to sue me for all this money. I am borrowing the money from my daughter out in San Francisco so I can help pay. I am going to the bank. I am going to pay it back." This is what has been happening.

The DOL, the Department of Labor, for the last 12 years has been harassing these people, even though they got an award, they got their benefits. Now they are saying, "Send it back," and the total inequity to all the taxpayers is it did not go back in the trust fund, it went to the general treasury.

Mr. FAWELL. If the gentleman will continue to yield, why should the trust fund then pick up these interim benefits in losing situations, where the coal company ends up losing?

Mr. MURPHY. Mr. Chairman, I would tell the gentleman that that is because they had an award and they proved their case.

Mr. FAWELL. If the gentleman will yield further, it is a case against the coal company. The trust fund is not even involved, but not these interim benefits, in a case where they lose against the coal company, the trust fund has sent the bill and the trust fund has to pay it, the good old friendly insurance company from the U.S. Congress.

Mr. MURPHY. In the proceedings before the person files the petition, he has to get a lawyer, if he can beg one to represent him for nothing under the current law. The coal company will send him to seven or eight doctors. If he can go before the hearing and the Department of Labor grants him an award, boy, I say he is entitled to it. If he has gotten that far, he is among the 3 percent, the 3 out of 100 that got a benefit, and now he is being harassed to send it back.

Mr. FAWELL. If the gentleman will continue to yield, my inquiry is, the order is against the coal company to pay the interim. They are contesting it, so they do not. Ultimately, if the coal company wins, the man loses, and the gentleman has legislation saying the trust fund has to cough up the money and indemnify the coal company. Why in the world has he done that?

Mr. MURPHY. Let us have the coal company and the Department of Justice put the money back in the trust fund.

Mr. FAWELL. The gentleman's bill says the trust fund has to pay this.

Mr. MURPHY. I will be very happy to say the Department of Justice will pay it out of the money they have already collected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FAWELL].

The amendment was rejected.

AMENDMENT OFFERED BY MR. BARRETT OF NEBRASKA

Mr. BARRETT of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARRETT of Nebraska: Add at the end of the bill the following:

SEC. 11. STUDY.

(a) IN GENERAL.—The Federal Black Lung Advisory Committee, established under subsection (d) and referred to in this section as the "committee", shall—

(1) examine State workers' compensation laws to determine the effectiveness of the laws in providing benefits on the amount of disability or death due to pneumoconiosis, and

(2) evaluate the information collected in conducting the examination under paragraph (1).

(b) CONSIDERATIONS.—In carrying out subsection (a), the committee shall consider—

(1) whether a State's law providing monthly benefits for total disability or death due to a coal miner's pneumoconiosis in an amount that is comparable to or that exceeds the amounts payable under the Federal black lung program under part C of the Black Lung Benefits Act,

(2) whether the State law provides adequate coverage for health care needs generated by a coal miner's pneumoconiosis,

(3) whether a State's law precludes awards by virtue of periods of limitation or other provisions that unreasonably restrict the filing of claims or awards for a coal miner's pneumoconiosis,

(4) whether the medical or legal criteria for determining entitlement in a State are fair and reasonable, and

(5) whether a State workers' compensation system facilitates reasonably prompt awards or settlements.

(c) REPORT.—The committee shall transmit to the Secretary of Labor, not later than 12 months after its establishment, a final report containing a detailed statement of its findings, conclusions, and recommendations under subsection (a).

(d) COMMITTEE ESTABLISHMENT.—The Secretary of Labor shall establish the Federal Black Lung Advisory Committee with 9 members. The Chairman of the committee and a majority of the members of the committee shall be appointed by the Secretary from individuals who have no economic interests in the coal mining industry and who are not officers, directors, employees, or representatives of groups organized to assist claimants in the processing of their claims under the Federal black lung program under part C of the Black Lung Benefits Act. Of the 9 members, 2 shall be representatives of labor and 2 shall be representatives of coal mine operators. 5 members of the committee shall constitute a quorum for the purpose of doing business. Members of the committee who are not officers or employees of a Federal, State, or local government shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the Secretary but not in excess of the daily rate in effect for grade GS-18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses.

Mr. BARRETT of Nebraska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. BARRETT of Nebraska. Mr. Chairman, I, too, want to pay my respects to the gentleman from Pennsylvania [Mr. MURPHY] for the openness that he has exhibited, and for the decision of the Committee on Rules in offering an open rule. I also want to compliment the gentleman from Illinois [Mr. FAWELL] for the excellent job he has done in shepherding this measure through.

Mr. Chairman, my amendment would call for an advisory committee to be appointed by the Secretary of Labor, to study the effectiveness of State workers' compensation programs to determine first, the effectiveness of the laws that include black lung as a compensable occupational illness; and secondly, whether there exists a need for the continuation of the Federal Black Lung Program.

The Black Lung Benefits Act was enacted in 1969 and was designed to provide to coal miners who were totally disabled due to black lung disease.

The sponsors of this act intended for it to be a temporary program of limited size duration, and cost.

The program was to be administered by the Social Security Administration, which would receive and adjudicate the expected claims arising from past exposures. Once the existing backlog was dealt with, the Department of Labor, would handle new incoming claims under a workers' compensation system.

Aside from the continuing benefits paid to successful claimants under the Social Security Administration-managed part of the program, the Federal involvement in black lung compensation was to cease 7 years after the law's enactment, that is, by December 30, 1976, 18 years ago.

It was thought that the program would become unnecessary once the individual States developed adequate occupational disease compensation systems of their own.

Including claims for health benefits and refilings, more than 1 million claims have been filed, and more than $30 billion has been paid to worthy beneficiaries. It is almost certain by now that all coal mining families that had been overlooked by State laws have had a fair chance to obtain benefits under the Federal program.

The Department of Labor, in fact, reports that all workers' compensation laws in coal mining States today afford higher benefits for total disability or death due to black lung disease.

Mr. Chairman, I believe that many State laws currently meet the Federal requirements under the statute, and that a careful review of them would show that the Federal Black Lung Program has fully achieved its original objectives.

It is for that reason that I offered an amendment during Education and Labor Committee consideration that is similar to that which I am offering today, with one major change.

A provision in my committee amendment called for the termination of the Black Lung Program in 1998, whereas my amendment today does not include that provision. Instead, my amendment simply calls for a study—nothing more and nothing less.

This amendment calls for the creation of a nine-member advisory committee, a majority of which shall have no economic interest in the coal mining industry. The rest of which shall be equally represented by coal mine operators and labor representatives.

This advisory committee would study various State workers' compensation laws to determine their effectiveness in providing benefits for victims of black lung, and to determine whether there exists a need to continue the Federal program.

I urge my colleagues to vote "yes" on the Barrett amendment.

□ 1550

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment was offered in the committee, it was debated at some length and was soundly defeated, as it should be here.

I am reaching out now to the people who talk about unfunded mandates. In 1969, we amended the Coal Mine Safety Act with an amendment that covered black lung for the first time and we said this is a national problem because coal is used all over the country. Then we said the way to pay for it is to have the people who make the profit out of coal pay a tonnage cost, and that is the way it is paid for. It is not like workers compensation. The owners do not pay any premium based on the number of people that work for them who get black lung as in workers compensation which is experience-based rated.

Mr. Chairman, this is an industry-wide assessment that creates a trust from which it is paid wherever the person happens to be when black lung brings them down and totally disables or kills them.

Mr. Chairman, what the gentleman wants to do is completely rewrite the thrust of this legislation. I guess Nebraska does not have any coal mines and, therefore, Nebraska would be completely out of any future responsibility

for this dreadful national problem. But those people who come from States that either have coal mines or States like mine that while it does not have coal mines has automobile plants to which former coal miners migrate for employment can tell us that if they had to try to handle the cost of this out of their State workers compensation fund, they would have a real problem on their hands. So we have the heating and the powering of the entire United States by the coal States with them bearing the subsequent costs that come after the fact for the inevitable disease that comes from working around coal dust. I do not believe that we want to do this.

Mr. Chairman, it is going to be argued, I am sure, that this is only a study, and what difference does it make? It is a study predicated on the presumption that there is a valid way to turn this into a State workers compensation piece of legislation. We had State workers compensation before this act was passed and there were a couple of States that did in fact compensate for pneumoconiosis. The fact of the matter was that it was kind of spotty and we decided that it really was not fair to that very small part of the country that provides all the energy for the rest of the country to have to bear the cost of this once we identified a national problem with pneumoconiosis and this would turn us back to where we were before 1969. I would therefore recommend that we not give a seal of approval to the idea of going in that direction.

Mr. Chairman, I have been listening on this floor all of this session to people talking about unfunded mandates. Imagine my State that is a receiving State for former coal miners in our work force having to pick up in our State workers compensation program money collected from all the businesses in the State to pay for the problems created by a business located in another State. This is truly an interstate problem and should be kept on an interstate basis. The only way we can do that is with a national focus.

Mr. Chairman, I deeply respect the gentleman from Nebraska and if I were representing Nebraska, I would be voting for the gentleman's amendment. I ask Members to defeat it.

Mr. MURPHY. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I do not totally disagree with the concept of my colleague, the gentleman from Nebaraska. All Federal programs, of course, should be periodically examined. It does concern me that in the first sentence the gentleman strikes out all after the enacting clause of our measure, that does concern me, because then we have no bill.

Next I would like to remind the gentleman from Nebraska that prior to 1969, this Congress and the Department of Labor did an exhaustive——

Mr. BARRETT of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Nebraska. I think the gentleman has something important to tell me.

Mr. BARRETT of Nebraska. Yes. I wonder if the gentleman is on the correct amendment.

Mr. MURPHY. I have the only copy of the amendment, the one I received yesterday in the subcommittee wherein the gentleman from Nebraska says, "An amendment to H.R. 2108 is reported offered by Mr. BARRETT of Nebraska," sir. It says, "Strike out all after the enacting clause and insert the following."

Mr. BARRETT of Nebraska. There was an addition then at the end of the bill.

Mr. MURPHY. The gentleman has an addition to that at the end of the bill, something about paying these committee people to a GS–18 level.

When does the gentleman propose to strike after the enacting clause, before or after?

Mr. BARRETT of Nebraska. It is an addition to the end of the bill.

Mr. MURPHY. Then I will address myself to the contents of your resolution.

Mr. BARRETT of Nebraska. It does not deny current benefits. It does not touch the current statute. It simply is a stopgap to pause and step back and take a look and decide whether or not we want to continue or not. Essentially that is it.

Mr. MURPHY. I will tell the gentleman, perhaps, then, in view of that, I was not aware of that at subcommittee or at full committee because the amendment was in its original form. I would like and will discuss with the gentleman the possibility of some type of a review, but I would remind the gentleman that our committee, the committee on which we serve, we are charged with the responsibility of reviewing these acts and I, therefore, think we should be considered in meeting with this committee or be a part of the committee.

Mr. Chairman, next I would say that paying these committee members who someone else appoints, the Secretary of Labor or the President, they are going to be paid at a grade GS–18 level, that is a lot of money and we are going to be wrapping up a lot of money in the study that this Congress itself should be doing and I believe does do. They did it prior to the enactment of the first act in 1969, we have been doing it since then, we have been studying this measure now for 4 to 5 years. We have found that many States do not compensate any of the disabled miners because they moved to their States following their disabilities.

Again I would say I am not adverse to the concept but I must oppose the gentleman's amendment at this time because I do not think it is comprised in the right way and I think it is adding more dollars to it. By paying them to a GS–18 level, they will make as much as a Congressman.

Mr. BARRETT of Nebraska. Mr. Chairman, will the gentleman from Pennsylvania yield?

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

Mr. BARRETT of Nebraska. We have had studies as the gentleman suggests, I believe, we have had study after study and today we are looking at a massive, massive expansion of the current program.

Mr. MURPHY. The gentleman is saying one more study would cure that?

Mr. BARRETT of Nebraska. Yes, we need to take that last look to determine whether or not a temporary program, and it was to be a temporary program, should continue. We of course have spent an additional $195.5 billion, have we not, and I would urge that the body adopt the amendment.

Mr. MURPHY. Mr. Chairman, at this point I am still reluctant to accept it, saying that one more study merely adds to the total cost of our program and may not solve it any more than all the studies we have had.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just very briefly, in support of this particular amendment, I think it is good that we pause and look back to 1969 when the Black Lung Benefits Act was amended to another bill, and at that time that it was created, the idea was that the black lung fund would cease to exist as of December 30, 1976, and that it was temporary only until such time as the State workers' compensation laws would take over.

Obviously, like many programs that we have created of a temporary nature, it grows into a behemoth and continues to gobble up taxpayers' funds to the point where, as we all know, we have a black lung fund which is indebted to the tune of $4 billion and will be getting further into debt.

Mr. Chairman, it does not seem to me that it is a bad idea, therefore, and I know that the unions and the coal association are discussing this right now, of how indeed we might be able to make that transition which was planned back in 1969 so that pneumoconiosis and respiratory diseases coming from coal dust would indeed be inculcated into the State workers' compensation laws.

□ 1600

I know in West Virginia they are, and in Pennsylvania they are, and in Kentucky they are, and in Illinois they are, and, indeed, a successful complainant can get more money under the State workmen's compensation laws in

those States than he can from the Federal law.

Someday we will actually make the transition and eliminate the Federal black lung law and merge it into the State worker compensation laws. There is nothing wrong with that, and we should not feel as though there is a challenge or to be frightened by the suggestion that we have a study on this. I think the unions would welcome it and the coal association.

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

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

Mr. MURPHY. I just wanted to say to the gentleman from Illinois [Mr. FAWELL], the gentleman is correct in what he has stated.

I was in the Pennsylvania Senate at the time that this was passed down here in 1971 in Pennsylvania. We amended our State workers' compensation law to include disabled miners into the program, and they have been benefited by that ever since.

I again go back to say I do not object to a review of this, and perhaps sometime between now and conference committee the gentleman from Nebraska, myself, and the gentleman from Illinois can sit down and say how can we review this. My concern is that many miners have now migrated throughout the country, and I would want to retain some benefits for them.

I think part of our study has to say, well, OK, if it is necessary to have a Federal program for some who are now living in Florida or California or somewhere else, these are the things we should be exploring. I just am reluctant to say that we will allow the Secretary of Labor to create this now and shift it all back to some States that may not be willing to accept the burden.

That is why I respectfully oppose it. But I do say you have a point, and what you have stated is correct.

Mr. FAWELL. I thank the gentleman, and I think that eventually that transition will be made by the various unions and the coal companies both of whom, I believe, rightfully think that the disability payments here are not what they should be, and that all respiratory illnesses, without any question, if they come from one's occupation, one ought to have an avenue within the State workmen's compensation laws to be able to utilize, and so I would think the Federal Government, and considering its record, would be glad to get out of this business, assuming that workers are going to be protected.

But I think they can be protected when they are protected much better in the States of Kentucky, Pennsylvania, Illinois, and West Virginia with the laws they have right there than what we have in our Federal Black Lung Act.

Mr. BARRETT of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. I am happy to yield to the gentleman from Nebraska.

Mr. BARRETT of Nebraska. Mr. Chairman, may I ask the gentleman from Pennsylvania a quick question? In light of the very conciliatory nature of the gentleman's previous statements which are greatly appreciated, would he be willing to accept my amendment and then work it out in conference with the gentleman from Illinois [Mr. FAWELL], between myself and yourself?

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

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

Mr. MURPHY. Mr. Chairman, I would rather work it out with you without accepting it into our deliberations and, in fact, I just whispered in my staff's ear to get hold of your staff person, whoever is in charge of this.

The CHAIRMAN pro tempore (Mr. WISE). The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(At the request of Mr. MURPHY and by unanimous consent, Mr. FAWELL was allowed to proceed for 30 additional seconds.)

Mr. MURPHY. If the gentleman will yield further, I will, regardless of whether you call for a vote or withdraw or do not, I would like to work that out, because I think we should properly review it. I just do not want it to cost us a lot of money. I do think that Members of Congress, and I will not be here, I think Members of Congress should be included in that study, because this is ultimately where the decision has to be made.

Mr. BARRETT of Nebraska. I appreciate the answer, and I appreciate the openness of the gentleman from Pennsylvania.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague, Mr. BARRETT.

As a member of the Committee on Education and Labor I opposed H.R. 2108 in committee on the grounds that it is fiscally irresponsible—I continue to oppose it today for the same reasons.

As we have mentioned before the Black Lung Benefits Act was intended to be a temporary program—with limited size, with limited duration, with limited cost, none of which have been followed through.

The program, despite reforms, continues to escalate in cost, and 25 years later, is hardly temporary.

Today, the Congressional Budget Office estimates that this bill will increase costs under the black-lung benefits program by $195.5 million over 5 years—however this bill does not provide any increase in revenues to offset the increase in direct spending. This trust fund is already nearly $4 billion in debt.

This program will continue to cost taxpayers hundreds of millions of dollars over the next 5 years.

Coal mining families that had previously been overlooked by State laws have had a fair chance to obtain benefits under the Federal program.

And in fact, the Department of Labor has reported that all workers' compensation laws in coal-mining States today afford higher benefits for total disability or death due to black-lung disease.

So the time has come to take some action. This amendment would provide for an independent and impartial review of whether the Federal temporary black-lung program should be terminated.

I ask my colleagues to support this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Nebraska [Mr. BARRETT].

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

RECORDED VOTE

Mr. BARRETT of Nebraska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 265, not voting 11, as follows:

[Roll No. 184]

AYES—162

Allard	Goodlatte	Morella
Archer	Goodling	Nussle
Armey	Goss	Oxley
Baker (CA)	Grams	Packard
Baker (LA)	Greenwood	Paxon
Ballenger	Gunderson	Penny
Barrett (NE)	Hancock	Petri
Bartlett	Hansen	Pombo
Barton	Hastert	Porter
Bateman	Hefley	Portman
Bereuter	Herger	Pryce (OH)
Bilirakis	Hobson	Quillen
Bliley	Hoekstra	Ramstad
Blute	Horn	Ravenel
Boehlert	Houghton	Regula
Boehner	Huffington	Roberts
Bonilla	Hunter	Rohrabacher
Bunning	Hutchinson	Ros-Lehtinen
Burton	Hyde	Roth
Buyer	Inglis	Roukema
Callahan	Inhofe	Royce
Calvert	Johnson (CT)	Saxton
Camp	Johnson, Sam	Schaefer
Canady	Kasich	Schiff
Castle	Kim	Sensenbrenner
Clinger	King	Shaw
Coble	Kingston	Shays
Collins (GA)	Klug	Shuster
Combest	Knollenberg	Skeen
Cox	Kolbe	Smith (MI)
Crane	Kyl	Smith (NJ)
Cunningham	Lazio	Smith (OR)
DeLay	Leach	Smith (TX)
Dickey	Levy	Snowe
Doolittle	Lewis (CA)	Solomon
Dornan	Lewis (FL)	Spence
Dreier	Lightfoot	Stearns
Duncan	Linder	Stump
Dunn	Livingston	Sundquist
Ehlers	Lucas	Talent
Everett	Manzullo	Taylor (NC)
Ewing	McCandless	Thomas (CA)
Fawell	McCollum	Thomas (WY)
Fields (TX)	McCrery	Torkildsen
Fingerhut	McHugh	Upton
Fish	McInnis	Vucanovich
Fowler	McKeon	Walker
Franks (CT)	McMillan	Walsh
Franks (NJ)	Meyers	Weldon
Gallegly	Mica	Wolf
Gallo	Michel	Young (AK)
Gekas	Miller (FL)	Young (FL)
Gilchrest	Molinari	Zeliff
Gingrich	Moorhead	Zimmer

NOES—265

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
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
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Hoyer
Hughes
Hutto
Inslee
Istook
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
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Blackwell
Dixon
Emerson
Faleomavaega (AS)
Gibbons
Grandy
Nadler
Neal (NC)
Parker
Stokes
Washington

□ 1626

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Stokes against.

Mr. VALENTINE and Ms. SHEPHERD changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHNER: Strike section 8 and redesignate sections 9, 10, and 11 as sections 8, 9, and 10, respectively.

Mr. BOEHNER. Mr. Chairman, the great thing about this country is that people who fail are often times given a second chance to succeed. In business, there is always another venture. In sports, there is always another game. However, the bill before us would give another chance to 87,000 individuals who have had their black lung claims denied since 1982. They will be able to refile their claims, as if their original claim had never been filed. While giving them another chance may sound all-American, it is in reality, fiscal and administrative nonsense. This is why I am offering this amendment to strike the refiling section.

Many of the individuals who had their claims denied did not satisfy the medical criteria for black lung benefits. Under the provisions of this bill, these people, without having to show any change in their medical condition, will be able to refile their claims. Not only will the file from the previous claim be totally ignored, new rules of evidence will be in effect. For those who are unfamiliar with these new rules, let me briefly explain them to you. They allow the claimant to submit three medical exams, while the opposing party only gets to submit one exam. To top it all off, prevailing weight is to be given to the claimant's physician. I am hard pressed to figure out how we can tilt the playing field any more favorably toward the claimants.

This refiling section is blatantly unfair. After legitimately losing a claim, we are going to give claimants another bite at the apple, and on much more favorable terms. In the end, the Congressional Budget Office estimates this section will cost the American taxpayer $42 million—and this estimate does not include the new awards that will have to be paid out of the black lung trust fund or the ensuing administrative nightmare.

We only need to look back to 1972 and 1977 to realize the financial implications of this section. In both years, rejected claimants were permitted to refile. In 1972, 70,000 claims ended up being reversed at a cost of $9 billion. In 1977, 60,000 claims ended up being reversed at a cost of $7.5 billion.

There is also the issue of whether this section is necessary in the first place. Current law provides for a refiling of a claim if a claimant has new medical evidence or experiences a material change in their condition.

Finally, I have received the administration's position on this bill. They have requested that this measure be limited to eight separate provisions. Allowing failed claimants to refile their claim is not among these provisions. In short, the administration's silence on this point speaks volumes about their position on this section.

This section is unnecessary. Out of a sense of fairness, and fiscal and administrative sanity, I urge my colleagues' support of this amendment.

□ 1630

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the amendment. As the debate throughout the course of today has shown on numerous occasions, the process through which these denied claimants have been put over the last decade or so has been horrendous. The black lung program has been administered in a fashion that has been aimed squarely at reducing the number of claims that have been approved.

This amendment would say that people who in the past, who are victims of this horrendous journey, who are victims of this bureaucratic nightmare, cold and uncaring, could not come forth to seek a new day in court. These are claimants, mind you, that have been denied their benefits in the past by administrative shenanigans, by maneuverings that have been aimed solely at denying them their legitimate benefits.

During a hearing on the black lung program conducted by the Subcommittee on Labor Standards several years ago in my hometown of Beckley, WV, one witness aptly described the current situation in this way, quoting from his testimony:

> Coal miners who were strong and vigorous workers have been reduced by years of inhaling coal dust to broken bodies, to strain for every breath. They are forced to go through degrading, humiliating and seemingly endless contests in a generally futile effort to obtain benefits and medical care, a paltry compensation for the destruction of their health.

Indeed, they have been humiliated. They have been subject to endless contests. They have been subject to maneuverings and lawyers and big company protests, and delays that have caused them only suffering of their health. Indeed, many of them have succumbed to death.

So I say, let us defeat this amendment. Let us give these people a chance

to be reviewed under a fair and just system, that levels the playing field, rather than the slanted, stilted system that has existed in the past.

I urge defeat of the Boehner amendment.

Mr. FAWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if this is not deja vu all over again, I do not know what is. The previous speaker said that everything has been aimed at causing miners to go through all kinds of circumstances, and that the failure to have awards was due to the system.

Yet in 1972, I do not know how many thousands of refilings were allowed. In 1977, 125,000 refilings were allowed; in 1995, another 87,000. Ever since the Black Lung Benefits Act has been in being, it just has not delivered the bacon, and therefore we just refile and refile and refile. I have never known a system of justice that has done it like this.

Still in 1977 it was done in spades, all kinds of presumptions, all kinds of restrictions. Everything in the world was done to be able to get victory for more and more awards. But for some reason it does not happen.

We found out, unfortunately, in 1977, when there was no black lung fund debt, that, lo and behold, we created a monster. And by 1981, what did we have? $1.5 billion. We had all those refiled cases. And what happened? The insurance companies took a walk and said: "We walk away from our workmen's comp policies. We didn't hire out to sell our policies on the basis we had to defend over and over again, just because the Congress doesn't like the results."

So they took a walk. And we found the responsible operators, coal operators, they had to self-insure. There was catastrophe. So bad, in fact, that unions and coal operators and the administration all got together and said "Oh, my God, we have to do something. We have screwed this up so badly." And they came up with the reforms.

They got rid of these presumptions. They got rid of these evidentiary restrictions. They transferred 12,000 cases from the operators over to the black lung fund, or else they would not have been able to even put the reform program through.

Indeed, we finally did have some success in slowing the fantastic growth of debt. We did not stop it, because now the black lung fund is $4 billion and growing. So we know we still have to do something to control this bankrupt insurance company that we are operating.

And what do we do? We say let us go to the future by going back to the 1970's. Do it in spades. Do it again. You have a different administration. They might even sign it. They might be dumb enough to sign it. But the administration is not that dumb. They are not endorsing what you are doing. They are saying no.

OMB comes out and points out that the damage which is going to be done to the black lung fund, my friends, is more than just what they have estimated for the first 5 years, because the real avalanche comes in years 5, 6, 7, and on out to 19, 20, and 25 years. Under the actuarial studies that nobody has rebutted because of the absolute truth, for every case that is successful, and CBO says you are going to have 20,000 new awards, new successes, out of the 80,000 that can file, 20,000 will hit the jackpot and win this time.

□ 1640

Ten thousand will be cases against the coal operators. Ten thousand will be against the black lung fund, the bankrupt black lung fund. That is going to be $225,000 per case, because it is a total disability for life.

I know that we in Congress do not like to look at things like that, but do Members know what the coal operators will do? Do they know what the insurance companies will do? The will immediately take $125,000. They will put it in reserve, and that is how they are going to pay for this.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. Mr. Chairman, that is what sensible people will do. But sensible things we do not do in Congress. Workmen's comp insurers will put down $125,000, will invest it, and they know that as you go through the next 10, 20, 30 years or so, whatever it may be, you have got the money there to be able to give the help that you are planning to give.

We do not do that. We just simply say, when the time comes, when the bills start rolling in, we will just borrow more from the taxpayers. So we can build a $4 billion fiasco into a $8 billion fiasco. That is what we are doing.

The gentleman from Ohio [Mr. BOEHNER] is hitting the very heart, the very heartbeat of this bill, which is special interests, unfortunately, and it is not doing any favors for the people who really have black lung disease.

They have to prove it. They have to prove it. They have to have some doctors come in and show that they have respiratory illness that comes from coal dust, not from smoking or something like that. I would say, this is a must amendment. If we cannot vote for this, I do not know what we can do to help posterity in this country.

Mr. HOLDEN. Mr. Chairman, I move to strike the requisite number of words.

As the great grandson and grandson of anthracite coal miners, I rise in strong opposition to the amendment and in strong support of the bill.

Mr. Chairman, in 1981, the scales were tipped against hard-working men who gave their health and in many cases their lives to fuel this country. Many deserving men have been denied benefits. Many deserving widows have been denied benefits.

Mr. Chairman, I ask my colleagues today, do what is fair. That is what we are asking. We want to level the playing field. We want to give people a chance to hand in legitimate claims and have those claims awarded. We are not asking for illegitimate claims to be awarded. We are asking for legitimate claims to be awarded.

I ask my colleagues, do what is right, allow for a fair hearing and allow people to go back to 1981, when the scales were tipped against them, and allow them a fair day in court and a fair hearing.

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

Mr. HOLDEN. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, I want to tell my colleagues that this is a very sad day for me to be in the House of Representatives. I never thought I would hear on the floor of this House the kind of rhetoric that I have heard today.

We ought to be ashamed. How can you stand up and talk about hitting the jackpot as if this were some kind of a lottery that you are going to have on the 6 o'clock news. These people are sick. These people are ill. And if they are hurt and they are Americans, we should be taking care of them.

You do not mind spending billions of dollars, I heard you get up on this floor, many of you today that are voting against this, and say, let us give billions of dollars across the seas to our so-called allies who will not ever support us, our American fighting men and women. But you will not devote a dime to people that are dying.

You talk about people getting $225,000 for total disability for life; $245,000, you think that is enough? Shame on you.

It is a disgrace for you to be on the floor and say this kind of thing to us. And if you want to associate yourselves as Republicans, I am going to tell you, it is not the kind of Republicans I have been dealing with on so many of these issues. How can you stand there with people who are ill and dying and say to them and look in their faces and say, you are a statistic and you do not count in this Congress. You are not a good enough American to have the same kind of health care.

I want to know how many of you have black lung disease? I want to know how many of you are going to stand up here and tell everybody else who has it that they are not eligible for this. You talk about posterity.

What will the posterity be for these people who have it?

I do not have anybody in my district with black lung disease, but by God, I am an American who is going to stand here and say to all of us, let us end this disgraceful debate. How can anybody be seeing us on this floor, watching us across the country and not weep with despair that the Congress of the United States would deny a single American in the situation that these people are in what we would give anybody who is in need.

Jesus wept. Jesus wept, indeed, that we can have this kind of conversation today. End this disgraceful episode. Vote against this amendment, and let us vote through what these people deserve.

Mr. THOMAS of Wyoming. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Ohio. We ought to take a little look at the facts. It is great to get up with great emotion, and I understand and everyone in here is as caring as the gentleman who just spoke.

If someone came from somewhere else and listened to that, they would say we have not done anything for people with black lung. We spend $30 billion, and we continue to and we should. That is not the question. That is not the point.

The point is to deal with the issues in a balanced way so that we can continue to do it, that we can pay our bills and that we can do these things.

A Member can come up the next day and have the very same speech about some other group, if they have to find some way to do it levelly and balanced, and that is what we are seeking to do.

This amendment deals with a particularly troublesome aspect of the legislation. Under this bill all claimants with black lung benefits would be given the opportunity to refile claims and have their cases reconsidered. This does not make sense.

In addition, this bill throws out all the evidence compiled prior to this one on the claim and against the process from square one. How much sense does that make? How much sense does that make?

Provisions in this bill allow for claimants to refile their claims, providing no better example of why this bill is a massive expansion of a Federal entitlement program that has already cost $30 billion, that is already $3.5 billion in the hole. That is where it is, and that is what we are trying to do here today, is to do something that is reasonable, to do something that we can pay for.

I support the gentleman's amendment and urge my colleagues.

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

Mr. THOMAS of Wyoming. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, the gentleman from Hawaii made certainly an emotional appeal to all of us. Nothing that we are trying to do here is trying to deny legitimate black lung benefits to any American who has that disease.

But I find it interesting that in 1972, we had to open up this program and allow people to re-file because not enough people were getting benefits under the program the way it was originally designed. And then in 1977, we opened up the program again and allowed everybody who had been denied a chance to re-file their claim. And here we are, again in 1994, wanting to go back for the last 13 years and say, if you have had your claim denied, we are going to let you have another bite at it under more liberalized rules.

The fact is that we want to help those who legitimately have black lung, but what we do not want to do is to put the American taxpayer at risk for a pension program for people who live in coal areas that are disabled not from black lung but for a bunch of other reasons.

It is that responsibility to the American taxpayers that some of us in this Chamber take very seriously and stand here today and say, this program brought here by the gentleman from Pennsylvania is going to cause abuse. And it is going to put American taxpayers at risk and those people who mine coal and their operators, also put them at risk.

This amendment is a good amendment. It eliminates the re-filing which is the most onerous part of the bill that we have in front of us today.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words, and oppose the amendment and very seriously so.

The gentleman from Ohio would have us believe that these ill, infirmed, and I mean, aged miners are committing fraud and deception and they are getting benefits for some other reason that pneumoconiosis, the destruction of their lungs.

□ 1650

Mr. Chairman, we have specifically always had in the law, and we include in this bill, that any fraud and deception in the filing of these claims will eliminate all interim benefits, will eliminate all benefits and throw them out the door forever. I would not want Members to have our colleagues believe that any of these benefits have been granted where there is that type of fraud and deception. There is not, Mr. Chairman.

What this amendment proposes to do is strike out the clause that merely says that a miner who has been denied benefits since 1981, and I will remind the gentleman that his party and his President in 1981 stripped 97 percent of the eligible Black Lung recipients from their benefits in that reconciliation bill in 1981. I remember it well. Since that time, very, very few miners' claims have been approved.

We do not say reexamine every claim, as we did in the 1972 act signed by President Nixon, as was done in the 1977 act signed by President Carter. We do not mandate that. We merely say that a miner who has been denied benefits since 1981, and we are not going back to 1972, 1977, or 1969, only those who have been denied under the unfair rules that we have been operating with for the past 14 years, be allowed, just be allowed to fill out a lengthy form, submit it to the department, and say, "Do I have it or not," under some fair rules where he may bring in an equal amount of medical evidence, where he may have an attorney that is at least paid a few dollars to represent him and help him fill out the forms.

All we are asking is for a level playing field, and that those miners not have their claim automatically renewed; not 80,000 or all those figures they come up with. I will bet there will not be 8,000 to 10,000 applications total nationwide. There are not that many left. We are talking about 14 years preceding this, none before, and only those in the 14 years. There were only 70,000 of them at that time who were eligible to file, so there cannot be that many of them left.

We do not order a review, only that they have a right, Mr. Chairman, and the gentleman himself said that we give everybody a second chance; yes, everybody except a disabled miner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. BOEHNER].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 258, not voting 14, as follows:

[Roll No. 185]

AYES—166

Allard	Callahan	Dunn
Archer	Calvert	Ehlers
Armey	Camp	Everett
Bachus (AL)	Canady	Ewing
Baker (CA)	Castle	Fawell
Baker (LA)	Clinger	Fields (TX)
Ballenger	Coble	Fish
Barrett (NE)	Collins (GA)	Fowler
Bartlett	Combest	Franks (CT)
Barton	Cox	Franks (NJ)
Bateman	Crane	Gallegly
Bereuter	Crapo	Gallo
Bilirakis	Cunningham	Gekas
Bliley	Deal	Geren
Blute	DeLay	Gilchrest
Boehner	Dickey	Gillmor
Bonilla	Doolittle	Gingrich
Bunning	Dornan	Goodlatte
Burton	Dreier	Goss
Buyer	Duncan	Grams

Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lightfoot
Linder
Livingston
Lucas
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Nussle
Orton
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—258

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
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
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
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
Lloyd
Long
Lowey
Maloney
Manton
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—14

Dixon
Emerson
Faleomavaega (AS)
Grandy
Hutto
Lewis (FL)
Markey
McMillan
Nadler
Neal (NC)
Parker
Thomas (CA)
Torres
Washington

□ 1713

Ms. LAMBERT changed her vote from "aye" to "no."

Messers. BUYER, GUNDERSON, OXLEY, and SCHAEFER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to the bill?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DE LA GARZA) having assumed the chair, Mr. WISE, 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. 2108) to make improvements in the Black Lung Benefits Act, pursuant to House Resolution 428, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FAWELL

Mr. FAWELL. [Mr. Speaker, I offer a motion to recommit.]

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FAWELL. Yes, I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FAWELL moves to recommit the bill H.R. 2108 to the Committee on Education and Labor.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. FAWELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 166, not voting 15, as follows:

[Roll No. 186]

AYES—252

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCloskey

McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—166

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Levy
Lewis (CA)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Penny
Petri
Pickett
Pombo
Portman
Pryce (OH)
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Dixon
Emerson
Grandy
Hoke
Lewis (FL)
Livingston
Markey
Nadler
Neal (NC)
Parker
Pomeroy
Slattery
Thomas (CA)
Torres
Washington

□ 1734

The Clerk announced the following pairs:

On this vote:

Mr. Slattery for, with Mr. Thomas of California against.

Mr. Washington for, with Mr. Grandy against.

Mr. Nadler for, with Mr. Lewis of Florida against.

Mr. ZIMMER changed his vote from "aye" to "no."

Messrs. HOAGLAND, FOGLIETTA, and HUGHES changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REPORT ON H.R. 4453, MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1995

Mr. HEFNER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–516) on the bill (H.R. 4453) making appropriations for military construction and family housing for the Department of Defense for the fiscal year ending September 30, 1995, which was referred to the Union Calendar and ordered to be printed.

Mrs. VUCANOVICH reserved all points of order on the bill.

REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1995

Mr. HEFNER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 103–517) on the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. YOUNG of Florida reserved all points of order on the bill.

EXTENDING TIME PERIOD FOR COMPLIANCE WITH THE NUTRITION LABELING AND EDUCATION ACT OF 1990 FOR CERTAIN FOOD PRODUCTS

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2087) to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994, 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?

Mr. BLILEY. Mr. Speaker, reserving the right to object, and I shall not object, but I take this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] to explain the reason for this request.

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

Mr. BLILEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, the final regulations for the Nutrition Labeling and Education Act of 1990 became effective on May 8 of this year. The implementation of this act represents a magnificent achievement on the part of the Federal Government and American industry. It will greatly benefit consumers.

The vast majority of companies have been able to meet the May 8 deadline. However, there are a number of companies that have sought a 3-month extension of the deadline either because of the backlog in printing labels or because they have a large inventory of containers and labels that do not comply with the new rules. We have been informed that these containers and labels are worth millions and perhaps tens of millions of dollars.

This bill will grant a 3-month extension for compliance with the NLEA with respect to certain products. This brief extension will allow companies to use this excess inventory, but will not in any way undercut the basic benefits of the NLEA.

I urge my colleagues to support this bill.

Mr. BLILEY. Mr. Speaker, further reserving the right to object, this bill simply extends the May 8, 1994, deadline for all companies to be in compliance with the Nutrition Labeling and Education Act for another 3 months. Companies that had printed labels before May 8, 1994, will be able to continue to use their old nutrition labeling until August 8, 1994. This will enable companies to avoid the economic and environmental waste of discarding millions of labels.

Mr. Speaker, I withdraw my reservation of objection.

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. 2087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before August 8, 1994, section 403(q) and 403(r)(2) of the Federal Food, Drug, and Cosmetic Act and the provision of section 403(i) of such Act added by section 7(2) of the Nutrition Labeling and Education Act of 1990, shall not apply with respect to a food product which is contained in a package for which the label was printed before May 8, 1994 (or before August 8, 1994, in the case of a juice or milk food product if the person responsible for the labeling of such food product exercised due diligence in obtaining before such date labels which are in compliance with such sections 403(q) and 403(r)(2) and such provision of section 403(i)), if, before June 15, 1994, the person who introduces or delivers for introduction such food product into interstate commerce submits to the Secretary of Health and Human Services a certification that such person will comply with this section and will comply with such sections 403(q) and 403(r)(2) and such provision of section 403(i) after August 8, 1994.

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.

□ 1740

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 4385, THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1994, THE LEGISLATIVE BRANCH APPROPRIATIONS BILL FOR 1995, AND THE FOREIGN OPERATIONS APPROPRIATIONS BILL FOR 1995

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

Mr. MOAKLEY. Mr. Speaker, Mr. Speaker, the Rules Committee is scheduled to meet during the week of May 23 to grant rules for the following bills: H.R. 4385, the National Highway System Designation Act of 1994, the foreign operations appropriations bill for fiscal year 1995, and the legislative branch appropriations bill for fiscal year 1995. The committee may report rules which would permit only those floor amendments designated in the particular rule for the particular bill. The committee has circulated individual "Dear Colleagues" outlining the parameters for submission of amendments for each bill. For H.R. 4385, the National Highway System Designation Act of 1994, the committee requests that 55 copies of each amendment to the bill be submitted to the Rules Committee no later than 12 noon on Monday, May 23. It is my understanding that the Public Works and Transportation Committee will file H.R. 4385 sometime today.

Copies of the text of the bill are currently available at the Public Works and Transportation Committee at 2165 Rayburn, for Members who intend to offer amendments to H.R. 4385.

Regarding our plans with respect to the Foreign Operations Appropriations Act for fiscal year 1995, Members should submit 55 copies of their amendment no later than 12 noon on Tuesday, May 24.

And finally, with respect to the legislative branch appropriations bill for fiscal year 1995, filed this afternoon, the committee requests that Members interested in offering amendments to the bill submit 55 copies of their amendment to the Rules Committee no later than 5 p.m. on Tuesday, May 24.

It is my understanding, Mr. Speaker, that copies of the bills will be available, to Members and staff preparing amendment, in the Appropriations Committee office, located in room H-218 of the Capitol Building, on the afternoon of Friday, May 20. One copy of each of the bills will be made available to Members' offices only.

We appreciate the cooperation of all Members in our effort to be fair and orderly in granting each of these three rules.

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

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would like to inquire of the chairman as to whether or not this is the beginning of a process in which we will be considering rules on all appropriations bills? Is there any indication as to whether or not this is a pattern that has begun?

This is something that does concern me, in light of the fact that appropriations are privileged resolutions which, frankly, can come straight to the floor here.

Mr. MOAKLEY. Mr. Speaker, reclaiming my time, as the gentleman may recall, because the gentleman from California [Mr. DREIER] has such an extensive memory, there were only two appropriations bills that were so structured last year, and those are two of the three that are here.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

The SPEAKER pro tempore (Mr. DE LA GARZA). Pursuant to House Resolution 429 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. 4301.

□ 1743

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. 4301) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes, with Mr. DURBIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 18, 1994, amendment No. 2 printed in part 3 of House Report 103-509 offered by the gentleman from Texas [Mr. BRYANT] had been disposed of.

Pursuant to the notice of the Committee of Wednesday, May 18, 1994, it is now in order to consider amendment No. 1 printed in part 3 of House Report 103-509.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, on behalf of myself, the gentleman from Connecticut [Mr. SHAYS], the gentlewoman from Oregon [Ms. FURSE], and the gentleman from Michigan [Mr. UPTON], I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK of Massachusetts:

At the end of title X (page 277, after line 2) insert the following new section:

SEC. 1038. REDUCTION OF UNITED STATES MILITARY FORCES IN EUROPE.

(a) END STRENGTH REDUCTIONS FOR MILITARY PERSONNEL IN EUROPE.—Notwithstanding section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), but subject to subsection (d), for each of fiscal years 1996, 1997, 1998, and 1999, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization in accordance with subsection (b).

(b) REDUCTION FORMULA.—

(1) APPLICATION OF FORMULA.—For each percentage point that the allied contribution level determined under paragraph (2) is below the goal specified in subsection (c) as of the end of a fiscal year, the Secretary of Defense shall reduce the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO by 1,000 for the next fiscal year. The reduction shall be made from the end strength level in effect, pursuant to section 1002(c)(1) of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), and subsection (a) of this section (if applicable), for the fiscal year in which the allied contribution level is below the goal specified in subsection (c).

(2) ALLIED CONTRIBUTION LEVEL.—To determine the allied contribution level with respect to a fiscal year, the Secretary of Defense shall calculate the aggregate amount of nonpersonnel costs for United States military installations in European member nations of NATO that are assumed during that fiscal year by such nations, except that the Secretary may consider only those cash and in-kind contributions by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

(c) ANNUAL GOALS FOR FORCE REDUCTION.—In continuing efforts to enter into revised

host-nation agreements as described in section 1301(e) of National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President is urged to seek to have European member nations of NATO assume an increased share of the nonpersonnel costs of United States military installations in those nations in accordance with the following timetable:

(1) By September 30, 1995, 18.75 percent of such costs should be assumed by those nations.

(2) By September 30, 1996, 37.5 percent of such costs should be assumed by those nations.

(3) By September 30, 1997, 56.25 percent of such costs should be assumed by those nations.

(4) By September 30, 1998, 75 percent of such costs should be assumed by those nations.

(d) EXCEPTIONS.—

(1) MINIMUM END STRENGTH AUTHORITY.—Notwithstanding reductions required pursuant to subsection (a), the Secretary of Defense may maintain an end strength of at least 25,000 members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO.

(2) WAIVER AUTHORITY.—The President may waive operation of this section if the President declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver.

(e) ALLOCATION OF FORCE REDUCTIONS.—To the extent that there is a reduction in end strength level for any of the Armed Forces in European member nations of NATO in a fiscal year pursuant to subsection (a)—

(1) half of the reduction shall be used to make a corresponding reduction in the authorized end strength level for active duty personnel for such Armed Force for that fiscal year; and

(2) half of the reduction shall be used to make a corresponding increase in permanent assignments or deployments of forces in the United States or other nations (other than European member nations of NATO) for each such Armed Force for that fiscal year, as determined by the Secretary of Defense.

(f) NONPERSONNEL COSTS DEFINED.—For purposes of this section, the term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes, and the gentlewoman from Tennessee [Mrs. LLOYD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent that I be allowed to give 15 minutes to my coauthor, the gentleman from Connecticut [Mr. SHAYS], and that he be allowed to manage that time.

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

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, to begin this debate, I yield 3 minutes to the majority whip, the gentleman from Michigan [Mr. BONIOR], the gentleman who pioneered the approach this amendment takes a few years ago when he offered an amendment that provided that Japan be asked to do what we here ask Western Europe to do.

Mr. BONIOR. Mr. Chairman, I want to applaud my colleagues from both sides of the aisle for offering this amendment today.

Mr. Chairman, there was once a time when America needed to foot the bill to defend our allies—when Europe lay in ashes after World War II, when the Marshall Plan was helping our allies rebuild, and even during much of the cold war—we were the only ones who were in the position to pay these expenses.

And we paid—at great sacrifice to ourselves—but we paid.

But that time has come and gone.

In 1990, Mr. Chairman, I offered an amendment that required Japan to pick up a fair share of their own defense.

Then, as now, critics said it would not work.

They said it would disrupt our defense alliances—and interfere with our relationships with our allies.

They said these countries couldn't afford to pay.

Well, let me tell you what happened.

The amendment passed with overwhelming bipartisan support.

And at 11 that night, I got a call from the Japanese Ambassador.

He called to tell me that as a result of the House action, the Japanese cabinet met in special session—and had agreed to increase Japan's contribution to the Persian Gulf war from $1 to $4 billion.

Eventually—they more than doubled that amount.

And within a year, Japan was paying half of the total cost to station United States troops there.

We would like it to be more—and it should be more—but at least they are paying for half.

The lesson to be learned from that experience is that burden sharing works.

The lesson is that when you get tough—you get respect.

And when you get respect—you get results.

With this amendment, we are saying that it is time for our European allies to pay their fair share, too.

It's not like they cannot afford to pay, Mr. Chairman.

Think about it: this year, for example, we will spend at least $4 billion—not counting salaries—to defend Germany.

Yet, Germany has wage rates that are about 140 percent of ours. They have national health care, parental leave, child care, a national job-training program, and a month's paid vacation for all their workers.

And to top it all off, last quarter, Germany ran a trade surplus with the United States of about $10 billion.

Yet, we are spending $4 billion to defend them?

It doesn't make any sense, Mr. Chairman. Not any more.

It's time for our European allies to pay their fair share.

We are proud of the role that the United States has played in the defense of freedom throughout the world. And we must and we will continue to lead the world with our military strength.

But there is no reason why American taxpayers should continue to foot the bill to defend countries that are more than capable of paying for their own defense.

This amendment says that the days of the free ride are over, and I urge my colleagues to support it.

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

Mr. Chairman, I rise in opposition to the Frank amendment because it would jeopardize what we have achieved in Europe over the past 50 years. It would jeopardize our country's ability to sustain its strategic interests abroad.

We cannot go below the 100,000 troop ceiling established by the Congress in the fiscal year 1993 defense authorization bill. The President has used that personnel limit in making his commitments to our European allies and I think we must keep our word and stand by those commitments.

Last year during my visit to countries in Central and Eastern Europe as chair of the committee's North Atlantic assembly panel, I was repeatedly asked by the leaders of those countries if the United States would continue to maintain a military presence of 100,000 troops in Europe as promised. Respecting the United States for its role in ending the cold war and bringing the opportunity for democracy to their countries, these new leaders of former Soviet Block countries wanted the assurance that the United States would continue to participate in the security of the European continent while they struggle to build democratic governments.

Mr. Chairman, I would like to read from a recent letter the Secretary of Defense, William J. Perry, sent to the chairman of the House Armed Services Committee.

Dear Mr. Chairman: I would like to express my concern about the potential damage to U.S. national interests that would result from burdensharing legislation such as the amendments being offered by Mr. FRANK and Mr. BRYANT.

Rather than compelling our European allies to greater burdensharing these amendments would force the withdrawal of U.S. troops from Europe, and with them would go our leadership position in NATO, and our ability to promote and protect our vital national interests in Eastern Europe. The extremely effective security structure which has served U.S. interests for more than 40 years would be shattered.

At the NATO summit in January, the President reaffirmed the U.S. commitment to Europe. He did this because our own security and well-being are inextricably tied to European stability. Pulling our forces out of Europe would undercut this interest, creating uncertainty and putting the U.S. itself at risk.

The Administration shares the Congress's concern about equitable "burdensharing" and this remains a primary administration policy. However, to make this the basis of our European policies would be shortsighted in the extreme. Moreover, it does not take into account the total contribution of our European allies to our common security interests today. Consider, for example, the stabilizing effect of European financial assistance to the East and the costs that the U.S. will not have to pay because of these efforts.

The Administration has made good progress in adapting NATO to the new post-cold war security environment. More still needs to be done. Forcing the withdrawal of U.S. forces from Europe would undercut U.S. leadership of NATO during this critical time of transition.

Mr. Chairman, that concludes the Secretary of Defense's remarks on this amendment. I hope my colleagues will give them serious consideration and vote against the Frank amendment.

□ 1750

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

Mr. SHAYS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON], a coauthor of this amendment in support of burdensharing.

Mr. UPTON. Mr. Chairman, the premise of our amendment is simple and fair: Starting in 1996, if our allies don't increase their payments, we will gradually reduce our troops. What is wrong with that?

A number of years ago we heard some of the same arguments against burden sharing that we'll hear tonight. Back then, we were hammering out a way to get Japan to pay its fair share for our military presence there.

Some of our colleagues argued that we weren't in Japan merely to defend the Japanese, but that we use Japan as a base to protect our interests in an entire region.

Well, who could quibble with that logic? We don't maintain European bases simply to provide security for our host nations.

When we talk burden sharing, let's emphasize the word sharing. Let's understand that our regional interests are the shared interests of the nations in which we house our troops.

For many years, we've talked about how burden sharing is a nice idea. We've talked about how burden sharing is a laudable goal. The fact is we've talked and talked and talked and talked and talked about demanding that our European allies pay their fair share. Now, it's time to act.

Our host-nation support agreement with Japan requires Japan to pay 75 percent of the nonsalary costs for U.S. troops by 1995. Yet while Japan has agreed to pay 75 percent of all nonpersonnel costs for our military bases there, European countries typically contribute a puny 5 to 20 percent.

When we're saying "no" to increased funding for good programs that benefit people here at home, how can we continue to say yes to a $5 to $10 billion direct cash subsidy for the defense of wealthy European countries like Germany, France, Italy, and the United Kingdom?

Groups like the National Taxpayers's Union and the Citizens Against Government Waste strongly support the amendment before us today.

In their letter of endorsement, the National Taxpayers Union said:

This imbalance hurts Americans in two respects: As taxpayers, who must shoulder the burden of defense spending through high taxes or deficits; and as consumers, who are put at a competitive disadvantage to other countries whose economies need not bear the full price for defending their own territories * * *. It is time to eliminate unnecessary taxpayer subsidies abroad as well as at home.

Citizens Against Government Waste states the situation simply:

Your amendment serves the men and women of our armed forces in two ways: By freeing up the funds for the best weapons and support we can give them, and by using their tax dollars prudently.

Mr. Chairman, I was sadly disappointed when I read the front page of today's Washington Post quoting the chairman of the House Appropriations Committee, who said "we're cutting meat from the bone," referring to Head Start, a wonderful program.

Both he and the chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Services, TOM HARKIN, are saying we can only finance about 18 cents of every dollar authorized for health programs. Breast cancer research and other very worthwhile programs and everything else will indeed suffer.

We need to change some priorities in the spending process, and that means other countries need to begin serious burden sharing. This bill saves the taxpayers almost $5 billion.

This amendment is a start in the right direction toward fiscal sanity and responsibility.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I rise in strong opposition to this amendment, and I thank the gentlewoman for yielding time to me.

It is easy to be partisan on this issue. Here we have President Clinton saying it is a bad amendment. We have Secretary Perry saying it is a bad amendment. We have Secretary Christopher saying it is a bad amendment. I, as a Republican, I could get up here and I could demagog and say it is a bad amendment and run home and get headlines in my newspaper saying I am great. I voted to bring all of our troops back home unless our foreign allies put money up.

I am proud of the golden bulldogs. I had, just as my colleague from Michigan is proud of his, for my votes as a fiscal conservative. But we are not here to get headlines back home. We are here to do the right thing.

We are here not to just protect the interests of our allies. We are here to protect America's interests. That is why our Secretary of State, that is why our Secretary of Defense, and that is why the majority of the members of the Committee on Armed Services who have looked at this issue in depth on both sides of the aisle think that we are making real progress in burden sharing.

In fact, we have brought home 40 percent, we have had a 40-percent reduction in our troops just in the last several years.

Let us get the facts on the table, Mr. Chairman. Everyone of our colleagues in this body wants burden sharing. There is no one group that wants to burden share and the others who want to send all of our money overseas. All of us want to burden share. But we want to do it in a way consistent with our foreign policy.

In this case, I want to support the administration. They know it is a very critical point in time. The European nations are at a terrible point where they do not know which way to go. This administration has taken a leadership role. They just passed a partnership for peace. And guess what, Mr. Chairman, the partnership for peace is going to be implemented by U.S. troops working our allies. Now what we are saying here is, let us pull the plug out. Let us not worry about what President Clinton said, about what Secretary Christopher or Secretary Perry say. Let us pull the plug, because we want the headlines back home that we really are for having the foreign allies pay their fair share of the costs. That is a bunch of baloney.

All of us in this body are for burden sharing, but we want to do it in the right way. I am willing, as a Republican, to give this administration a chance to do it logically, consistently and in the best interests of our foreign policy and not just to score cheap headlines.

Mr. FRANK of Massachusetts. Mr. Chairman, I am grateful for a very, very brief flicker of bipartisanship on the other side. I do not expect it to last too long.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], whose name has been invoked and who has, in fact, been the pioneer in the whole area of burden sharing.

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

Let us try and do something unique here. Let us try and look at the facts.

This is not about pulling our troops out of Europe, no, no, no.

Yes, I worked very hard to say that there should be no more than 100,000 troops in Europe.

□ 1800

That is one of the goals they are working to. They can all stay there, every one of them can stay there, if the allies work toward paying 75 percent of the cost of keeping them there, other than salaries. That is all. That is all it is. It is really very simple. If the allies think they are so important, this is a terrific deal for them.

I also must say, think of how expensive it is to maintain people there on rotations, on the cost of deploying over there. We got so used to assuming those costs that I love the people who come and say they are all for burden-sharing, but not this bill, not this time, not this day, because I got 20 years of those kinds of same statements. Have we not been pushing down here with these amendments, we would have not made the progress we made.

I want to give the Members some facts right out of the burden sharing thing that came from the Defense Department. We insist that they do this report, and in the recent reports the Secretary of Defense says to us, "Please don't call it 'burden sharing,' call it 'responsibility.'"

Okay, let us call it responsibility sharing. That is fine with me. I do not care. The politically correct thing is now "responsibility sharing." However, the Secretary of Defense goes on to say that "Even by that measure, Germany, Norway, Portugal, and the Netherlands, in their overall efforts, could best be characterized as mixed." Boy, that is exciting.

Then when it comes to Belgium, Italy, and Spain, they explain that away as "worse than mixed," but not to worry, because they are on the lower tier, so we certainly would not want to expect more out of them. So they are even failing on responsibility sharing, which is what the Secretary of Defense is saying we should hold them to, which is a lesser standard, for crying out loud.

Then the Secretary of Defense goes on to say that these allies face "persistent economic problems and increasing pressures on their own defense budgets." Do we not?

Not only that, these allies have much better education programs, much better health care programs. They are not talking about cutting Head Start. They would not cut it in a minute. They even immunize all their children, and we only do about 50 percent.

However, we cannot wait to rush to the well to keep saying: "Let us keep pretending like the Soviet Union is going to run over them any minute and we have to pre-position all our troops there so we will be ready."

Wait a minute, we are not protecting West Germany from East Germany, because it is now one country. All the West Germans and the East Germans can now go across the border, and the wall is a speed bump, and we are still there.

I encourage people to finally say, "Let us talk about this." It does not bring one troop home unless they do not start paying at least 75 percent of the cost. Let us keep the facts on the table.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Chairman, I rise in opposition to the Frank amendment. Mr. FRANK has been offering amendments aimed at cutting the defense budget and withdrawing our overseas troops for many years. In some years, he has targeted U.S. troop levels in Europe and Asia. In other years, he has specifically targeted our troops in Europe. His amendment before us now, would result in pulling out of Europe as much as 75 percent of the troops the Congress has decided we need to protect our national interests there.

Mr. FRANK's amendments of yesteryear were after the same sort of deep reductions in our overseas troop levels, but they were offered when we had hundreds of thousands more stationed in Europe alone. I would suggest, Mr. Chairman, that all of us, Mr. FRANK included—regardless of the ideology we espoused during the cold war—need to review our cold-war thinking in the light of new realities. In doing so, we must keep clearly before us the vision of a peaceful, stable world.

With the cold war over, the fundamental challenge becomes that of establishing and securing the peace. We should all realize by now that we can not accomplish that alone. Either we make peace in cooperation with other nations or it will not be made.

Continuing to work closely with our European partners in NATO and extending that partnership to our former adversaries in Eastern Europe, seems to this Member to be the best way to pursue peace and stability in Europe and to extend peace and stability elsewhere.

We all agree that we no longer need our cold-war level of 326 thousand American troops in Europe to pursue those objectives. But, we did decide in this Chamber to support the amendment of the gentlewoman of Colorado and establish in law a ceiling of 100 thousand troops there, and we are cutting back to that level on schedule. The troops we have decided to maintain in Europe are now engaged in pursuing NATO's new missions of peacekeeping beyond NATO's borders and reaching eastward to widen the circle of democracy and stability.

This partnership for peace we are trying to build now throughout Europe holds a great deal of promise for peace and stability not only on that continent but beyond. We should put our shoulders to the wheel to develop partnerships in Europe, including those involving our former adversaries, that we can apply to cooperative efforts to establish and keep the peace there and elsewhere. We need to work together in this way in order to preempt crisis and confrontation—to prevent the next Somalia and the next Bosnia—or to respond to them collectively and effectively if they occur.

Mr. Chairman, our military leadership and troops in Europe are far along in recognizing the challenges of the post-cold war world and working effectively to meet them. We have charged those troops with implementing the partnership for peace and accomplishing NATO's new missions. In my opinion, this is not the time to tell our troops in Europe that we are going to withdraw them.

I urge my colleagues to vote no on this amendment.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE], the other coauthor of this burden-sharing amendment.

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

Mr. Chairman, I want to tell you how my constituents respond when asked the question, "Should our allies bear more of the cost of their defense?" They respond with an overwhelming yes.

The Frank-Shays-Furse-Upton amendment gives us a choice. A real choice. We can choose to invest in our needs, our jobs, our businesses, our education, or we can choose to pick up billions of dollars for Europe's defense costs while they invest their money in their economy and race past us economically. I say the choice is simple. That is the bottom line of the Frank-Shays-Furse-Upton amendment. It is about fairness. It is about common sense.

The other day I heard someone say that the leaders in Europe want us to keep our troops there. Well, of course they do. It is the biggest bargain they could have—they can spend the money they save on other needs. I say it is time they begin to pay their fair share.

Well, Mr. Chairman, the people of Oregon have needs too. And there is not enough money to meet those needs. Oregon communities have been devastated by timber and fishing losses. We have had to lay off a thousand teachers this year because of a budget shortfall. Oregonians need health care and affordable housing.

When we ask Europe to pay their fair share they say they cannot afford it. Well, I say we can no longer afford this enormous cost alone. We need to support our military at home, to educate

our children, to protect our streets. We need to reduce the deficit and make us competitive once again.

If our allies find our troops useful, they should be willing to help share the cost of supporting them, just like Japan does. Japan pays 60 to 70 percent of the nonsalary costs of the United States troops stationed there.

Those who are serious about cutting unnecessary spending should vote for the Frank-Shays-Furse-Upton amendment. By bringing this money home, we stop giving Europe a bargain, and begin giving our own communities a break. My constituents, and all Americans, deserve nothing less.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I will use my two minutes extemporaneously to try and deal with what I think is the major thrust on behalf of the proponents of this amendment.

In my view, and I think it is entirely a correct one, the flaw in this amendment is the same flaw that was in the Bryant amendment which we dealt with yesterday. That flaw is that the amendment, that one as well as this one, proceeds from the premise that we are stationing forces overseas and in Europe to protect them, and therefore, they must pay some determined figure that we in this elective political body determine they should pay, rather than the actual situation, which is that we deploy forces there not for their sake, not in their interests, but in our security interest.

One of the flaws that is further involved in this is that we are saying if they do not come up to a percentage of participation which we in a politically elected body arbitrarily establish, we are going to reduce our forces by 37,500 troops which would be brought home and forced out of our military, the equivalent of two Army divisions, when we are already at a point where, under bottom-up review, some of the most serious students of our force structure believe that the force structure contemplated is inadequate already. How insane can we get.

This is not a matter that we can say, Norway is not doing its share, Portugal is not doing its share, x, y, and z are not doing their share. We are dealing with things almost in a global, conglomerate point of view, instead of dealing with them on a discrete point of view.

If we are going to withdraw all these forces if they do not do this, do we withdraw all forces just from those who are not participating, even though that is where we need them? How do we manage it if we are going to try to manage it in keeping with our security interest?

This is a flawed concept. I do not charge that the people who are doing it are doing it for political reasons, but I do charge that it is terribly flawed conceptually, actually, impractical of implementation, and undesirable in implementation, and the amendment should be rejected.

Mr. Chairman, I rise in opposition to the Frank amendment that would cut our troop strength in Europe to untenably low levels well below the ceiling mandated by the Congress. No one can refute the fact that our men and women in uniform in Europe and their counterparts in other NATO nations were an essential factor in winning the cold war and preventing World War III. They accomplished this by their mere presence and solidarity in Europe with NATO allies, and did it without firing a single round in anger.

Now, we and the same NATO allies, along with the partners NATO seeks to develop across old lines of confrontation, are faced with the challenge of preserving the peace. I certainly hope that we do not repeat the costly errors we made following the end of World War I by running away from that challenge. At that time, the victorious Americans left Europe lock, stock, and barrel. President Woodrow Wilson argued that we needed an international organization to make the world a safer place, but, as many of us here know only too well, the isolationists prevailed. The world suffered the awful consequences of another world war, and another generation of Americans had to return to the same European battlefields to shed their blood to protect the same American interests.

Isolationism was the tragically wrong answer then, and would be the tragically wrong answer now. This is the time to build on the successes of our collective security organizations like NATO, not to return to the failures of the past.

Can anyone doubt the wisdom of such collective security efforts, when they offer so much promise in the post-cold war era. The alternative is the renationalization of security and all the dangers that would entail. If the two world wars were the explosions resulting from nationalized security, the terrible violence being experienced in tragic places like the former Yugoslavia is the implosion of nationalized security applied to ever smaller ethnic groups. I think we all agree that American presence in Europe has been crucial to securing our collective security. It contributes greatly to the solidarity and stability of Europe, partly because of the additional capabilities it provides and partly because it helps Europeans resist the urge to renationalize European security.

I will conclude, Mr. Chairman, by pointing out that, not only would this amendment have extremely dangerous outcomes in Europe, its damage would be spread throughout our national security structure. The amendment would withdraw as many as 75,000 more troops from Europe than the Congress has mandated, and half of that number would be forced out of our military. Mr. Chairman, that would reduce our military forces by another 37,500—the equivalent of about two Army divisions. Many here in Congress do not believe that the force levels as currently planned are adequate to meet our national security requirements. None of us should be willing to accept this backdoor approach to cutting well below those levels without full debate of the policy foundations involved—especially since this amendment would base such a cut not on our own national security requirements but on what others do or fail to do.

□ 1810

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. ANDREWS], a member of the Committee on Armed Services.

Mr. ANDREWS of Maine. Mr. Chairman, I think this debate needs a bit of perspective and I would like to give the perspective of someone that is working very hard and fighting very hard to restore commercial shipbuilding and shipbuilding jobs to the United States. Paying for the defense of our very wealthy allies in Europe and not insisting that they pay their fair share for their own defense means that we are in effect forcing American taxpayers to pay for the exportation of good paying American jobs overseas.

Mr. Chairman, we are subsidizing to the tune of billions of dollars the economies of our European allies by letting them off the hook when it comes to paying their fair share, and that is all we are talking about, paying their fair share for their own defense. That in turn enables them to put billions of dollars every year of subsidies into their commercial shipyards. For our NATO allies alone, that is $6 billion every single year, $2.3 billion for Germany. That has enabled them to make it virtually impossible for our shipbuilders, our commercial shipbuilders to compete in a promising new commercial market.

Mr. Chairman, we have lost 120,000 good paying jobs over the last 10 years and despite the fact that we have a promising commercial market, ladies and gentlemen, we are looking at the loss of an additional 180,000 jobs if we allow the status quo to continue. This status quo, Mr. Chairman, is weakening our economy, it is throwing thousands of hardworking Americans out of work, and it is weakening our defense by weakening our shipbuilding industrial base.

In short, since they do not have to pay their fair share for their own defense, they invest their dollars in taking our jobs. Americans end up paying billions of dollars to send our jobs overseas despite the fact of this promising market.

I urge everyone to vote yes on this important amendment and save American jobs and stop the rip-off of American taxpayers.

Mrs. LLOYD. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. HUTTO], chairman of the Subcommittee on Readiness.

Mr. HUTTO. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment. While I understand

that the stated objective of the amendment is to increase the contributions of the allies to support operating costs of overseas bases, I would caution my colleagues that increased allied contributions would not result from this amendment.

This amendment is nothing more than an ultimatum to the allies—pay up or the United States pulls the plug on troops. I don't know how the sponsors believe the allies will react, but I am quite certain that, in very short order, this amendment will become little more than a troop reduction plan. The amendment would suggest that the United States has no understanding of the immense value this Nation gains from having troops stationed overseas, and would appear to say that America has no intention to fairly negotiate the issue. Our negotiators are pressing hard for increased payments, and we should be tough.

For example, this year's budget request increases host nation support for our forces to $3.82 billion. The Committee on Armed Services added $400 million to the requirement during markup. There is no lack of commitment within the Armed Services Committee to require the allies to pay their share.

But that does not relieve us of the obligation to acknowledge the strategic value of our forward presence and negotiate a burdensharing agreement that includes a "fair share" contribution from the United States.

Accordingly, in my view, this amendment will leave the defense posture of this Nation stripped of the capabilities and benefits of forward presence.

In terms of capabilities, it is painfully clear that our ability to respond to every corner of the globe to protect America's interests would be greatly diminished without the en route airfields and supply bases that overseas basing provides us. Without an en route infrastructure we would subject our troops in the Persian Gulf, or Bosnia, or Africa, or the Far East to significantly increased risks because the flow of supplies and equipment, and the availability of reinforcements would be uncertain.

In terms of benefits, I would suggest to my colleagues that every American has a direct economic stake in preserving some level of overseas presence. Without the visible on-scene leadership of the United States, how many nations would be closed to American goods? How many shipping lanes would be blocked? I caution my colleagues to not overlook the powerful influence this Nation derives from forward presence. Our presence in an area of the world provides an important calming influence for which there is no substitute. I would suggest that whenever America withdraws from an area of the world that area will become less stable and we will pay a price in closed factories and lost jobs right here at home.

Mr. Chairman, I am not suggesting we need to maintain large overseas presence. The costs of our overseas presence is half what it was just 3 years ago. Our presence can be small, but we must be there or suffer the consequences of abdicating the important role we play preserving peace for all people around the world.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER], a very distinguished member of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding the time and congratulate him for his work on this. I would also like to congratulate the thoughtful and hardworking members of the Committee on Armed Services and say that I have the utmost regard for that committee which addresses what I believe is the one key issue that the Federal Government has responsibility for, and that is national defense.

Mr. Chairman, yesterday I opposed the Bryant amendment. I did so because frankly I believed that it went too far. But I believe that the issue of burdensharing is something that we should try to compromise on. As I looked at this amendment, it seems to me that a gradual, I underscore the word gradual, increase in contribution from our allies is an important thing for us to try to put into effect, No. 1. No. 2, the fact that we have a waiver so that the President of the United States can make a decision that this is not the route to take if it is absolutely essential has led me to conclude that this is a modest compromise on the issue, facing the issue of both national security and deficit reduction. I have concluded that it is essential that we support this very balanced approach.

Mrs. LLOYD. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPENCE], the ranking minority member of the Committee on Armed Services.

Mr. SPENCE. Mr. Chairman, I rise in opposition to this amendment. It would do irreparable harm to our national security.

Mr. Chairman, I rise in opposition to the so-called burdensharing amendment offered by the gentleman from Massachusetts [Mr. FRANK].

This amendment, under the guise of burdensharing, seeks to dramatically reduce the number of U.S. troops deployed in Europe. It may surprise some of my colleagues to know that, contrary to the inaccurate conventional wisdom, less than 10 percent of the defense budget is actually allocated for the overseas activities of American forces—very little of which has to do with protecting some other country.

More to the point, U.S. Forces based in the European theater are responsible for promoting and defending America's interests in some 82 nations, spanning an area of responsibility that encompasses not just Europe but parts of the Middle East, North Africa, and Sub-Saharan Africa. In the past year alone, these forces have been called upon to perform a wide variety of missions critical to American national interests.

Mr. Chairman, I continue to be amazed by the logic used by proponents of these burdensharing amendments. I am always glad to hear my colleagues talk about the need to save the taxpayer money. Yet, the only place they ever seem willing to cut is in an already declining and underfunded defense budget.

Who stands to benefit from a reduced forward-deployed American military presence in Europe as implied by the Frank amendment? Not the United States and certainly not our allies. The principal beneficiaries of American retrenchment would be our adversaries. I can assure my colleagues that no tears will be shed in North Korea, Libya, Cuba, or Iraq, if Congress ultimately compels the President to reduce drastically our military presence abroad.

The best way to protect our interests is to remain strong militarily and to maintain our many international alliances which have brought an unprecedented measure of stability and security to Europe since World War II. In that context, it is vital that the United States sustain a credible force abroad, especially in Europe. As the Chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili, has observed, "Our military contribution [to NATO] is significant compared to those of other member nations; so is our influence. Nothing can be more favorable for U.S. interests in Europe than to retain that degree of influence."

The amendment authored by Mr. FRANK would not reduce costs, it would simply reduce America's ability to influence global events. It is a wrong-headed approach to protecting and promoting U.S. security interests and should be defeated. I urge my colleagues to vote against this ill-considered amendment.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the ranking minority member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, at the heart of this debate, pure and simple, is the issue of defining and maintaining our country's ability to sustain its strategic interests abroad.

I know that my colleagues recognize that our allied security arrangements in Europe, Japan, Korea, and the South Pacific serve as the underpinning of our larger, vital interests in the world. Those vital interests cannot be protected without a substantial U.S.-forward deployed presence.

That presence, and the associated leadership and prestige it brings, is at risk if the House takes action to force untenable reductions in our forces in Europe.

NATO has adopted new missions that are critical to U.S. security interests. In particular, NATO has endorsed and is rapidly implementing the Partnership for Peace initiative which reaches out to the countries of Central and

Eastern Europe in an attempt to integrate them into the community of democratic nations.

There is a growing recognition that the West cannot afford continued ambiguity while nations with strong roots in Western culture and a growing commitment to democratic values struggle in the shadow of uncertainty. The continued presence of our troops in Europe is essential to the implementation of the Partnership for Peace and the preservation of NATO as an effective, stabilizing institution in a potentially volatile part of the world.

It would be the height of folly to take rash action now that could speed a return to the kind of confrontation that compelled us to station over 300,000 troops in Europe for decades during the cold war.

Given the uncertainty in Russia and elsewhere in Central and Eastern Europe, this is no time to precipitously withdraw our forces from that region.

This is not to say that the United States should not continue to vigorously pursue arrangements with our allies that would be more beneficial to the United States. Indeed, the American people deserve no less. But the American people must also know what is at stake in Europe if U.S. forces are reduced too far and too fast.

Accordingly, I urge my colleagues to vote against the Frank amendment.

□ 1820

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of the Frank-Shays burdensharing amendment to H.R. 4301.

This amendment would reduce defense spending and budget deficits for years to come.

It gives our European allies 4 years to contribute 75 percent of the nonpersonnel costs of maintaining U.S. troops in their countries.

While the United States has already negotiated such an agreement with Japan, European countries continue to contribute only 5 to 20 percent of these costs.

Mr. Chairman, the United States can not afford to be the world's police department. We have the world's best troops, but using them all over the world without compensation from the protected nations makes no fiscal sense. We simply cannot afford it.

I also want to point out that this amendment also includes safeguards for national security. If the President declares an emergency, he may waive the amendment's provisions.

The bottom line is that, according to CBO, this amendment would save $4.8 billion over 5 years.

Mr. Chairman, I urge my colleagues to listen to the 600,000 members of Citizens Against Government Waste. Listen to the 250,000 members of the National Taxpayers Union. Let us strike a blow for deficit reduction and pass the Frank-Shays amendment.

Let us have our allies pay their fair share.

Mrs. LLOYD. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JOHNSON].

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, current Defense Department plans call for dramatic reduction in U.S. forces in Europe, from over 320,000 to a floor of 100,000 troops. We have already reduced real annual stationing costs overseas by one-third since 1990, or $10 billion.

This amendment will, in effect, arbitrarily reduce U.S. active-duty strength in Europe by as much as 75,000 troops and total active-duty strength by the equivalent of two army divisions. We simply cannot afford to make any further reductions in our European presence.

Our forces play a vital role in insuring a minimum capability to support NATO with operations in Europe as well as the Middle East, Africa, and the states of the former Soviet Union. They help deter aggression, enhance regional stability, demonstrate U.S. commitment, and promote U.S. values.

Importantly, they also ensure a continued close relationship with our NATO allies, several of whom played an invaluable role in the Persian Gulf war, and they will do so again and again as we face new threats to our vital interests in the decades ahead.

Those who are sincerely concerned about the reductions in our national defense capability understand that U.S. troop reductions overseas are already putting a tremendous strain on U.S. capabilities to project forces abroad. We are being forced to shift enormous resources toward new air and sealift capabilities, pre-positioning, more robust logistics, and better communications, all to compensate for the loss of forward operating areas.

In short, the United States needs the European operating areas as much as the alliance needs our stabilizing presence.

I urge opposition to this arbitrary approach to national security.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the amendment, and I commend the sponsors.

This well-crafted, responsibility-sharing amendment recognizes a few fundamental realities. First, the pockets of the American taxpayer are not endlessly deep.

Second, our European allies commit far less of their wealth to defense than do we.

Third, the stationing of troops in Europe significantly enhances the security of our European allies.

Finally, those allies are paying less than one-fifth of the nonpersonnel costs associated with stationing our troops on their soil defending their security.

The amendment simply calls upon our European allies to do what the Japanese are already doing, pay 75 percent of the nonpersonnel costs of keeping our troops. This amendment is fair, and it is economically responsible.

I urge my colleagues to tell our European allies the free lunch is over.

Mrs. LLOYD. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I rise in opposition to the Frank amendment and would like to focus my comments on only one of the several faulty assumptions on which the amendment is based and which render it dangerously wrongheaded.

The amendment clearly attempts to apply the model of Japan's financial offsets blindly and restrictively to our arrangements with European allies with vastly different approaches to sharing the responsibilities and burdens of providing for our common security. Mr. Chairman, the Japanese model is not appropriate in Europe; it is not workable in Europe, and, most importantly, it would not be in our national interest in Europe.

Yes, Japan does offset about 75 percent of our financial costs associated with stationing troops in that country. But, Japan provides so much more in the way of financial offsets because it provides so much less in the many other important ways of equitably sharing the responsibilities and burdens of ensuring stability and security. Our financial arrangements with Japan are unique to the particular circumstances there.

In fact, Mr. Chairman, I am puzzled as to why the author of this amendment would choose the Japanese model to try to apply to Europe rather than the Korean model. In one letter from the sponsors of the amendment, they point approvingly to both models, saying that Japan pays about 75 percent of our nonsalary costs, and that Korea has agreed to pay about 33 percent.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. LANCASTER. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, Japan is a lot wealthier than Korea. Western Europe economically more nearly resembles economically Japan than Korea, so we thought from the economic standpoint, Western Europe was a better analogy to Japan than to South Korea.

Mr. LANCASTER. If the gentleman will allow me to do so, if I can continue my statement, I will respond directly to that question.

The sponsors find the much lower Korean offset acceptable, no doubt, be-

cause Korea contributes far more than Japan to our common security in other important ways, like investing far more in its own defense and participating far more in our multinational security efforts. Despite this apparent understanding of the differences between Japan and Korea, the amendment attempts to apply the financially more stringent Japanese model to our European allies who contribute far more than either the Japanese or the Koreans in these other ways.

Mr. Chairman, let me briefly outline the key differences between the situations with our Japanese and European allies that make the Japanese model inapplicable in Europe. First, NATO is a multilateral alliance with an international headquarters, an integrated military command structure, and a well-developed system of assigning national defense assets to coalition roles and missions. It is these elements of the alliance relationship—along with cost-sharing arrangements such as the infrastructure program to which our NATO allies contribute 72 percent—that constitute the most important aspect of responsibility sharing in NATO.

Our European allies also make tremendous contributions in support of related Western security objectives, for example, involvement in peacekeeping operations, absorption of large numbers of refugees, and—especially in the case of Germany—payment of substantial sums to expedite the departure of former Soviet troops, assist in the reconstruction, democratization, and stabilization of Eastern Europe, and underwrite German unification.

Even if our European allies were able to provide substantial cash increases comparable to Japan to offset United States stationing costs overseas, this would be a dangerously shortsighted policy to pursue, since it would almost certainly result in corresponding decreases in the allies' ability, for example, to field and maintain ready and modern forces. Such a tradeoff would have highly undesirable strategic implications, diminishing allied capability to participate effectively in multinational security and peace operations, and increasing the reliance of our allies on overstretched U.S. power projection capabilities during a period of increased global instability; and, at the same time, making U.S. forward presence policy dependent on tightly constrained allied budgets.

Mr. Chairman, achieving more equitable sharing of the responsibilities and financial burdens has been a very high priority of this Congress and this administration as well as their predecessors. The Armed Services Committee has been extremely active on this issue and, in this bill and last year's bill reduced funds for overseas stationing by a total of almost $1 billion in anticipation of accelerated troop withdrawals and increased allied contributions. Those contributions have been increasing and we are working for more.

But, Mr. Chairman, this attempt to apply a model of 75 percent payments to our European allies is unworkable and contrary to our national interests. Furthermore the troop reductions and active duty force level reductions that would result from this amendment would be disastrous.

I urge my colleagues to vote "no" on the Frank amendment.

□ 1830

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM] who has spoken articulately for defense matters for so many years.

Mr. CUNNINGHAM. Mr. Chairman, I am known as a strong proponent of defense issues and very seldom do I find myself in support of the gentleman from Massachusetts [Mr. FRANK]. But when he is right, I think we need to align ourselves in that direction.

We are talking about burden sharing. We are talking about a country's defense that is going downhill and being cut too much. Most of my experience comes from Southeast Asia. I was on the 7th Fleet staff. Team spirit was the defense of Korea. Yet Korea today is overtaking Japan in economic development. They need us there. It is probably one of the biggest hotspots. Just like in Desert Storm, the United States cannot afford to take on the burdens of the world anymore.

We need help, we need help for our ships, our sailors and our troops who are fighting these battles.

I think that is time these countries support us. The question is why pick on Japan? I am on the Merchant Marine and Fisheries Committee. Japan subsidizes its shipbuilding by $3 billion a year. Then we turn around and kill our own shipbuilding and ship repair industry. They also repair our ships, our Navy ships and our ship repair industry is dying.

Look at the trade imbalance, are you telling me that they cannot afford to pay for part of that?

I look at the Philippine Islands. I would have loved to stay in the Philippine Islands. We could not afford it because our own deficit and our own debt in this country—I would love to stay in these countries if we had the capital to do it. But I am looking at a $4.9 trillion debt in which we are trying to reduce the deficit and the debt.

When we are talking about forward deployed, we have 12 aircraft carriers, and I would hope our colleagues would support maintaining those. We have B-2 bombers. I think that if we want a strong military, we need help from these other countries.

One other area that I would like to look at is the Soviet Union, which is now Russia. They are building many, many $5 billion to $9 billion submarines, and we are giving them $3 billion in aid. Let us take back and get some of that burden sharing back.

Mrs. LLOYD. Mr. Chairman, I yield an additional 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I have one quick question for my colleague from California, my good friend, Mr. CUNNINGHAM. Does my colleague think that this amendment applies to Japan? Was that the tone of his comments?

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

Mr. WELDON. I yield to the gentleman from California.

Mr. CUNNINGHAM. I think it applies to all burden sharing.

Mr. WELDON. I say to the gentleman it applies just to Europe.

Let me set the record straight: Mr. Chairman, all of our colleagues in this body are for burden sharing. There is no one small group of people who want to share the burden and the rest who want to pay more and more money overseas. Everyone is for burden sharing.

Members of the committee are for burden sharing.

The troops over in Europe are not just there to protect our allies. As a matter of fact, one of the key elements in our national security strategy, and I quote, "The forward presence of viable land, air and maritime forces."

As a matter of fact, NATO just recently adopted two new missions that are critical to U.S. security interests. One is projecting stability eastward, and the other involves peacekeeping operations outside of NATO borders.

President Clinton unveiled his Partnership for Peace as a primary vehicle to accomplish both of those objectives. Now what we are proposing is to ignore President Clinton, ignore the Secretary of Defense, and say forget about all that, forget about the instability of NATO, we are simply going to make the decision based on what is politically best in our interest here and not based upon what is best for us in terms of policy. Let us not just vote "no" because President Clinton wants us to vote "no," let us not just vote "no" because the Secretary, Secretary Perry, wants us to vote "no" or Secretary Christopher wants a "no" or the chairman of the Joint Chiefs of Staff wants a "no"' let us vote "no" because it is the right thing. We owe it to our troops, we owe it to our country, we owe it to the people. We want to protect our vital interests. This is a wrongheaded amendment. We need to do the right thing.

I urge my colleagues to vote "no."

Mr. FRANK of Massachusetts. Mr. Chairman, this has budgetary implications, and I yield 2 minutes to the gentleman from Ohio [Mr. KASICH], who is

a defense expert and who is also the ranking Republican on the Committee on the Budget.

Mr. KASICH. I thank the gentleman for yielding, but what I appreciate more is the fact that I finally got the gentleman from Massachusetts to move my way on burden sharing.

I have been an advocate of strong burden sharing in this Congress for a number of years. What I have objected to, however, is the idea that foreign governments ought to pay for the salaries of our troops. I think that is a very, very dangerous precedent that calls to mind the fact that our people then literally become mercenaries around the world.

But what I have been frustrated about over the years is the notion that somehow we should not ask the host nations on whose soil we have troops—and admittedly, we have troops in Europe as a benefit to the United States, early deployment—but there are also benefits that the host nations accrue. Over the years I have become increasingly frustrated by the lack of participation by the Europeans. In fact, the lack of participation by many nations around the world. I do not know how many of you are aware of this, but literally the Filipinos threw us out of their country, so did the Spanish. And we actually had to pay the people who lost their jobs, who were foreign nationals, severance pay. That is not just in the Philippines but in Spain as well. That is an outright rip-off of the taxpayers of this country.

Now, what I like about this amendment is it puts us on the model that I have been talking about for years, and that is the Japanese model. That we increase the amount of support that host nations pay for U.S. troops in terms of physical facilities. I want to tell my colleagues we have a number of issues that are at stake. With our troops coming home, we are leaving facilities, we are leaving our own equipment over there, and we are in the middle of a debate with our allies about what the fair return should be on the property that we put over there.

So I want to say to my Republican and Democratic colleagues, this is first of all not the end of the line. I am not convinced that this amendment will make it—I am not convinced that the other body will accept this in conference. But we are now in a position here in the House where, in my judgment, Republicans and Democrats alike who believe in a reasonable burden-sharing solution, a reasonable proposal, to say that host nations ought to join in supporting the common defense. This is a reasonable proposal and a reasonable solution that everybody in this House ought to be able to support.

We are no longer going to treat our troops as mercenaries, that is out of the mix. This essentially says the Japanese have agreed to provide a certain level of host nation support, the Japanese have agreed to do it. This is a country that we have been furious about their lack of participation for years. All this does is increase the amount of support that the Europeans are providing for our troops over there in Europe.

I mean, could you imagine the fact that we are moving toward the Japanese model? If the Japanese agreed to do this, and this is a country with which we have been frustrated for years—if the Japanese have agreed to do this, it makes absolutely perfect sense to get the Europeans on the same formula.

Now, there is going to be some time to negotiate, let everybody from over there send all the nasty letters over here, and work this out in conference if some feel it is too strong. But I say to my colleagues this is a very reasonable proposal to institute some reasonable burden sharing.

Mr. Chairman, I want to compliment the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Connecticut [Mr. SHAYS] for moving in the direction of a responsible and reasonable burden-sharing proposal that we can in fact support as a Congress and as a Nation.

□ 1840

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the very patient gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, I rise today in strong support of the Frank and Shays amendments.

We have been hearing from the opponents that they will support some burden-sharing amendment. Now the Bryant amendment might have gone too far. This amendment certainly does not. This amendment addresses one of America's most pressing policy concerns, our desire to maintain military presence overseas versus our need to cut spending and regain control of our economy. Cutting this funding will not diminish America's role as defender of the free world. We are still willing to put our young men and women on the guard posts and on the front lines. We want our allies to pay some share of that financial burden, a burden, I believe, that they will accept if they are pressed.

Our national debt, at $4 trillion, is too large, and our children's financial burden is too great, for us to continue shouldering this burden. We have one of the largest foreign trade deficits in the world, and our allies do not any longer need this subsidy.

Mr. Chairman, I urge my colleagues to vote in favor of this reasonable amendment and help make our allies pay their fair share.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman from Connecticut [Mr. SHAYS] for yielding this time to me.

Mr. Chairman, I, too, as a self-styled hawk, find myself in a peculiar position, but I want to support this amendment and intend to vote for it.

I have one reservation, and that is: What effect does this have on the arrangements that our Nation has with NATO insofar as they may amount to a treaty of these arrangements? I do not want to be in a position of voting for a proposition that would somehow cause the President or the Secretary of Defense to be in violation of those kinds of arrangements or commitments.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. First, this has, at the insistence of the gentleman from Connecticut correctly, a complete waiver for the President.

Mr. GEKAS. I understand that.

Mr. FRANK of Massachusetts. So, on this ground he can waive it.

Second, a statute would not contravene a treaty. The treaty would be superior. I do not believe that the NATO treaty compels any specific level of American troops, but, if they were found to be in disparity, the treaty would supersede, and I would say to the gentleman——

Mr. GEKAS. Seizing back my time, notwithstanding the fact that NATO cannot dictate how many troops, the spirit, if not the words, of provisions of a treaty could be violated.

I am going to vote for the amendment and hope that we can straighten that out in——

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 30 additional seconds to the gentleman from Pennsylvania [Mr. GEKAS] and say to the gentleman, "If that proves to be a problem, I would agree, I think my cosponsor would agree, that we would work it out over there. All I am saying is, I don't think this does contravene the treaty because the treaty doesn't set a specific troop level."

Mr. GEKAS. Mr. Chairman, that is all I wanted to assure myself of, and the gentleman and I will talk later about further deliberations, but I am going to vote for the amendment.

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

Mr. Chairman, I thank the participants on both sides of the aisle and both sides of the debate on this issue of burden sharing.

Mr. Chairman, as a member of the Committee on the Budget I have often wondered why does Europe contribute $392 million to the nonpersonnel costs of the United States troops in Europe when we have over 100,000 troops, and why does Japan contribute $2.3 billion, almost $2.4 billion, for the nonpersonnel costs of our troops in Japan? I do not understand it, and I do not understand why this country has permitted this to continue. The Japanese model

makes sense. The Japanese are working up close to the 75 percent nonpersonnel costs of our troops in Japan. It seems to me that we have got to begin to do the same in Europe. Right now Europe is paying about 5 percent of the nonpersonnel costs.

The bottom line, as far as I am concerned, Mr. Chairman, is that the only way we are going to get this administration, or the past administration, or any future administration is to set a course in this Congress by law that says they need to work and to negotiate with the Europeans. Without that, without Congress clearly making that message strong, loud, and clear, there is no incentive on the administration to do that.

The bottom line for me is we have this amendment that is before us. I do not question in any way the integrity or motive for why a Member is on one side of the issue or the other. To me it is a budgetary issue. –It is a defense issue. We simply cannot afford to do all the things we want to do around the world. We cannot continue to do it and also deal with national deficits that are over $300 billion a year. Our national debt is going up $1.6 trillion in the next 5 years. That is the largest increase in any 5-year period.

Mr. Chairman, this amendment does not spend the money somewhere else. It simply begins to say that the Europeans should pay, and, by the way, if they do pay, we do not just save $5 billion. We save $10 billion.

We have all made the assumption the Europeans are not going to pay. Why? Why do we make that assumption? Are our troops so unnecessary in Europe that Europe does not want them? In my judgment our troops are needed, and the Europeans should be willing to pay some or part of the costs.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have Members here saying, "Look, burden sharing is a good thing, and we are already getting there." But we would not have gotten where we are today had this House not insisted several years ago. The gentleman from Michigan, the gentleman from Colorado, and others, the gentleman from Ohio on the other side, took the lead, and the Secretary of Defense says no today. So did the Secretary of Defense 5 years ago. The Secretary of State says no today. So did the Secretary of State 5 years ago. So does the President. So does the Committee on Armed Services because there is a natural institutional relationship there.

The fact is that virtually every argument that says that this will not work today was said that it would not work with regard to Japan. So, first they said this would not work with regard to Japan, do not do it, it will be a disaster. Go back and look in the record. Now they say, Oh, it works for Japan, but it will not work for Europe. They are using the same arguments, and what are the arguments?

One of these gentlemen on the other side read from what the Pentagon said from my administration which I support most of the time. Here on page 11 is why they say there is a problem:

> While we believe progress can be made in this area, allies continue to indicate that persistent economic problems and increasing pressures on their own defense budgets make it impossible for them to help us.

Well, who is kidding whom? We are not saying this is solely in their interests. We are saying it is not solely in our interests. We are saying that a system in which we pay almost all of it, all of the personnel costs all of the transport costs and most of the stationing costs is inequitable now that they are wealthy.

Yes, this is a very moderate amendment. I voted for the Bryant amendment. I would go further. I did not have the votes. What this does is to set up a framework in which the Europeans begin to contribute, if they think it is worth it, and, by the way, there will be no troop withdrawal here unless the Western European Allies say that they are not willing to contribute to the costs of stationing American troops, and by that get the American troops for nothing.

Remember we will pay the troops. We will equip the troops. We are simply saying to the Europeans under this amendment, "Contribute to the costs of their being there," and if our European Allies, our wealthy European Allies, do not think that it is worth it, then I do not think we can be charged with running out on an alliance. We can continue to supply the nuclear deterrence for this alliance. We will continue to supply most of the force. We will continue to supply troops. We ask only that they make a contribution, and to say no is, in fact, to say no to burdensharing.

Mrs. LLOYD. Mr. Chairman, to close the debate I yield 5 minutes to the gentleman from Virginia [Mr. SISISKY].

□ 1850

Mr. SISISKY. Mr. Chairman, I rise in opposition to the Frank amendment that would cut U.S. troop strength in Europe to a level as low as 25,000—that is, as much as 75 percent below the ceiling that we established here in this Chamber. This amendment is based on at least three completely erroneous assumptions: First, it assumes that we have decided to deploy troops in Europe primarily to defend Europeans and their interests; second, it assumes that we should determine the troop level we need to maintain in Europe based entirely on what Europeans do or do not do; third, it assumes that the Japanese model of financial offsets of United States stationing costs should be applied to our basing arrangements in Europe.

Mr. Chairman, because this amendment is based on three such fallacious assumptions, it is no wonder that it arrives at policy conclusions that are so completely contrary to our national interest. Let me correct these assumptions one at a time. First, I would remind my colleagues that our troops are deployed in Europe not to defend Europeans or European interests but to defend American interests. Those troops and their European counterparts in NATO played a major role in winning the cold war without conducting a single offensive operation. We must now build on that success rather than returning to the failures of the past. I need not remind my colleagues that, following World War I, Americans left Europe only to have to return a generation later and spill blood on the same ground. After World War II, however, Americans stayed in Europe, and instead of having to return later to fight World War III, they helped secure victory in the cold war without major bloodshed on the continent. The challenge now is to establish and secure the peace, and I hope we all will respond in the same collective fashion.

Our troops in Europe today support a key element in United States national security strategy—the forward presence of viable land, sea, and air forces. These forces deter aggression, enhance regional stability, demonstrate U.S. commitment, provide initial crisis response capability, and promote U.S. influence.

Mr. Chairman, I cannot make this important point any better than the Chairman of the Joint Chiefs of Staff, General Shalikashvili, when I asked him about the importance of our troop commitment to NATO in a recent full-committee hearing. General Shalikashvili answered my question this way:

> Our interest in NATO is really our interest in Europe. I think it starts out with the fact that, if there is a lesson of this century, it really is whenever the United States and Europe begin to go their separate ways, we both—on both sides of the Atlantic—pay a terrible price for it. We have done so after World War I. We almost did it after World War II. At the last minute, we decided to stay and brought Europe the longest period of peace in its modern history. Not just for Europe, but for the United States every bit as well. The stability and security of Europe is inextricably tied to our own security. We gain a foothold in Europe really through NATO. We can talk until we are blue in the face about our common heritage, about economic linkages; but it is really through the alliance that we have not only a foothold in Europe but also have the right to leadership. Now, there is another half of Europe looking for the same anchor of stability that only NATO can give them to build their own democratic institutions, to build, for the first time, market economies. For the first time, I think, in history, we have the oppor-

tunity to build one Europe. If you travel through Eastern Europe and Central Europe, the one institution they believe can give that to them is NATO. Why? Because they see through NATO membership or through the alliance itself that opportunity that they will have to build themselves into nations that mirror, in time, that which Western Europe has become.

Mr. Chairman, I would only expand on the theme that our troops in Europe defend our economic interests as well as our security interests. We cannot afford to lose sight of the fact that Europe is already our largest market, even without the 400 million people in Central Europe and the former Soviet Union. Security throughout that region is important to securing economic development and economic opportunities for Americans.

Yes, we all agree that we no longer need 326,000 American troops in Europe, but we decided in this Chamber to support the amendment of the gentlewoman of Colorado and establish a ceiling of 100,000 troops there. And, I would remind my colleagues, that ceiling we established was already 50,000 troops below the number that our commander in Europe and the President said we needed to protect our interests in Europe.

Mr. Chairman, we are rapidly reducing to the level the Congress has established and the troops that remain are no longer defending against the old, cold war threats. Those troops are way ahead of most of us here in recognizing the new threats and challenges of the post-cold war world—they face them every day, and they are working hard with their counterparts across Europe—east and west—to meet those challenges. They are engaged in pursuing NATO's new missions of peacekeeping in Europe and elsewhere and reaching eastward to widen the circle of democracy and stability. This is not the time to tell our troops and their partners in these important missions that we are going to withdraw them.

Mr. Chairman, the second fallacious assumption underlying this amendment is that the United States should base its security and foreign policy and the troop levels we need to maintain in Europe entirely on what the Europeans do or do not do. As Secretary of Defense Perry says in his letter opposing this amendment, "To make this the basis of our European policies would be shortsighted in the extreme." I would say to my colleagues that, if we do decide later to lower the level of our troop commitment in Europe, we should do so on solid policy grounds—on the basis of what we need to do to protect our own interests, not on the basis of what the Europeans provide or do not provide to offset our costs there.

Finally, Mr. Chairman, this amendment erroneously attempts to apply the Japanese model of financial offsets to an entirely different situation in Europe. The Japanese model is inappropriate, unworkable, and not in our national interests in Europe. Japan does offset about 75 percent of United States nonpersonnel stationing costs, but Japan is constitutionally limited to a very small national defense budget, 1 percent of its GDP, and does not at all compare to our European Allies in terms of providing for its own or our common defense, cooperating with the United States and others in international peace operations, or investing in economic assistance in areas of key United States and international concern. That is not a model we want our European Allies to adopt.

Germany, for example, while hosting the largest number of United States overseas troops, spends, when compared to Japan, more than twice the percentage of its GDP on defense, has 4 times the percentage of its population on active duty, 20 times the percentage of its population involved in multinational peace operations, and invests more than twice the percentage of its GDP in grant aid overseas. In fact, Germany contributes more than any other country—including the United States—to the reconstruction, democratization, and economic reform of Central Europe and the former Soviet Union—including about 75 percent of all grant aid to the former Soviet Union, and more than $8 billion to facilitate the withdrawal of Russian troops from Germany. The Germans certainly cannot afford to do all that and meet the Japanese financial model of paying 75 percent of our costs as well. We most certainly do not want them to switch to the Japanese financial model and stop making all those other invaluable contributions to our mutual interests.

Mr. Chairman, I urge my colleagues to act responsibly in protecting U.S. national interests and to vote no on the Frank amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

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

RECORDED VOTE

Mrs. LLOYD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 144, not voting 26, as follows:

[Roll No. 187]

AYES—268

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bachus (AL)
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bilirakis
Blackwell
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Camp
Cantwell
Carr
Chapman
Clayton
Clement
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coyne
Crane
Crapo
Cunningham
Danner
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dooley
Doolittle
Dreier
Duncan
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Glickman
Goodlatte
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hancock
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Hughes
Hutchinson
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Laughlin
Leach
Lehman
Lewis (GA)
Lightfoot
Lipinski
Long
Lowey
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Martinez
McCandless
McCloskey
McDermott
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Morella
Neal (MA)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (MN)
Petri
Pickle
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Ridge
Roemer
Rogers
Rohrabacher
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Synar
Tauzin
Taylor (NC)
Thomas (WY)
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NOES—144

Archer
Armey
Bacchus (FL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilbray
Bishop
Bliley
Bonilla
Browder
Bunning
Burton
Buyer
Canady
Castle
Clinger
Clyburn
Collins (GA)
Combest
Coppersmith
Cox
Cramer
Darden
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dornan
Dunn
Edwards (TX)
Everett
Fields (TX)
Fowler
Franks (CT)
Gallo
Geren

Gibbons	Lewis (CA)	Ros-Lehtinen
Gilman	Linder	Rowland
Gingrich	Lloyd	Sarpalius
Gonzalez	Lucas	Saxton
Goss	Mann	Scott
Grams	Mazzoli	Shuster
Greenwood	McCrery	Sisisky
Gunderson	McDade	Skaggs
Hamilton	McHale	Skeen
Hansen	McHugh	Skelton
Hastert	McKeon	Smith (MI)
Hastings	McMillan	Smith (OR)
Hefley	Michel	Smith (TX)
Houghton	Molinari	Solomon
Huffington	Mollohan	Spence
Hunter	Montgomery	Stearns
Hutto	Moorhead	Stenholm
Hyde	Moran	Stump
Inglis	Murphy	Sundquist
Inhofe	Murtha	Swift
Johnson (GA)	Myers	Talent
Johnson, Sam	Ortiz	Tanner
Kanjorski	Oxley	Taylor (MS)
King	Packard	Tejeda
Kingston	Paxon	Torkildsen
Knollenberg	Payne (VA)	Underwood (GU)
Kolbe	Peterson (FL)	Visclosky
Kyl	Pickett	Vucanovich
LaFalce	Porter	Walker
Lancaster	Price (NC)	Walsh
Lazio	Quillen	Weldon
Levin	Richardson	Wolf
Levy	Roberts	Zeliff

NOT VOTING—26

Barlow	Livingston	Santorum
Cardin	Markey	Slattery
Clay	Matsui	Smith (IA)
Dixon	McCollum	Thomas (CA)
Emerson	McCurdy	Torres
Faleomavaega (AS)	Nadler	Washington
Grandy	Neal (NC)	Whitten
Harman	Parker	Wilson
Lewis (FL)	Romero-Barcelo (PR)	

□ 1914

The Clerk announced the following pairs:

On this vote:

Mr. Nadler for, with Mr. Thomas of California against.

Ms. Harman for, with Mr. McCollum against.

Mr. BISHOP changed his vote from "aye" to "no."

Mr. MACHTLEY and Mr. GOODLING changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DELLUMS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. COPPERSMITH] having assumed the chair, Mr. DURBIN, 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. 4301) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, I unavoidably missed a number of votes, and I wish to indicate that had I been present, I would have voted as follows: "No" on rollcall No. 182; "no" on rollcall No. 183; "no" on rollcall No. 184; "no" on rollcall No. 185; "yes" on rollcall No. 186; and "yes" on rollcall No. 187.

PERSONAL EXPLANATION

Mr. CARDIN. Mr. Speaker, last Thursday, May 19, 1994, I missed roll call vote No. 187 on the Frank-Shays burdensharing amendment to the fiscal year 1995 Defense Department authorization bill. I would have voted aye on the amendment and I wanted the RECORD to reflect my position.

I was sorry to have missed this vote; it was unfortunate and unavoidable. I have a longstanding commitment and record of support for greater burdensharing of defense costs with our allies. In fact, the previous day I voted in support of the Bryant amendment that would have required even more burdensharing by our allies.

I am sorry the Bryant amendment failed this year. I was pleased, however, that as expected the Frank-Shays amendment carried easily.

TEMPORARY RESIGNATIONS AS MEMBERS OF COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

The SPEAKER pro tempore laid before the House the following resignations as members of the Committee on Science, Space, and Technology:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 10, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby submit my temporary resignation as a Member of the Committee on Science, Space, and Technology in order to serve on the Committee on the Budget. It is my understand that my seniority status on the Committee on Science, Space, and Technology will be protected during my tenure on the Budget Committee.

Sincerely,

LYNN C. WOOLSEY.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 12, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby submit my temporary resignation as a member of the Committee on Science, Space and Technology in order that I may serve on the Committee on the Budget. It is my understanding that my seniority status on the Committee on Science, Space and Technology will be protected during my tenure on the Budget Committee.

Sincerely,

GLEN BROWDER.

The SPEAKER pro tempore. Without objection, the resignations are accepted.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the Democratic membership is revised for the following listed committees and printed in the RECORD at this point:

COMMITTEE ON AGRICULTURE

E de la Garza, TX, Chairman.
George E. Brown, Jr., CA.
Charlie Rose, NC.
Dan Glickman, KS.
Charles W. Stenholm, TX.
Harold L. Volkmer, MO.
Timothy J. Penny, MN.
Tim Johnson, SD.
Bill Sarpalius, TX.
Jill L. Long, IN.
Gary A. Condit, CA.
Collin C. Peterson, MN.
Calvin M. Dooley, CA.
Eva M. Clayton, NC.
David Minge, MN.
Earl F. Hillard, AL.
Jay Inslee, WA.
Thomas J. Barlow, III, KY.
Earl Pomeroy, ND.
Tim Holden, PA.
Cynthia A. McKinney, GA.
Scotty Baesler, KY.
Karen L. Thurman, FL.
Sanford D. Bishop, Jr., GA.
Bennie G. Thompson, MS.
Sam Farr, CA.
Pat Williams, MT.
Blanche M. Lambert, AR.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

Gerry E. Studds, MA, Chairman.
William J. Hughes, NJ.
Earl Hutto, FL.
W.J. (Billy) Tauzin, LA.
William O. Lipinski, IL.
Solomon P. Ortiz, TX.
Thomas J. Manton, NY.
Owen B. Pickett, VA.
George J. Hochbrueckner, NY.
Frank Pallone, Jr., NJ.
Greg Laughlin, TX.
Jolene Unsoeld, WA.
Gene Taylor, MS.
Jack Reed, RI.
H. Martin Lancaster, NC.
Thomas H. Andrews, ME.
Elizabeth Furse, OR.
Lynn Schenk, CA.
Gene Green, TX.
Alcee L. Hastings, FL.
Dan Hamburg, CA.
Blanche M. Lambert, AR.
Anna G. Eshoo, CA.
Thomas J. Barlow III, KY.
Bart Stupak, MI.
Bennie G. Thompson, MS.
Maria Cantwell, WA.
Peter Deutsch, FL.
Gary L. Ackerman, NY.

COMMITTEE ON NATURAL RESOURCES

George Miller, CA, Chairman.
Philip R. Sharp, IN.
Edward J. Markey, MA.
Austin J. Murphy, PA.
Nick J. Rahall II, WV.
Bruce F. Vento, MN.
Pat Williams, MT.
Ron de Lugo, VI.
Sam Gejdenson, CT.
Richard H. Lehman, CA.
Bill Richardson, NM.
Peter A. DeFazio, OR.
Eni F.H. Faleomavaega, AS.
Tim Johnson, SD.
Larry LaRocco, ID.
Neil Abercrombie, HI.
Calvin M. Dooley, CA.
Carlos A. Romero-Barceló, PR.
Karan English, AZ.
Karen Shepherd, UT.

Nathan Deal, GA.
Maurice D. Hinchey, NY.
Robert A. Underwood, GU.
Sam Farr, CA.
Lane Evans, IL.
Patsy T. Mink, HI.
Thomas J. Barlow III, KY.
Thomas M. Barrett, WI.

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

George E. Brown, Jr., CA, Chairman.
Marilyn Lloyd, TN.
Dan Glickman, KS.
Harold L. Volkmer, MO.
Ralph M. Hall, TX.
Dave McCurdy, OK.
Tim Valentine, NC.
Robert G. Torricelli, NJ.
Rick Boucher, VA.
James A. Traficant, Jr., OH.
James A. Hayes, LA.
John S. Tanner, TN.
Pete Geren, TX.
Jim Bacchus, FL.
Tim Roemer, IN.
Robert E. (Bud) Cramer, Jr., AL.
Dick Swett, NH.
James A. Barcia, MI.
Herb Klein, NJ.
Eric Fingerhut, OH.
Paul McHale, PA.
Jane Harman, CA.
Don Johnson, GA.
Sam Coppersmith, AZ.
Anna G. Eshoo, CA.
Jay Inslee, WA.
Eddie Bernice Johnson, TX.
David Minge, MN.
Peter W. Barca, WI.
Nathan Deal, GA.
Robert C. Scott, VA.
Xavier Becerra, CA.
Bobby L. Rush, IL.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the action taken thus far on H.R. 4301, the bill now under consideration.

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

There was no objection.

□ 1920

PUTTING THE SQUEEZE ON THE HAITIAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I want to address the subject of Haiti and our foreign policy. Many Americans are very puzzled about what is going on.

What exactly is our administration trying to achieve in Haiti? If they are trying to ensure that Haitians take to boats in record numbers, if they are trying to ensure that whatever progress Haiti has made toward democracy in the 1990 election is nullified, if they are trying to ignore President Aristide, if they are trying to create more misery in the economy and on the oppressed and the poor in that country, then they are doing exactly the right things, because that is exactly what is going on as a result of the administration's foreign policy.

On May 8 the President announced a new policy: Tougher sanctions and better visa processing for those who want to leave the areas that are impacted by tougher sanctions and that, of course, is across Haiti, and those visa processing centers are going to be either offshore or in some other country, some unspecified, some mythical country that does not exist. It turns out since May 8 the administration has in fact leased two cruise ships to do some type of processing for Haitian refugees who are now fleeing the country's misery in record numbers. One of these ships we are paying $29,000 a day for rent. Another we are paying $34,000 a day of taxpayer's dollars. I do not know where these ships are cruising. I do not know whether it is just offshore in the Windward Passage or nearby Caribbean waters, or they are planning to anchor them somewhere. But in addition to those rental costs for them per day, we now have the economy package, and crew, fuel, potable water, and a whole bunch of other extras that have to be included. So this is getting to be a very expensive processing center.

On top of that the State Department conceded Monday that there has been a marked increase in refugees since the announcement the President made on May 8. In fact, the Coast Guard reported last weekend was the highest weekend repatriation total since 1992.

So far in May we have repatriated 897 Haitian refugees; 877 of those have been intercepted since last Friday.

What that means is the President announced one policy on May 8 that encouraged Haitian refugees to leave Haiti, and the word did not get down to the executive branches. The Coast Guard is returning those people. So we have this vast flow of people who are trying to get out of economic harm's way in a country, being returned right back to where they started from after a perilous journey in the water. Not a good policy.

The President has said that he wanted to toughen up the sanctions, create a tougher embargo. What we are doing here is we are grinding further into poverty the poorest, the most needy people in the most needy nation in our hemisphere.

Just this week, AGAPE and MFI humanitarian aid flights were grounded because of an Executive order. On Wednesday a flight loaded with 5,000 pounds of food and other supplies on 2 flights that were supposed to go out of West Palm Beach have now been grounded. This group, incidentally, of these folks have been delivering humanitarian aid to Haiti for more than 14 years. So what we have done is stepped up a damaging embargo, and what it is going to do is it is going to enrich the military further and make the lives of the poor even worse.

A friend of mine, an associate who just came back from Haiti, explained to me when I asked him for a characterization, that is a public health disaster. What is going on in Haiti right now is as a result of our policies, and we are forcing the Haitians into the sea. They have eaten their seed corn, they have cut down their fruit trees for fuel, they have trashed their environment and they have polluted their waters. There is not much left. And then the coup de grace, we say we are going to have an invasion of Haiti. What better reasons to leave and seek a life abroad?

That is what the President's policies are doing for us in Haiti. And it is what they are doing to Haitians, and that is even worse.

Mr. Speaker, I think that it is fair to say that the President's policies have polarized the situation, and I hope not beyond repair. The right wing has been forced to rally. We have seen this new President who is now a President Premier, and now the President Premier with a new Cabinet appointed by him of the right wing, a Emile Jonason, and every time the President announces a new policy around the former Premier, Malval, they trump that policy with some other right-wing activity. So we now have a polarized situation, and we are further away from a democratic solution than we started out with.

Just yesterday in Florida, Haitians in this country are exhibiting their disgust with this policy. We had 500 or so demonstrating, clogging I-95 down in south Florida yesterday, holding up signs saying, "No Aristide—no peace." In other words, we cannot ignore President Aristide is their President.

There is more and more to this. There is a solution to all of this. It is in a place called Eoile de la Gonave off Haiti, and that is where we should take the Haitian refugees and set up a safe haven.

We will be talking about this more.

A CELEBRATION OF INDEPENDENCE AND A NEW STRUGGLE FOR A FREE AND INDEPENDENT CUBA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 60 minutes as the majority leader's designee.

Mr. MENENDEZ. Mr. Speaker, today I join with freedom loving people throughout the entire world, and particularly with those here in the United States, on the eve of May 20, to commemorate Cuban Independence Day. I want to dedicate this speech to the many heroes and political prisoners

who have paid with their lives or years of improvement so that Cuba might be free.

The spirit of Cuban independence is alive and well, both among those Cubans who live outside their native country and those who live on the island. The great Cuban independence heroes, José Marti, Antonio Maceo, Maximo Gomez, Felix Varela, Ignacio Agramonte, and many more, struggled, sacrificed, and even died so that their dream of freedom could become a reality.

Thanks to them, the Cuban Republic was born 92 years ago. On May 20, 1902, United States forces withdrew from Cuba and an American military Governor turned over the Government of Cuba to the first elected President of Cuba.

Cuban independence was certainly long in coming. Cuba was the last country in Latin America to win its independence from the Spanish Empire. The first Cuban war of independence began in 1868, but it would take 34 more years for Cubans to secure their independence from colonial Spain. When that magic moment arrived a war-weary but victorious people paused to celebrate their independence.

Despite some problems, that Republic endured 58 years. But in 1959 a dictator named Fidel Castro betrayed the trust and dashed the dreams of the Cuban people and imposed a Communist dictatorship which has since ravaged that beautiful island nation. It has now been 35 years since Cuba has been held hostage by the ruthless dictator, Fidel Castro.

□ 1930

Once again, Cuban independence has been long in coming, but surely as the spirit of Cuban independence lives on, as we celebrate it today, it will once again prevail.

Mr. Speaker, I yield to my distinguished colleague, the gentleman from Florida [Mr. DIAZ-BALART], someone who has fought valiantly on behalf of the cause of Cuban independence and a member of the Committee on Foreign Affairs.

Mr. DIAZ-BALART. I thank the gentleman from New Jersey [Mr. MENENDEZ] for yielding to me on this important subject that unites us and so many others in this Chamber in solidarity with a people who have been suffering for too long.

I saw an article in the newspaper today, May 19, also an important date in Cuban history, because the great day that is celebrated, May 20, as the gentleman from New Jersey [Mr. MENENDEZ] has stated, the birth of tne republic after almost 100 years of struggle by the Cuban people in 1902.

May 19 is also remembered as another kind of day. It is not a day that is celebrated. It is the day on which the person who did more than anyone else to see May 20 become a reality, the day that he was killed, that Marti was killed at 44 years of age. After having left his native land at age 16, he finally returned, and within a few weeks of setting foot on his beloved island, he was killed on May 19. and so he never saw May 20, 1902, and yet the Republic that was founded on May 20, 1902, owes more to him than anyone else.

In that Republic and during that Republic so much solidarity was manifested, was constantly shown by the Cuban people for peoples throughout the world, and especially in our hemisphere, who had lost their freedom. What civic or labor or professional association during the republic did not have, for example, a committee for the liberation of the Dominican Republic during the dictatorship of Trujillo, had a committee for the liberation or the reinstatement of the republic in Spain during the 39-year-old dictatorship of General Franco, and many other committees in solidarity with dictatorships, especially, especially in this hemisphere? and yet today, after 35 years of suffering the most brutal dictatorship in the history of this hemisphere, where, where are the committees for the liberation of Cuba? In what Latin-American universities, in what Latin-American labor associations, in what Latin-American professional associations do we find committees for the liberation of Cuba? Where is the act of reciprocity, the elemental act of reciprocity with the Cuban people after the solidarity that was demonstrated in an unparalleled way during the years of the republic with exiles from throughout the hemisphere? Unfortunately, I do not recognize, I do not see that solidarity, and yet just as after almost 100 years of struggle, one nation, one nation stood with the Cuban people and helped the Cuban people achieve its independence from colonialism, European colonialism, and that one nation that stood with the Cuban people was the United States of America.

History repeats itself, and now after more than 30 years of brutal dictatorship, one nation in this Earth, one nation on this planet tells its business community, "We will not allow you to profit from the oppression of the Cuban people. We will not allow you to profit from the lack of the ability to unionize and to collectively bargain. In other words, we will not allow you to profit from the slave labor that Castro maintains and forces upon the Cuban people," and that one nation, that one nation that stands in solidarity with the Cuban people again, as a hundred years ago, is the United States.

So not only do we see the acts of repression more than ever, not only do we see the total economic devastation of a previously prosperous land at the hands of the dictatorship, but also on a daily basis and especially us in southern Florida who are able to meet with people who, risking their lives and the lives of their loved ones, reach our shores with their stories every day; we are able to witness the acts also of humiliation that the dictatorship commits upon its people today.

Today I read in the newspaper, May 19, 1994, of the 90-year-old widow of one of Cuba's most famous writers, Enrique Labrador Ruiz. She is 90 years old. A few weeks ago, reading the newspaper, she comes across a painting that was achieved, that was produced in 1942 of her late husband as the new exhibit at Christie's, the new sale of Cuban art. Christie's had announced a sale of Cuban art works and had given it much publicity. This lady seized the photograph of the painting of her husband. She is a 90-year-old widow without means, and Christie's states, "No, that is a painting that was obtained from Cuba, that was sold by Cuba." In other words, think of what this means: the impotence that the Cuban people have to live on a day-to-day basis, the humiliation that they have to live on a day-to-day basis, the lack of power, of empowerment of that people, all of these sad realities, all of these sad realities, not only this example which touches the heart of the 90-year-old widow who could not believe that her precious painting that had been left in a relative's home, even that was being sold by the dictator to achieve currency, even that was being sold by the dictator, and that she was impotent to stop it.

She settled apparently. "I settled," says the 90-year-old widow, "it was very poor compensation but at least it will pay for my burial. Enrique always said nobody buries me. I pay my own burial." That is the widow of Enrique Labrador Ruiz, one of the greatest writers produced by the Cuban nation in this century.

So this is another example of what the Cuban people have to live in a day, the humiliation and the impotence that the Cuban people have to live on a day-to-day basis, and we see the lack of solidarity in the hemisphere.

And yet we see the solidarity in this Nation. The Congress of the United States just a few weeks ago, as you know, I say to the gentleman from New Jersey [Mr. MENENDEZ] because you helped so much in that language that was inserted in the State Department authorization bill, requested formally of the President international sanctions, that international sanctions be sought at the U.N. Security Council against the brutal dictatorship of Castro.

The AFL–CIO, the most important labor union in the entire world, has a committee for the liberation of Cuba. Throughout professional and civic institutions, throughout this land, there is solidarity with the Cuban people, just as 100 years ago the American people stood side by side with the Cuban

people, the American people and its representative institutions including its supremely representative institution, this Congress, stands with the Cuban people in the certainty that just as May 19, the Sun set, on May 19, and the Sun rose on May 20, that just as that occurred at the end of the last century, it will also occur very soon, and the Cuban people will experience a rebirth and will create once again a republic that is, as it was, the envy of Latin America, will be again the envy of Latin America, with truly democratic institutions and respect for all divergent, dissident, and all points of view, for all human beings.

In other words, a republic based on and ruled by the rule of law, that we will see. I know as I stand here today, I know that we will see that reality and that we will see it soon and that we will then be witness to and be able to assist in the reconstruction of that republic.

I thank the gentleman from New Jersey for the honor of having participated this evening in his special order.

Mr. MENENDEZ. I thank the gentleman from Florida for his participation and continuous strong voice on behalf of human rights in Cuba and other places in the world.

Mr. Speaker, I yield to a distinguished colleague, also from Florida, who has spoken very strongly on the question of human rights not only in Cuba but in different parts of the world and who joins us tonight and joins her strong voice in support of this cause of Cuban independence. I yield to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. I thank the gentleman for yielding to me.

Mr. Speaker, I am pleased to join with my colleagues this evening in commemorating the 92d anniversary of the independence of Cuba.

Tomorrow, May 20, is a day of celebration that freedom-loving people inside Cuba—and outside Cuba—hold dear.

Banners will fly everywhere and hearts will stir. For it was on this day in 1902 that the controls of government were turned over to the free and independent Republic of Cuba by the Government of the United States, which had helped liberate Cuba after 400 years of Spanish control.

But Mr. Speaker, there is a bittersweet aspect to this celebration. For on this day of celebration of the founding of a free and independent Cuba, Cuba is neither free nor independent.

Since 1959, Cuba has been under the domination of the last of his generation of Communist dictators, Fidel Castro, who has no regard for the welfare or the rights of his own people.

It is hard to celebrate the idea of Cuban independence when that national is under the domination of one who has no appreciation for the history of his own country.

For the history of Cuba demonstrates—no less than our own—an indomitable spirit, a yearning for freedom, and a repugnance of oppression.

We celebrate our Fourth of July and the great founders of our country—Jefferson, Washington, Madison, Adams, and the others.

But who among us could not be inspired by the life and words of Cuban patriot Jose Marti, a man of enormous talents, devoted to principle, and a patriot, who organized and unified the movement for Cuban independence and who died on the battlefield fighting for it.

Jose Marti was born in 1853 and educated in Havana.

But even as a young man, he saw his path clearly and knew his heart.

When he sided with freedom fighters during an uprising against the yoke of Spanish control, he was sentenced to 6 months of hard labor and deported to Spain.

Allowed to return to Cuba a few years later, he was again deported because of is continued political activities.

He eventually ended up in New York City, where he wrote newspaper articles, poetry, and essays that are considered a model of Spanish prose and that made him famous throughout Latin America.

But the central theme of Jose Marti's life was his passion for freedom. The eloquence of his words stirred a generation to action.

He died on the field of battle, fighting for the freedom is his country, in 1895, only 7 years before his lifelong goal of Cuban independence was achieved.

Mr. Speaker, I'm from Miami, FL—home to thousands of Cubans who fled Castro's oppression and the home of thousands of Cuban-Americans who have contributed so much to the strength and vitality of our community, and our Nation.

And so, on this Cuban Indpendence Day, let us reflect on the sacrifices of all of those who have worked so hard and given so much to achieve the elusive goal that I know will one day be ours—a free democratic, and independenct Cuba.

Mr. MENENDEZ. I thank the gentlewoman from Florida for her participation. Also let me take this opportunity to thank her here for her strong support as a member of the Committee on Appropriations on behalf of the Radio and Television Marti, which gives us an opportunity to transmit into Cuba a free and unfettered flow of information about what is happening in the world. We appreciate her support in that regard.

Mr. Speaker, I would like to turn to a distinguished colleague, again from Florida, on the Republican side, probably the first voice in these Chambers on behalf of the people of Cuba in terms of Cuban independence, in terms of human rights, the first American elected to this House of Cuban descent, the distinguished gentlewoman from Florida, ILEANA ROS-LEHTINEN.

Ms. ROS-LEHTINEN. I thank the gentleman from New Jersey for that wonderful introduction.

Thank goodness I am not the first to have risen in this Chamber to speak on the behalf of the enslaved Cuban people.

Thank goodness that we have had many fine Congressmen and Congresswomen on both sides of the aisle who have done their job very eloquently for more than 35 years. I am just one more humble addition to that, as all of us are. I thank the gentleman for this great opportunity.

Once again, unfortunately, we find ourselves making the same plea that we made last year when it was a sad anniversary and we were here in the Chamber with the guidance of the gentleman from New Jersey [Mr. MENENDEZ], on behalf of those enslaved Cuban brothers and sisters.

We hope that next year we will not be making the same urgent plea for freedom and democracy in our own land and that soon Cuba will be free.

Mr. Speaker, I join the voices of eloquence here, Congressman LINCOLN DIAZ-BALART, with whom I have had the honor of serving many years in the State legislature, we have a good team working here, always speaking out on behalf of the Cuban people in favor of democracy and against oppression wherever that oppression may be.

I also thank the gentlewoman from Miami, CARRIE MEEK, who has been so eloquent for so many years through her years in her service in the Florida house and now in the United States Congress, always speaking out on the right side of the issues, especially as they relate to freedom and democracy in Cuba.

Later on we will be hearing from Congressman PETER DEUTSCH, also from south Florida, a person with whom I also served in the Florida legislature and who also has been a leader for us in the right causes. I thank all of you for the opportunity to speak.

Mr. Speaker, for more than a century, the Cuban people fought for their independence.

Tomorrow, the 20th of May, marks the latest commemoration of the foundation of the Cuban Republic. We pay tribute to those unselfish patriots who, with firm conviction and valor, made its creation possible.

That same fighting spirit is still present today in the new generation of Cubans, who refuse to live under a tyrannical regime.

The Cuban people today face a cruel and despotic regime which progressively violates their basic human rights. As the latest Department of State human rights report indicates,

the Cuban Government drastically denies the Cuban people's basic political and civil rights. The regime does not allow freedom of expression. Does not allow for assembly. Does not allow free movement. It denies the people the right to privacy, the right to work, and the right of the Cuban people to freely elect their leaders. The Castro regime denies all labor rights to the Cuban people.

Over the past 35 years, hundreds of thousands of Cubans have been sent to prisons or concentration camps for expressing dissent against the regime and for voicing their support for democratic changes on the island. To this day, men and women are still imprisoned, battered and tortured, for raising their voices against the ruthless practices of Castro's regime.

Just last week, Mr. Speaker, Cuban dissident Francisco Chaviano, president of the National Council for Civil Rights in Cuba, an illegal dissident group, was arbitrarily arrested at his house for what the Cuban Government called revealing state secrets. This is but the latest example of Castro's iron fist at work.

□ 1950

In Cuba today, the Cuban people are not only deprived of their rights, but also of all basic needs, thanks to the perverse economic policies of the regime. Instead of creating equality, the regime has distributed misery and hunger—this is a shared trait of all the Cuban people. This is a country which once enjoyed one of the highest standards of living in Latin America. But as everything else in Cuba, the economy has been yet another one of Castro's victims.

The regime now pretends to be willing to reform the economic system in hopes of gaining international support. However, the willingness to spew this rhetoric has, of course, not been equaled by the regime's actions. These so-called reforms implemented are directed at maintaining the Communist elite in power, not to help the Cuban people.

The latest crackdown by the government has come through the implementation of decree-law 149 which calls on the Cuban authorities to adopt "effective and exemplary measures" against those who enrich themselves with "goods and assets obtained through illegal enrichment." Of course, what the Cuban regime terms "illegal enrichment" is what the Cuban people must engage in for their survival.

Reportedly, already more than 10 individuals have been victims of this latest repressive measure implemented by the regime.

This blatant disregard for the Cuban people's rights has now been going on for 35 years and it is time for them to end. It is time to step up pressure against Castro by calling for an international embargo against the repressive forces subjugating the Cuban people. I congratulate the gentleman from Florida [Mr. DIAZ-BALART] and the gentleman from New Jersey [Mr. MENENDEZ] for their leadership on this issue of making the embargo an international one.

Mr. Speaker, the international community has united against the undemocratic governments of Haiti, South Africa, and Iraq, yet only 90 miles from our shores one of the last bastions of totalitarian communism remains and the international community turns its back.

It is time for the international community to join together against Cuba's despotic dictator and implement an international embargo against Castro and his cronies.

Mr. Speaker, we condemn today and will continue condemning the brutal repression to which the Cuban people are subjected.

Cuba will again be free and it will become free thanks to the efforts of all its people, both inside and outside the island, who have not halted in their struggle and thanks to the firmness of the policy we defend.

We hope that soon a law-abiding, democratic regime is once again established in the fatherland of Jose Marti.

Mr. MENENDEZ. Mr. Speaker, I thank the gentlewoman from Florida [Ms. ROS-LEHTINEN] for her participation and for her constant strong voice on behalf of a free, independent Cuba.

Mr. Speaker, I call upon a Democratic colleague at this time and yield to him. We both entered the House together as freshmen this past year, but in fact he has had a strong voice on behalf of seeking freedom, and democracy and respect for human rights in Cuba, the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, tomorrow the world will remember the 92d anniversary of Cuba's struggle for independence from Spain. What might otherwise be remembered as a joyous moment in history, however, now serves as a dismal reminder of the horrific conditions which exist in Cuba today. The 35 years of repression under the Castro regime have brought misery to the people of Cuba. The regime has stifled a once vibrant island economy and laid waste to a once flourishing nation. In addition, the Castro government has moved vigorously to stifle dissent and free thought in an attempt to beat an entire society into submission.

This year, as in years past, the United Nations has condemned the human rights situation in Cuba under Castro. The Castro government continues to bar the entry of U.N. human rights investigators and refuses to ratify the main U.N. human rights accord. In most cases, those brave enough to speak out are jailed, tortured, or killed. The silencing of dissidents through incarceration and physical violence is a common practice of which the world is well aware.

Yet, it appears that years of Castro's attempts to stifle free thought have not been able to squelch the Cuban people's commitment to democracy and freedom. The tactics of consistent humanitarian abuse has not been sufficient to break the will and the spirit of the Cuban people. And it is in honor of Cuban Independence Day that I take this opportunity to celebrate the indomitable spirit of the Cuban people.

The Castro regime, however, has chosen to make a mockery of the deep desire of the Cuban people for freedom. On February 14, 1994, Cuban Foreign Minister Robert Robaina announced that a conference between the Castro government and 200 Cuban exiles would be called in Cuba. The conference, held on April 22–24, 1994, focused on normalizing relations. While Mr. Robaina marketed the event as a significant attempt to reach out to the exile community, he later admitted that only those whose sympathies were with the revolution would be welcome.

While the Castro regime attempted to borrow from the principles of democracy by hosting this dialog, it must realize that it can not borrow selectively. For 35 years, the regime has worked to stifle free expression. It has harassed, jailed, harmed, and forced out those who have tried to express a different opinion. It has leveled fierce criticism against the United States, democracy, and capitalism. Now, the Castro regime seeks to feign openness in order to work toward normalized relations.

A free exchange of ideas is the hallmark of a democratic system, a system which allows all opinions to be heard, a system which clearly does not exist in Cuba. And when the regime ostensibly initiates a discussion with only one side represented, it is a sham. There is an old Cuban saying that when you have three Cubans in a room, you have at least four opinions. Cubans are no strangers to open discussion and free expression. And, many, including many Members of the United States Congress, would like to see a Cuba where this type of freedom is institutionalized. Instead, Mr. Castro's remedy was a reunion for Cuba's so-called revolutionaries.

The Castro regime has completely failed and abused the people of Cuba. Castro's unwillingness to institute comprehensive reforms demonstrates that only a complete transfer of power can restore Cuba to its people and to its place in the family of nations. By bargaining with Castro we prolong his time in power and the suffering he has inflicted on the people of Cuba. It is our moral obligation to reject any accommodation of this brutal dictatorship.

Today, I stand with my colleagues in solidarity with the people of Cuba. As

we celebrate their will and strength, we recall the legacy of José Marti and his commitment to the principle of personal liberty. And, as Americans we remember our own struggle for sovereignty and the belief that this was and is our fundamental right.

The year 1868 marked the beginning of the first war for Cuban independence. However, only after 34 years of struggle were the Cuban people finally free. Cuba has been under the thumb of the Castro regime for an unconscionable 35 years. Ironically, we are now beginning to see the seeds of the regime's collapse. I sincerely hope that soon the Cuban people will share my feelings of freedom and have the ability to live without fear. Castro's abuse of the Cuban people must come to an end. I look forward to celebrating Cuban Independence Day next year in a free Havana.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman from Florida [Mr. DEUTSCH] for his strong statement and his continuous support, and we share his goals. We certainly hope we can celebrate Cuba's independence day next year in a free and independent Cuba.

Mr. DEUTSCH. Mr. Speaker, I would like to add one point. The gentleman knows, and many of my colleagues know, that my district is physically the closest district to Cuba. I represent south Florida, including all of the Florida Keys, and, when I am in Key West, I am actually closer to Havana than I am to Miami, and we see on a daily basis the struggle that is going on in Cuba. Almost every day people who have risked their lives come to our shores. We do not know whether it is 1 out of 2 or 1 out of 10 that make it to our shores in vessels that are not adequately described as boats, but are vessels of whatever floats, and I have personally talked with hundreds of people who have risked their lives to come to our shores, and each person is a hero. Each person tells a story of conditions that are existing in Cuba today.

A process is going on in world history today that we see in south Florida on a daily basis that truly is an inspiration for the entire world. It is a story that unfortunately is not being told enough, and most people around the country and most people around the world do not know it, but it is a story of absolute commitment.

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I will mention it is not just the people who risk their lives in water almost every day. I had the opportunity to visit the American Naval Base in Guantanamo Bay and I had the opportunity to speak with several young people in their teens and early 20's who had either walked across mine fields or swam in shark-infested waters to get to Guantanamo Bay and to get to freedom. Each of those people again and some of their fellow victims—we know this when explosions occur in the mine field—had been killed, had a story, and truly was a hero. With those types of heroes, I think that the legacy and the independence that we believe will happen in Cuba is inevitable, will happen, and it will happen very soon.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for those laughs of what he experiences daily in his district.

It is amazing what people will do in search of freedom and justice.

Mr. Speaker, I would like to give another face to what is happening in Cuba and it is Cuba's economic situation.

Cuba's economic situation is so dire that one critic compares it to Bosnia's, with the potential for deterioration to widespread hunger and a genuine food crisis more comparable to sub-Saharan Africa or Somalia.

Cuba is in the midst of her worst economic crisis in history. Absent the vanished free ride of 30 years of Soviet subsidies, the Castro regime is broke, heavily in debt, and uncreditworthy by any standard. Cuba is nearly incapable of trading anything at all at the moment.

According to the Cuban Government's own estimates—not statistics, as the Government has not released statistics since 1989—Cuban exports have shrunk from $5.4 billion in 1989 to $1.7 billion in 1993. Of this figure, the Government requires a minimum of $1 billion to purchase imports of food and oil for subsistence. The balance is required for purchase of inputs for the production of the few exports that Cuba can manage to generate, such as chemicals and fertilizers. The harvest of Cuba's major cash crop and main source of foreign exchange—sugar—has shrunk to half of 1950's levels: The 1993 harvest yielded just 4.2 billion tons—a 50 percent decline from 1990 levels. National income has shrunk by the same amount since the fall of the Soviet Union and the former East bloc.

Remember during the last Presidential election the slogan, "It's the economy, stupid"? It came about at the time the U.S. economy had shrunk less than 1 percent. That was enough to knock an American President out of office. Compare that to Cuba's 50 percent shrinkage, which has thrown it into a depression. Somehow, there are no consequences for the Cuban dictator, but plenty for the Cuban people.

Imports have shrunk over 75 percent in the last 4 years, from $8.1 billion to under $2 billion in 1993. Can anyone imagine the same occurring here at home?

Industrial production has shrunk an incredible 80 percent, and will not improve, as spare parts from the former East bloc are being cannibalized for other purposes. If you believe the Russians, Cuba's international hard currency debt stands at $40 billion, $8 billion of which is owed to the Paris club of mainly Western European creditor nations.

Let me put it more plainly. The Castro regime can barely conduct normal trade. It cannot feed the Cuban people. It neither grows enough food, nor generates enough money to purchase the food its citizens require. Cubans struggle everyday just to survive and get a bite to eat. This may involve eating cat and dog meat. Since the Cuban economy is in ruins, the black market is now the major source of food on the island.

HUMAN RIGHTS ABUSES

The indignity of scrounging for food everyday is not the worst of it by any means for the Cuban people. Castro's human rights record is abysmal and one of the worst in the world. Severe violations began right away in 1959, when Castro's henchmen executed thousands of Cubans.

Castro's human rights record—that is, based on what we are able to obtain—documents a horror story of systematic abuse and violations of the fundamental human rights of the Cuban people.

The only monitors in Cuba are Castro's security thugs. But they do not monitor human rights. They monitor and beat, imprison, and torture the brave defenders of human rights. Those courageous enough to express their opposition to the regime risk violent acts of repudiation by the infamous Rapid Response Brigades, and the ire of the regime's Big Brother Watchdogs, the Committees for the Defense of the Revolution.

Freedom House's 1994 annual review lists Cuba as among the 10 worst offenders of human rights in the world. The United Nations and the Organization of American States, Amnesty International, Human Rights Watch, the Lawyers Committee for Human Rights, and other reputable human rights groups continue to equally denounce Castro. Yet, since none have been to Cuba, none of them really knows how many thousands of political prisoners today languish in Castro's brutal jails.

Freedom House and the Freedom Forum recently determined that Cuba is one of the five worst offenders of press freedom in the world. Even the foreign press is not free when they are inside Cuba. The government continues to restrict the ability of the foreign media to operate. Journalist visas are required and reporters whom the government considers hostile are not allowed entry. As you might imagine, friendly reporters get the royal treatment. Foreign journalists interviewing dissidents risk being detained and expelled, and in a few cases reporters have been beaten up.

Let me tell you about a bizarre incident that occurred recently to a foreign reporter. Just days ago a reporter

from the Dominican Republic was mistaken for a Cuban citizen. He was apprehended, taken to Cuban state security headquarters, beaten, and tortured. Later, when Castro's men realized they had the wrong person they released him—but not before they threatened him with further violence if he didn't keep his mouth shut.

Every year, the U.N. Commission on Human Rights censures Cuba for its gross violations of human rights—and every year the Cuban Government responds by refusing to grant a visa to the U.N.-appointed special rapporteur on human rights in Cuba.

As a result no one seems to know how many political prisoners there are in Cuba. Is it 1,000? Is it 10,000? Is it 100,000 prisoners who languish in Castro's political jails? We may never know.

But we do know about Mario Chanes de Armas, the longest serving political prisoner in the Western Hemisphere. Mr. Chanes used to be Castro's comrade-in-arms. But like so many others, he was betrayed by his former friend. Chanes was sentenced to 30 years in prison.

I asked Chanes what was the most painful part of his experience in Castro's jails. His answer was revealing and profoundly sad. He told me that while he was in prison, his son was born. Many years later, while he was still in prison, his son died. Mario Chanes never had human contact with his son.

I was glad to join Chanes at the White House in a meeting with President Clinton. In an emotional meeting, Chanes thanked the President for his principled opposition to the Castro dictatorship. The President was visibly moved by the meeting with Chanes. In my presence, he told Chanes, "I will never forget you or this meeting."

We know about Rodolfo Gonzalez. Gonzalez, the spokesman of the Cuban Committee for Human Rights [CCHR]. Mr. Gonzalez was first arrested on International Human Rights Day on December 10, 1992. He was held for 16 months before trial. He was sentenced to 7 years for enemy propaganda. It turns out his crime was talking to foreign radio stations on the phone.

We also know about Francisco Chaviano Gonzalez, President of the National Council for Civil Rights [CNDCC] in Havana, Cuba. Mr. Chaviano was arrested less than 2 weeks ago at his home. He is being held at Villa Marista, the headquarters of Castro's state security. What was his crime? He dared to stand up for human rights. The regime says that makes him highly dangerous.

Unsatisfied with its cruelty toward Chaviano, Castro's thugs arrested the entire leadership of the National Council. Their names are: Jorge A. Lorenzo Pimienta, vice-president of the CNDCC; Mario Rodriguez Castellon, Abilio Ramos Moya, and, Terina Fernandez Gonzalez (Chaviano's sister). All members of the organization.

On and on it goes. Castro's state security apparatus, under the Cuban ministry of the interior is capable of monitoring every aspect of a person's life, in all realms of activity: Economic, political, social, and cultural. Since 1959 this has been the state of human rights in Cuba.

NATIONAL SECURITY CONCERNS

On the national security front, the United States needs to be concerned about Cuba's effort to finish building the Juragua nuclear power plant, near Cienfuegos. We certainly don't need another Chernobyl 90 miles from the United States. Nor would we like the former soviet spy station in Lourdes, Cuba to continue to intercept United States communications—especially in the wake of the Ames espionage case.

If that were not enough cause for concern, it is probable that the Cuban Government is pursuing the means to develop biological and chemical weapons in Cuba, through their biotechnology industry.

U.S. POLICY AND THE EMBARGO

People often ask me what should be our policy toward the Castro Dictatorship. Some suggest that the United States policy of economic sanctions or the embargo on Cuba should change.

Let me address this point, because I think it is important. I want to begin by citing a few basic facts about the embargo. Despite revisionist claims to the contrary, the United States embargo on Cuba is not an arbitrary punitive measure in response to Castro's radical political orientation. Nor is it an instance of American interventionism in Latin-American affairs, as unfortunately other policies indeed have been.

The U.S. embargo was first put into effect in 1962 by Executive order of the late President John F. Kennedy. President Kennedy did so in response to the Castro dictationship's expropriation of United States citizens' property with a value of $1.8 billion—without compensation and in violation of international law. That illegally confiscated property now is valued at close to $6 billion.

President Clinton, another Democrat, right now can lift President Kennedy's embargo with the stroke of a pen, but like his seven predecessors he sees no reason to do that, given the lack of any movement by Castro toward substantive political or economic reform or settlement of U.S. claims. I applaud the President, support his principled stance, and am confident that he will maintain his first position.

In respect to Cuba, our foreign policy objective is to promote democracy, human rights, and eventually prosperity in a country just 90 miles from our shores. We look forward to the day that relations between our two countries are constructive and based on mutual respect.

The fact is, lifting the embargo won't create hard currency to buy the goods Cuba needs.

The fact is, the food and medicine and other products Cuba might need are available from other countries throughout the world, but they won't sell to Cuba because it can't pay.

The fact is, Castro will not allow a free-market system to develop in Cuba and insists on what he said for so many years. He now claims that the embargo is the reason for the misery in Cuba. Not surprisingly, there are people in this country who suddenly agree with Castro. They suggest that we should lift the embargo unilaterally, no questions asked.

They would have us forget about human rights, although the President has just asked the U.N. Secretary-General to appoint a high commissioner for human rights to give human rights a higher profile in U.S. foreign policy.

They would have us forget the hundreds of innocent Cuban political prisoners languishing in jail.

They would have us forget the atrocities of the Cuban KGB.

During the time that Cuba was subsidized to the tune of $6 billion annually by the Soviet Union, Castro loudly insisted that the United States embargo on Cuba was irrelevant. He stated ad nauseam that Cuba's economic prosperity would enable her to sidestep the United States embargo. In the meantime, United States critics of the embargo denounced it as ineffectual and merely an irritant in relations with Cuba.

Yet now, we see what a little sunshine can do. The Soviet subsidies are gone. Trade with Russia and the countries of the former eastern bloc are conducted strictly on commercial terms. Castro's Cuba stands isolated and exposed.

With the cushion of Soviet subsidies gone, Castro is now saying precisely the opposite of keeping his centrally planned economy—which has failed.

The fact is, at the height of Soviet aid to Cuba, which amounted to nearly $6 billion a year, Castro still rationed the Cuban people—instead of using that money to provide for their needs.

The fact is, Castro took the money provided by the Soviets and used it to export revolution around the world instead of feeding the Cuban people.

At the moment there is one obstacle which stands in the way: That is the dictator, Fidel Castro—and not U.S. policy.

LENDING THE CUBAN PEOPLE A HAND

As a Nation, we need to look beyond the Castro regime and to a time when Cuba will once again join the Democratic Nations of the world. To that end, I introduced H.R. 2758, the Free and Independent Cuba Assistance Act, which details a plan of assistance and cooperation to a post-Castro government in Cuba. Under the plan, emer-

gency economic and humanitarian assistance and military adjustment assistance would be granted to a transitional government pledged to democracy and moving to a democratically-elected government.

Assistance to a Democratic government would include developmental aid and insertion of Cuba into the international financial community to ease the transition to democracy. The bill provides for negotiations to include Cuba in the Caribbean basin initiative and in a potential free-trade agreement, and offers the return of Guantanamo Bay Naval Station.

The Free and Independent Cuba Assistance Act will send a beacon of light to the Cuban people. It says that we are in solidarity with you, but not with those who enslave you. We are ready to help, but first you must help yourselves. Remove the impediments to democracy and we will offer a strong helping hand.

To the Cuban military we say: "We are not your enemy and have no interest other than to recognize that we understand the pain of adjustment and are willing to help—so long as you do not turn your back on your brother and sister as they move to seek freedom and democracy."

Finally, to the world community we erase the view that United States policy is strictly punitive toward the Cuban people—and show that we are eager to welcome Cuba into the family of Nations.

In conclusion, Mr. Speaker, given the dubious record of the Castro regime, I believe we should not take any steps to prolong the life of this odious dictatorship—especially at a time when the clock is ticking on its final hour.

Mr. GILMAN. Mr. Speaker, I want to commend my friend, the gentleman from New Jersey [Mr. MENENDEZ] for this special order.

Mr. Speaker, I also want to take this opportunity to commend our Cuban-American colleagues for their leadership on the question of U.S. policy toward Cuba. We are fortunate to have their insights on the Foreign Affairs Committee. They bring a depth of experience and commitment that is invaluable.

They also bring to their analysis the best interests of both the United States and the Cuban people. For that, we are grateful.

May 20 will mark 92 years of Cuban independence. Tragically for the Cuban people, it will not mark 92 years of freedom.

Fidel Castro is in his 35th year of totalitarian rule. When combined with the Batista regime, the Cuban people will have spent more than 40 years of their independence as a Nation under the heel of an authoritarian leader.

Violations of fundamental human and political rights occur on a daily basis. The Castro government continues its refusal to cooperate with the U.N. Secretary-General's special rapporteur. It is questionable whether the so-called reforms are genuine efforts to liberalize the country's political system and economy. More likely, they are merely a recognition of the economic dislocation caused by Castro's communism.

Despite this adversity, the Cuban people have never lost their spirit, their warmth and generosity, nor have they given up their struggle for democracy and respect for human rights.

This special order provides another opportunity to demonstrate to the Cuban people that both the American people and the U.S. Government stand together in our support for their desire for freedom and that most important right of being able to freely and democratically choose the system of government under which they wish to live, and their leaders.

These fundamental rights have been denied far too long.

I recently had the privilege of attending the inauguration of Nelson Mandela as President of South Africa. Frankly, that historic day in Pretoria was one that I did not expect to witness during my tenure in Congress. What happened in South Africa is relevant to Cuba: In South Africa, a closed, unrepresentative elite based on race, ran a country without regard to the fundamental rights of the majority of its own people.

In Cuba, a closed, unrepresentative elite based on an ideology runs Cuba without regard to the fundamental rights of the majority of the Cuban people.

In the case of South Africa, the United States together with the international community acted on our indignation of the injustices of apartheid.

In Haiti, we have joined an international effort to express our outrage at the situation there by the implementation of comprehensive economic sanctions.

But when it comes to Cuba, the same logic that applied to South Africa and that applies to Haiti is thrown out the window. In the case of Cuba, the United States stands alone in attempting to show its moral outrage at the abuse of an entire country.

Today, we should have one standard for authoritarian regimes regardless of whether they are based on an ideology, race, or result from the removal of a democratically-elected government: that standard should be to declare them illegitimate and to deny them the respect of, and normal interaction with, the rest of the international community.

It is my hope that when we next commemorate Cuban Independence Day, we will do so in a free and democratic Cuba. The Cuban people deserve nothing less. They are a heroic people with a proud history. We must not falter in our commitment to their democratic future.

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GENERAL LEAVE

Mr. MENENDEZ. 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.

The SPEAKER pro tempore. (Mr. COPPERSMITH). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

VACATING OF SPECIAL ORDER

Mr. MENENDEZ. Mr. Speaker, I ask unanimous consent that the 5-minute special order granted today to the gentleman from California [Mr. HORN] for May 20, 1994, be vacated.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COX (at the request of Mr. MICHEL), until 3 p.m. today, on account of wife going into labor.

Mr. TORKILDSEN (at the request of Mr. MICHEL), for today until 4 p.m., on account of attending a funeral.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today and tomorrow, on account of official business.

Mr. NADLER (at the request of Mr. GEPHARDT), after 2 p.m. today, on account of official business.

Mr. NEAL of North Carolina (at the request of Mr. GEPHARDT), for today and tomorrow, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HORN) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. HORN, for 5 minutes, on Friday, May 20.

(The following Members (at the request of Mrs. MEEK of Florida) to revise and extend their remarks and include extraneous material:)

Mr. LAUGHLIN, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. SCOTT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HORN) and to include extraneous matter:)

Mr. WALSH.

Mr. OXLEY.

Mr. SHAW.

Mr. CAMP.

Mr. REGULA.

Mr. PETRI.

Mrs. BENTLEY.

Mr. GILMAN in two instances.

Mr. THOMAS of California.

Mr. THOMAS of Wyoming.

Mr. GINGRICH.

Mr. YOUNG of Florida.

(The following Members (at the request of Mrs. MEEK of Florida) and to include extraneous matter:)

Mr. SWETT.
Mr. CLYBURN.
Mr. TEJEDA.
Mr. MCDERMOTT.
Mr. MINGE.
Mr. BONIOR.
Ms. NORTON.
Mr. ROSE.
Mr. HOYER.
Mr. MATSUI.
Mr. RUSH.
Ms. KAPTUR in two instances.
Ms. DELAURO.
Mr. RICHARDSON.
Mr. STUDDS.
Mr. LANTOS.
Mr. OWENS.
Mr. DINGELL.
Mr. KILDEE.

(The following Members (at the request of Mr. MENENDEZ) and to include extraneous matter:)

Mr. POSHARD.
Mr. KINGSTON.
Mr. BECERRA.
Mr. TOWNS.
Mr. CONDIT.
Mr. GUTIERREZ.
Ms. ESHOO.

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. 2139. An act to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1994, 1995, 1996, and 1997.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following title:

S. 2024. An act to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

S.J. Res. 168. Joint resolution designating May 11, 1994 as "Vietnam Human Rights Day."

ADJOURNMENT

Mr. MENENDEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Friday, May 20, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3211. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a report regarding the latest date available in the Toxics Release Inventory; to the Committee on Energy and Commerce.

3212. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a copy of Presidential Determination No. 94-23, authorizing for furnishing of assistance from the Emergency Refugee and Migration Assistance Fund to meet the urgent needs of Rwanda and Burundi refugees, returnees, displaced persons, and conflict victims, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

3213. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on special nuclear materials in the Commonwealth of Independent States, pursuant to 22 U.S.C. 5860; to the Committee on Foreign Affairs.

3214. A letter from the Director, Ballistic Missile Defense Organization, Department of Defense, transmitting a copy of Presidential Determination 94-24 certifying that the representatives of the member nations of NATO and Japan, Israel, and South Korea were formally presented with a proposal concerning coordination of U.S. theater missile defense programs with TMD programs of our friends and allies, pursuant to Public Law 103-160, section 242; to the Committee on Foreign Affairs.

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. BROWN of California: Committee on Science, Space, and Technology. H.R. 1432. A bill to establish missions for Department of Energy research and development laboratories, provide for the evaluation of laboratory effectiveness in accomplishing such missions, and reorganize and consolidate Department of Energy technology transfer activities, and for other purposes; with an amendment (Rept. 103-484 Pt. 2) Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee of Conference. Conference report on S. 24, an act to reauthorize the Independent Counsel Law for an additional 5 years, and for other purposes (Rept. 103-511). Ordered to be printed.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 1638. A bill to amend the Excellence in Mathematics, Science, and Engineering Education Act of 1990 to establish the National Academy of Science, Space, and Technology at State universities, to expand the scholarship program associated with such academy, to direct the Administrator of General Services to construct a public building to provide space for the headquarters of such academy, and for other purposes; with an amendment (Rept. 103-512, Pt. 1). Ordered to be printed.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3724. A bill to designate the U.S. courthouse located in Bridgeport, CT, as the "Brien McMahon Federal Building" (Rept. 103-513). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3840. A bill to designate the Federal building and U.S. courthouse located at 100 East Houston Street in Marshall, TX, as the "Sam B. Hall, Jr. Federal Building and United States Courthouse" (Rept. 103-514). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. House Concurrent Resolution 238. Resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby (Rept. 103-515). Referred to the House Calendar.

Mr. HEFNER: Committee on Appropriations. H.R. 4453. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-516). Referred to the Committee of the Whole House on the State of the Union.

Mr. FAZIO: Committee on Appropriations. H.R. 4454. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-517). Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4385. A bill to amend title 23, United State Code, to designate the National Highway System, and for other purposes; with an amendment (Rept. 103-519). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4425. A bill to authorize major medical facility construction projects for the Department of Veterans Affairs for fiscal year 1995, to revise and improve veterans' health programs, and for other purposes (Rept. 103-518). Referred to the Committee of the Whole House on the State of the Union.

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. HEFNER:

H.R. 4453. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. FAZIO:

H.R. 4454. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes.

By Mr. BEREUTER:

H.R. 4455. A bill to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JEFFERSON:

H.R. 4456. A bill to amend title 10, United States Code, to give a priority to the States for the transfer of nonlethal excess supplies of the Department of Defense; to the Committee on Armed Services.

By Mr. SAM JOHNSON:

H.R. 4457. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to provide special look-back treatment for emergency appropriations, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. KOLBE (for himself, Mr. KOPETSKI, Mr. DREIER, Mr. LIVINGSTON, Mr. HYDE, Mrs. JOHNSON of

Connecticut, Mr. GILCHREST, Mr. MCCRERY, Mr. EHLERS, Mr. HORN, and Mr. PORTMAN):

H.R. 4458. A bill to promote United States industry and technology in competition with Japan; to the Committee on Foreign Affairs.

By Mr. MCNULTY:

H.R. 4459. A bill to provide for retroactive award of the Navy Combat Action Ribbon based upon participation in ground or surface combat as a member of the Navy or Marine Corps during the period between July 4, 1943, and March 1, 1961; to the Committee on Armed Services.

By Mr. MINETA (for himself and Mr. APPLEGATE) (both by request):

H.R. 4460. A bill to provide for conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OWENS (for himself, Mr. WILLIAMS, and Mr. MARTINEZ):

H.R. 4461. A bill to provide grants to partnerships to encourage work force diversity in order to improve the working conditions of all individuals in the United States and to help organizations compete more effectively both domestically and internationally, and for other purposes; to the Committee on Education and Labor.

By Mr. RICHARDSON (for himself and Mr. THOMAS of Wyoming):

H.R. 4462. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Natural Resources.

By Mr. STUDDS:

H.R. 4463. A bill to provide for studies in order to establish a basis for evaluating the impact of health care reform; jointly, to the Committees on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Ms. DANNER and Mr. LIGHTFOOT.

H.R. 408: Mr. BILIRAKIS.

H.R. 417: Mr. THOMAS of Wyoming.

H.R. 488: Mr. PETE GEREN of Texas and Mr. FROST.

H.R. 885: Mr. KINGSTON.

H.R. 896: Ms. MOLINARI.

H.R. 1314: Mr. ZELIFF.

H.R. 1487: Mr. BACHUS of Alabama.

H.R. 1493: Mr. SHAYS.

H.R. 1606: Mr. SHAYS.

H.R. 1671: Mr. MORAN and Mr. KYL.

H.R. 1736: Mr. STUPAK and Mr. INGLIS of South Carolina.

H.R. 1843: Mr. KIM.

H.R. 1945: Mr. SANDERS, Mr. BARCA of Wisconsin, Mr. GLICKMAN, and Mr. COBLE.

H.R. 2292: Mr. HOLDEN and Mr. BACCHUS of Florida.

H.R. 2394: Mr. ABERCROMBIE and Mr. HILLIARD.

H.R. 2395: Mr. ABERCROMBIE and Mr. HILLIARD.

H.R. 2623: Mr. NEAL of Massachusetts, Mr. KLINK, Mr. ISTOOK, Mr. ROYCE, and Mr. DELLUMS.

H.R. 2649: Mr. GEJDENSON.

H.R. 2736: Ms. ROYBAL-ALLARD.

H.R. 2741: Ms. SLAUGHTER.

H.R. 3173: Mr. RIDGE, Mr. GINGRICH, Mrs. MEYERS of Kansas, and Mr. CRANE.

H.R. 3396: Mr. ZELIFF.

H.R. 3439: Mr. ZELIFF.

H.R. 3440: Mr. WILSON and Mr. WAXMAN.

H.R. 3486: Mr. SANTORUM, Mr. QUILLEN, Mr. ROYCE, Mr. SCHAEFER, Mr. LIVINGSTON, and Mr. FROST.

H.R. 3519: Mr. EMERSON and Mr. MARTINEZ.

H.R. 3671: Mr. ACKERMAN and Ms. VELAZQUEZ.

H.R. 3738: Ms. ROYBAL-ALLARD and Mr. KILDEE.

H.R. 3797: Mr. INGLIS of South Ccrolina and Mr. SMITH of Texas.

H.R. 3820: Mr. SHUSTER, Mr. BLILEY, Mrs. MORELLA, Mr. RICHARDSON, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GUNDERSON, Mr. KYL, Mr. MCKEON, Mr. SMITH of New Jersey, Mr. UPTON, Mr. WOLF, Mr. TRAFICANT, and Mr. CLYBURN.

H.R. 3897: Mr. SCHUMER, Mr. FARR, Mr. MILLER of California, Mr. EDWARDS of California, Ms. WOOLSEY, and Mr. LIPINSKI.

H.R. 3970: Mr. RANGEL, Mr. SUNDQUIST, and Mr. MATSUI.

H.R. 4047: Mr. LIPINSKI, Mr. RUSH, Mr. SANGMEISTER, and Mr. YATES.

H.R. 4050: Ms. MCKINNEY.

H.R. 4051: Mr. DELLUMS, Mr. TRAFICANT, and Ms. ESHOO.

H.R. 4057: Mr. WALSH, Mr. FAWELL, Mr. HOEKSTRA, Ms. MOLINARI, Mr. ARMEY, Mr. ROWLAND, Mr. DEAL, Mr. HAYES, Mr. MCCURDY, Mr. MONTGOMERY, and Mr. STUMP.

H.R. 4064: Mr. GEJDENSON.

H.R. 4065: Mr. GEJDENSON.

H.R. 4074: Mr. STUMP, Mr. LIPINSKI, Mr. MANTON, Mr. DIXON, Mr. BONIOR, and Mrs. MEYERS of Kansas.

H.R. 4095: Mr. DOOLITTLE, Mr. PAXON, and Mr. CANADY.

H.R. 4189: Mr. CAMP, Mr. SANTORUM, and Mr. OXLEY.

H.R. 4198: Mr. BARTON of Texas.

H.R. 4251: Mr. MURTHA and Mr. EVANS.

H.R. 4258: Mr. FINGERHUT.

H.R. 4260: Mr. ANDREWS of New Jersey, Mr. NADLER, and Mr. LEWIS of Georgia.

H.R. 4314: Mr. FROST, Mr. OLVER, Mrs. UNSOELD, Mr. RICHARDSON, Mr. EDWARDS of California, and Mr. WILLIAMS.

H.R. 4317: Mr. RANGEL.

H.R. 4318: Mrs. CLAYTON.

H.R. 4345: Mr. FINGERHUT and Mr. BACHUS of Alabama.

H.R. 4349: Mr. EDWARDS of California, Mr. OLVER, Ms. WOOLSEY, Mr. WAXMAN, and Mr. MILLER of California.

H.R. 4358: Mr. MICHEL, Mr. GILMAN, Mr. HANSEN, Mr. WILSON, Mr. STUMP, and Mrs. MEYERS of Kansas.

H.R. 4365: Mr. TALENT and Mr. CANADY.

H.R. 4000: Mr. POSHARD and Mr. ROMERO-BARCELO.

H.R. 4419: Ms. MOLINARI.

H.R. 4425: Mr. MONTGOMERY, Mr. STUMP, Mr. HEFNER, Mr. RICHARDSON, Mr. STENHOLM, Mr. PAYNE of Virginia, and Mr. PARKER.

H.J. Res. 44: Mr. ROTH.

H.J. Res. 209: Mr. MCCLOSKEY, Mr. TAUZIN, Mr. JOHNSON of South Dakota, Ms. MOLINARI, Mr. DARDEN, Mr. YOUNG of Alaska, Mr. APPLEGATE, Mr. HALL of Texas, Ms. SLAUGHTER, Mr. BARTLETT of Maryland, and Mr. HOEKSTRA.

H.J. Res. 287: Mr. MCNULTY, Mr. SABO, Mr. VENTO, Mr. SAWYER, Mr. TALENT, Mr. FOGLIETTA, Mr. VISCLOSKY, Mr. LEVIN, Mr. KLINK, Mr. LEWIS of Florida, Mr. KANJORSKI, and Mrs. THURMAN.

H.J. Res. 315: Ms. KAPTUR, Ms. PRYCE of Ohio, and Mr. MARTINEZ.

H.J. Res. 318: Mr. PETE GEREN of Texas, Ms. NORTON, Mr. GENE GREEN of Texas, Mr. MYERS of Indiana, Mr. DINGELL, Mr. ANDREWS of Texas, Mr. CALVERT, Ms. PRYCE of Ohio, Mr. ENGEL, and Mr. ROWLAND.

H.J. Res. 347: Mr. LIPINSKI, Mr. PETE GEREN of Texas, Mrs. MEEK of Florida, Mr. SAXTON, Mr. KLEIN, Mrs. BYRNE, Mr. SOLOMON, Mr. LEWIS of California, Mr. SMITH of Texas, and Ms. MOLINARI.

H.J. Res. 356: Mr. MARTINEZ, Mr. DELLUMS, Mr. CONYERS, and Mr. HILLIARD.

H. Con. Res. 152: Mrs. MEYERS of Kansas.

H. Con. Res. 166: Mr. PORTMAN and Mr. BAKER of Louisiana.

H. Con. Res. 210: Mr. BARTLETT of Maryland.

H. Con. Res. 223: Mr. LEVIN, Mr. GUTIERREZ, Mr. BILBRAY, Mr. HINCHEY, Mr. HOCHBRUECKNER, and Mr. HILLIARD.

H. Con. Res. 227: Mr. DOOLITTLE.

H. Con. Res. 245: Mr. DREIER, Mr. MCKEON, Mr. BACHUS of Alabama, Mr. TORKILDSEN, Mr. SOLOMON, Mr. BONILLA, Mr. POMBO, Mr. KIM, Mr. EWING, Mr. MILLER of Florida, Mr. FILNER, Mr. BLUTE, and Mr. LIPINSKI.

H. Res. 234: Mr. FLAKE.

H. Res. 291: Mr. STUMP and Mr. COX.

H. Res. 368: Mr. FLAKE, Mr. PORTMAN, Mr. FORD of Tennessee, and Mr. HILLIARD.

H. Res. 381: Mr. HASTERT.

H. Res. 424: Mr. GREENWOOD, Mr. CALVERT, Mr. ROWLAND, and Mr. SMITH of New Jersey.