United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, MAY 11, 1995 *No. 78*

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 11, 1995.

I hereby designate the Honorable MARK ADAM FOLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Richard A. Rhoades, Friedens Evangelical Lutheran Church, Gibsonville, NC, offered the following prayer:

Gracious God, as You have created a world so lush and wonderful and placed us here to both care for and enjoy it, guide this Nation as a people to consciously respect and care for one another and for all that exists. Bless this body, set apart by the people, to faithfully steward and guide the activities of the United States of America. Empower the leaders to use their gifts to the fullest, and enable their staff members to perform their tasks with excellence. Comfort these Your servants through the demands and stresses of their positions. And help all of our Nation's citizens to join in working together for universal peace and for the good of each other and of the world. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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 pro tempore. Will the gentleman from North Carolina [Mr. JONES] come forward and lead the House in the Pledge of Allegiance.

Mr. JONES led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 956. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mrs. FEINSTEIN as a member of the Senate delegation to the Mexico-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

The message also announced that pursuant to sections 276d–276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. AKAKA as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Huntsville, ON, Canada, May 18–22, 1995.

The message also announced that pursuant to sections 276h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. GRASSLEY, Mr. MURKOWSKI, and Mr. GORTON as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 1st session of the 104th Congress, to be held in Tucson, AZ, May 12–14, 1995.

250TH ANNIVERSARY OF FRIEDENS LUTHERAN CHURCH

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

Mr. COBLE. Mr. Speaker, I am pleased to welcome to the House of Representatives today a minister from my district. Reverend Rhoades serves as the pastor of the Friedens Lutheran Church. Friedens Lutheran Church, Mr. Speaker, is beautifully situated among the gentle rolling hills of Piedmont, NC, between Gibsonville and McLeansville in the heart of the sixth Congressional District.

Friedens, a patriotic congregation, focusing on worship of God, service to the community, and living the love of God in their own lives and with everyone they meet, is celebrating its 250th anniversary this year. In addition to Reverend Rhoades, we are privileged, Mr. Speaker, to have in the House gallery today several members of the Friedens Lutheran Church.

Again, I say it is our privilege to welcome our guest chaplain, Reverend Rhoades today, and the members of the Friedens Lutheran Church, to the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to refer to members in the gallery.

BUDGET RESOLUTION A PRODUCT OF SECRECY

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

Mr. DOGGETT. Mr. Speaker, this morning around 1 or 1:15 a budget resolution was adopted by the House Committee on the Budget. It is the product of secrecy, of task forces meeting, working as a shadow government in this Capitol, to design a budget resolution. And if you had sat there from 10 in the morning until a little after 1 in the morning the next day as I have, you would understand why it has been necessary to conceive this budget resolution in secret, because the members of the Republican caucus have again broken their word.

They have broken their word about having an open House, which they promised on the first day. And the reason it was so essential for them to operate in secrecy is that they are breaking their word to seniors across this country. They are coming after Medicare to the tune of almost $300 billion in cuts, directly out of the pockets of American seniors.

Finally, after being pressed, they admitted that copayments are going up for American seniors and that many seniors will see a cut in their benefits. They just do not know who has been marked for the most pain.

FEDERAL BUDGET MUST BE BROUGHT UNDER CONTROL

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

Mr. JONES. Mr. Speaker, time is running out.

If Congress fails to address the out-of control Federal budget, it will soon be too late for our children's future.

If we fail to end the irresponsible spending that Washington has engaged in for the last 25 years, we can say goodbye to the American dream, and say hello to a diminished standard of living for our kids.

The consequences are jut too great to imagine if we do not bring the Federal budget into balance. In just 10 years, at current projections, the Federal Government will be unable to pay for anything beyond the service on the debt and entitlements. That means no defense, no law enforcement, or any other domestic spending.

Mr. Speaker, Republicans are committed to bringing budgetary sanity out of budgetary chaos. We will balance the budget by eliminating outdated agencies, waste, and programs that simply do not work. All the liberal Democrats can offer is class warfare rhetoric and posture for the best political angle. They totally fail to realize that the future of America is on the line and that time is running out.

GOP BUDGET RESOLUTION

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

Mr. FOGLIETTA. Mr. Speaker, is it any surprise how the Republicans would reach a balanced budget in 7 years? By breaking our contract with senior citizens, with veterans, with the most vulnerable people in our society, and with those of us who live in cities.

I take the floor today to challenge just one aspect of this disastrous plan, that which would bankrupt American mass transit. The best way that we can empower people and bring them out of poverty and welfare is to help them get jobs and to keep those jobs. This requires meeting practical needs, job training, child care, health insurance, and mass transit. We must help people get to their jobs on safe, dependable, and economical public transit.

Thus I rise to oppose some of the aspects of this mean-spirited budget plan and to oppose, as strongly as I can, the end of the Federal Government's commitment to mass transportation.

ZERO DEFICIT BUDGET RESOLUTION PASSED

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

Mr. HOKE. Mr. Speaker, Rome burns and Nero fiddles. Since yesterday at this time, the national debt has increased $548 million. That is almost $23 million every single hour, $383,000 every single minute, $9,000 every second. Every newborn baby enters the world owing $17,300 of his or her share of the national debt. That means that between yesterday morning at this time and today, we have on a per capita basis increased the debt about $2.10 each.

Thomas Jefferson said that ''We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.'' Yesterday the Republican members of the Committee on the Budget, joined by one of the Democrat members of the committee, passed what will be a zero, goose egg, nothing, no deficit in the year 2002, balanced budget resolution.

MEDICARE RECIPIENTS PLACED AT GREAT RISK

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

Mrs. CLAYTON. Mr. Speaker, we now know that the majority proposes to reduce Medicare spending by $250 billion over the next 7 years. This will mean the average Medicare patient's benefits will be reduced by $132 in 1996 to $2,000 in the balanced budget year 2002. Out-of-pocket costs will rise as well. Each American on Medicare, and their families, can expect to be responsible for thousands of dollars of additional costs per year. The import of these huge spending reductions are profound—less people will have access to quality health care, and our Nation's hospitals will be put at great risk.

As Medicare goes under the knife, so too does funding for medical education, especially teaching hospitals, such as Pitt Memorial, in my congressional district. Hospitals like Pitt Memorial receive about 30 percent of their funding for resident training. They get additional funds for graduate medical education programs. These funds provide such hospitals with the financial cushion so that they can continue to provide care for Medicare patients. Who will pick up the slack for this essential funding—certainly not the States, the counties or the people? I invite my colleagues from across the aisle to really consider the impact that these deep spending reductions will have on millions of seniors and their families. This will end Medicare, as we know it.

Mr. Speaker, if these huge reductions go into effect. Medicare patients and their families will suffer.

TIME WARP

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

Mr. CHRYSLER. Mr. Speaker, my colleagues on the other side of the aisle are caught in a time warp.

They are still thinking like the Congress of old, where through the magic of baseline budgeting, Democrats could claim they were cutting spending when actually they were spending more than ever.

Now they come to the floor and claim that Republicans are cutting Medicare, when the cold, hard facts are just the opposite.

As you can see by this chart, the per capita expenditure in Medicare will increase from $4,700 to $6,300 over the next 7 years.

In Democrat parlance, that is a cut, but to most Americans that is a significant increase.

Coupled with our reforms, which will weed out waste and fraud, we will protect, improve, and preserve Medicare far into the next century.

Mr. Speaker, House Democrats who come to the floor today will continue to attack Republicans for cutting Medicare. But as this chart shows, the truth is far different from the Democrat version of reality.

MEDICARE CUTS PAY FOR TAX CUTS FOR WEALTHY

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

Mr. ROMERO-BARCELÓ. Mr. Speaker, the Republicans have finally unveiled their budget proposal. And as expected, the news is not good for our senior citizens.

House Republicans returned from their party conference last week united by a plan to cut Medicare in order to pay for their $345 billion tax cut for the wealthiest Americans. Under this proposal, 37 million seniors will lose $900 a year while a very lucky 1.1 million taxpayers—those making more than $230,000 a year—will enjoy a $20,000 bonus.

When President Clinton came to office, the Medicare Trust Fund was due to run out of funds in 1999. Through tough actions that this administration passed, and every Republican opposed, the trust fund was strengthened for an additional 3 years. The President then proposed a highly detailed health care reform proposal that would have significantly strengthened the Medicare Trust Fund, and again was opposed by most Republicans.

Since last year's election, the President has made clear that he still wants to work on Medicare cost issues with the Republicans, but that it has to be in the context of real health care reform that protects the integrity of the program, expands coverage, and protects choice as well as quality and affordability. No responsible person should stand by and allow Medicare to be used as a cover to pay for tax cuts for the wealthy and, in doing so, break our historic contract with the senior citizens.

REPUBLICANS SUBMIT AN HONEST BALANCED BUDGET PROPOSAL

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

Mr. LINDER. Mr. Speaker, my daughter is grown and she and her husband have a 1½-year-old son and another child on the way. The last time an official House committee submitted a bill to balance the budget, she was 2.

Today, House Republicans present the first honest attempt to balance the budget. We do so not for politics, but for our children, my daughter and son, and my grandchildren. We do so because my family, your family and families across the country cannot achieve the American dream if we do nothing.

If we do nothing, we will pay more interest on the debt than we spend for defense. Moreover, my grandchildren will pay more than $185,000 in their lifetimes just to pay interest on the debt.

We will not stand by and watch any child in this country be subject to that type of cruelty. Yet the Democrat Party, which needlessly frightened children of the impending doom of school lunches is utterly unmoved by the threat to the dreams and future of those same kids.

□ 1015

TRADE DEFICIT WITH JAPAN

(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, the battle for a balanced budget is not taking place in the Halls of Congress. The battle for a balanced budget is raging in the Pacific over the protectionist trade policies of Japan. You know that, I know that, and the American worker, they absolutely know it. Watch them at election time.

I commend President Clinton for his efforts. The President's fight is absolutely right. I just hope at the last minute they do not make another compromise washed-down deal.

Let me say this: The hammer is in the hands of Congress. I recommend imposing a 15-percent across-the-broad tariff on Japanese products, all products until they open their market. Think about it. That worked for Washington. That worked for Lincoln. And that worked for Japan.

There is nothing wrong with winning and losing is contagious. Let us join the President's fight. Let us take action against Japan. They are not going to open their doors on a voluntary request.

WHERE'S THE DEMOCRATS' PLAN

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

Mr. CHABOT. Mr. Speaker, yesterday, Republicans produced a historic plan to bring us to a balanced budget by the year 2002. The liberal Democrats here in Congress have already jumped on the whining, moaning, and groaning bandwagon to denounce our plan in every way they can.

But let me just ask my colleagues on the other side of the aisle one question, Where's your bill? Where's your plan to balance the budget?

The fact is that you don't have a plan. You haven't submitted anything in writing to balance the budget. Instead, you are content to sit there maintaining the status quo while our children's future goes down the drain.

Mr. Speaker, Republicans care about the future of our country. Republicans will pass a balanced budget. We will keep our promise to the American people.

KEEPING THE MEDICARE PROMISE

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

Mr. FAZIO of California. Mr. Speaker, after waging a war against our Nation's children by slashing school lunch and child nutrition programs, the Republicans have turned their sights on America's senior citizens.

Yesterday, they released the details of a Republican budget that finances tax breaks for wealthy Americans by gutting Medicare.

The Republicans intend to write their wealthy friends a check for $305 billion. And to finance this giveaway, they plan to force seniors to cough up an extra $900 a year.

By targeting those with the most yet to give, our children, and those who have made the greatest sacrifice—our seniors—the Republicans are undermining a fundamental, moral obligation.

This debate is not about deficit reduction. It is about sacrifice. The generation of Americans who now receive Medicare benefits sacrificed to bring this Nation great prosperity.

A senior from my district—from Vacaville, CA—wrote to tell me that these programs are: ''promises made to people who earned these benefits.''

Promises? Where have I heard that word before? ''Promises made, promises kept.''

Obviously, this is one promise the Republicans do not intend to keep.

THE WRONG WAY TO GO WITH SOCIAL SECURITY

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

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans are solving something that has bothered all the people, but I do not think they are doing it the right way. Older people have complained to me; I am not talking about the wealthy older people who will be the beneficiaries of the Republican tax cuts but the average older person for whom Social Security is a major part of their income. And they have complained that, as the Social Security cost of living has gone up, Medicare has come and taken it away. And they have been virtually equal in many cases.

Well, no longer under the Republican budget plan will the cost-of-living increase that older people get be equal to the increase they have to pay in Medicare. But the Republicans are solving this in the wrong way.

Older people are going to have to pay more for their Medicare, and under the Republican plan they will get less for their Social Security. So every year older people will see under the plan an erosion in their incomes because the Republicans will reduce the cost of living.

They want to cut taxes for wealthy older people who will be making $150,000 or $200,000 a year, but they will cut the cost of living for an older person living on $9,000 or $10,000. That is the wrong way to go.

REPUBLICANS PROMISES ARE BROKEN

(Mrs. LOWEY asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, the Republican budget cuts $24 billion from Social Security. Seniors who have worked hard their whole lives will lose hundreds of dollars in Social Security benefits. Social Security is a contract that we've made with our Nation's seniors. The Republican budget tears that contract into pieces.

The Republican budget cuts $283 billion from Medicare. The Republican budget will eliminate Medicare as we know it by herding seniors into HMO's and by charging them $3,500 more for their health care. Seniors who depend on Medicare will be out of luck.

Mr. Speaker, the Republican budget breaks faith with the millions of American seniors who depend on Medicare and Social Security to make ends meet.

Day after day we have heard how the Republicans have kept their promises to the American people. One after another the Republicans told us that promises made are promises kept.

Well Mr. Speaker, today we learn that Republican promises made are promises broken.

Speaker GINGRICH and the Republican majority promised that they would not cut Social Security benefits. They promised not to devastate Medicare.

But what is the truth? What does their new budget say?

This is how the Republicans keep their promises: By cutting Medicare. By cutting Social Security. The American people deserve better.

BROKEN PROMISES

(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, Republicans love to get up here everyday and talk about promises made and promises kept, but it seems that my GOP colleagues have forgotten our sacred promise to take care of America's senior citizens. In fact, under the GOP budget proposal, released yesterday, seniors take a double hit.

First, Republicans cut health care for seniors. The GOP budget reduces Medicare spending by $283 billion over 7 years—a 25-percent reduction in the year 2002. Then, to make matters worse, Republicans turn around and reduce Social Security benefits for seniors by $24 billion between 1999 and 2002.

Now, Speaker GINGRICH calls these cuts painless. But, they are not painless to the millions of seniors who rely on Medicare and Social Security to help pay the bills and make ends meet.

Republicans promised to protect Medicare. Republicans promised that Social Security would be off the table during this budget debate. Promises made, promises broken.

REPUBLICAN BUDGET AND NATION'S CHILDREN

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

Mr. POMEROY. Mr. Speaker, we had a long day in the House Committee on the Budget yesterday. I am here to tell Members about one aspect of the Republican plan to balance the budget that they do not want to talk much about. That is about the deep cuts in Medicare, $184 billion over the next 7 years. And the impact of these would take health insurance away from 5 million kids that now have it. It is taking a health care problem in this country and making it much worse by depriving 5 million kids of health insurance coverage.

The plan does not stop there, because it also assaults the elderly that depend upon Medicaid to help them defray the cost of nursing home expenses when they have exhausted their personal accounts. What will happen to some in a nursing home that has exhausted their life savings? Will they be put out on the street when the Republican Medicaid cuts begin to hit and there are no more funds available? Will they be forced to move in with their children who are already struggling to make it and provide for the college education of their children?

These are questions that need to be answered as we flesh out the Republican budget. Disaster for kids; disaster for seniors.

SHRINKING THE BUDGET

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

Mr. WISE. Mr. Speaker, if they are making a movie this summer of the Republican budget, I think it can be titled ''Honey, I Shrunk the Budget and I Blew Up the Economy.'' I blew it up by gutting Medicare, cutting it up to 25 percent. And who will pay for that? Senior citizens, by not getting care; businesses and young people, by having to pay more insurance premiums; hospitals that have to close because they cannot absorb these kinds of losses.

Blew up the economy by cutting programs that bring growth. Student loans cut by $33 billion. Student loans that affect almost every person in this country. The Economic Development Administration, the linchpin for so much industrial develop, the Appalachian Regional Commission terminated. These grow the economy; the Republican budget shrinks it. Balancing the budget, Mr. Speaker, is important for a strong economy. But not with this budget and not one that bankrupts the economy.

KEEP PRESSURE ON JAPAN

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

Mr. NEAL of Massachusetts. Mr. Speaker, recently the United States and Japan resumed automobile trade talks and these talks have collapsed. The talks were aimed at opening the Japanese market to autos and auto parts.

The United States presented new proposals in the two priority areas—improved foreign access to Japan's auto markets and increase sales of auto parts in both the United States and Japan. Japan's auto market remains closed. It has been stated Japan sells as many cars in a week in the United States as United States automakers sell a whole year in Japan.

Japan continues to maintain a closed economy which discriminates against United States auto exports and effects international economics. Japanese officials have expressed dismay over what they termed new demands at a late stage of talks.

Currently, there is a $36.7 billion United States-Japan gap in trade in autos and auto parts. This gap has to be decreased. Japan's market share of auto imports is only 4 percent. In addition, Japan's market share of auto imports is only 2.4 percent.

Nearly 2 years of negotiations have failed to produce an agreement in the United States-Japan auto trade talks. The administration announced tough trade sanctions against Japan. These sanctions will probably entail higher tariffs on Japanese imports worth billions of dollars a year.

I urge USTR and the administration to remain tough on Japan. The United States-Japan gap in trade is not reflective of the competitiveness of United States autos and auto parts. The United States is manufacturing auto and auto parts that are capable of competing in the Japanese market. The quality of United States products would gradually bring about a reduction of the deficit, if Japan would only begin to open their market.

We need to send Japan a clear message that we will not back down on the opening of their markets to auto and auto parts. If they refuse to negotiate, we should promptly enact tough sanctions.

CLEAN WATER ACT PROTECTIONS THREATENED BY H.R. 961

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

Mr. FLAKE. Mr. Speaker, I rise today in opposition to H.R. 961 because I know that rolling back essential protections of the Clean Water Act will not contribute to the health and welfare of my constituents. In communities such as mine, water quality problems still persist. In addition to New York City-wide problems with giardia, a bacteria that causes stomach ailments, the families in my district

have had to depend on aggressive water quality standards, challenging the water company in court when health is endangered by substandard water quality. This right to appeal is predicated on the existence of strong enforcement water quality standards. Standards that H.R. 961 would roll back to erase 23 years of progress.

In addition, the Sixth Congressional District of New York borders on Jamaica Bay, a fragile area of marshland and islands that is widely used for fishing and recreation. Jamaica Bay is regularly contaminated by raw sewage and toxins that result from combined sewer overflow problems and storm water. And we are not alone, a 1992 study showed that 14 large cities, including New York City, Atlanta, and Minneapolis have deposited more than 165 billion gallons of raw sewage and pollution into surface waters each year. For my constituents, H.R. 961 seriously impedes any attempt to control this problem by postponing action to correct problems with combined sewer systems for at least 15 years. While we wait, the health concerns about fishing grow. Jamaica Bay cannot wait until year 2010 for this problem to be addressed. Can the waters in my colleagues district wait? Oppose H.R. 961.

REPUBLICANS BALANCE THE BUDGET

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

Mr. TATE. Mr. Speaker, the time to balance the budget is now. It is time to end 40 long years of reckless spending.

The Republicans yesterday passed an historic budget. We believe it is wrong to burden a child born today with $187,150 in taxes in their lifetime just to balance the budget. We think it is wrong to do nothing and let Medicare go by the wayside. We believe it is right to cut waste, to cut duplication. We believe we have a moral imperative to balance the budget.

But where is the Democrat plan? There is no plan, folks. That is the problem.

We believe you should have a plan. And I was taught as a young boy, if I do not agree with something or I think it is wrong. I should have a better plan. There should be a better way to do things.

Their idea is to say, you are cutting kids. Well, there you go again. We have a plan. We have a plan to save our children's future, to protect Medicare and to get us back on the road to fiscal responsibility. That is exactly what the Republicans plan on doing. We are going to join with the American people in doing so.

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THE CONTRACT WITH AMERICA: A DISASTER FOR MIDDLE-INCOME AND WORKING PEOPLE

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

Mr. SANDERS. Mr. Speaker, at a time when the gap between the rich and the poor is growing wider, I am not impressed by the Republican plan which provides huge tax breaks for the wealthiest people in this country and the largest corporations, and cuts back savagely on a wide variety of programs meant for low-income and middle-income people.

When thousands and thousands of senior citizens in the State of Vermont today are finding it very hard to pay their health care bills, I am not impressed by a Contract With America which savagely cuts back on Medicare and Medicaid. When millions of middle class families today cannot afford to send their kids to college because of the high cost of higher education, I am not impressed by a Contract With America which cuts back terribly on loans that millions of young people will need in order to get to college. The Contract With America works for the rich. It is a disaster for middle-income and working people.

WATER CROSSES STATE LINES

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

Mr. PALLONE. Mr. Speaker, I was disappointed yesterday that the substitute for the Clean Water Act was not passed on the House floor, but I think that during the course of the debate one very important fact was brought out.

Several speakers said and pointed out that the problem with clean water, or the problem with water in general, is that it follows, it crosses State lines. In other words, when we are dealing with the various amendments to the Clean Water Act today, we have to keep in mind that each State cannot be responsible totally for the water within its jurisdiction, because it has an impact on other States. That is why I think it was very important yesterday that we were able to pass the amendment on coastal nonpoint source pollution, because it means that one State will not be able to have a lesser standard or a lesser management program than another State and negatively impact that State.

The same philosophy has to go before us today when we are dealing with the other amendments, whether it is ocean discharge and waivers for secondary treatment, or it is beach water testing. All these things should be voted on and looked at in the context of the fact that water crosses State lines. Whatever one State does is going to have an impact on another State.

WHERE IS THE CUT?

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

Mr. HOBSON. Mr. Speaker, where is the cut?

House Democrats have come to the floor, claiming that Republicans are cutting Medicare.

But I have to ask my colleagues, where is the cut?

If you look at this simple chart, you will see that Republicans are not cutting Medicare at all. In fact, we are increasing Medicare spending per person from $4,700 to $6,300.

So, where is the cut?

In a liberal Democrat's mind, whenever you slow the growth of spending, whenever you weed out waste and fraud, whenever you give a bureaucrat his walking papers, that is a cut.

But to the American taxpayers, these are not cuts. To senior citizens, these are not cuts. To people possessed of common sense, these are not cuts.

These are reforms that preserve, protect and improve Medicare far into the next century.

Mr. Speaker, I have to ask my colleagues, where is the cut?

THE AMERICAN PEOPLE WANT A BALANCED BUDGET, NOT EXCUSES

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

Mr. HAYWORTH. Mr. Speaker, for weeks now, liberal Democrats have taken to this floor to decry, accuse, condemn, denounce, declaim, vilify, incriminate, fulminate, remonstrate, deprecate, and attack any plan to balance our budget. For some reason, they see no need to balance our budget. We have to make changes.

Despite all the carping from the other side, our friends on this side offer no alternatives. They offer no solutions. They offer no plan.

Mr. Speaker, yesterday the Republican majority introduced a plan to balance our budget in 7 years. There is no longer any excuse not to balance the budget. We have exhausted all the old methods. All of the old big government ideas have been tried and found wanting and found lacking. for the liberals to come to this floor with their hot air about class warfare is nothing short of irresponsible.

The American people are tired of excuses. They want this Congress to balance the budget. Republicans will do this, with or without the carping and crying of the liberal Democrats.

THE NATION'S FUTURE TIED TO BALANCING THE FEDERAL BUDGET

(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, balancing the Federal budget is a noble cause. It is one of the few issues of our era that demands our full attention. The reason is very simple: moving the Federal budget into balance is not, ultimately, a debate about numbers, programs, agencies or interest groups. It is a debate about the future of our country. It is about whether or not we will leave our children in utter bankruptcy or with the hope of a better tomorrow. Either we tame the deficit monster that is ravaging our capacity for economic survival, or the very concept of prosperity will, for most of our children, be little more than a wistful memory.

By the early 21st century—a few years from now—the entire Federal budget will be consumed by entitlement spending and interest on the national debt. This is the shocking conclusion of the President's own commission on entitlements. It demands change—now.

Republicans are committed to capping the growth of Federal spending and cutting waste in the Federal budget, not to meet an arbitrary deadline, but for the sake of our children and our country. That is our mission, Mr. President. We will accomplish it.

AMERICA NEEDS A NATIONAL CLEAN AIR ACT

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

Mr. DINGELL. Mr. Speaker, as this body meets today, the conferees are discussing the rescission bill a number of substantive changes in the Clean Air Act; first, to prevent EPA from imposing sanctions on States that violate the Clean Air Act, no matter how deliberate or egregious the violation; to eliminate the requirement that new highway projects funded with Federal monies must conform to the Clean Air Act by taking air quality considerations into account; and to eliminate the requirement that EPA give 100 percent credit to all State inspection and maintenance programs, no matter how deficient, how inadequate, or how patently empty those particular programs might be.

These are amendments which eliminate EPA's sanction authority, and effectively makes the Clean Air Act voluntary. If a State wants to opt out of the act and allow limitless pollution in that State, it is allowed to do so. This is fundamentally inconsistent with the position that the Congress has taken time after time for so many years, that we need a national Clean Air Act to prevent and to protect our people against interstate pollution.

WHERE IS THE DEMOCRAT PLAN TO BALANCE THE BUDGET?

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

Mr. HEFLEY. Mr. Speaker, I never cease to be amazed at the speed with which liberal Democrats are able to rattle off class warfare rhetoric. It is as if liberal Democrats get up every morning and drink a specially concocted bromide which enables them to spew forth class warfare epitaphs with machine-gun like rapidity.

The most recent example was yesterday when Republicans offered our plan to balance the Federal budget in 7 years.

But what was the response from the liberals?

Well, they just about tripped over themselves to get to the floor to denounce our plan as a devious plot to benefit the rich at the expense of children, the elderly, and the poor.

Mr. Speaker, the liberals are not fooling anyone. Even President Clinton's own Cabinet members admit that Medicare is going broke. And nobody denies the existence of the national debt.

But what have the liberal Democrats offered? Nothing but a few well-rehearsed class warfare epitaphs.

I only have one question for my friends on the other side. You know the problems we face—where is your plan?

Where is it?

DEMOCRATS WILL NOT BALANCE THE BUDGET ON THE BACKS OF SENIORS OR THE POOR

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

Mr. GENE GREEN of Texas. Mr. Speaker, the new Republican majority has shown great courage and guts, as we heard from another speaker, to cut and balance the budget. They are balancing their budget by making significant cuts in Medicare, the cost of living for Social Security, education funds, and job training funds. That takes a lot of guts and courage to pick on the least fortunate of our society.

The Republican majority call their drastic budget cuts in Medicare slow growth. Either way, it is less money for the next 7 years than expected for the growth in senior citizens, so it is a cut, whether we call it that or not. Medicare is not a bank to be raided by the Republicans, just because they want to pay for a tax cut.

The Republican majority also changes the way the Consumer Price Index is calculated, ultimately cutting the COLA's for seniors. I thought our new leadership told us Social Security would be sacred.

I want everyone in Congress to know that Democrats want to work with Republicans, but we refuse to balance the budget on the backs of Medicare, on the backs of cost of living for seniors, or education funding, or the least fortunate of our society.

REPUBLICANS WILL WORK TO PRESERVE AND PROTECT MEDICARE

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

Mr. FOX of Pennsylvania. Mr. Speaker, according to the President's Commission on Entitlements, in about a decade all Federal revenues will be consumed by entitlements and interest on the debt. At that point, the Federal Government will cease to exist as we know it: no defense, no law enforcement, no education, no anything outside of entitlements and debt service.

The fact is, there is a problem with Medicare. By the year 2002, the funds will be out completely. What could we do about that? We can work together, Republicans and Democrats together, to make sure that we help our seniors, to make sure that Medicare is sound and safe and protected.

The fact is, the Republicans do have a plan. We will be presenting it. We do expect to have the American people embrace it, because it is one that is sensitive to families, sensitive to our children, sensitive to senior citizens, and one that will provide the kind of health care that Americans have come to expect. The fact is, Republicans will lead the way to protect, preserve, and to protect Medicare, and to work with senior citizen organizations and their families to make sure that Medicare is protected. We guarantee that. We will work on it every day. So help me God, it will be accomplished.

CLEAN WATER AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 140 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. 961.

☐ 1040

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. 961) to amend the Federal Water Pollution Control Act, with Mr. HOBSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 10, 1995, the amendment offered by the gentleman from New York [Mr. BOEHLERT] had been disposed of, and

title III was open to amendment at any point.

Are there further amendments to title III?

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer 2 amendments, and I ask unanimous consent that the amendments, one in title III and one in title V, be considered en bloc.

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

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT: Page 35, after line 23, insert the following:

''(2) LIMITATION AND NOTICE.—If the Administrator or a State extends the deadline for point source compliance and encourages the development and use of an innovative pollution prevention technology under paragraph (1), the Administrator or State shall encourage, to the maximum extend practicable, the use of technology produced in the United States. In providing an extension under this subsection, the Administrator or State shall provide to the recipient of such extension a notice describing the sense of Congress expressed by this paragraph.

Page 35, line 24, strike ''(2)'' and insert ''(3)''.

Page 35, line 7, strike ''(3)'' and insert ''(4)''.

Page 35, line 18, strike ''(4)'' and insert ''(5)''.

Page 216, line 12, strike ''521'' and insert ''522''.

Page 217, line 7, strike ''521'' and insert ''522''.

Page 219, after line 18, insert the following:

SEC. 512. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 522, as redesignated by section 510 of this Act, the following:

''SEC. 521. AMERICAN-MADE EQUIPMENT AND PRODUCTS.

''(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Administrator, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the sense of Congress expressed by subsection (a).''

Conform the table of contents of the bill accordingly.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, these are basically Buy American amendments. This one, though, deals with the fact that if the administrator or State extends the deadline for point source compliance, and encourages development and use of an innovative pollution prevention technology, under paragraph 1, the administrator or State shall encourage, to the maximum extent practicable, the use of technology produced in the United States. That would encourage more technology development in our country to deal with these issues.

It has been worked out. The second amendment is a standard ''Buy American'' amendment.

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

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

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

We have reviewed these, and we think these are good amendments. We support them.

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

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I have no reason to object to the amendments offered by the gentleman from Ohio.

Mr. TRAFICANT. With that, Mr. Chairman, I urge a vote in favor of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

The CHAIRMAN. Are there other amendments to title III of the bill?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows'.

Amendment offered by Mr. PALLONE: Strike title IX of the bill (pages 323 through 326).

Mr. PALLONE. Mr. Chairman, my amendment would strike provisions of the bill which authorize waivers of secondary treatment requirements for sewage treatment plants in certain coastal communities which discharge into ocean water.

There are two major steps to wastewater treatment which I think many of us know. One is the physical primary treatment, which is the removal of suspended solids. The second is the biological or secondary treatment, which is the removal of dissolved waste by bacteria.

Secondary treatment, in my opinion, is very important, because it is critical to the removal of organic material from sewage. It is the material linked to hepatitis and gastroenteritis for swimmers. It is also the common denominator. Secondary treatment sets a base level of treatment that all must achieve, putting all facilities on equal ground.

Today almost 15,000 publicly owned treatment works around the country apply secondary treatment. It makes no sense to exempt many of these facilities. Under existing law, a national standard of secondary treatment for public owned treatment works was established by Congress in the original 1972 Clean Water Act.

There was a window of time during which facilities could apply for ocean discharge as an alternative to secondary treatment. However, this window has closed. A bill was passed last year, October 31, that allows the city of San Diego to apply for a waiver, even though that window has closed.

The EPA has a year pursuant to that legislation to make a decision on their application, and at present it looks likely that San Diego would be granted such a waiver. However, despite these concessions that have been made, a provision has been included in H.R. 961 that would grant such a waiver to San Diego without the necessary EPA review.

I am concerned, Mr. Chairman, that we are going toward what I would call a slippery slope on the issue of secondary treatment.

□ 1045

The San Diego waiver was for ocean outfalls at least 4 miles out and 300 feet deep. This was the only provision in the original H.R. 961. But in committee this section was expanded. Other towns can now apply for 10-year permits that would allow for ocean discharge only 1 mile out and at 150 feet of depth.

This new expansion of the section applies to at least six facilities in California, two in Hawaii, and there may be two dozen other facilities that it could apply. Also, communities under 10,000 are now eligible for permits, and there are about 6,500 facilities of 63 percent of all facilities that could be eligible under this under 10,000 provision. Soon Puerto Rico may also be able to apply for a waiver of secondary treatment because of the legislation the committee marked.

I think that this is a terrible development. I would like to know what is next. What other waivers and weakening amendments are going to exist to the Clean Water Act?

Ultimately, if we proceed down this slippery slope, secondary treatment may in fact disappear in many parts of the country. Secondary treatment may be costly, but it will cost more to clean up the mess after the fact, if we can clean it up at all.

The ultimate problem I have, and I am trying to correct with this amendment, is this idea that somehow the ocean is out of sight, out of mind, that is, a sort of endless sink that we can continue to dump material in. It is not true. The material comes back and ocean water quality continues to deteriorate.

Please do not gut the Clean Water Act. Let us not start down the slippery slope of allowing ocean discharge without secondary treatment, and please support this amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment strikes all of the secondary treatment

provisions in the bill. During the debate on the unfunded mandates, secondary treatment was cited as one of the most costly unfunded mandates to States and localities.

Our bill provides relief from this mandate, but it provides relief only where it is also an unfunded mandate. Our bill allows a waiver of secondary treatment for deep ocean discharges, but only where secondary treatment provides no environmental benefit.

Let me emphasize that. We allow for a waiver of secondary treatment for deep ocean benefits but only when secondary treatment provides no environmental benefit.

This waiver must be approved by either the State water quality authority people or by the EPA, so this is not some willy-nilly waiver that a locality can give itself. It must go through the rigorous procedure of first showing that by getting the waiver, they are providing no environmental benefit, and, second, getting the approval of the EPA or the State.

The bill also allows certain alternative wastewater treatment technologies for small cities to be deemed secondary treatment if, and this is a big if, if they will contribute to the attainment of water quality standards.

This flexibility, Mr. Chairman, is badly needed because traditional centralized municipal wastewater treatment systems do not always make economic sense to small communities. We need to provide the flexibility to the States and to EPA to allow the use of alternatives, for example, like constructed wetlands or lagoons, where they make both economic and environmental sense.

Perhaps the most egregious example of the problems we would face if we were to adopt this amendment is the situation in San Diego to spend $3 billion on secondary treatment facilities when indeed the California EPA and the National Academy of Sciences says it is unnecessary. So this flexibility is needed not only for San Diego but for many of the cities across America.

I strongly urge defeat of this amendment.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

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

Mr. MINETA. Mr. Chairman, the idea of waiving secondary treatment standards sounds alarms because the successes of the Clean Water Act over the past 23 years are attributable in large part to the act's requirements for a baseline level of treatment—secondary treatment, in the case of municipal dischargers.

There are several reasons that these waivers should be stricken from the bill: First, they are not based on sound science; second, they threaten to degrade water quality and devastate the shoreline; third, they are unfair; and, fourth, they are unnecessary.

NOT BASED ON SOUND SCIENCE

Several of the bill's secondary waiver provisions abandon the basic requirement that the applicant demonstrate that a waiver will not harm the marine environment. The bill abandons this requirement, even though it makes sense, and has been met by more than 40 communities that have obtained waivers.

This congressional waiver of scientific standards is at direct odds with the themes of sound science and risk analysis that were embraced in the Contract With America. The consequences could be devastating to the environment.

HARMFUL TO WATER QUALITY AND THE MARINE ENVIRONMENT

For example, the secondary waiver provision intended for Los Angeles provides for waivers if the discharge is a mere 1 mile offshore, and 150 feet deep. Unfortunately, history has taught us that sewage discharges at about 1 mile offshore can wreak havoc.

In 1992, San Diego's sewage pipe ruptured two-thirds of a mile offshore, spewing partially treated sewage containing coliform and other bacterias and viruses, and closing more than 4 miles of beaches. This environmental disaster happened just one-third of a mile closer to shore than the 1-mile-offshore standard for municipal discharges under one of the waivers in this bill.

In addition, it appears that this waiver provision, although intended for Los Angeles, picks up at least 19 other cities as well. And, the waiver for small communities makes thousands more communities eligible for waivers, even though many of them are already meeting secondary requirements and could seek to reduce current treatment under this provision.

Since the number of waivers authorized under this bill is potentially quite large, the environmental impact also can be expected to be substantial, particularly for waste discharged just 1 mile from shore.

The San Diego and Los Angeles provisions both provide for enhanced primary treatment in place of secondary. We would think for a minute about what primary treatment is. It is not really treatment at all—you just get the biggest solids out by screening or settling, and the rest goes through raw, untreated. Chemically enhanced primary means you add a little chlorine to the raw sewage before discharging it.

This means that even when the system is operating properly—without any breaks in the pipe spewing sewage onto our beaches—the bill could result in essentially raw human waste being dumped a mile out from our beaches. Most Californians do not want essentially raw sewage dumped 1 mile from their beaches.

UNFAIR

The waiver provisions are unfair because they grant preferential treatment to select communities. This favoritism has direct consequences for the thousands of communities that most of us represent: those that have expended, or are in the process of spending, substantial resources to comply with secondary requirements. Some communities, such as the city of San Jose which I represent, have gone well beyond secondary.

The waiver provisions say to all of these communities that they were fools for having complied with the law, because if they had just dragged their feet, they, too, could have escaped these requirements.

UNNECESSARY

In the case of San Diego, the inequity of allowing a third bite at the apple is heightened by the fact that San Diego will obtain a secondary waiver treatment without the bill. Yes, the bill's waiver provision is completely unnecessary for San Diego because San Diego was singled out for preferential treatment just last year.

In October 1994 President Clinton signed into law a bill that was passed in the closing days of the 103d Congress. Of the thousands of communities required to achieve secondary treatment, only San Diego was authorized to apply for a waiver last year. San Diego submitted its application last month, an EPA has publicly announced its commitment to act quickly and both EPA and the city expect that a waiver will be granted.

Why, then, is San Diego now receiving another waiver? Because this year's waiver would provide even a better deal than last year's—it would be permanent, and would excuse Dan Diego from baseline requirements that last year San Diego agreed that it could and would meet.

Mr. Chairman. I urge my colleagues to support this amendment.

Mr. BILBRAY. Mr. Chairman, I move to strike the last word.

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

Mr. BILBRAY. Mr. Chairman, I rise in opposition to the amendment. I would have to say, as someone who has spent 18 years fighting to clean up the pollution in San Diego County, it concerns me when my colleague from California speaks of the pollution problems in San Diego, when in fact we can recognize that one of the major problems we have had is that the regulation has taken precedence over the science and the need to protect the public health.

This bill as presented by the chairman reflects the scientific data that shows that not only does having chemically enhanced primary not hurt the environment, but it also shows that the studies that have been done by many, many scientific groups, in fact every major scientific study in the San Diego region has shown that if we go to secondary, as my colleague from California would suggest, that the secondary mandate would create more environmental damage than not going to secondary.

This is a big reason why a gentleman from Scripps Institute, a Dr. Revell, came to me and personally asked me to intervene. My colleagues may not think that I have any credentials in the environmental field, but I would point out that Dr. Revell is one of the most noted oceanographers that has ever lived in this century. He just passed away. He was saying strongly that the secondary mandate on the city of San Diego was going to be a travesty, a travesty to the people of San Diego but, more important, a damage to the environment of our oceans and our land.

My colleague from San Jose has pointed out that there may be a problem giving waivers. I think we all agree that there are appropriate procedures, but those procedures should follow science.

The city of San Jose has gone to extensive treatment, Mr. Chairman, but when the science said that you could dispose of that in the estuary of southern San Francisco Bay, my colleague's city of San Jose was given a waiver to be able to do that, and will continue to do it because the science says that it is okay. Our concern with this is the fact that the process should follow the path toward good environment.

What we have today now is a process that diverts the attention of those of us in San Diego and the EPA away from real environmental problems and puts it toward a product that is 26 pounds of reports, 1.5 million dollars' worth of expenses. It is something that I think that we really have to test those of us here: Do we care about the environment of America or do we care about the regulations of Congress?

When the science and the scientists who have worked strongly on this stand up and say, ''Don't require secondary sewage in San Diego,'' we really are put to the test. Are we more wedded to our regulation than we are to our environment?

□ 1100

Now if you do not believe me, though I have fought hard at trying to clean up Mexican sewage and trying to get the sewage to stay in pipes, while the EPA has ignored that, they have concentrated on this process. I would ask my colleague to consider his own colleague, the gentleman from California [Mr. FILNER], who has worked with me on this and lives in the community and has talked to the scientists, and Mr. FILNER can tell you quite clearly that this is not an issue of the regulations with the environment, this is one of those situations where the well-intentioned but misguided mandate of the 1970's has been interpreted to mean we are going to damage the environment of San Diego, and I would strongly urge that the environment takes precedence here.

Mr. Chairman, I would ask my colleague from San Diego, Mr. FILNER, to respond to the fact that is it not true that the major marine biologists, Scripps Institute of Oceanography, one of the most noted institutes in the entire country on the ocean impacts, supports our actions on this item?

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

Mr. BILBRAY. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, I appreciate being here with the Congressman from my adjacent district, San Diego. Before I answer the question, I do want to point out that for many years we had adjacent districts in local government, Mr. BILBRAY being a county supervisor and myself being a San Diego city councilman. We have worked together for many, many years on this very issue. We have fought about it, we have argued about it, we have come to an agreement about how we should handle this, and I think it is very appropriate that we are both now in the Congress to try to finally give San Diego some assurance to try to deal satisfactorily with the environment, and yet do it in a cost-effective manner.

The gentleman from California asked me about good science. The gentleman from San Jose talked about good science. The most respected scientists who deal with oceanography in the world at the Scripps Institute of Oceanography have agreed with our conclusions.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has expired.

(At the request of Mr. FILNER and by unanimous consent, Mr. BILBRAY was allowed to proceed for 1 additional minute.)

Mr. FILNER. If the gentleman will continue to yield, the scientists from the Scripps Institute have lobbied this Congress for this change. The Federal judge in charge of the case has lobbied us for the change. The local environmental groups have lobbied us for the change. The local environmental groups have lobbied us for the change. And I would ask my colleague to continue that thought.

Mr. BILBRAY. I would like to point out, Mr. Chairman, my experience with Mr. FILNER was as the director of the public health department for San Diego, and as he knows, this is not something I am not involved with. I happened to be personally involved with the water quality there. I surf, my 9- and 8-year-old children surf. We have water contact; we care about the environment.

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

Mr. BILBRAY. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, what I do not understand though, since the existing bill that was passed last year actually allows for you to have a waiver, assuming certain conditions are met, and EPA I understand has already gone through that application process, why do you find it necessary in this bill to grant an absolute waiver?

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

(At the request of the Mr. MINETA and by unanimous consent, Mr. BILBRAY was allowed to proceed for 2 additional minutes.)

Mr. BILBRAY. Why would I ask?

Mr. PALLONE. In other words, my understanding, you tell me if I am wrong, is that pursuant to this legislation, I will call it special legislation if you will that passed last year, San Diego can now apply for a waiver. It may be the only municipality that can. And EPA is now in the process of looking at that application for a waiver, and if in fact what Mr. FILNER and you say is the case that the waiver then is likely to be granted, why do we need to take that one exception that is already in the law for San Diego and now expand it to many others, thousands possibly of other municipalities around the country?

Mr. BILBRAY. The fact is that it is costing $1.5 million. The fact is, it is only a 4- to 5-year waiver, and the fact that under our bill all monitoring, the EPA will monitor it, the Environmental Protection Agency of California will monitor it. We have developed a system that scientists say will be the most cost-effective way of approaching this. All of the monitoring, all of the public health protections are there. As long as the environment continues not to be injured, we will continue to move forward.

And you have to understand, too, one thing you do not understand that Mr. FILNER and I do understand, we have had at the time of this process, this bureaucratic process has been going on, we have had our beaches closed and polluted from other sources that the EPA has ignored.

Mr. PALLONE. I understand, and you have gone through that with me and I appreciate that. My only point is I do not want to go down the slippery slope of the possibility of getting applications and waivers granted.

Mr. BILBRAY. There is no slippery slope. What it says is those that have proven scientifically there is no reasonable reason to think there is environmental damage that is going to occur should not have to go through a process of having to go through EPA and the Federal bureaucracy. I think you would agree if we in the 1970's were told by scientists there is no foreseeable damage or foreseeable problem with water quality, this law would never have been passed. In San Diego the scientists have said that, and I think you need to reflect it.

Mr. PALLONE. My point is the exemption for San Diego applies to 3 miles out, certain feet.

Mr. BILBRAY. Four miles, 300 feet.

Mr. PALLONE. Now you have another exemption for certain towns.

Mr. BILBRAY. Totally different.

Mr. PALLONE. Though you have another exemption, towns under 10,000, no scientific basis for that. All these things are thrown into the bill.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

(At the request of Mr. MINETA and by unanimous consent, Mr. BILBRAY was allowed to proceed for an additional 2 minutes).

Mr. BILBRAY. The fact is here it is outcome-based. In fact the water quality is not violated as long as scientists at EPA say there is not damage. My concern to you is if the monitoring is done, if the environment is protected, if EPA and all of the scientists say it is fine, why, then why is the process with a million and a half dollars and 26 pounds of paper so important to you to make sure those reports have been filed?

Mr. PALLONE. The difference is you are going through that process and you may actually achieve it in convincing the EPA pursuant to the existing law that that is the case. But what this bill has done is go beyond that, it has said that there is an absolute waiver for San Diego, they do not really have to do anything else at this point.

Mr. BILBRAY. Yes, with all the monitoring that would have to be done under existing law, the same review process and public testimony the same way.

Mr. PALLONE. Then it goes on to take another category, 1 mile and 150 is OK, and for a third category if you are under 10,000 it is OK. For another category for Puerto Rico we are going to do the study. You know you may make the case, we will have to see, that your exception makes sense. You may be able to do that to the EPA, but why do we have to gut the entire bill and make all those other exceptions? It makes no sense to carry one San Diego case that is now going through proper channels. This says they get the waiver; they do not need to go through the process in the previous bill, and now we have all these other exemptions.

Mr. BILBRAY. You have to read the bill and all the conditions of being able to meet the triggers of the EPA.

Mr. PALLONE. I have the bill in front of me. It has four different categories. The San Diego category, then it goes for the ones who go 1 mile and 150, then the ones that are 10,000 or fewer, and then it goes to Puerto Rico. All of these categories.

Mr. BILBRAY. And you have monitoring that basically says that you have to prove, bring monitoring that you do not, that you are not degrading the environment. That is what we are talking about; we are talking about an outcome basis. Does it hurt the environment? Not the regulations. Is the environment hurt here.

Mr. PALLONE. I do not see any scientific basis.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. BILBRAY] has again expired.

Mr. MINETA. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. BILBRAY] be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. SHUSTER. Mr. Chairman, reserving the right to object, I will not do so now, but if we are going to move this along, I think we should all try to stay within the rules of the House and the time allotment.

Mr. MINETA. Mr. Chairman, if the gentleman will yield, I was just asking for unanimous consent for the gentleman from San Diego, Mr. BILBRAY, to be given an additional 2 minutes, and I would like to be able to ask a question of him since he also referred to the city of San Jose, and I happen to be the former mayor of San Jose.

The CHAIRMAN pro tempore. The Chair will inquire once again, is there objection to the request of the gentleman from California?

There was no objection.

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

Mr. BILBRAY. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, my objection is this: that last year we worked to grant the city of San Diego the opportunity to apply under previously expired provisions to apply for a waiver. I thought we did that in good faith, with the city of San Diego also agreeing to certain conditions. Things like the need for alternative uses for their water and say that this would be a waiver that would only be good for a certain period of time. It is my understanding that the waiver is indefinite, except that there is a requirement for a report to be done every 5 years. And that to me is a reasonable kind of an approach.

Also in terms of any waiver for the city of San Jose, I am not familiar with what the gentleman is referring to, because we are at tertiary treatment in terms of our discharge into San Francisco Bay.

Mr. BILBRAY. The fact is that San Jose opens into an open trench into 20 feet of water in an estuary; it does not place it 350 feet deep and 4½ miles out in an area where scientists say not only does it not hurt the environment, it helps it. And so you do have a waiver to be able to do that rather than being required to have to use other outfall systems but it is because you were able to show that.

But the trouble here with this process is that all reasonable scientific data shows that there is no reason to have to spend the 26 pounds of reports, the $1½ million, and when you get into it, EPA will be the trigger to decide if that process needs to go. What EPA told me as a public health director when I say this is a waste of money, the Government did not mean to do this, they said Congress makes us do it. They do not give us the latitude to be able to make a judgment call based on reasonable environmental regulations they have mandated to us. So I am taking the mandate away from them.

Mr. BORSKI. Mr. Chairman, I move to strike requisite number of words.

Mr. Chairman, I wish to express my strong support for this amendment to strike the waivers of secondary treatment requirements.

This is an issue of protecting our Nation's beaches and coastal waters.

It is a matter of protecting the tourist economies of many States and of protecting the health of the American people.

Do we want our ocean waters to be a disposal area for sewage that has received only the barest minimum of treatment?

For 20 years, we have done better than that as the secondary treatment requirement has stood as one of the pillars of the Clean Water Act.

This bill started with a waiver for one city—San Diego. Then it moved to two dozen more in California and another possible six in Florida. Then we added Puerto Rico.

Where will this race to lower standards end?

H.R. 961 tells those who complied with the Clean Water Act that they should have waited. Maybe, they could have gotten a waiver.

It tells those who waited that they were smart. They could keep putting their untreated sewage in the ocean.

The beaches of New Jersey had frequent water problems several years ago before New York City finished its secondary treatment plant.

The problems in New Jersey should be a warning that we should stick to the secondary treatment requirements and not put poorly treated sewage in the ocean.

This provision of H.R. 961 sends us back more than 20 years. Since 1972, secondary treatment has been the standard that all communities have been required to meet.

That basic standard of the Clean Water Act should not be changed. We should keep moving forward on the effort to clean up our waters.

Mr. Chairman, I urge my colleagues to hold the line on secondary treatment and vote for this amendment.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to admit that I have seen some alternatives around the world that do intrigue me. If we are going to go to this broad of an exemption from secondary treatment, for instance in Hong Kong, I was there and on the ferry early one morning, and I noticed how they deal with it, they do not require secondary; in many cases they do not require primary treatment. They are a little oversubscribed to their sewer system. They have nifty boats that go around the harbor with nets in the front and they scoop up everything that floats, and if it does not float, it is not a problem. So I guess

you know if we cannot support the Pallone amendment, we can say we are headed in that direction. We can buy some of the nifty little boats from Hong Kong with the nets on the front and drive them around the beachfront areas in the morning before people go in for that swim, and you know if you cannot see it, it is not a problem.

□ 1115

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

Mr. DEFAZIO. I yield to the gentleman from California.

Mr. FILNER. Mr. Chairman, the gentleman from Oregon knows that on almost every environmental issue, we are in total agreement.

Are you familiar with the percentage of solid removal in the system that San Diego now uses?

Mr. DEFAZIO. Reclaiming my time, my understanding is you attempt to achieve 84 percent.

Mr. FILNER. It is not an attempt. We achieve 84 percent.

Mr. DEFAZIO. I will tell you, reclaiming my time, in my metropolitan wastewater facility, of which I was on the board of directors as a county commissioner, we built it for $110 million. We get 100 percent out. We do secondary and we do tertiary treatment. Theoretically, if one wanted to, one could drink the outfall. I do not want to drink the outfall. I do not know that we have to drive everything to that standard. But to think of the ocean as an endless dump close in proximity, I realize you have a big problem with Mexico, basically you are saying Mexico can dump all their stuff in there, why cannot we not just dump in a small amount of our stuff. I do not think that is the solution. I think we should be forcing Mexico to clean up so the people in California can go to the beach every day in the future.

Mr. FILNER. If the gentleman will yield, that is exactly our policy. As a matter of fact, those of us who live in San Diego and who completely depend on the beaches not only for our own enjoyment but for tourism and economic help, we could never possibly see the ocean as merely a dumping ground. We believe it, as you do, we believe that money to get that infinitesimal increase in solid removal required by the EPA to put into water reclamation, to put into tertiary, to deal with the Mexican sewage is the way we ought to spend our money, not be required to spend billions of dollars on something which gives us very little marine environment protection.

Mr. DEFAZIO. Reclaiming my time, do you think 16 percent is infinitesimal?

Mr. FILNER. No, it is not 16 percent. You know what secondary requirements are?

Mr. DEFAZIO. I am talking about the difference between the 84 percent and the 100 percent.

Mr. FILNER. The law requires us to do 85 percent. We are doing 84 percent. Should we spend $5 billion to get an infinitesimal increase in that solid removal with enormous damage to the land environment, because we would have to put in extra energy to do that for sludge.

Mr. DEFAZIO. Reclaiming my time.

Mr. FILNER. It is not environmentally sound.

Mr. DEFAZIO. Does this exemption go narrowly to that 1 percent for San Diego, or does exemption go beyond that?

Mr. FILNER. I am certainly supporting it as the section in the bill that applies to San Diego.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words.

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, I spoke yesterday generally about this bill and my objections to it.

I am rising today to support the Pallone amendment, and also to make some more specific comments about that portion of the bill providing a waiver for full secondary treatment. That portion of the bill was drafted by my good friend and colleague, the gentleman from California [Mr. HORN], and his district is just south of mine, and we agree on most everything, except for this.

I want to explain why we disagree and also to say that we worked together. His office was extremely helpful to me in providing information in support of his amendment, and I hope he understands that my demur has to do specifically with what I believe are the unintended consequences of his amendment on Santa Monica Bay.

Santa Monica Bay is the largest bay in southern California, and most of it is in my congressional district. I wrote to EPA so that I could understand better whether good science was involved in his amendment and how it would affect Santa Monica Bay. The letter that I received the other day from the assistant administrator of EPA says, in part:

> This amendment does not appear to be based upon sound science. We are not aware of any scientific documentation which suggests that discharges through outfalls that are 1 mile and 150 feet deep are always environmentally benign. To the contrary, a 1993 study by the National Research Council recommended that, ''Coastal wastewater management strategy should be tailored to the characteristics, values, and uses of the particular receiving environment.'' Thus, we believe this blanket exemption is neither scientifically nor environmentally justifiable, and could result in harm to the people who depend upon the oceans and coasts for their livelihood and enjoyment.

And the letter goes on to say specifically that with respect to the Santa Monica Bay Restoration project, a project worked on by all sorts of agencies and individuals in California and supported by California's Governor, Pete Wilson, this blanket exemption could derail the key element of the restoration plan.

For those careful and specific reasons, I oppose the Horn language, and I support the Pallone amendment.

And let me add just one thing, Mr. Chairman. Somewhere here is a chart that was provided to me by EPA, and it shows the consequences of not going to full secondary treatment. The suspended solids that can be discharged are the biggest problem, and the chart has this broken out by area of Los Angeles. In the L.A. County sanitation district, which would be directly affected by this exemption, the suspended solids are the highest portion of this chart, and it is a big problem specifically for Los Angeles.

Let me finally say one more thing. The gentleman from California [Mr. HORN] has sent, I think today, a ''Dear Colleague'' letter, and he makes a point with which I agree, and I want to apologize to him. He says that in a different ''Dear Colleague'' letter circulated by some of us, we said that his amendment could result in raw sewage dumped into Santa Monica Bay. That was an error. I apologize for that. The amendment would result in partially treated sewage dumped into Santa Monica Bay.

I urge my colleagues to support the Pallone amendment.

Mr. HORN. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. HORN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank my good friend for yielding.

The San Diego situation is a classic example of regulatory overkill. But regardless of how you feel about San Diego, you should vote ''no'' on this amendment, because it guts all of the provisions that allow flexibility on secondary treatment, including the flexibility for small communities across America.

We have worked on all of these provisions with State officials, wastewater and environmental engineers, and we should resoundingly defeat this amendment not only because of San Diego but because of what it does across America.

Mr. HORN. Mr. Chairman, I rise today in opposition to this amendment to strike the provisions of the bill which authorize waivers of secondary treatment requirements for certain coastal communities which discharge into deep waters.

I successfully offered this provision in the committee markup of H.R. 961. My reasons for doing so were based on sound scientific reasons, and they are environmentally responsible.

I was delighted, and I am delighted to take the apology of my distinguished colleague from southern California.

That letter she quotes from the assistant administrator of EPA talks in broad generalities. It does not talk about the specifics of the Los Angeles

area situation, and I want to go into that.

There is no permanent waiver in this provision. It would be good for 10 years. It would be subject to renewal after that period. The driving force behind this amendment is simply good science.

This Congress is moving forward to implement cost/benefit analysis and risk assessment across all environmental statutes.

Deep ocean outfalls that meet all water quality standards are an obvious place to apply these principles.

Now, to obtain this waiver, publicly owned treatment works must meet a stringent high-hurdles test, and I have not heard one word about that today. Outfalls must be at least 1 mile long, 150 feet deep. The discharge must meet all applicable State and local water quality standards, and I do not think anyone is going to tell us that California has low water quality standards. We have high standards, just as we do in air pollution.

Now, the publicly owned treatment works must have an ongoing ocean monitoring plan in place, and we do in Los Angeles City and County. The application must have an EPA-approved pretreatment plan, and we do in Los Angeles City and County. Effluent must have received at least a chemically enhanced primary treatment level, and at least 75 percent of suspended solids must have been removed. That is exactly what we have.

This provision is not any broad loophole. Indications also are that only five publicly owned treatment works in the country would meet this high-hurdles test. They are Honolulu, Anchorage, Orange County, and Los Angeles Country, and the city of Los Angeles. The first three cities already have waivers.

As I said in committee, the program under which the original waivers were given to the city and country, that has expired. The country of Los Angeles is being forced to spend $400 million to go to full secondary treatment.

Now, if that money went to improving the environment or cleaning up real environmental problems, and we have hundreds of them where usually the lawyers are getting the fees and we are not cleaning up the problems, that would all be understandable. But it is not.

This provision simply assures that we are spending local and Federal dollars wisely, not forcing communities to take steps that simply make no sense, which begs the question: Why should we force communities to spend hundreds of millions of dollars to meet a standard where that standard is already being met?

The city of Los Angeles treatment already meets the requirements of secondary treatment. So why spend millions of the taxpayers' hard-earned dollars to require Los Angeles to build facilities that already meet that required standard? The effluent from the county of Los Angeles far exceeds the rigorous State ocean plan developed by the State of California for every single measured area, including suspended solids, toxics, and heavy metals.

I have some attached graphs here some of you might want to wander up and look at. The current requirements to force the publicly owned treatment works to full secondary treatment is not justified when meeting that standard will bring no environmental improvement to the ocean but will cost local ratepayers hundreds of millions of dollars.

Mr. Chairman, the science behind this provision is irrefutable. No one is advocating pumping untreated wastewater into deep oceans off of Santa Monica Bay or in Santa Monica Bay or elsewhere.

The CHAIRMAN pro tempore. (Mr. HOBSON). The time of the gentleman from California [Mr. HORN] has expired.

(By unanimous consent, Mr. HORN was allowed to proceed for 1 additional minute.)

Mr. HORN. Mr. Chairman, going to full secondary treatment will not have any positive environmental benefit. Instead, we will be spending, as I have said earlier, hundreds of millions of dollars of the citizens of the county and city of Los Angeles, local taxpayer money, for no good reason. We simply cannot afford to be wasting money on problems that do not exist.

If municipal wastewater treatment facilities are meeting the high-hurdles test, including in H.R. 961, it serves the public interest, it serves the interests of the local taxpayers, and it serves the interests of the Nation to keep this waiver intact, and all else is really nonsense.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. HORN] has again expired.

(At the request of Mr. PALLONE and by unanimous consent, Mr. HORN was allowed to proceed for 2 additional minutes.)

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

Mr. HORN. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, what I wanted to ask is: We had the gentlewoman from California [Ms. HARMAN] read from some sections of this letter from the EPA from a Mr. Perciasepe. I do not know if the gentleman from California [Mr. HORN] has seen this or not.

Mr. HORN. I have not.

Mr. PALLONE. And also from the EPA I received a list of another, I do not know, another 10 to 20 municipalities beyond 6 in California and the extra 2 in Hawaii you mentioned. My concern is this; this is the crux of it. Clearly, San Diego is one situation. They already have a waiver pursuant to existing law. But the amendment offered by the gentleman from California [Mr. HORN] which now goes to the 150-foot depth and the 1 mile.

Mr. HORN. And 5 miles, I might add, is the other one. One is 1 mile out, one is 150; the other is 5 miles out, 150.

Mr. PALLONE. This begins to open the door, if you will, to a whole different group of municipal sewage treatment plants beyond the San Diego waiver and is, of course, of greater concern to me than even that one.

You mentioned scientific evidence. Clearly, this letter from the EPA assistant administrator indicates that they are very concerned that this exemption that you have now put in is not based on sound science, plus the EPA has given us a strong indication that beyond the 6 or so California and the 2 Hawaii ones, we are talking now possibly about another 20 or 30. We do not know how many. It is a major concern. I just have not heard anything from the gentleman to verify scientific basis for this new exemption that goes beyond San Diego.

Mr. HORN. I know of no one that disagrees that the city and county of Los Angeles have met the scientific standards. EPA has never said it. If they are suddenly coming in at the last minute with a little sideswiping and saying all of these cities will be eligible for it, that is nonsense.

☐ 1130

My language is very specific. It applies to one situation: The city and county of Los Angeles, that already have the waste treatment, that goes out to sea. There has not been any complaints that they are violating any standard of science. They test regularly.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from California [Mr. HORN] has expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. HORN was allowed to proceed for 2 additional minutes.)

Mr. HORN. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. chairman, my point is, again, I heard the San Diego argument, I heard the Los Angeles argument. I do not agree with it, but I am hearing it. You are opening the door, and you have opened it to the six California and two Hawaii ones, to eliminating secondary treatment requirements for a whole slew of other municipalities. That is a problem.

Mr. HORN. Mr. Chairman, reclaiming my time, may I say to the gentleman from New Jersey, we are not opening the door. The language is very specific. The hurdles are quite specific as to the outfalls 1 mile long, 150 feet deep, that must meet all applicable State and local water quality standards and must have an ongoing ocean monitoring plan in place. That is exactly what we have. These charts show that we are way below the level of concern.

The question if very simple, folks. For the sake of the ego of EPA, do we have the taxpayers of Los Angeles spend $400 million when it will not improve the situation one iota, because

they already meet it? So the full secondary bit has been met in the pre-secondary, and that is why we should not be spending $400 million more.

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

Mr. HORN. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. Let me say I support him in his efforts to inject some common sense into this arbitrary application of law that defies science. The best scientists in the world have supported our situation in San Diego, where they say nature takes care of this; you do not have to spend $2 billion, EPA, we can spend it somewhere else where we desperately need it. Science also supports the gentleman from Long Beach.

The point is, the gentleman says this opens the door. Let me say to my friend from New Jersey, the door should always be open to reason, common sense, and science. That is precisely what we are injecting in this argument today. With all the programs, good programs, that must take reductions because of the deficit problem, the idea that you do not use common sense to reduce spending where it does not have to be done makes no sense. So I support the gentleman.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not to beat a dead horse or a dead sewage system, as the case may be, I do rise in strong opposition to the amendment offered by my friend the gentleman from New Jersey [Mr. PALLONE].

This amendment raises the possibility that San Diego will be forced to waste, yes, waste, billions of dollars to change a sewage system that this Congress, the Environmental Protection Agency, a Federal District Court judge, the San Diego chapter of the Sierra Club, the world renowned scientists from the Scripps Institute of Oceanography, have all agreed does no harm and in fact may benefit the marine environment.

Mr. Chairman, the one-size-fits-all requirement of the Clean Water Act just does not make sense for San Diego. It does not make scientific sense, it does not make economic sense, nor does it make environmental sense. It is simply a bureaucratic requirement to provide a level of treatment that is unnecessary, costly, and provides no beneficial impact to the marine environment.

This is not simply my personal opinion. The option, as we stated over and over again, is stated by scientists from the Scripps Institute of Oceanography and from the National Academy of Sciences. It is supported by reams of scientific data collected over the years. These studies have shown there is no degradation of water quality or the ecology of the ocean due to the discharge of the plant's chemically enhanced treated waste water.

Let me point out, this is not merely a chlorine treated primary situation. This is an alternative to secondary treatment that includes a much higher level of technology that my friend, if I can yield to my friend from California [Mr. BILBRAY], might explain.

Mr. BILBRAY. Mr. Chairman, if the gentleman will yield, I think the problem is understanding the technical issues here. The fact that what was interpreted as being chlorination, San Diego is not using the chlorination.

Chemically enhanced primary treatment was actually brought to San Diego by members of the Sierra Club as a much more cost effective and environmentally safe way of getting to secondary treatment. It is where you use chemicals to remove the solids to fulfill the standard.

What it does is say look, back in the seventies we thought there was only one way to able to clean up the water. Now scientists have come up with new technologies. If we look at a 1970 car and a 1990 car, we will agree there is a difference.

The other issue, the chemical, what is called chemical enhanced primary, the fact is primary really is talking about a secondary treatment that does not use injected air and bubbling sewage around, biological activity. In a salt water environment scientists say there is no problem with this, it does the job. The only difference is the BOD, the biochemical oxygen demand, which in a deep salt water environment does not create any problem according to the scientists.

I would like to point out, too, as my colleague has, we are talking about this can only be done if the facility's discharges are consistent with the ocean plan for the State of California, one of the most strict water quality programs in the entire Nation, if not the most. So we are saying how you do it we do not mind, as long as the finished product does not hurt the environment and gets the job done.

I appreciate my colleagues who are going through a transition here. We are getting away from command and control, Washington knows the answer to everything. What we are trying to get down to is saying, local people, if you can find a better answer to get the job done that we want done, you not only have a right to do that, you have a responsibility, and we will not stand in the way of you doing that.

I would like to point out that the monitoring continues. If there is a pollution problem, if the EPA sees there is a hassle, if the monitoring problem shows there is an environmental problem, this waiver immediately ceases and we go back to the same process. That should assure everyone who cares about the environment.

Mr. FILNER. Mr. Chairman, reclaiming my time, I do want to thank the chair of the Committee on Transportation and Infrastructure for understanding the issues for San Diego, for helping us last year get our waiver, and for guaranteeing a success this year.

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

Mr. FILNER. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I would like my colleagues in the Congress to recognize that this has been an issue that has been before the Congress for as long as I have served in Congress, for 12 years and more. We have been working on this issue of trying to resolve the problems that San Diego has had. If we are to follow the general policy that is now taking place in the Congress, where we evaluate every requirement and every mandate and every regulation on the basis of cost-benefit analysis, there is absolutely no question that we would never impose a multibillion-dollar process on San Diego.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. FILNER] has expired.

(By unanimous consent, Mr. FILNER was allowed to proceed for 1 additional minute.)

Mr. FILNER. Mr. Chairman, I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, there is no way that this project, as it would be required to go to secondary treatment, could possibly pass a cost-benefit analysis, and thus we ought to really allow the flexibility that the gentleman from Pennsylvania [Mr. SHUSTER] has put in the bill that would allow the City of San Diego to meet their requirements in an environmentally sound way.

I strongly urge that the Congress approve the bill as it is written and reject this amendment. There is a bipartisan issue for this. The entire delegation from San Diego, of whom I am one, has recommended we disapprove this amendment. It is certainly important to us that we do not impose a $12 billion cost on the people of San Diego.

Mr. Chairman, I rise in opposition to Mr. PALLONE's amendment to the clean water reauthorization bill. This amendment plays right into the environmentalists' chicken little cries that our environmental protection system is falling. On the contrary, chairman Shuster's amendments to the clean water bill provide communities the flexibility they need to better protect our natural resources.

Specifically, Mr. PALLONE claims that allowing San Diego a permanent waiver to the EPA's burdensome secondary sewage requirements jeopardizes southern California's water resources. The facts just do not support this assertion.

San Diego's location on southern California's beautiful coastline allows the city to take advantage of deep ocean outfall capabilities. Scientific studies conclude that San Diego's sewage treatment efforts are both effective and environmentally sound. In fact, the surrounding ecosystem flourishes partly as a result of the outfall effluence.

Yet, the EPA continues to shove their Federal mandates from Washington down the throats of San Diego taxpayers. They continue

to require San Diego to spend up to $12 billion on an unnecessary and potentially environmentally damaging secondary sewage treatment plant.

Year after year, San Diego officials battle Federal bureaucrats who require the city to submit a costly, time consuming waiver application. The last one cost $1 million and was more than 3,000 pages long. The American people are tired of this kind of bureaucratic bullying

Far from the Chicken Little cries of the environmentalists, the American people cry out for a little commonsense. Chairman SHUSTER's bill and the San Diego waiver provision bring a level of rationality to the environmental protection process. Since I began my service in Congress, I have worked as a former member of Chairman SHUSTER's committee to do just that. Now as part of a Republican majority, I am pleased to see my efforts come to fruition.

Republicans love the environment as much as anyone. My district in southern California contains some of the most beautiful natural resources in the country. I would never vote for a bill which would damage those resources in any way. I just think the people who live on the coast, or in the forests, or canyons or grasslands have a better sense of how to protect their resources than some bureaucrat sitting in an office in Washington. The situation in San Diego demonstrates this most clearly. For that reason, I oppose Mr. PALLONE's amendment.

Mrs. FOWLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is an issue on which I would like to engage in a colloquy and get the support of the chairman of the committee. I understand that section 319(h)(7)(F) identifies the scope for which a State may use clean water grants.

Mr. Chairman, in my State of Florida, the excessive growth of nonindigenous, noxious aquatic weeds, like hydrilla, is an extremely serious impairment of our waters. Funds available for control of these weeds are presently very limited.

This provision authorizes States like Florida to utilize a portion of their nonpoint source funds, should they choose to do so, for the control of excessive growth of these nonindigenous aquatic weeds. Although this is an important use, Mr. Chairman, it is my understanding that the utilization of funds for aquatic weed control should not deplete the funds available for other nonpoint source programs. Is that the understanding of the chairman of the committee?

Mr. SHUSTER. If the gentlewoman will yield, Mr. Chairman, that is correct.

Mrs. FOWLER. I thank the chairman of the committee for his support and clarification of this section.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. H.R. 961 is a dangerous piece of legislation for my district, which includes the beautiful Santa Monica Bay. For years the people of Los Angeles have worked to clean the bay and make it safe for swimmers, divers, and the thousands of people who eat local seafood.

The city of Los Angeles, however, deserves very little credit for this. City bureaucrats have dragged their feet and done everything they could to avoid tougher controls. But our community was so committed that it overruled the bureaucrats and twice voted by overwhelming margins to stop the Los Angeles sewage system from dumping poorly treated sewage into the bay.

As a result, we have spent over $2 billion to bring full secondary treatment to the Hyperion treatment plant. Let me repeat that, because it is important to understand our situation. We have already spent $2 billion to stop dangerous pollution. To complete the project, we need to spend $85 million more.

Well, under this bill, we will never spend that $85 million, and we will never be able to clean up the bay. H.R. 961 would overturn our local decision and relieve the sewage system from meeting its obligation under the Clean Water Act to treat sewage.

This is a bizarre situation. This Congress is going to overturn a local decision made by Los Angeles voters, and in the process throw $2 billion down the drain and condemn the Santa Monica Bay to a constant flow of sewage. Let us avoid this lunacy and vote for the Pallone amendment.

Let me point out the anomaly here. Unless we have EPA insisting that the decisions be made to protect the Santa Monica Bay, the publicly owned sewage system will not be upgraded to accomplish that result. They have dragged their feet. The local decisionmakers, the people, will be frustrated.

We need the strength of the Environmental Protection Agency to be sure that the people's will is carried out.

The gentlewoman from California [Ms. HARMAN] has indicated in her statements the points made by the assistant administrator of the EPA, where he has said in the letter to her that the bill would alter fundamentally the current processes and standards by which EPA assures that communities achieve cost-effective commonsense sewage treatment solutions.

The decision that will be made in fact if this bill is not amended by the Pallone amendment would be to undermine decisions based upon sound science. It would undermine the process of the Santa Monica Bay restoration project, which has involved so many people over many years in developing comprehensive approaches to water pollution control and infrastructure investments.

The key point is not to let government bureaucrats in Los Angeles decide to ignore what the people in the area want, which is secondary treatment so that we can protect Santa Monica Bay.

I urge that we adopt the Pallone amendment, so that it would permit the existing law that has been pursued in making that work to succeed, and that we not let the present bill, which is being proposed today, undermine what is so important for the Santa Monica Bay and all around this country, to protect the public and to overturn the last 20 years of effort to clean up polluted waters.

□ 1145

I urge support for the Pallone amendment.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me just take issue with the theme that was offered by my friend and colleague from the Los Angeles area and apply it to our situation in San Diego.

In San Diego, we have the Scripps Institute, as has been said a number of times by the gentlemen from California, Mr. FILNER and Mr. BILBRAY and Mr. PACKARD, the best scientists in the world with respect to oceanography. Those scientists over many years have affirmed and reaffirmed that you do not need to do this $2 billion treatment program for the cleaning of San Diego sewage.

We have literally thousands of projects throughout the country where you do have pollution problems, where you are begging for dollars.

In the defense nuclear weapons complex, we have a $6 billion budget that has been submitted to us by the Clinton administration to clean up the nuclear waste that has been reposited through the years at our defense weapons installations.

You have a lot of places where we can use this money. Here we have our own scientists, the best scientists in the world, who are not rebutted scientifically by anybody, saying, you do not have to spend $2 billion doing this.

I have been in these meetings with EPA over the years, as Mr. BILBRAY has. The basic theme that has come from them time and again in the meetings has been, we do not care what the scientists say. You have got to do it because it is the law.

Here we are affording our colleagues and the taxpayers to do what is right, to do what is consistent with science, to do what is consistent with public safety and to save $2 billion. If we cannot understand that this blind adherence to this rigid philosophy that has made EPA frankly an enemy of many communities in this country, if we cannot understand that this philosophy needs to be changed, then we are going to be spending billions in the future that we do not need to spend.

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

Mr. HUNTER. I yield to the gentleman from California.

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

I do want to make a clear distinction between the San Diego situation and the Los Angeles-Santa Monica Bay situation. Under existing law, San Diego can get a waiver, and I think you are making an excellent case for that waiver. But if this bill becomes law, places like Santa Monica Bay, which should not be excused from secondary treatment, would be disadvantaged. You are taken care of, but the bill, without the Pallone amendment, disadvantages Los Angeles and other communities around this country where good science would indicate that we ought to have the secondary treatment.

Mr. HUNTER. As I understand it, this permanentizes our waiver. If we do not achieve it, we will be back in the same boat perhaps in a year or two begging the Federal Government not to force us to spend in San Diego several billions of dollars.

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

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I would point out that in each section, the facility discharge is subject to the ocean monitoring program acceptable to Federal and State regulators, and it must be in compliance with the ocean plan for the State of California.

If my colleague from California feels that California's water quality board is somehow not enforcing, we have one of the most efficient water quality controls here. In fact, they pointed out in the San Diego instance that—the water quality control board has pointed out that we do fulfill their discharge requirements and that EPA would have the lead role in assessing these permits. This happens at both locations. I think the problem is we are talking about chemically enhanced primary, does it fulfill the intention of Congress of cleaning up the pollution?

The BOD, which is what it does not address, does not apply, is not needed in a saltwater deep outfall. It does in an estuary like the shallow waters of San Francisco and in the lakes and rivers. But here what we get down to is, is Congress worried about the environment or is it a command and control thing; we made a decision that there was a certain way you treated sewage and if somebody has a different way that does the job cheaper, we do not care. We will not allow them to do it because we figure there is only one way to get the job done.

All of the regulatory agencies, the EPA, let me point out, the EPA not only is impressed with San Diego's jump on monitoring. The Federal Government, EPA has hired the city of San Diego's monitoring system to monitor the entire northern Baja.

The CHAIRMAN pro tempore (Mr. HOBSON). The time of the gentleman from California [Mr. HUNTER] has expired.

(On request of Mr. PALLONE, and by unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, my point again is that with regard to the San Diego situation, we understand that under current law you can apply for this waiver, and we have every reason to believe that you will get the waiver.

I would disagree with the gentleman from San Diego in his statement that the language of the bill in just granting the waiver outright allows at some future time for this waiver to be taken back. I do not see the ocean monitoring program as providing for that.

Leaving that aside, the point of the matter is that this legislation opens up a lot of other waivers, for LA, for a lot of other different towns. The letter that we have—and the gentlewoman from California [Ms. HARMAN] presented today from the EPA—actually says that that is not scientifically based.

I understand the arguments that are being made by the San Diego people, but I think it is distinct and they have opportunities for a waiver. There has been no evidence presented that there is any scientific basis for any of these other waivers.

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

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. The scientific data, what is called chemically enhanced primary, is equivalent to secondary treatment.

I would like to make several points about my legislation to recognize San Diego's primary advanced treatment as the equivalent of secondary sewage treatment.

Comprehensive ocean monitoring studies conducted by the city of San Diego demonstrates that the present combination of industrial waste source controls, chemically enhanced primary treatment facilities and ocean discharge facilities are highly effective at protecting the ocean environment.

Under the legislation I have introduced, the city will still be required to demonstrate that it meets the State and Federal clean water standards through the continued monitoring and testing procedures witnessed today.

As many of my California colleagues know, Mayor Golding has submitted the city's application for a waive from the secondary sewage requirement of the Clean Water Act.

The city had worked for years to get straightforward, unconditional legislation to acknowledge the scientific basis for the adequacy of our existing level of treatment. During the closing days of the 103d Congress, a compromise was ultimately accepted in the form of a free standing bill which limits the capacity of the point Loma plant and requires significant water reclamation capacity.

Failure to obtain this legislation would have meant a costly time-consuming trial on the requirement of the secondary treatment.

I would like to point out to you today what the difference between the waiver application, and my legislation, which provides permanent relief from the mandate.

Point Loma must operate under a National Pollution Discharge Elimination [NPDES] permit, issued by the Environmental Protection Agency every 5 years.

Regardless of whether the city is operating under a waiver, or an exemption as I have proposed, Point Loma must still renew its permit.

Likewise, the permit can only be reissued after a public review and hearing process is completed.

Eithr way, if the city is not in compliance with State or Federal standards, it would not receive its operating permit from the EPA.

The bottom line: It is more cost effective to provide the city with permanent relief from the secondary sewage requirement. The waiver application that Mayor Golding submitted to the EPA was 15 volumes long and cost $1 million dollars to assemble.

This is money which could be spent improving the existing system, or expanding it to meet future needs.

Finally, I'd like to point out that the State of California, which was a plaintiff in the Federal lawsuit against San Diego for 6 years switched sides, and became a defendant in the case, supporting the city's contention that the sewage treatment standard is needlessly stringent for San Diego. California switched sides after the city began operating the extended sewage disposal pipe, an action designed to bring the city into compliance with the State's ocean plan.

The city has currently been in compliance with the State standards for 17 months.

My legislation in no way exempts the city from the requirements and standards of the clean Water Act.

Continued monitoring and testing is explicitly provided for in order to ensure that the ocean environment is protected.

And if the State of California can be convinced that the city was acting in good faith to protect the ocean, the EPA must surely be able to recognize that the city's resources can be spent on more environmentally friendly pursuits that $1 million dollar waiver applications.

My legislation will accomplish the parallel goals of protecting our ocean environment and the taxpayer's wallet.

CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY,
Sacramento, CA, March 8, 1995.

HON. SUSAN GOLDING,
Mayor, City of San Diego,
San Diego, CA.

DEAR MAYOR GOLDING: The purpose of this letter is to convey the California Environmental Protection Agency's support for your efforts to obtain a legislative exemption from the federal secondary treatment requirements for San Diego's Pt. Loma wastewater treatment plant.

This support is in recognition of the demonstrated ability of the Pt. Loma plant to comply with state Ocean Plan standards. The recently extended ocean outfall has been shown to be performing very well. This, in conjunction with the successful implementation of chemically enhanced treatment at Pt. Loma has given the city of San Diego a sewage treatment and disposal system fully capable of protecting the marine environment without the need for expensive secondary treatment.

The consensus statements by the scientists of the Scripps Institution of Oceanography fully support the concept of advance primary

treatment for discharge in swiftly moving marine waters such as those that exist off Pt. Loma. Additionally, scientists of the National Academy of Science, after three years of study, have published conclusions that support San Diego's efforts to amend the Clean Water Act. The Academy's April 1993 study ''Waste Management for Coastal Urban Areas'' includes many findings applicable to San Diego's situation. The Academy concluded that the secondary treatment requirement can lead to overcontrol and overprotection along open ocean coasts. Further, the Academy stressed that the Clean Water Act does not allow regulators to adequately address regional variations in environmental systems. In the case of a deep ocean discharge, such as San Diego, they concluded that biochemical oxygen demand, pathogens, nitrogen and other nutrients were of little concern. In summary, the Academy scientists concluded that chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.

The State of California concurs with the Scripps scientists as well as the National Academy of Science. Our review of your system and the extensive Ocean Monitoring Program reports further support the fact that San Diego will continue to meet all State Ocean Plan Standards for your discharge. Based on this scientific evidence, the State of California fully supports the City's request for legislation to grant an exemption from secondary treatment.

Sincerely,

JAMES M. STROCK.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION,

San Diego, CA, March 27, 1995.

DAVID SCHLESINGER,
Director, Metropolitan Wastewater Department, San Diego, CA.

DEAR MR. SCHLESINGER: Recently there have been some questions raised about regulation of the City of San Diego's discharge through the Point Loma Ocean Outfall. Because of the length of the extended outfall, the terminus is now beyond the 3 mile offshore boundary for State waters. Nevertheless, a NPDES permit would still be required for the City's ocean discharge. However, U.S. EPA would have the lead role in the issuance of this permit.

I anticipate that the Regional Board will participate in formulating the regulations that will apply to the City's ocean discharge. This participation will most likely be either furnishing comments on the NPDES permit to be issued by U.S. EPA or the issuing of a NPDES permit for the discharge by the Regional Board. In either event, it would be my recommendation that the NPDES permit for the City's ocean discharge contain requirements consistent with the State's Ocean Plan for the effluent, receiving waters and monitoring. Further, with regard to the State's Ocean Plan, I would recommend that the receiving water limits therein apply at the boundary of the zone of initial dilution (ZID) even though the ZID is beyond the 3 mile limit.

If you have any questions, or would like to discuss this matter further, please call me at the number on the letterhead.

Very truly yours,

ARTHUR L. COE,
Executive Officer.

[From the Union-Tribune, Mar. 23, 1995]

END THE NIGHTMARE—BOXER SHOULD SUPPORT BILBRAY'S SEWAGE BILL

San Diego's multibillion-dollar sewage nightmare is on the verge of being solved. A solution has been devised in the House of Representatives in the form of a bill that would permanently exempt San Diego's sewage system from the secondary treatment mandates contained in the Clean Water Act.

It looks like this legislation, sponsored by Rep. Brian Bilbray, R-Imperial Beach, will pass the House easily. It is supported by our country's entire congressional delegation and by the House Republican leadership, including Speaker Newt Gingrich, R-Ga.

That means the crucial hurdle for the Bilbray bill will be the Senate.

On a measure that affects only one state, tradition in the Senate holds that both senators from that state must approve of the bill before it can reach the floor for a vote. So, San Diego ratepayers' hopes of avoiding what could be an extremely costly and totally unnecessary sewage upgrade rest with California Democratic Sens. Barbara Boxer and Dianne Feinstein.

Boxer in the past has shown a good grasp of this issue. She sponsored an amendment in the Senate last year that allowed San Digeo to apply for a waiver from the secondary treatment mandates in the Clean Water Act. The waiver, which the city is applying for, would have to be renewed every five years.

Boxer lobbied hard for the waiver, explaining to her colleagues that secondary treatment is unnecessary for San Diego's sewage system because of our deep ocean outfall. With San Diego city officials at here side she pointed out at public hearings that the scientific community overwhelmingly supports that contention.

The exemption now proposed by Bilbray would simply codify in perpetuity the waiver that Boxer sponsored for San Diego last year.

Local environmental groups such as the Sierra Club have opposed the exemption because they have said it wouldn't mandate the extensive ocean monitoring that the waiver requires. Upon hearing that complaint, Bilbray toughened the language on environmental monitoring in his bill.

The Sierra Club's other objection to the exemption has been that it would undermine provisions for producing reclaimed water that are contained in the waiver legislation. The exemption actually divorces the issue of water reclamation from sewage treatment, which is proper. The two are separate issues.

If scientists say San Diego doesn't need to treat its sewage to secondary standards, there's no reason it should be forced to treat some of it to an even higher standard for reclaimed water. If San Diegans want reclaimed water, that should be a local policy decision wholly separate from the issue of secondary sewage treatment.

The Bilbray measure could move to the Senate in one of two ways, either as a separate bill or as an amendment to a broader bill reauthorizing the Clean Water Act, Either way, Boxer and Feinstein should support it.

Boxer understands San Diego's sewage problems, so she should see that the exemption is even better than the waiver.

And so should Feinstein, who voted for the waiver amendment last year. With their support, San Diego's sewage nightmare could vanish.

[From the Union-Tribune, Apr. 10, 1995]

PASS THE SEWAGE BILL—FILNER, BOXER SHOULD NOT BOW TO PRESSURE

San Diego has reached a crucial turn in its long battle to escape a multibillion-dollar federal sewage mandate that scientists agree is environmentally unnecessary.

At stake is more than $3 billion in potential outlays by San Diego ratepayers to build a mammoth secondary-sewage treatment plant, as required by the federal Clean Water Act.

A measure by Rep. Brian Bilbray, R-Imperial Beach, to exempt San Diego from this exorbitant—and scientifically specious—mandate is advancing on Capitol Hill. It deserves the support of San Diego County's five representatives in the House and California's two Democratic senators, Barbara Boxer and Dianne Feinstein.

Regrettably, however, the legislation does not have the unanimous backing of our delegation in Congress.

Last week, Sen. Boxer announced her opposition to the Bilbray measure. A day later, Rep. Bob Filner, D-San Diego, said he was undecided whether to support reauthorization of the Clean Water Act, a broad bill which includes Bilbray's sewage exemption.

Filner says he backs the exemption, which he long has championed. But he has very serious reservations about other provisions in the bill. ''There are significant problems with the bill overall,'' he says.

Consequently, Filner may vote against it when it reaches the House floor—despite the billions of dollars at stake for San Diego households.

The Democratic lawmaker was conspicuously absent last week when the House Transportation and Infrastructure Committee approved the Clean Water Act by a 42–16 vote. Filner, the only San Diego-area lawmaker on the panel, said he missed the critical vote because he had a doctor's appointment.

But political reality is that both Boxer and Filner, along with other Democratic lawmakers, are under intense lobbying pressure from environmentalists to vote against the Clean Water Act. Environmental groups such as the Sierra Club vigorously oppose San Diego's sewage exemption and other provisions of the bill which they claim would harm the environment.

But, unlike opponents of the exemption, San Diego has science on its side.

An authoritative study by the National Academy of Sciences concluded in 1993 that San Diego's current method of ''enhanced primary treatment'' of its sewage poses no harm to the environment. That's because San Diego discharges its sewage 4.5 miles out to sea, where the water is over 300 feet deep. A ''consensus statement'' signed by 33 eminent scientists at the Scripps Institution of Oceanography in La Jolla reached the same conclusion.

In the face of such evidence, Rep. Filner and Sen. Boxer should recognize that Bilbray's exemption serves the interests of not only San Diego sewage users but the environment as well. The real question is whether these two lawmakers will sacrifice good science and billions of dollars out of the pockets of San Diegans to satisfy the demands of Democratic pressure groups.

HISTORICAL REVIEW OF SAN DIEGO'S EFFORTS TO MEET THE REQUIREMENTS OF THE CLEAN WATER ACT, APRIL 1995

THE METROPOLITAN SEWERAGE SYSTEM

The Metropolitan Sewerage System serves approximately 1.8 million persons living in San Diego and in 14 other cities and sewer districts in San Diego County. Each day, 180 to 190 million gallons of sewage collected from these entities is treated at the Point Loma Wastewater Treatment Plant which is owned and operated by the City of San Diego.

The Point Loma Plant uses a settling method known as advanced primary treatment to remove approximately 80 percent of the solids from sewage. The liquid waste, or effluent, is then discharged into the Pacific

Ocean through an ocean outfall pipe which originally stretched about two and a half miles into the ocean to a discharge depth of more than 200 feet. This outfall was extended to a total length of 4.5 miles with a discharge depth of 320 feet in November 1993.

Solids, or sludge, are settled out of the sewage and are discharged into ''digester'' tanks. Heating of the sludge within the digesters produces methane gas which is burned to generate electricity to run the Point Loma plant and to produce revenue to offset a portion of the operating costs of the plant.

The heating also reduces the volume of the sludge by half, and the remaining solids are then pumped to open-air drying beds and mechanical presses on Fiesta Island. After the sludge is dried, it is beneficially used in soil conditioners, or landfilled when necessary.

Improvements currently under way at the Point Loma Plant will increase its treatment capacity to 240 million gallons per day (mgd). An additional 100 mgd will be needed in the system by the year 2050.

THE CLEAN WATER ACT

In 1972, the federal Clean Water Act became law, and directed the EPA to adopt standards of secondary sewage treatment for all municipal wastewater dischargers. Cities and sewerage districts were originally given five years to construct facilities to meet the secondary standards, and costs were to be shared by local, state and federal governments under the Clean Water Grant Program. The deadline for compliance with the secondary treatment standards was extended several times, and eventually was set at July 1, 1988.

Under the Clean Water Act, all U.S. dischargers were required to obtain from EPA a National Pollutant Discharge Elimination System (NPDES) permit which established effluent standards for both the sewage discharge and for receiving waters. A single set of standards was adopted for all municipal dischargers whether their effluent entered a lake, stream, river, bay or ocean. This approach differed dramatically from California's existing system for setting discharge standards. Prior to the Clean Water Act, California had been operating under the Dickey Act, which allowed the Regional Water Quality Control Board to adopt the requirements for individual dischargers within their jurisdiction. The Regional Board studied the discharge and receiving water at each individual point of discharge and set the requirements for each discharger based on the specific technical data from that site. This resulted in different standards for communities which discharged into smaller bodies of water or into waters which served as drinking water supplies than for communities which discharged into the ocean.

EPA regulations under the Clean Water Act defined secondary treatment in terms of three wastewater constituents; Biochemical Oxygen Demand (BOD), suspended solids, and pH: 1) BOD is a measure of how much the organic material in the wastewater can be broken down by microorganisms. Thirty-day average concentrations of BOD were not to exceed limits of 30 milligrams per liter (mg/l) or 85% removal, whichever was more restrictive. In San Diego's case, because the influent concentration can be as high as 300 mg/l, the 85% removal rate yields a 45 mg/l effluent concentration. Therefore, the 30 mg/l requirement is the more stringent, and a 90% removal rate is required. 2) Suspended solids were also not to exceed thirty-day average concentration limits of 30 mg/l or 85% removal. As with BOD, the more stringent criterion is the 30 mg/l, which corresponds to approximately 90 percent removal of solids from the incoming wastewater. 3) pH is a measure of the acidity of the wastewater. A range from 6.0 to 9.0 was established for pH.

With the exception of the BOD, suspended solids and pH, the EPA relied on the water quality standards contained in the State Ocean Plan to control the numerous other constituents found in normal municipal discharge, such as microorganisms, heavy metals and organic toxic substances. In addition to the secondary requirements set by EPA, California dischargers had to meet 200 other technical requirements set by federal and state water standards.

THE METROPOLITAN FACILITIES PLAN

At the time the federal secondary treatment standards were adopted, the Point Loma discharge was operating under a State of California permit which contained no limitation for BOD pH, and a limitation of 125 mg/l for suspended solids.

San Diego received its first NPDES permit for Point Loma in 1974. The initial permit allowed the facility to continue to treat sewage at the primary level as had been practiced for more than a dozen years under the State waste discharge requirements, but directed the City to complete plans and specifications to convert to secondary treatment by January 1, 1977.

The City was awarded a federal/state Clean Water Grant in 1975 to finance the preparation of a facilities plan to convert the metropolitan sewerage system to secondary treatment. Preparation of the plan included review of comprehensive ocean monitoring data, extensive analysis of numerous primary and secondary treatment alternatives, study of various layouts of the Metropolitan Sewerage System and multiple cost estimates.

The report, referred to as the ''Metropolitan Facilities Plan'' was completed in January of 1977. It concluded that San Diego's primary effluent was creating virtually no adverse impacts on the ocean and that secondary treatment was not necessary at Point Loma. The consultant recommended that San Diego request a waiver from EPA's secondary treatment standards.

At the time the facilities plan was written, however, there was no provision in the Clean Water Act which authorized EPA to grant waivers from secondary treatment. Because the waiver process did not exist and there was no guarantee that San Diego could obtain one, the facilities plan also included a plan to convert Point Loma to secondary treatment.

THE SECTION 301(H) WAIVER PROCESS

While the NPDES permit for Point Loma was being renewed in 1977, San Diego began action in Congress to enable EPA to grant waivers from secondary treatment. The City was soon joined by an association of all the major municipal wastewater dischargers in the United States. In late 1977, Congress added to the Clean Water Act Section 301(h) which established the waiver process.

Section 301(h) allowed municipalities discharging wastewater to marine waters to apply for modified standards of secondary treatment. Modifications were to be granted on a case-by-case basis and were to allow the dischargers to meet comparable state standards in place of the federal secondary standards for BOD, suspended solids and pH. The municipalities had to demonstrate that sewage discharged under the modified standards protected the environment at a level comparable to sewage treated under federal secondary standards. The dischargers also had to meet all state and federal ocean water quality standards and had to protect the beneficial uses of the ocean.

THE WAIVER APPLICATION AND DUAL FACILITY PLANNING EFFORTS

San Diego filed its waiver application in September of 1979. The application asked that San Diego be allowed to meet State Ocean Plan standards which are based on advanced primary treatment of sewage as an alternative to federal standards for secondary treatment.

Concurrent to filing an application for a waiver, the City continued facility planning efforts. The Metro II facilities plan which included engineering studies for both advanced primary treatment and secondary treatment recommended a new system that would consist of a 45 mgd secondary sewage treatment plant at Point Loma and a 140 mgd secondary sewage treatment plant in the Tijuana River Valley. A major new interceptor system would convey sewage south to the border area and a new land outfall would be constructed along the Tijuana River connecting the new treatment plant with a new ocean outfall.

STATE WATER RESOURCES CONTROL BOARD'S REACTION TO THE WAIVER

After San Diego submitted its Section 301(h) waiver application to EPA, the State Water Resources Control Board assigned a very low priority to the award of federal grant money for construction of secondary treatment facilities. On May 15, 1980, the State Board resolved through Resolution No. 80–37 not to award Clean Water Grants for any ocean discharge project in excess of that needed to meet the provisions of the Ocean Plan until the Board determined that sufficient grant funds were available to justify funding of such projects.

After the resolution was adopted, numerous coastal communities throughout the state, including San Diego, modified their wastewater treatment planning to eliminate or postpone secondary treatment. Plans already completed or partially completed were shelved as the dischargers awaited the outcome of the Section 301(h) applications.

Resolution No. 80–37 is still in effect and has not been amended.

EPA'S TENTATIVE APPROVAL OF THE WAIVER

On September 23, 1981, EPA tentatively approved San Diego's waiver application, conditioned upon the issuance of a revised NPDES permit for the Point Loma discharge. The 301(h) permit was to be issued following a joint public hearing before EPA staff and the Regional Water Quality Control Board. The public hearing was held in November 1982, however, the issuance of the permit was held in abeyance to allow the EPA and Regional Board to consider the public testimony.

MEXICAN/UNITED STATES BORDER ISSUES

In April 1982, San Diego continued its facilities planning efforts by initiating a study directed toward determining a long-term solution for the Tijuana sewage discharge problem that had resulted in millions of gallons of raw sewage entering the United States from Mexico. The City Council conceptually approved in 1983, a plan for the construction of a $730 million joint international wastewater treatment and disposal system with capacity for both Tijuana and a portion of San Diego.

REVISED WAIVER APPLICATION

During the three years in which the EPA was reviewing the original waiver application, the City updated population projections. The new projections were substantially higher than those used in determining the projected sewage flows in the waiver application. When, in 1983, the EPA opened up the waiver process for a second time, the

City used the opportunity to revise and resubmit its initial waiver application to include projections for sewage discharge through the year 1993, and to account for treatment of Tijuana sewage. The 1983 application reaffirmed the 1979 conclusions that secondary treatment of the Point Loma sewage discharge was not necessary to protect public health and the environment.

REVISION OF THE STATE OCEAN PLAN

While the City was filing its revised waiver application with EPA, the State Water Resources Control Board was making changes in the State Ocean Plan which would eventually have a direct impact upon the application.

In 1983, the board adopted two significant revisions to the plan:

1. Body contact bacteriological standards, the same ones formerly applied only to public bathing beaches, were adopted for all kelp beds off the California coast. This action was taken to protect those persons who SCUBA dive in the beds, and was to take effect on July 1, 1988. The law also allowed the Regional Board to examine kelp beds near sewer outfalls on a case-by-case basis and exclude them from the standards (''dedesignation'') where warranted.

2. Cities were given the opportunity to apply for an exemption from the suspended solids standards under the Ocean Plan and to request to remove 60 percent rather than 75 percent of suspended solids.

Prior to the 1983 revision of the Ocean Plan, neither the City nor any public health or water quality regulatory agency had received complaints of illness among SCUBA divers in or near the Point Loma kelp beds. In 1985, the City asked the State to exclude or ''dedesignate'' the Point Loma kelp beds from the body-contact bacteriological standards. By excluding the Point Loma kelp beds from the new state standards, the Point Loma discharge would be subject to the original Ocean Plan bacteriological standards, as addressed in the City's 1979 and 1983 waiver applications.

The Regional Water Quality Control Board conducted public hearings on the City's request for dedesignation of the kelp beds in September and November of 1985. The Regional Board postponed a decision on the matters, however, until after the City completed further studies.

DEDESIGNATION AND WAIVER REQUESTS

A. *Dedesignation*.—After the City filed its original dedesignation request in September 1985, with the Regional Water Quality Control Board, it conducted extensive field studies of the Point Loma kelp beds and of the health of those who dive in the kelp beds. The study showed that the proposed bacteriological standards were being met in the inner portions but were frequently exceeded along the outer edges of the beds.

The accompanying health effects study showed, however, that few cases of gastrointestinal illness were reported among divers after using the Point Loma beds, and that the number of reported cases was well below the level accepted by the EPA. (The study indicated eight reported cases of illness following 1,000 dives, and the proposed EPA bacterial standards permit up to 19 cases per 1,000).

In September of 1986, the Executive Officer of the Regional Water Quality Control Board indicated at a public meeting that he would recommend against San Diego's dedesignation request because no alternate ocean standards had been developed to protect divers in the kelp beds. He also said he would recommend against the City's proposed reduction in suspended solids removal because San Diego could not demonstrate an economic necessity for it and was already removing 75 percent of sewage solids at Point Loma with existing rate revenues.

Following discussions at a Council meeting on December 9, 1986, (discussed further in following paragraphs), the City of San Diego discontinued its dedesignation request for a revision to the water quality standards on December 16, 1986.

B. *Waiver*.—On September 30, 1986, EPA announced its decision to reverse its tentative approval of San Diego's 1979 waiver application and to tentatively deny both the City's 1979 and 1983 applications. EPA cited two reasons for denying the applications: First, it cited the City's inability to comply with the new State Ocean Plan bacteriological standards scheduled to take effect in 1988. Those standards apply body-bacteriological standards, like those formerly applied only to public bathing beaches, to all kelp beds off the California coast. The EPA stated that compliance with the standards is necessary to protect the health of recreational users of the kelp beds, and concluded that the Point Loma sewage discharge ''has degraded the recreational beneficial use in the kelp bed vicinity''. Second, the EPA concluded that the Point Loma discharge ''interferes with the protection and propagation of a balanced indigenous population'' of bottom dwelling ocean organisms in the vicinity of the Point Loma outfall. In support of this conclusion, EPA noted that species of clam is found in greater abundance near the outfall discharge than away from the outfall, and a species of starfish, a brittle star, is less common near the outfall discharge point than away from the outfall. The brittle star found in reduced numbers near the outfall is one of the most common and abundant species on the Southern California shelf.

The City had until March 30, 1987 to submit a revised waiver application to EPA if it intended to continue to pursue the waiver. On November 3, the San Diego City Council authorized the City Manager to send EPA a letter of intent to file a revised application. That letter had to be submitted to EPA by November 15, 1986, or the EPA tentative denial would have become final, and a revised waiver application would not be allowed. In authoring the filing of the letter, several members of the Council cautioned that their action did not indicate support for the filing of a revised waiver application, and that such a decision would be made following a public hearing on the waiver scheduled on December 9.

SAN DIEGO'S DECISION

San Diego's City Council devoted two public hearings, one on December 9, 1986, and one on February 17, 1987, to the issue of the 301(h) waiver application versus secondary treatment. Public response at both meetings favored abandoning waiver efforts and pursuing the federally mandated secondary treatment requirements. Additionally, there was much emphasis and support placed on the potential for water reclamation and reuse if the City were to modify its sewage treatment system.

Public testimony combined with consistent negative response by the regulatory agencies placed the City of San Diego in a position requiring immediate forward action. While all the efforts of the past (waiver and facilities planning) had provided beneficial avenues to San Diego, laws as well as public opinion changed over time and it was clear that either option that the City chose would require long range planning and provisions for water reclamation.

On February 17, 1987, the decision was made to discontinue waiver efforts and comply with federal sewage treatment standards. The City immediately proceeded at full speed to implement secondary treatment and water reclamation. Immediate actions by the City included establishing an advisory committee, the Metropolitan Sewer Task Force (MSTF), to lend expertise and guidance to Council on the many issues surrounding the sewage modifications; and creating the Clean Water Program to oversee the upgrade and expansion of the sewerage system.

CONSENT DECREE DISCUSSIONS WITH EPA

Although the City was swiftly and judiciously pursuing facilities planning efforts, it was clear that the July 1, 1988 compliance deadline would not be met. Beginning in January, 1988, the City embarked on discussions with the Department of Justice, EPA, SWRCB and RWQCB to establish a realistic time schedule for compliance with the federal discharge standards. Despite the City's commitment to comply, the federal government sued the City on July 27, 1988. The State of California joined as a co-plaintiff.

From 1987 to 1989 the City carried out intensive facilities planning with a team of engineers, planners, and environmental specialists working with the community. After consolidating twenty-two alternatives into seven, the City adopted a plan that included the upgrade of the Point Loma treatment plant, the construction of a new secondary treatment plant in the South Bay, and seven new water reclamation plants located throughout the service area. This plan, called Alternative IVa, was the basis for an agreement between the City and the State and Federal governments. This agreement, called a Consent Decree, was signed by the parties in January 1990 and was lodged in federal court. The cost to implement the facilities in the Consent Decree was estimated to be $2.5 billion in 1992 dollars.

FEDERAL COURT FINDINGS, JUNE 1991

When presented with the proposed plan, Judge Rudi Brewster noted that in order to finalize the Decree, he would need to find that the plan was in the best interest of the public. He held a hearing on whether or not the present discharge at Point Loma has adverse impacts on the marine environment and found that, while there is a potential impact to divers using the kelp beds due to bacteriological contamination, there is no significant impact to the sea life surrounding the discharge. He also recognized in his findings that extension of the outfall (which has now been completed) would eliminate the contamination of the kelp beds.

Judge Brewster ruled on June 18, 1991 that the proposed Consent Decree should be deferred to January 1993. He directed that the City conduct pilot tests at the Point Loma facility to determine whether or not chemically-enhanced primary treatment could meet the secondary treatment requirements and suggested that the City pursue its best efforts to amend the Clean Water Act. He also suggested that the National Academy of Science study entitled ''Wastewater Management for Coastal Urban Areas,'' which was due to be completed soon, be used as further guidance on the level of treatment necessary to protect the environment.

CONSUMERS' ALTERNATIVE

In May 1992 the City Council directed a reevaluation of Alternative IVa based on retaining Point Loma as an advanced primary treatment plant operating at an ultimate capacity of 240 mgd. With this change, 90 mgd of additional capacity could be provided at the Point Loma plant that would not be available if a conversion to secondary treatment had occurred as envisioned by Alternative IVa. The new plan, dubbed the Consumers' Alternative, has an estimated capital cost of $1.2 billion in 1992 dollars. At a July 10, 1992 hearing in Federal Court, Judge

Brewster directed the City to proceed with the Consumers' Alternative and await the results of the pilot testing at Point Loma and the report from the National Academy of Science.

PILOT STUDY RESULTS

The City completed the 18-month pilot testing in August 1993. Its purpose was to determine whether or not chemically enhanced primary treatment could be used to bring the Point Loma Plant into compliance with the 30 mg/l effluent requirement for total suspended solids and BOD currently embodied in the Clean Water Act. The results are clear for both constituents: the 30 mg/l law to achieve secondary treatment cannot be met. As a result, the City has redoubled its efforts to amend the Clean Water Act to provide modified standards where it is demonstrated that there will be no adverse impact to the environment.

NATIONAL ACADEMY OF SCIENCE REPORT CONCLUSIONS

After three years of study the Academy released ''Wastewater Management for Coastal Urban Areas'' in April 1993. No specific recommendations were made regarding San Diego's wastewater treatment system, but a number of conclusions reported by the Academy support San Diego's efforts to amend the Act: (1) The secondary treatment requirement can lead to over-control and over-protection along open ocean coasts; the 1972 Clean Water Act does not allow regulators to adequately address regional variations in environmental systems. (2) In the case of deep ocean discharge where BOD, pathogens, nitrogen, and other nutrients are of little concern, and contributions of toxics and metals associated with solids are low, treatment for removal of these constituents is unnecessary. (3) Chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.

FEDERAL COURT FINDINGS AND INTERIM ORDER

On March 31, 1994 Judge Rudi Brewster rejected the Consent Decree proposed in 1990 as ''not in the public interest.'' His memorandum decision stated that the Consent Decree presents no environmental benefit, requires wasteful over-treatment, requires unnecessary sludge production, and mandates unnecessary reclamation facilities. Key testimony in the courtroom included the legislative efforts of San Diego's Councilmembers, Senators, and Members of Congress to allow the Point Loma Treatment Plant to continue its advanced primary level of treatment.

An Interim Order issued August 26, 1994 requires San Diego to continue implementation of the Consumers' Alternative.

OCEAN POLLUTION REDUCTION ACT

After the bill received the unanimous support of the House and Senate, President Clinton signed the Ocean Pollution Reduction Act on October 31, 1994. This Act allows the City of San Diego to apply for a waiver from secondary treatment within six months and requires the EPA to complete its review of the application within one year of its receipt. It requires that San Diego commit to 45 MGD of water reclamation capacity by 2010 and that certain effluent parameters (80% suspended solids removal and 58% biological oxygen demand removal) be met. It also requires that there be fewer suspended solids discharged to the ocean at the end of the waiver period than are discharged at the beginning of the waiver period.

San Diego submitted the waiver application on April 24, 1995. EPA Administrator Carol Browner has notified San Diego that an initial assessment will be completed by about June 8, 1995 and a Tentative Decision Document will be issued by about August 7, 1995.

MAY 9, 1995.

Hon. DAVID DREIER,

Chairman, Subcommittee on Rules and Organization of the House, Committee on Rules, House of Representatives, Washington, DC.

Hon. DAVID M. MCINTOSH,

Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR CHAIRMAN: I write to respond to a letter written by the Honorable Norman Y. Mineta, dated May 1, 1995 (the ''May 1 letter'') and delivered to your Subcommittees for consideration in connection with your hearing on the procedures to be used for the Speaker's ''Corrections Day.'' In that letter, Congressman Mineta voices his concerns with H.R. 794, a bill introduced by Congressman Bilbray, that has been widely touted as a prime candidate for the Corrections Day process.

The purpose of this response is to set the record straight about San Diego's motivations, justifications and evidentiary support for H.R. 794, and further to assuage the concerns of those who mistakenly believe that H.R. 794 is ill-conceived or ill-motivated. Contrary to the message of the May 1 letter, H.R. 794 is critical to the long-term resolution of San Diego's wastewater treatment plans, and specifically the City's dispute with the Environmental Protection Agency (the ''EPA'') over the level of treatment necessary to protect the environment. By responding to the assertions made in the May 1 letter, I hope to educate and assure the members of Congress that by enacting H.R. 794 they are promoting fiscal and environmental responsibility.

San Diego has been pursuing environmentally sound and fiscally responsible compliance with the Clean Water Act (the ''CWA'') for more than two decades. Over the past four years our Congressional representatives have worked with the appropriate Congressional committees to pass legislation that would provide an opportunity to establish, once and for all, that the current level of sewage treatment at the Point Loma Treatment Plant fully protects the marine environment, and that the secondary level of treatment prescribed by the CWA does not make sense for our ocean or our ratepayers. Last year we consistently requested straightforward, unconditional legislation that would acknowledge the scientific basis for the adequacy of our existing level of treatment, but ultimately accepted compromise language that limits the capacity of the Point Loma plant and requires significant water reclamation capacity to be built. We worked hard to get this language into the CWA reauthorization; when it became clear that the CWA was not going to be reauthorized, we agreed in the closing days of Congress to the Ocean Pollution Reduction Act of 1994, a stand-alone bill that mirrored the compromise provision in the CWA. Failure to obtain this legislation by either vehicle would have meant a costly, time-consuming trial on the requirement for secondary treatment.

H.R. 794 embodies precisely the legislation we originally sought. In recent months, the House Transportation and Infrastructure Committee approved H.R. 961, which contains a coastal discharge provision for San Diego that substantially mirrors H.R. 794. We are encouraged by the bi-partisan support we received from the committee, but with the experience of last year's CWA re-authorization process still fresh in our minds, we urge you to consider H.R. 794 as equally vital to ensure that the necessary, long-awaited legislative relief is assured.

The May 1 letter authored by Congressman Mineta argues that H.R. 794 is inappropriate for consideration under Corrections Day procedures, raising in support of that argument several concerns as to San Diego's motivation, justification and evidentiary support for H.R. 794. Although I understand these arguments were addressed in the course of including the coastal discharge provision in H.R. 961, I offer the following detailed response to aid you in fully understanding San Diego's position on each of these matters.

THE NEED FOR SECONDARY TREATMENT

There is no dispute that the nationwide requirement for secondary treatment, imposed in 1972, has improved the overall quality of the nation's water. This is because most treatment plants in the country discharge into inland lakes, rivers and streams where there is limited capacity to assimilate suspended solids or biochemical oxygen demand (''BOD''). The May 1 letter notes that the city of San Jose, California, requires an even higher level of treatment than secondary to protect the environment; this, however, is because San Jose discharges into a tidal estuary in South San Francisco Bay via an open channel (not a submerged outfall pipe) into waters approximately 20 feet deep—a far different circumstance from San Diego's outfall pipe discharge into swiftly moving currents off our open coast at over 300 feet of depth and over four miles offshore. In fact, San Jose also has to have a ''conditional exception'' to the requirements of the Bays and Estuaries Act, which would otherwise prohibit discharges of this nature to the Bay in that area.

There is also little dispute that San Diego's current use of advanced primary treatment protects the marine environment. Among the numerous favorable findings of various scientists and agencies, I offer the following for your consideration:

The Environmental Protection Agency, in its 1981 Tentative Decision Document on San Diego's original waiver application, states that ''the applicant's proposed discharge will comply with the California State water quality standards'' and that ''the applicant's proposed discharge will not adversely impact public water supplies or interfere with the protection and propagation of a balanced indigenous population of marine life, and will allow for recreational activities.''

Judge Brewster stated, in his findings in his March, 1994 Memorandum Decisions and Order Rejecting the Proposed Consent Decree, that ''the scientific evidence without dispute establishes that the marine environment is not harmed by present sewage treatment, and in fact appears to be enhanced.''

The National Research Council committee on ''Wastewater Management for Coastal Urban Areas'' stated in its April 1993 report that ''chemically enhanced primary treatment is an effective technology for removing suspended solids and associated contaminants.''

Scientists from all over the country have testified in various forums, including under oath in the federal district court in San Diego, that San Diego's current level of treatment fully protects the offshore environment.

INDUSTRIAL PRETREATMENT

The May 1 letter credits secondary treatment and ''the corresponding basic level of treatment for industrial discharges'' with the success of the CWA. In fact, wastewater plant treatment and industrial pretreatment are two entirely separate requirements, not at all reliant on one another although they can work in concert, as they do in San Diego. San Diego's strong industrial

pretreatment program is exactly what makes our sewage treatment system a model for the rest of the country. Instead of spending billion of dollars on ever higher levels of treatment, San Diego works with its industries to ensure that toxic constituents never even get into the system. As a result, San Diego has a higher quality of wastewater coming into its Point Loma plant than is required for the effluent discharged after treatment.

Part of this confusion in the May 1 letter may be attributable to a misunderstanding of what ''secondary equivalency'' means. San Diego's application for modified standards of secondary treatment is exactly that, and no more: a redefinition of ''secondary'' under certain circumstances. It is not a waiver of or an exemption from the protections of the CWA, and it is certainly not a ''license to pollute.'' San Diego's permit under the Ocean Pollution Reduction Act—and any modified definition applied under H.R. 794—seeks modification of only two of the secondary treatment requirements: total suspended solids and BOD. All of the 200-plus other constituents that are typically measured and monitored at treatment plants across the nation will still have to conform to the secondary treatment requirements of the CWA. Because of the comprehensive and effective industrial pretreatment program currently in place, San Diego meets those standards now and would continue to meet those standards under the new law. ''Secondary treatment,'' as currently defined in the CWA, would add nothing significantly beneficial to the process.

REASONS FOR REJECTION OF THE 1983 WAIVER APPLICATION

The May 1 letter is incorrect insofar as it implies that the State of California denied San Diego's waiver application in 1986. The state's Regional Water Quality Control Board (''RWQCB''), in a March 1985 letter, informed the City that the State had responded to the EPA with a tentative finding that ''the discharge will comply with applicable state laws, including applicable water quality standards, and will not result in additional treatment, pollution control, or other requirements on any other point or non-point source.'' The denial was the work of the EPA, not the State. Moreover, the Tentative Decision Document issued in 1986 by the EPA clearly states that EPA's tentative denial was due to the 1983 amendment of the California State Ocean Plan that applied the same water quality standards to the offshore kelp beds as had previously been applied only to bathing beaches. This change came after the Point Loma plant had been operating for over twenty years, and led to the extension of the outfall that is currently in place. It was a change in the Ocean Plan, and not a failure of San Diego's treatment system, that led to the denial.

SAN DIEGO'S WITHDRAWAL OF THE WAIVER APPLICATION

The circumstances under which San Diego withdrew its waiver application in 1987, as referenced in the May 1 letter, must be corrected for the record. In federal court the issue was fully reviewed and the testimony demonstrated that key officials from the EPA and Regional Board convinced San Diego's mayor at that time that not only would a revised application not receive favorable review, but that the EPA would ensure that federal funds would be forthcoming to help San Diego pay for upgrade of the system to secondary treatment. In addition, those who opposed anything less than secondary treatment used sewage spills from a major pump station as a tool to convince some San Diegans to press for withdrawal of the waiver application. Unfortunately, it was never explained to the public that the two issues are in no way related, and that spending billions on secondary treatment would do nothing to prevent sewer spills or pump station break-downs (and would, in fact, take away dollars sorely needed to address those problems).[1] Based on the promises of the EPA and the concerns of a few citizens, the City Council voted 8–1 to withdraw the application, thus closing the door on San Diego's waiver unless reopened by new law.

SAN DIEGO'S ''HISTORY''

The May 1 letter characterizes San Diego's ''reversals'' during the last 23 years, regarding whether or not to implement secondary treatment, as a failure of municipal leadership. The true history of the situation does not support that contention.

When Congress passed the law requiring secondary treatment in 1972, San Diego, along with most other municipalities in the country, began the facilities planning necessary to implement the higher level of treatment. After the appropriate environmental impact documents had been completed, the findings were that the No Project Alternative (not implementing secondary treatment) had the least environmental impact. Other municipalities discharging through long deep ocean outfalls had similar findings, and based on that, in 1977 Congress amended the Clean Water Act, adding Section 301(h), allowing for waivers from secondary treatment.

San Diego applied for a waiver in 1979 and in 1981 received a tentative approval from EPA. We were encouraged that we were on the right track. Then in 1986 the EPA reversed itself, issued a tentative denial, convinced San Diego to withdraw the waiver application, and sued the City.

San Diego pursued not just secondary treatment, but an aggressive water reclamation program, from 1988 until 1992, when it became apparent that the cost far outweighed both the need and the benefits of seven new water reclamation plants by 1999. We revised our plans, advised the court, and the court agreed, rejecting the Proposed Consent Decree that would have required these overreaching efforts. The judge cautioned, however, that the City had to obtain a change in the law, or he would be forced by existing law to put us on a schedule to implement secondary treatment. Because time was literally running out, and because Congress at the time was not receptive to the legislative relief now proposed by H.R. 794 (or its counterpart provision in H.R. 961), San Diego agreed to the conditions included in the Ocean Pollution Reduction Act. Importantly, it was never represented that with the passage of the Ocean Pollution Reduction Act, the city would abandon its efforts to obtain permanent legislative relief for its ratepayers.

Recognizing that the cost of the conditions in the Ocean Pollution Reduction Act was high, and that the compromise was not necessarily in the best long-term interests of San Diego's ratepayers, I began discussions with our Congressional delegation to enact a better bill—one that would be based on science, would give San Diego the same opportunity given to other coastal dischargers, and would continue to protect the marine environment.

San Diego's actions over the past 23 years have always been in response to changes that were made by Congress, the EPA, or both. One of the reasons for H.R. 794 is to provide some certainty to San Diego that as long as the ocean is protected, as verified by scientific testing, secondary treatment will not be required due purely to changing bureaucracies and the individuals that make them up.

SECONDARY EQUIVALENCY

The May 1 letter states that H.R. 794 would give San Diego ''a permanent exemption from secondary treatment—no conditions, no review, no questions asked,'' and further asserts that the City would merely screen out the larger solids and add chlorine to the rest, ''basically untreated sewage except for the chlorine.'' This contention is likewise in error. First, chemically enhanced primary treatment is, according to the National Research Council, ''an effective technology for removing suspended solids and associated contaminant.'' San Diego does not chlorinate its effluent, as is stated in the May 1 letter, because the length and depth of its outfall precludes the need for doing so. The wastefield is completely isolated from both the kelp beds and the bathing beaches, fully protecting the health and safety of our citizens.

Moreover, H.R. 794 merely allows the regulators responsible for enforcing the Clean Water Act, the EPA and the RWQCB, to deem certain discharge to be the equivalent of secondary treatment. An operating permit will still be required, and to obtain that permit the City will have to continually meet some very strict standards. Even San Jose, with its tertiary treatment level must have an operating permit issued by the EPA and RWQCB, must monitor the treatment plant and receiving waters, must have an industrial pretreatment program in place, and must renew its permit every five years. Implementing secondary treatment—or a higher level of treatment—does not exempt a plan from oversight by the regulatory agencies, nor does it exempt a plant from any of the other requirements of the CWA.

SUPPORT OF SCIENTISTS FOR CURRENT LEVEL OF TREATMENT

The assertion in the May 1 letter, that Scripps Institution of Oceanography has taken no position on H.R. 794, is true. However, every credible scientist who has taken a position on whether or not secondary treatment is needed at the Point Loma facility has supported the current level of treatment. Further, Scripps Institution of Oceanography does not, as an institution, take positions on policy issues such as this. Even so, a consensus statement signed by 33 professors and researchers employed by Scripps supports the current level of treatment, and many other scientists around the country at other prestigious academic and research institutions also support the current level of treatment. Finally, the 1933 report issued by the National Research Council, the operating arm of the National Academy of Science, solidly supports the appropriateness of less than secondary treatment for municipalities like San Diego and more than secondary treatment for municipalities like San Jose. There is ample, uncontroverted scientific support for San Diego's position.

JUDGE BREWSTER'S COMMENTS ON SAN DIEGO

The May 1 letter includes just one comment by Judge Brewster, made in 1991 when he made his Findings regarding the several changes brought by the Department of Justice on behalf of EPA. The quote refers to spills and sewer backups, for which San Diego was fined $500,000. That problem is irrelevant to the question addressed by the consideration of H.R. 794: whether or not San Diego should be required to implement secondary treatment.

[1] The further implication in the May 1 letter that the 1992 break in the outfall was somehow forecast by the EPA in 1983—or that spending billions of dollars on secondary treatment would have prevented the break—is equally unfounded.

In that regard, Judge Brewster in his 1994 decision rejecting the Proposed Consent Decree, said that ''. . . with the new outfall, the scientific evidence without dispute establishes that the marine environment is not harmed by present sewage treatment, and in fact it appears to be enhanced . . .'' He goes on to note that the National Research Council report states ''that on a scientific basis, it would be wise to consider environmental differences regulating sewage treatment standards under the CWA'' and that ''BOD is irrelevant in deep ocean discharges because of the massive abundance of oxygen in the ocean.'' He reminds us that in his 1991 Findings, the same ones that Mr. Mineta references, ''this Court held that the City's Point Loma discharge was not causing significant harm to the balanced indigenous population surrounding the outfall pipe.'' And most recently, at a May 1, 1995 hearing in his courtroom, Judge Brewster stated that ''the City has aggressively moved forward to complete all of the Court-ordered projects—many ahead of schedule.''

The fact is that San Diego has a well-run sewage treatment system. There have been, and will continue to be, spills occurring, as there are with every municipality in the country. However, it is noteworthy that the California Water Pollution Control Association in March 1995 awarded the City of San Diego its ''Best of the Best'' award for the Collection System of the Year. San Diego is making progress and will continue to do so. The money that would be spent on secondary treatment can unquestionably be better spent on pipelines and pump stations to continue our improvement of the system.

Finally, San Diego has made substantial commitments to supplementing our water supply in ways which include water reclamation. We began construction on the North City Water Reclamation Plant, a facility with a capacity of 30 million gallons per day (''MGD''), in 1993, and expect to begin operation in 1997. It is a $150 million state-of-the-art plant that will provide reclaimed water for customers in the northern part of our service area. We are also designing a 7 MGD water reclamation plant in the South Bay. As we go forward with our system-wide planning we will continually evaluate the market demand and economics that are an integral part of the viability of water reclamation.

We recognize in San Diego that the ocean is one of our most valuable assets, and we are committed to protecting it now and in the future. The existing waiver process provides temporary relief from expensive overtreatment, but will only be valid for five years. Thus, in another four years, the City will once again have to expend over $1 million to prepare another waiver application, to show once again what is already a matter of scientific fact—that secondary treatment is unnecessary and cost-ineffective for San Diego. Given the City's history of dispute with the EPA, the city is wary of having to fight further battles over this issue.

The House Transportation and I infrastructure Committee believes H.R. 794 makes sense, as evidenced by its ready willingness to include it as well in H.R. 961. This provision protects the environment, provides continuing monitoring and oversight, and welcomes public review of the permit application. The relief provided by H.R. 794 does not give San Diego a license to pollute; on the contrary, it acknowledges a continuing duty to meet strict California State Ocean Plan standards for coastal discharge. What it does provide is relief from regulators who disregard scientific fact and common sense, in favor of a strict, blind and costly adherence to ill-fitting regulations.

Thank you for this opportunity to present the facts underlying this important legislation.

Sincerely,

SUSAN GOLDING,
Mayor,
City of San Diego.

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

(On request of Mr. WAXMAN, and by unanimous consent, Mr. HUNTER was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Mr. Chairman, I yield to the gentleman from California [Mr. WAXMAN] who has agreed that the San Diego case is a valid one.

Mr. WAXMAN. Mr. Chairman, it seems to me the gentleman makes a very good case for San Diego and he ought to get his waiver under existing law. But the point I want to make to the gentleman, it is not in any way denigrating your case, but in our situation, the local people want the secondary treatment and the bureaucrats that are dragging their feet are local bureaucrats. So let us understand, bureaucrats are not only at the Federal level that frustrates actions that the people want.

Mr. HUNTER. Reclaiming my time, Mr. Chairman, the tie goes to the runner. We would rather have the local bureaucrats making decisions than those in Washington, DC.

Mr. BILBRAY. Mr. Chairman, if the gentleman will continue to yield, as somebody who was operating a health department, the elected officials locally that have to surf in those waters, the ones who are elected and go face to face with the citizens every day, they are the ones who know what really is happening in the ocean and they are the ones who are the most concerned and the most appropriate to be able to enforce this.

Mr. WAXMAN. Mr. Chairman, if the gentleman will continue to yield, they are the ones who have dragged their feet contrary to the will of the people who have had to vote twice to say they wanted this.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

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

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 154, noes 267, not voting 13, as follows:

[Roll No. 315]

AYES—154

Ackerman	Borski	Clayton
Andrews	Boucher	Clement
Barcia	Brown (CA)	Clyburn
Barrett (WI)	Brown (FL)	Coleman
Becerra	Brown (OH)	Collins (MI)
Beilenson	Bryant (TX)	Condit
Berman	Cardin	Conyers
Bonior	Clay	Costello
Coyne	Kildee	Reed
DeFazio	Klink	Reynolds
DeLauro	LaFalce	Richardson
Dellums	Lantos	Rivers
Deutsch	Lazio	Roukema
Dicks	Levin	Roybal-Allard
Dingell	Lewis (GA)	Rush
Doggett	LoBiondo	Sabo
Doyle	Lofgren	Sanders
Durbin	Lowey	Sawyer
Engel	Luther	Schroeder
Eshoo	Maloney	Schumer
Evans	Manton	Scott
Farr	Martinez	Serrano
Fattah	Mascara	Shays
Fazio	Matsui	Skaggs
Fields (LA)	McCarthy	Skelton
Flake	McDermott	Slaughter
Foglietta	McHale	Smith (NJ)
Forbes	McKinney	Spratt
Ford	McNulty	Stark
Frost	Meehan	Stokes
Furse	Meek	Studds
Gejdenson	Menendez	Stupak
Gephardt	Mfume	Taylor (MS)
Gibbons	Miller (CA)	Thompson
Gutierrez	Mineta	Torres
Hall (OH)	Minge	Torricelli
Harman	Mink	Tucker
Hastings (FL)	Moran	Velazquez
Hinchey	Morella	Vento
Holden	Nadler	Visclosky
Hoyer	Neal	Ward
Jackson-Lee	Oberstar	Waters
Jacobs	Obey	Watt (NC)
Jefferson	Olver	Waxman
Johnson (CT)	Orton	Wise
Johnson (SD)	Owens	Woolsey
Johnson, E.B.	Pallone	Wyden
Johnston	Payne (NJ)	Wynn
Kanjorski	Pelosi	Yates
Kaptur	Peterson (MN)	Zimmer
Kennedy (RI)	Rahall	
Kennelly	Rangel	

NOES—267

Abercrombie	Crane	Green
Allard	Crapo	Greenwood
Archer	Cremeans	Gunderson
Armey	Cubin	Gutknecht
Bachus	Cunningham	Hall (TX)
Baesler	Danner	Hamilton
Baker (CA)	Davis	Hancock
Baker (LA)	de la Garza	Hansen
Baldacci	Deal	Hastert
Ballenger	DeLay	Hastings (WA)
Barr	Diaz-Balart	Hayes
Bartlett	Dickey	Hayworth
Barton	Dixon	Hefley
Bass	Dooley	Hefner
Bateman	Doolittle	Heineman
Bentsen	Dornan	Herger
Bereuter	Dreier	Hilleary
Bevill	Duncan	Hilliard
Bilbray	Dunn	Hobson
Bilirakis	Edwards	Hoekstra
Bishop	Ehlers	Hoke
Bliley	Ehrlich	Horn
Blute	Emerson	Hostettler
Boehlert	English	Houghton
Boehner	Ensign	Hunter
Bonilla	Everett	Hutchinson
Brewster	Ewing	Hyde
Browder	Fawell	Inglis
Brownback	Fields (TX)	Istook
Bryant (TN)	Filner	Johnson, Sam
Bunn	Flanagan	Jones
Bunning	Foley	Kasich
Burr	Fowler	Kelly
Burton	Fox	Kennedy (MA)
Buyer	Frank (MA)	Kim
Callahan	Franks (CT)	King
Calvert	Franks (NJ)	Kingston
Camp	Frelinghuysen	Kleczka
Canady	Frisa	Klug
Castle	Funderburk	Knollenberg
Chabot	Gallegly	Kolbe
Chambliss	Ganske	LaHood
Chapman	Gekas	Largent
Chenoweth	Geren	Latham
Christensen	Gilchrest	LaTourette
Chrysler	Gillmor	Laughlin
Clinger	Gilman	Leach
Coble	Gonzalez	Lewis (CA)
Coburn	Goodlatte	Lewis (KY)
Combest	Goodling	Lightfoot
Cooley	Gordon	Lincoln
Cox	Goss	Linder
Cramer	Graham	Lipinski

Livingston	Pomeroy	Stearns
Longley	Porter	Stenholm
Lucas	Portman	Stockman
Manzullo	Poshard	Stump
Markey	Pryce	Talent
Martini	Quillen	Tanner
McCollum	Quinn	Tate
McCrery	Radanovich	Tauzin
McHugh	Ramstad	Taylor (NC)
McIntosh	Regula	Tejeda
McKeon	Riggs	Thomas
Metcalf	Roberts	Thornberry
Meyers	Roemer	Thornton
Mica	Rohrabacher	Thurman
Miller (FL)	Ros-Lehtinen	Tiahrt
Molinari	Rose	Torkildsen
Mollohan	Roth	Traficant
Montgomery	Royce	Upton
Moorhead	Salmon	Volkmer
Myers	Saxton	Vucanovich
Myrick	Scarborough	Waldholtz
Nethercutt	Schaefer	Walker
Neumann	Schiff	Walsh
Ney	Seastrand	Wamp
Norwood	Sensenbrenner	Watts (OK)
Nussle	Shadegg	Weldon (FL)
Ortiz	Shaw	Weldon (PA)
Oxley	Shuster	Weller
Packard	Sisisky	White
Parker	Skeen	Wicker
Pastor	Smith (MI)	Williams
Paxon	Smith (TX)	Wilson
Payne (VA)	Smith (WA)	Wolf
Petri	Solomon	Young (AK)
Pickett	Souder	Young (FL)
Pombo	Spence	Zeliff

NOT VOTING—13

Barrett (NE)	McInnis	Sanford
Bono	Moakley	Towns
Collins (GA)	Murtha	Whitfield
Collins (IL)	Peterson (FL)	
McDade	Rogers	

□ 1212

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. McInnis against.

Mr. MARTINI changed his vote from ''aye'' to ''no.''

Mr. LAZIO of New York changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there additional amendments to title III of the bill?

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer amendment No. 30, as printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA:

Page 133, strike line 15, and all that follows through line 9 on page 170 and insert the following:

SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

(a) STATE PROGRAMS.—Title III (33 U.S.C. 1311 et seq.) is further amended by adding at the end the following new section:

''SEC. 322. MUNICIPAL STORMWATER MANAGEMENT PROGRAMS.

''(a) PURPOSE.—The purpose of this section is to assist States in the development and implementation of municipal stormwater control programs in an expeditious and cost effective manner so as to enable the goals and requirements of this Act to be met in each State no later than 15 years after the date of approval of the municipal stormwater management program of the State. It is recognized that State municipal stormwater management programs need to be built on a foundation that voluntary pollution prevention initiatives represent an approach most likely to succeed in achieving the objectives of this Act.

''(b) STATE ASSESSMENT REPORTS.—

''(1) CONTENTS.—After notice and opportunity for public comment, the Governor of each State, consistent with or as part of the assessment required by section 319, shall prepare and submit to the Administrator for approval, a report which—

''(A) identifies those navigable waters within the State which, without additional action to control pollution from municipal stormwater discharges, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

''(B) identifies those categories and subcategories of municipal stormwater discharges that add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

''(C) describes the process, including intergovernmental coordination and public participation, for identifying measures to control pollution from each category and subcategory of municipal stormwater discharges identified in subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such discharges; and

''(D) identifies and describes State and local programs for controlling pollution added from municipal stormwater discharges to, and improving the quality of, each such portion of the navigable waters.

''(2) INFORMATION USED IN PREPARATION.—In developing, reviewing, and revising the report required by this subsection, the State—

''(A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), 314, 319, 320, and 321 and subsection (h) of this section, information developed from any group stormwater permit application process in effect under section 402(p) of this Act and such other information as the State determines is appropriate; and

''(B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

''(3) REVIEW AND REVISION.—Not later than 18 months after the date of the enactment of the Clean Water Amendments of 1995, and every 5 years thereafter, the State shall review, revise, and submit to the Administrator the report required by this subsection.

''(c) STATE MANAGEMENT PROGRAMS.—

''(1) IN GENERAL.—In substantial consultation with local governments and after notice and opportunity for public comment, the Governor of each State for the State or in combination with the Governors of adjacent States shall prepare and submit to the Administrator for approval a municipal stormwater management program based on available information which the State proposes to implement in the first 5 fiscal years beginning after the date of submission of such management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the boundaries of the State and improving the quality of such waters.

''(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include the following:

''(A) IDENTIFICATION OF MODEL MANAGEMENT PRACTICES AND MEASURES.—Identification of the model management practices and measures which will be undertaken to reduce pollutant loadings resulting from municipal stormwater discharges designated under subsection (b)(1)(B), taking into account the impact of the practice and measure on ground water quality.

''(B) IDENTIFICATION OF PROGRAMS AND RESOURCES.—Identification of programs and resources necessary (including, as appropriate, nonregulatory programs or regulatory programs, enforceable policies and mechanisms, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to manage municipal stormwater discharges to the degree necessary to provide for reasonable further progress toward the goal of attainment of water quality standards which contain the stormwater criteria established under subsection (h) for designated uses of receiving waters identified under subsection (b)(1)(A) taking into consideration specific watershed conditions, by not later than the last day of the 15-year period beginning on the date of approval of the State program.

''(C) PROGRAM FOR REDUCING POLLUTANT LOADINGS.—A program for municipal stormwater discharges identified under subsection (b)(1)(B) to reduce pollutant loadings from categories and subcategories of municipal stormwater discharges.

''(D) SCHEDULE.—A schedule containing interim goals and milestones for making reasonable progress toward the attainment of standards as set forth in subparagraph (B) established for the designated uses of receiving waters, taking into account specific watershed conditions, which may be demonstrated by one or any combination of improvements in water quality (including biological indicators), documented implementation of voluntary stormwater discharge control measures, or adoption of enforceable stormwater discharge control measures.

''(E) CERTIFICATION OF ADEQUATE AUTHORITY.—

''(i) IN GENERAL.—A certification by the Attorney General of the State or States (or the chief attorney of any State water pollution control agency that has authority under State law to make such certification) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program.

''(ii) COMMITMENT.—A schedule for seeking, and a commitment by the State or States to seek, such additional authorities as expeditiously as practicable.

''(F) IDENTIFICATION OF FEDERAL FINANCIAL ASSISTANCE PROGRAMS.—An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's municipal stormwater management program.

''(G) MONITORING.—A description of the monitoring of navigable waters or other assessment which will be carried out under the program for the purposes of monitoring and assessing the effectiveness of the program,

including the attainment of interim goals and milestones.

''(H) IDENTIFICATION OF CERTAIN INCONSISTENT FEDERAL ACTIVITIES.—An identification of activities on Federal lands in the State that are inconsistent with the State management program.

''(I) IDENTIFICATION OF GOALS AND MILESTONES.—An identification of goals and milestones for progress in attaining water quality standards, including a projected date for attaining such standards as expeditiously as practicable but not later than 15 years after the date of approval of the State program for each of the waters listed pursuant to subsection (b).

''(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in stormwater management.

''(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a stormwater management program under this subsection on a watershed-by-watershed basis within such State.

''(d) ADMINISTRATIVE PROVISIONS.—

''(1) COOPERATION REQUIREMENT.—Any report required by subsection (b) and any management program and report required by subsection (c) shall be developed in cooperation with local, substate, regional, and interstate entities which are responsible for implementing municipal stormwater management programs.

''(2) TIME PERIOD FOR SUBMISSION OF MANAGEMENT PROGRAMS.—Each management program shall be submitted to the Administrator within 30 months of the issuance by the Administrator of the final guidance under subsection (l) and every 5 years thereafter. Each program submission after the initial submission following the date of the enactment of the Clean Water Amendments of 1995 shall include a demonstration of reasonable further progress toward the goal of attaining water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into account specific watershed conditions by not later than the date referred to in subsection (b)(2)(B), including a documentation of the degree to which the State has achieved the interim goals and milestones contained in the previous program submission. Such demonstration shall take into account the adequacy of Federal funding under this section.

''(3) TRANSITION.—

''(A) IN GENERAL.—Permits issued pursuant to section 402(p) for discharges from municipal storm sewers, as in effect on the day before the date of the enactment of this section, shall remain in effect until the effective date of a State municipal stormwater management program under this section. Stormwater dischargers shall continue to implement any stormwater management practices and measures required under such permits until such practices and measures are modified pursuant to this subparagraph or pursuant to a State municipal stormwater management program. Prior to the effective date of a State municipal stormwater management program, municipal stormwater dischargers may submit for approval proposed revised stormwater management practices and measures to the State, in the case of a State with an approved program under section 402, or the Administrator. Upon notice of approval by the State or the Administrator, the municipal stormwater discharger shall implement the revised stormwater management practices and measures which may be voluntary pollution prevention activities. A municipal stormwater discharger operating under a permit continued in effect under this subparagraph shall not be subject to citizens suits under section 505.

''(B) ANTIBACKSLIDING.—Section 402(o) shall not apply to any activity carried out in accordance with this paragraph.

''(e) APPROVAL OR DISAPPROVAL OF REPORTS OR MANAGEMENT PROGRAMS.—

''(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or revised report or management program under this section, the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

''(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

''(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

''(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion; or

''(C) the practices and measures proposed in such program or portion will not result in reasonable progress toward the goal of attainment of applicable water quality standards as set forth in subsection (c)(2) established for designated uses of receiving waters taking into consideration specific watershed conditions as expeditiously as possible but not later than 15 years after approval of a State municipal stormwater management program under this section;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall have an additional 6 months to submit its revised management program, and the Administrator shall approve or disapprove such revised program within 3 months of receipt.

''(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit a report or revised report required by subsection (b) within the period specified by subsection (d)(2), the Administrator shall, within 18 months after the date on which such report is required to be submitted under subsection (b), prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (b). Upon completion of the requirement of the preceding sentence and after notice and opportunity for a comment, the Administrator shall report to Congress of the actions of the Administrator under this section.

''(4) FAILURE OF STATE TO SUBMIT MANAGEMENT PROGRAM.—

''(A) PROGRAM MANAGEMENT BY ADMINISTRATOR.—Subject to paragraph (5), if a State fails to submit a management program or revised management program under subsection (c) or the Administrator does not approve such management program, the Administrator shall prepare and implement a management program for controlling pollution added from municipal stormwater discharges to the navigable waters within the State and improving the quality of such waters in accordance with subsection (c).

''(B) NOTICE AND HEARING.—If the Administrator intends to disapprove a program submitted by a State the Administrator shall first notify the Governor of the State, in writing, of the modifications necessary to meet the requirements of this section. The Administrator shall provide adequate public notice and an opportunity for a public hearing for all interested parties.

''(C) STATE REVISION OF ITS PROGRAM.—If, after taking into account the level of funding actually provided as compared with the level authorized, the Administrator determines that a State has failed to demonstrate reasonable further progress toward the attainment of water quality standards as required, the State shall revise its program within 12 months of that determination in a manner sufficient to achieve attainment of applicable water quality standards by the deadline established by this section. If a State fails to make such a program revision or the Administrator does not approve such a revision, the Administrator shall prepare and implement a municipal stormwater management program for the State.

''(5) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (c) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from municipal stormwater sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (c) and can be approved pursuant to this subsection. After development of such management program, such agency or organization shall submit such management program to the Administrator for approval.

''(f) INTERSTATE MANAGEMENT CONFERENCE.—

''(1) CONVENING OF CONFERENCE; NOTIFICATION; PURPOSE.—

''(A) CONVENING OF CONFERENCE.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from stormwater in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from stormwater to such portion.

''(B) NOTIFICATION.—If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from stormwater in another State, the Administrator shall notify such States.

''(C) TIME LIMIT.—The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification under subparagraph (B), whether or not the State which is not meeting such standards requests such conference.

''(D) PURPOSE.—The purpose of the conference shall be to develop an agreement among the States to reduce the level of pollution resulting from stormwater in the portion of the navigable waters and to improve the water quality of such portion.

''(E) PROTECTION OF WATER RIGHTS.—Nothing in the agreement shall supersede or abrogate rights to quantities of water which have

been established by interstate water compacts, Supreme Court decrees, or State water laws.

''(F) LIMITATIONS.—This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

''(2) STATE MANAGEMENT PROGRAM REQUIREMENT.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

''(g) GRANTS FOR STORMWATER RESEARCH.—

''(1) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the navigable waters and to develop the criteria required pursuant to subsection (g), the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to—

''(A) identify adverse impacts of stormwater discharges on receiving waters;

''(B) identify the pollutants in stormwater which cause impact; and

''(C) test innovative approaches to address the impacts of source controls and model management practices and measures for runoff from municipal storm sewers.

Persons conducting demonstration programs and research funded under this subsection shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

''(2) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $20,000,000 per fiscal year for fiscal years 1996 through 2000. Such sums shall remain available until expended.

''(h) DEVELOPMENT OF STORMWATER CRITERIA.—

''(1) IN GENERAL.—To reflect the episodic character of stormwater which results in significant variances in the volume, hydraulics, hydrology, and pollutant load associated with stormwater discharges, the Administrator shall establish, as an element of the water quality standards established for the designated uses of the navigable waters, stormwater criteria which protect the navigable waters from impairment of the designated beneficial uses caused by stormwater discharges. The criteria shall be technologically and financially feasible and may include performance standards, guidelines, guidance, and model management practices and measures and treatment requirements, as appropriate, and as identified in subsection (g)(1).

''(2) INFORMATION TO BE USED IN DEVELOPMENT.—The stormwater discharge criteria to be established under this subsection—

''(A) shall be developed from—

''(i) the findings and conclusions of the demonstration programs and research conducted under subsection (g);

''(ii) the findings and conclusions of the research and monitoring activities of stormwater dischargers performed in compliance with permit requirements of this Act; and

''(iii) other relevant information, including information submitted to the Administrator under the industrial group permit application process in effect under section 402 of this Act;

''(B) shall be developed in consultation with persons with expertise in the management of stormwater (including officials of State and local government, industrial and commercial stormwater dischargers, and public interest groups); and

''(C) shall be established as an element of the water quality standards that are developed and implemented under this Act by not later than December 31, 2008.

''(i) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to model management practices and measures and implementation methods, including, but not limited to—

''(1) information concerning the costs and relative efficiencies of model management practices and measures for reducing pollution from stormwater discharges; and

''(2) available data concerning the relationship between water quality and implementation of various management practices to control pollution from stormwater discharges.

''(j) REPORTS OF ADMINISTRATOR.—

''(1) BIENNIAL REPORTS.—Not later than January 1, 1996, and biennially thereafter, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from stormwater discharges and improving the quality of such waters.

''(2) CONTENTS.—Each report submitted under paragraph (1), at a minimum shall—

''(A) describe the management programs being implemented by the States by types of affected navigable waters, categories and subcategories of stormwater discharges, and types of measures being implemented;

''(B) describe the experiences of the States in adhering to schedules and implementing the measures under subsection (c);

''(C) describe the amount and purpose of grants awarded pursuant to subsection (g);

''(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

''(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

''(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from stormwater; and

''(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States that are inconsistent with the municipal stormwater management programs implemented by the States under this section and recommended modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

''(k) GUIDANCE ON MODEL STORMWATER MANAGEMENT PRACTICES AND MEASURES.—

''(1) IN GENERAL.—The Administrator, in consultation with appropriate Federal, State, and local departments and agencies, and after providing notice and opportunity for public comment, shall publish guidance to identify model management practices and measures which may be undertaken, at the discretion of the State or appropriate entity, under a management program established pursuant to this section. In preparing such guidance, the Administrator shall consider integration of a municipal stormwater management program of a State with, and the relationship of such program to, the nonpoint source management program of the State under section 319.

''(2) PUBLICATION.—The Administrator shall publish proposed guidance under this subsection not later than 6 months after the date of the enactment of this subsection and shall publish final guidance under this subsection not later than 18 months after such date of enactment. The Administrator shall periodically review and revise the final guidance upon adequate notice and opportunity for public comment at least once every 3 years after its publication.

''(3) MODEL MANAGEMENT PRACTICES AND MEASURES DEFINED.—For the purposes of this subsection, the term ''model management practices and measures'' means economically achievable measures for the control of pollutants from stormwater discharges which reflect the most cost-effective degree of pollutant reduction achievable through the application of the best available practices, technologies, processes, siting criteria, operating methods, or other alternatives.

''(l) ENFORCEMENT WITH RESPECT TO MUNICIPAL STORMWATER DISCHARGERS VIOLATING STATE MANAGEMENT PROGRAMS.—Municipal stormwater dischargers that do not comply with State management program requirements under subsection (c) are subject to applicable enforcement actions under sections 309 and 505 of this Act.

''(m) ENTRY AND INSPECTION.—In order to carry out the objectives of this section, an authorized representative of a State, upon presentation of his or her credentials, shall have a right of entry to, upon, or through any property at which a stormwater discharge or records required to be maintained under the State municipal stormwater management program are located.

''(n) LIMITATION ON DISCHARGES REGULATED UNDER WATERSHED MANAGEMENT PROGRAM.—Municipal stormwater discharges regulated under section 321 in a manner consistent with this section shall not be subject to this section.''.

(b) CONFORMING AMENDMENTS TO INDUSTRIAL STORMWATER DISCHARGE PROGRAM.—Section 402(p) (33 U.S.C 1342(p)) is amended—

(1) in the subsection heading by striking ''MUNICIPAL AND'';

(2) in paragraph (1) by striking ''1994'' and inserting ''2001'';

(3) by adding at the end of the paragraph (1) the following: ''This subsection does not apply to municipal stormwater discharges which are covered by section 322.'';

(4) in paragraph (2) by striking subparagraphs (C) and (D) and by redesignating subparagraph (E) as subparagraph (C);

(5) in paragraph (3)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading; and

(C) by striking subparagraph (B);

(6) in paragraph (4)—

(A) by striking the heading for subparagraph (A);

(B) by moving the text of subparagraph (A) after the paragraph heading;

(C) by striking ''and (2)(C)''; and

(D) by striking subparagraph (B);

(7) by striking paragraph (5);

(8) by redesignating paragraph (6) as paragraph (5); and

(9) in paragraph (5) as so redesignated—

(A) by striking ''1993'' and inserting ''2000''; and

(B) by inserting after ''paragraph (2)'' the following: ''and other than municipal stormwater discharges''.

(c) DEFINITIONS.—Section 502 (33 U.S.C. 1362) is amended by adding at the end the following:

''(25) The term 'stormwater' means runoff from rain, snow melt, or any other precipitation-generated surface runoff.

''(26) The term 'stormwater discharge' means a discharge from any conveyance which is used for the collecting and conveying of stormwater to navigable waters and which is associated with a municipal storm sewer system or industrial, commercial, oil, gas, or mining activities or construction activities.''.

Mr. MINETA. Mr. Chairman, my amendment would strike the provision in the bill related to control of stormwater discharges, and replace it with a revised version which addresses all of the cities' concerns.

Mr. Chairman, my amendment would amend the bill to address the stormwater horror stories which have been raised by the cities and the other side, and it would continue the expectations of our constituents that industrial dischargers will continue to do their share.

Stormwater pollution from municipalities and industry has been identified as a major contributor of water quality violations by the states. In 1987, Congress enacted a comprehensive mechanism to address stormwater discharges from municipalities and industries. We approved a phased approach, allowing for flexibility in the program's implementation.

The current provision has not been without its difficulties, particularly for municipalities, and is in need of amendment. But we should not throw out the current program in its entirety for a new untested program—a program which will create huge loopholes for industry, with questionable environmental benefits.

The stormwater program has been criticized for being overly burdensome. But the question is, do we fix the burdens while maintaining environmental protection, or do we do away with the environmental protection?

I have heard my colleagues and the witnesses at our hearings talk about the need to reduce burdens, but always with the commitment to continue environmental protection. My amendment does that.

My amendment adopts the provisions of H.R. 961 related to stormwater discharges from municipalities. There would no longer be permits for municipal stormwater discharge, just like in the bill.

For nonmunicipal dischargers, my amendment continues the status quo. No new requirements are added. The amendment continues the exemption for commercial or other discharges, leaving those discharges to be regulated by States as they see fit, or to be controlled under the nonpoint source program.

Finally, like the bill reported by the committee, I would create a new $100 million program to conduct stormwater research to test innovative approaches to stormwater control.

Mr Chairman, we have heard a number of objections to the current stormwater program from the mayors and city councils. We should address them.

While I am not convinced that the municipal permitting program should be scrapped, I am willing to try something other than the current program.

But, we should not throw out the entire program and force the States to begin anew for industrial discharge. Too much valuable time and too many resources have been devoted to the effort to date.

If the amendment is adopted in its current form, States will have to begin the development of entirely new programs for the control of industrial stormwater discharges. This requirement for completely new programs will apply even in States which do not currently implement a stormwater permitting program.

While it may be appropriate to impose this burden upon the States to provide relief for a few hundred cities, I find no compelling reason to mandate that States create entirely new programs to address thousands of industrial discharges when a mechanism currently exists. It appears that water quality suffers, the States have a new mandate, but industrial polluters benefit.

Mr. Chairman, one of the recurring arguments in favor of repealing the stormwater permitting program is that the permitted entities cannot control what is put into their stormwater. If, for example, a homeowner decides to put excessive amounts of pesticide on his lawn right before it rains, that will show up in stormwater pollution. That is very difficult for a community to control. However, for industry, the industry can control what pollutants are present at their site, the industry can control the activities of its employees, and the industry can control the exposure of pollutants to precipitation.

The arguments which are used to justify relief for municipalities just do not hold up for industrial stormwater. Let us make the program work, ease the burdens upon cities, and address our Nation's water pollution problems in a responsible manner.

Support my amendment to give relief to the cities, but assure that industry does its share.

□ 1215

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, this amendment should be soundly defeated, because it really destroys our effort to reform the stormwater provisions in the bill.

We have provided for State-developed stormwater management programs. Under this amendment, private firms would continue to be regulated or unregulated, depending on the standard industrial classification code of the industry, not on whether or not it contributed pollution to stormwater discharges. This is another example of regulatory overkill, of one-shoe-fits-all.

As a result, if a company falls within a particular industry code, under this amendment it would have to get a stormwater permit even, and get this, even if the company happens to be located in an office suite and has no outside facilities. It makes no sense.

This amendment leaves this broken program in place for over 7 million commercial and smaller industrial facilities that are covered by the stormwater permitting program today, merely extending the permit deadline until the year 2001. This amendment also would fragment the Stormwater Program into two parts, increasing rather than decreasing the bureaucracy.

In contrast, our bill provides the needed regulatory relief and will protect the environment from stormwater discharges. Our bill repeals section 402(p) and regulates stormwater in a manner similar to other nonpoint sources and discharges. However, unlike the section 319 nonpoint program, our Stormwater Program will require enforceable pollution prevention plans. If necessary, the program also provides for the general and site specific permits.

I would emphasize that we have a letter from the association of State and Interstate Water Pollution Control Administrators strongly supporting our provision in the bill and opposing this amendment.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN pro tempore (Mr. HOBSON). The question is on the amendment offered by the gentleman from California [Mr. MINETA].

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

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote

A recorded vote was ordered.

The votes was taken by electronic device, and there were—ayes 159, noes 258, not voting 17, as follows:

[Roll No. 316]

AYES—159

Abercrombie	Clay	Eshoo
Ackerman	Clayton	Evans
Andrews	Clyburn	Farr
Baesler	Collins (MI)	Fattah
Barrett (WI)	Conyers	Fazio
Becerra	Coyne	Fields (LA)
Beilenson	Deal	Filner
Bentsen	DeFazio	Flake
Berman	DeLauro	Foglietta
Boehlert	Dellums	Forbes
Bonior	Deutsch	Ford
Borski	Dicks	Frost
Boucher	Dingell	Furse
Brown (CA)	Dixon	Gejdenson
Brown (OH)	Doggett	Gephardt
Bryant (TX)	Durbin	Gibbons
Cardin	Engel	Gilchrest

Gilman	Mascara	Sabo
Green	Matsui	Sanders
Gutierrez	McCarthy	Sawyer
Hamilton	McDermott	Schroeder
Harman	McHale	Schumer
Hastings (FL)	McKinney	Scott
Hefner	Meek	Serrano
Hinchey	Menendez	Shays
Holden	Mfume	Skaggs
Hoyer	Miller (CA)	Slaughter
Jackson-Lee	Mineta	Stark
Jacobs	Minge	Stokes
Jefferson	Mink	Studds
Johnson (CT)	Moran	Stupak
Johnson, E. B.	Morella	Thompson
Johnston	Nadler	Thurman
Kanjorski	Neal	Torres
Kaptur	Oberstar	Torricelli
Kennedy (MA)	Obey	Tucker
Kennedy (RI)	Olver	Velazquez
Kennelly	Owens	Vento
Kildee	Pallone	Visclosky
Kleczka	Pastor	Volkmer
Klink	Payne (NJ)	Walsh
LaFalce	Pelosi	Ward
Lantos	Peterson (MN)	Waters
Levin	Pomeroy	Watt (NC)
Lewis (GA)	Rahall	Waxman
Lipinski	Reed	Williams
Lofgren	Reynolds	Wilson
Lowey	Richardson	Wise
Luther	Rivers	Woolsey
Maloney	Roemer	Wyden
Manton	Ros-Lehtinen	Wynn
Markey	Roybal-Allard	Yates
Martinez	Rush	Zimmer

NOES—258

Allard	de la Garza	Hostettler
Archer	DeLay	Houghton
Armey	Diaz-Balart	Hunter
Bachus	Dickey	Hutchinson
Baker (CA)	Dooley	Hyde
Baker (LA)	Doolittle	Inglis
Ballenger	Dornan	Istook
Barcia	Doyle	Johnson (SD)
Barr	Dreier	Johnson, Sam
Barrett (NE)	Duncan	Jones
Bartlett	Dunn	Kasich
Barton	Edwards	Kelly
Bass	Ehlers	Kim
Bateman	Ehrlich	King
Bereuter	Emerson	Kingston
Bevill	English	Klug
Bilbray	Ensign	Knollenberg
Bilirakis	Everett	Kolbe
Bishop	Ewing	LaHood
Bliley	Fawell	Largent
Blute	Fields (TX)	Latham
Boehner	Flanagan	LaTourette
Bonilla	Foley	Laughlin
Brewster	Fowler	Lazio
Browder	Fox	Leach
Brownback	Frank (MA)	Lewis (CA)
Bryant (TN)	Franks (CT)	Lewis (KY)
Bunn	Franks (NJ)	Lightfoot
Bunning	Frelinghuysen	Lincoln
Burr	Frisa	Linder
Burton	Funderburk	Livingston
Buyer	Gallegly	LoBiondo
Callahan	Ganske	Longley
Calvert	Gekas	Lucas
Camp	Geren	Manzullo
Canady	Gillmor	Martini
Castle	Gonzalez	McCollum
Chabot	Goodlatte	McCrery
Chambliss	Goodling	McDade
Chapman	Gordon	McHugh
Chenoweth	Goss	McInnis
Christensen	Graham	McIntosh
Chrysler	Greenwood	McKeon
Clement	Gunderson	Meehan
Clinger	Gutknecht	Meyers
Coble	Hall (TX)	Mica
Coburn	Hancock	Miller (FL)
Coleman	Hansen	Molinari
Combest	Hastert	Mollohan
Condit	Hastings (WA)	Montgomery
Cooley	Hayes	Moorhead
Costello	Hayworth	Myers
Cox	Hefley	Myrick
Cramer	Heineman	Nethercutt
Crane	Herger	Neumann
Crapo	Hilleary	Ney
Cremeans	Hilliard	Norwood
Cubin	Hobson	Nussle
Cunningham	Hoekstra	Ortiz
Danner	Hoke	Orton
Davis	Horn	Oxley
Packard	Saxton	Tate
Parker	Scarborough	Tauzin
Paxon	Schaefer	Taylor (MS)
Payne (VA)	Schiff	Taylor (NC)
Petri	Seastrand	Tejeda
Pickett	Sensenbrenner	Thomas
Pombo	Shadegg	Thornberry
Porter	Shaw	Thornton
Portman	Shuster	Tiahrt
Poshard	Sisisky	Traficant
Pryce	Skeen	Upton
Quillen	Skelton	Vucanovich
Quinn	Smith (NJ)	Waldholtz
Radanovich	Smith (TX)	Walker
Ramstad	Smith (WA)	Wamp
Regula	Solomon	Watts (OK)
Riggs	Souder	Weldon (FL)
Roberts	Spence	Weldon (PA)
Rohrabacher	Spratt	Weller
Rose	Stearns	White
Roth	Stenholm	Wicker
Roukema	Stockman	Wolf
Royce	Stump	Young (AK)
Salmon	Talent	Young (FL)
Sanford	Tanner	Zeliff

NOT VOTING—17

Baldacci	McNulty	Rogers
Bono	Metcalf	Smith (MI)
Brown (FL)	Moakley	Torkildsen
Collins (GA)	Murtha	Towns
Collins (IL)	Peterson (FL)	Whitfield
Hall (OH)	Rangel	

□ 1243

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. MEEHAN changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman I offer and amendment, amendment No. 44.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PALLONE:

Page 72, strike line 20 and all that follows through line 18 on page 73 and insert the following:

(b) BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH.—

(1) WATER QUALITY CRITERIA AND STANDARDS.—

(A) ISSUANCE OF CRITERIA.—Section 304(a) (33 U.S.C. 1314(a)) is further amended by adding at the end the following:

''(13) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue within 18 months after the effective date of this paragraph (and review and revise from time to time thereafter) water quality criteria for pathogens in coastal recreation waters. Such criteria shall—

''(i) be based on the best available scientific information;

''(ii) be sufficient to protect public health and safety in case of any reasonably anticipated exposure to pollutants as a result of swimming, bathing, or other body contact activities; and

''(iii) include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

''(B) For purposes of this paragraph, the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar primary contact purposes.''.

(B) STANDARDS.—

(i) ADOPTION BY STATES.—A State shall adopt water quality standards for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(13) of the Federal Water Pollution Control Act not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act. A State shall incorporate such standards into all appropriate programs into which such State would incorporate water quality standards adopted under section 303(c) of the Federal Water Pollution Control Act.

(ii) FAILURE OF STATES TO ADOPT.—If a State has not complied with subparagraph (A) by the last day of the 3-year period beginning on the date of publication of criteria under section 304(a)(13) of the Federal Water Pollution Control Act, the Administrator shall promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the Federal Water Pollution Control Act. The water quality standards for coastal recreation waters shall be consistent with the criteria published by the Administrator under such section 304(a)(13). The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards for coastal recreation waters are used.

(2) COASTAL BEACH WATER QUALITY MONITORING.—Title IV (33 U.S.C. 1341–1345) is amended by adding at the end thereof the following new section:

''SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

''(a) MONITORING.—Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(13), the Administrator shall publish regulations specifying methods to be used by States to monitor coastal recreation waters, during periods of use by the public, for compliance with applicable water quality standards for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

''(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

''(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

''(3) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources;

''(4) specify methods for detecting short-term increases in pathogens in coastal recreation waters;

''(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

''(A) compliance with the applicable water quality standards for those waters; and

''(B) protection of the public safety; and

''(6) require, if the State has an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), that each coastal zone management agency of the State provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

''(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to notify local governments and the public of violations of applicable water quality standards for State coastal recreation waters. Notification pursuant to this subsection shall include, at a minimum—

''(1) prompt communication of the occurrence, nature, and extent of such a violation, to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which a violation is identified; and

''(2) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of a violation of an applicable water quality standard for such waters and the potential risks associated with body contact recreation in such waters.

''(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

''(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

''(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

''(d) DELEGATION OF RESPONSIBILITY.—A State may delegate responsibility for monitoring and posting of coastal recreation waters pursuant to this section to local government authorities.

''(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically.

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

''(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

''(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.''.

(3) STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOENS IN COASTAL RECREATION WATERS.—

(A) STUDY.—The Administrator, in co-operation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

(B) REPORT.—Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to the Congress a report describing the findings of the study under this paragraph, including—

(i) recommendations concerning the need for additional numerical limits or conditions and other actions needed to improve the quality of coastal recreation waters;

(ii) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches and of recent trends in the amounts and types of such floatable materials; and

(iii) an evaluation of State efforts to implement this section, including the amendments made by this section.

(4) GRANTS TO STATES.—

(1) GRANTS.—The Administrator may make grants to States for use in fulfilling requirements established pursuant to paragraphs (1) and (2) (including any amendments made by such paragraphs).

(B) COST SHARING.—The total amount of grants to a State under this paragraph for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to such paragraphs.

(5) DEFINITIONS.—In this subsection—

(A) the term ''coastal recreation waters'' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

(B) the term ''floatable materials'' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator—

(A) for use in making grants to States under paragraph (4) not more than $3,000,000 for each of the fiscal years 1996 and 1997; and

(B) for carrying out the other provisions of this subsection not more than $1,000,000 for each of the fiscal years 1996 and 1997.

Page 204, line 14, strike ''406'' and insert ''407''.

Mr. PALLONE. Mr. Chairman, my amendment provides for a national uniform beach water quality testing and monitoring program that provides adequate protection for swimmers and flexibility for the States. It is basically oriented toward providing, if I could call it, a right-to-know for bathers and swimmers in the Nation's waters that they should know when the beach water quality is such that they should not be bathing in those particular waters or at that particular beach.

□ 1245

Again, the amendment provides for a nationally uniform beach water quality testing and monitoring program for bathers and swimmers, essentially to assure that bathers and swimmers on the Nation's beaches have a right to know and should know when the beaches are of such quality that they should not be swimming there.

The reason we need this amendment is because coastal areas are the most populated areas of the country and also the areas most rapidly being developed. The growth in population demands on sewer systems are extreme and have resulted in overflows contaminating coastal waters with human waste. This human waste is the leading cause of human health problems in coastal waters.

The coastal economy and the economy of our Nation in general is inextricably linked to the quality of our coastal waters. Coastal tourism, recreation, commercial fishing are all mutibillion-dollar industries and create thousands of jobs. The health and safety of coastal residents and visitors to coastal waters depend on it.

States have highly inconsistent water quality standards for sewage contamination, beach water quality testing, and beach closing standards and criteria. Monitoring in some States is completely absent. Most States have not even adopted EPA's recommended testing methods.

Essentially, this amendment is based on the Beaches, Environmental Assessment, Closure and Health Act of 1993, long championed by our former colleague, Mr. Hughes from New Jersey.

This language which we have in the amendment today enjoyed broad-based support and passed overwhelmingly, I stress overwhelmingly, in the House in the 101st and 102d Congresses. The amendment provides for a national uniform beach quality testing program. It requires the EPA to issue regulations on procedures to monitor coastal recreational waters, but it provides the States with flexibility in the way that they go about the monitoring program. It also establishes minimum standards to protect the public from pathogen contaminated waters and requires States to post signs at beaches alerting beachgoers whenever standards are violated.

It also requires the EPA and NOAA to conduct a study to develop better indicators for detection pathogenic risk to human health and guidance of marine debris, the floatables that many of us know occur, continue to occur, but really were a major cause for our beach closings in New Jersey back in 1987 and 1988.

Mr. Chairman, the focus of the bill basically is to ensure States have in place adequate beach testing programs. We provide authorization of $1 million to the EPA to carry out its responsibility and $3 million for States to have matching grants so that they can also follow up on this beach water quality and monitoring program.

Again, I would stress the lack of uniformity around the country with regard to beach closings is a major problem. In my own State of New Jersey, we do have a very good program that has moved forward in terms of monitoring beaches and making sure that they are closed when the water quality level if unacceptable for swimmers and bathers.

However, this is not the case nationally, and I would urge this amendment be passed so that, as I said, again, our bathers and swimmers and tourists that use the coastal waters of this Nation will know when it is safe to swim.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment, which is a mandate on States to monitor beaches and incorporates criteria for pathogens on the State water quality standards, and this would appear to me to be maybe one of the first examples we would have of a potentially unfunded mandate.

I wanted to address the author of the amendment with regard to the funding of this, whether any consideration has been given, or CBO has been asked to give, any sort of estimate as to what the cost of this might be applied nationwide.

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

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. PALLONE. I would say, first of all, again, I would point out that this amendment is exactly the same as legislation that passed in the last two

Congresses and that there were estimates made. The funding provided in the bill for the grant programs is basically in there to provide adequate funding for the States on a matching grant basis to do this kind of monitoring.

Now, again, I am not saying a lot of States do not already do this. Some do, some do not. What we are trying to do is provide uniform criteria and provide the States with some funding so that they can administer the program.

Mr. CLINGER. Reclaiming my time, I understand that while the amendment did pass in the previous two Congresses, it was given very minimal debate. We really have had not a full-scale discussion of this issue.

I would also point out that in the last two Congresses we did not have on the books, albeit not applicable, we did not have on the books an unfunded mandates statute.

Mr. PALLONE. I would point out to the gentleman that, you know, again, from a procedural point of view, that unfunded mandate legislation, of course, does not go into effect until next year. But I would maintain there is adequate funding in this bill, at least the authorization for it, to provide adequate funding to the States to do this type of monitoring.

Mr. CLINGER. It strikes me there are analogies here to the Great Lakes initiative where we have had some indication what the cost might be, but the costs became wildly beyond anybody's wildest dreams what it might actually involve.

At any rate, Mr. chairman, I must oppose the amendment, as the gentleman from New Jersey has indicated, that that State, New Jersey, has adopted pathogen criteria on their water quality standards. That is certainly something every State can and perhaps should consider, but what this amendment would do would be to force that, would make other States do precisely the same thing.

As I say, New Jersey may, and obviously does, consider it useful to have pathogen criteria, but other States may disagree or may have different criteria that they would prefer to pursue.

Point sources do not discharge pathogens. It is a very difficult task, sometimes almost impossible, to determine the source, so it is really unclear how a State may meet a pathogen standard if forced to adopt one, which this amendment would ultimately require, a forced adoption of pathogen standards.

So New Jersey may, indeed, think it is useful to monitor beaches. Other States may agree, and certainly that would be, in my personal idea, would be a good idea, but to force them under this, in this mechanism, I think is wrong.

H.R. 961 does, I would point out, acknowledge the importance, extreme importance, of monitoring by requiring EPA to develop monitoring guidance, to give guidance to the States on how to go about monitoring, but it is not a mandate. It is not something that is going to be forced, assuming again into Washington total wisdom, total knowledge how to do this. We have enough mandates already.

Mr. Chairman, I urge a ''no'' vote.

Mr. TORRICELLI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there have been some Government programs we have seen throughout the years that have worked. We have seen some that have failed.

But few, from the perspective of my State of New Jersey, have been as successful as our ocean testing and monitoring program.

Since 1974, the State of New Jersey has developed a program to ensure to those who visit our beaches, those in our $18 billion tourist industry, if you swim in the waters off our shore, it is safe, it is clean, it is a place you would want to take your family. Today, 180 different locations and 143 bays and rivers are monitored continuously to assure that level of safety, and to anyone who in any summer visits those ocean locations, there is a perceptible and an overwhelming difference in the quality of the water and the enjoyment of your vacation time at a New Jersey resort.

We did it, Mr. Chairman, because we had no choice. There were allegations of sickness, implications of health, and, indeed, the economic losses were mounting. Restoring confidence to families and to business became critical.

In the last Congress, the Members of this institution recognized the success of this program and overwhelmingly, Democrats and Republicans, 320 strong, voted to have just such a program across the country. They were right then. The gentleman from New Jersey [Mr. PALLONE] is right now.

This is a program we should have on a national basis. It makes about as much sense, Mr. Chairman, for one State to have ocean monitoring and another not to have it as if the States would have individual air quality standards. It is only a few miles from the beaches of Coney Island, NY, to the beaches of Sandy Hook, NJ. If one State will have high standards and monitor and attempt to assure a quality of water and another State will not, it is no more than a swift breeze, an ocean current away from one State violating the standard of another.

Indeed, it goes to the very issue of federalism. These are the kinds of standards that were contemplated in forming a union to assure uniformity, safety for all of the States and their interests.

I trust, Mr. Chairman, that in each of our States we recognize the potential loss economically and in quality of life if people lose confidence in the basic American right on a weekend or a summer afternoon to take your child and your family to a beach. That is what life is all about, and if the Federal Government can mean anything to our families, for all of the excesses of other things it has done, all the programs that did not work, all the things we should eliminate, do we really want to go so far that as a Federal Government we cannot say to an individual American family, ''We will assure you you will know when your child walks into an ocean resort, that water will be safe and it will be to the highest standards, whether it is the Oregon, California, New York, New Jersey or Florida''? That is what the gentleman from New Jersey [Mr. PALLONE] asks, and almost to the person, Democrats and Republicans, have voted for exactly that in the past.

Today, we ask you to do so again.

I congratulate the gentleman from New Jersey [Mr. PALLONE] for offering this amendment. I am very proud to have joined with him in his sponsorship, and I am very proud that my State uniquely has taken the lead in setting these high standards.

Mr. Chairman, the alternative situation is this: Some States will offer their citizens no assurance at all. Twenty-two other States will have 11 different standards, conflicting, lower but without any minimum Federal guarantee. As we offer this for the air we breathe and the water we drink, the ocean that would receive our families should have no less.

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

I will not take the 5 minutes.

I simply rise in strong opposition to this.

New Jersey certainly can impose whatever regulatory requirements they have, but to mandate what New Jersey says is good for New Jersey on the other 49 States, I think, is wrong.

We have required EPA to develop monitoring guidance, but not a mandate. This is just one mandate, and it should be defeated.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the gentleman's amendment.

Water pollution at beaches poses a special health problem because these are the places where people, including numerous children, come into direct contact with dirty water. With little protection, and sometimes without warning, people are exposed to serious water-borne diseases.

Coastal waters are also particularly susceptible to pollution because virtually all of the water eventually drains to the sea. As water flows toward the coast, pollutants are picked up and become increasingly concentrated. The result is a very serious health problem and a very serious environmental problem.

This amendment provides very necessary protection to the public who visits our coastal recreation areas. It would require EPA to issue water quality criteria for pathogens, and States to establish water quality standards, in

these areas. It would also require a State program to monitor beach water quality, and to notify local governments and the public of violation of applicable water quality standards.

This is the approach that has brought us most of the improvement in water quality under the Clean Water Act to date. We should expect it to be equally effective in addressing beach water pollution problems.

Mr. Chairman, I urge adoption of the Pallone amendment.

□ 1300

Mr. PALLONE. Mr. Chairman, I thank the gentleman for yielding. I will be brief. My only point is essentially I believe that this amendment, more than anything else, is what I call a right-to-know amendment. In other words, when people are swimming or bathing, they should know whether the water quality is clean enough. I do not think it matters whether you are in New Jersey or any other State. The problem is, without some sort of national standard and program for testing, with flexibility for the individual States about how they go about it, there is no way for a bather or swimmer to know when they are swimming whether the water quality is adequate.

The CHAIRMAN pro tempore (Mr. HOBSON). The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

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

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 251, not voting 8, as follows:

[Roll No. 317]

AYES—175

Ackerman	Doggett	Hinchey
Andrews	Doyle	Holden
Baldacci	Durbin	Hoyer
Barcia	Engel	Jackson-Lee
Becerra	English	Jefferson
Beilenson	Eshoo	Johnson (SD)
Bentsen	Evans	Johnson, E. B.
Berman	Farr	Johnston
Boehlert	Fattah	Kanjorski
Bonior	Fazio	Kaptur
Borski	Fields (LA)	Kennedy (MA)
Boucher	Filner	Kennedy (RI)
Brown (CA)	Flake	Kennelly
Brown (FL)	Foglietta	Kildee
Brown (OH)	Forbes	Klink
Bryant (TX)	Ford	LaFalce
Cardin	Fox	Lantos
Castle	Frank (MA)	Lazio
Clay	Frelinghuysen	Levin
Clayton	Frost	Lewis (GA)
Clyburn	Furse	Lincoln
Coleman	Gejdenson	Lipinski
Collins (MI)	Gephardt	LoBiondo
Conyers	Gibbons	Lofgren
Costello	Gilchrest	Lowey
Coyne	Gilman	Luther
Davis	Gonzalez	Maloney
de la Garza	Gordon	Manton
DeFazio	Green	Markey
DeLauro	Greenwood	Martinez
Dellums	Gutierrez	Mascara
Deutsch	Hall (OH)	Matsui
Dicks	Harman	McDermott
Dingell	Hastings (FL)	McHale
Dixon	Hefner	McKinney
McNulty	Reynolds	Thornton
Meehan	Richardson	Torkildsen
Meek	Rivers	Torres
Menendez	Roukema	Torricelli
Meyers	Roybal-Allard	Towns
Mfume	Rush	Tucker
Mineta	Sabo	Velazquez
Moran	Sanders	Vento
Morella	Sawyer	Visclosky
Nadler	Saxton	Ward
Neal	Schroeder	Waters
Oberstar	Schumer	Watt (NC)
Obey	Scott	Waxman
Olver	Serrano	Weldon (PA)
Owens	Shays	Williams
Pallone	Skaggs	Wilson
Pastor	Slaughter	Wise
Payne (NJ)	Smith (NJ)	Woolsey
Pelosi	Spratt	Wyden
Pomeroy	Stark	Wynn
Poshard	Stokes	Yates
Rahall	Studds	Zimmer
Rangel	Stupak	
Reed	Thompson	

NOES—251

Abercrombie	Emerson	Manzullo
Allard	Ensign	Martini
Archer	Everett	McCarthy
Armey	Ewing	McCollum
Bachus	Fawell	McCrery
Baesler	Fields (TX)	McDade
Baker (CA)	Flanagan	McHugh
Baker (LA)	Foley	McInnis
Ballenger	Fowler	McIntosh
Barr	Franks (CT)	McKeon
Barrett (NE)	Franks (NJ)	Metcalf
Barrett (WI)	Frisa	Mica
Bartlett	Funderburk	Miller (FL)
Barton	Gallegly	Minge
Bass	Ganske	Mink
Bateman	Gekas	Molinari
Bereuter	Geren	Mollohan
Bevill	Gillmor	Montgomery
Bilbray	Goodlatte	Moorhead
Bilirakis	Goodling	Murtha
Bishop	Goss	Myers
Bliley	Graham	Myrick
Blute	Gunderson	Nethercutt
Boehner	Gutknecht	Neumann
Bonilla	Hall (TX)	Ney
Brewster	Hamilton	Nussle
Browder	Hancock	Ortiz
Brownback	Hansen	Orton
Bryant (TN)	Hastert	Oxley
Bunn	Hastings (WA)	Packard
Bunning	Hayes	Parker
Burr	Hayworth	Paxon
Burton	Hefley	Payne (VA)
Buyer	Heineman	Peterson (MN)
Callahan	Herger	Petri
Calvert	Hilleary	Pickett
Camp	Hilliard	Pombo
Canady	Hobson	Porter
Chabot	Hoekstra	Portman
Chambliss	Hoke	Pryce
Chapman	Horn	Quillen
Chenoweth	Hostettler	Quinn
Christensen	Houghton	Radanovich
Chrysler	Hunter	Ramstad
Clement	Hutchinson	Regula
Clinger	Hyde	Riggs
Coble	Inglis	Roberts
Coburn	Istook	Roemer
Collins (GA)	Jacobs	Rohrabacher
Combest	Johnson (CT)	Ros-Lehtinen
Condit	Johnson, Sam	Rose
Cooley	Jones	Roth
Cox	Kasich	Royce
Cramer	Kelly	Salmon
Crane	Kim	Sanford
Crapo	King	Scarborough
Cremeans	Kingston	Schaefer
Cubin	Kleczka	Schiff
Cunningham	Klug	Seastrand
Danner	Knollenberg	Sensenbrenner
Deal	Kolbe	Shadegg
DeLay	LaHood	Shaw
Diaz-Balart	Largent	Shuster
Dickey	Latham	Sisisky
Dooley	LaTourette	Skeen
Doolittle	Leach	Skelton
Dornan	Lewis (CA)	Smith (MI)
Dreier	Lewis (KY)	Smith (TX)
Duncan	Lightfoot	Smith (WA)
Dunn	Linder	Solomon
Edwards	Livingston	Souder
Ehlers	Longley	Spence
Ehrlich	Lucas	Stearns
Stenholm	Thornberry	Watts (OK)
Stockman	Thurman	Weldon (FL)
Stump	Tiahrt	Weller
Talent	Traficant	White
Tanner	Upton	Whitfield
Tate	Volkmer	Wicker
Tauzin	Vucanovich	Wolf
Taylor (MS)	Waldholtz	Young (AK)
Taylor (NC)	Walker	Young (FL)
Tejeda	Walsh	Zeliff
Thomas	Wamp	

NOT VOTING—8

Bono	Miller (CA)	Peterson (FL)
Collins (IL)	Moakley	Rogers
Laughlin	Norwood	

□ 1320

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. BAESLER changed his vote from ''aye'' to ''no.''

Mr. FRANK of Massachusetts and Mrs. KENNELLY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HOBSON). Are there further amendments to title III of the bill?

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment, amendment No. 36.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: PAGE 170, LINE 19, STRIKE ''ISSUING''.

Page 170, line 20, before ''any'' insert ''issuing''.

Page 170, line 24, strike ''or''.

Page 171, line 1, before ''any'' insert ''issuing''.

Page 171, line 3 strike the period and insert a semicolon.

Page 171, after line 3, insert the following:

''(3) granting under section 301(g) a modification of the requirements of section 301(b)(2)(A);

''(4) issuing a permit under section 402 which under section 301(p)(5) modifies the requirements of section 301, 302, 306, or 307;

''(5) extending under section 301(k) a deadline for a point source to comply with any limitation under section 301(b)(1)(A), 301(b)(2)(A), or 301(b)(2)(E) or otherwise modifying under section 301(k) the conditions of a permit under section 402;

''(6) issuing a permit under section 402 which modifies under section 301(q) the requirements of section 301(b), 306, or 307;

''(7) issuing a permit under section 402 which modifies under section 301(r) the requirements of section 301(b), 306, or 307;

''(8) renewing, reissuing, or modifying a permit to which section 401(o)(1) applies if the permittee has received a permit modification under section 301(q) or 301(r) or the exception under section 402(o)(2)(F) applies;

''(9) extending under section 307(e) the deadline for compliance with applicable national categorical pretreatment standards or otherwise modifying under section 307(e) pretreatment requirements of section 307(b);

''(10) waiving or modifying under section 307(f) pretreatment requirements of section 307(b);

''(11) allowing under section 307(g) any person that introduces silver into a publicly owned treatment works to comply with a

code of management practices in lieu of complying with any pretreatment requirement for silver;

''(12) establishing under section 316(b)(3) a standard other than best technology available for existing point sources;

''(13) approving a pollutant transfer pilot project under section 321(g)(1); or

''(14) issuing a permit pursuant to section 402(r)(1) with a limitation that does not meet applicable water quality standards.

Mr. MINETA. Mr. Chairman, I want to thank the Chairman for his diligence in chairing the Committee of the Whole House.

Mr. Chairman, this bill would allow new waivers for as many as 70,000 chemical pollutants, waivers which would allow some to trade air pollution credits in one area for the right to dump extra pollution into the river in another area, waivers to industrial polluters discharging into municipal sewer systems, waivers for innovative technologies, waivers for mining, pulp and paper, iron and steel, photo processing, food processing, electric power, cattle, oil and gas, and waivers from water quality standards if you say you are in a watershed. And this is not an exhaustive list.

As a result, an enormous number of decisions are going to have to be made about waivers, and those decisions taken together will have an enormous effect on the environment and on the costs of compliance. In fact, taken all together, these decisions on all these waiver requests will be very important regulatory decisions.

There has been a lot of talk in recent months about cost-benefit analysis and risk assessment, and how important these tools are when making regulatory decisions involving tradeoffs between costs and benefits. Many have defended the new cost-benefit and risk assessment proposals as better ways to make regulatory decisions, and they have denied that they were merely trying to hamstring the issuance of new regulations.

Here's our chance to show what it is that we really mean. The waiver decisions in H.R. 961 would constitute important regulatory decisions and they should be subject to an assessment of the risks they pose. My amendment would apply risk assessment to those aspects of the bill where it is most desperately needed.

Opponents of this amendment will say that there is no need to apply the risk assessment provisions to these waivers since the risk assessment will have been done in establishing the original standard from which the waiver is granted. But that argument just further justifies my amendment.

When the basic requirements from which waivers are requested are put in place, a risk assessment determined that the required measures were justified by the risks which would be avoided. Now, under the bill, industry will have the opportunity to do less than the basic standard—the standard which the risk to be addressed justified. If undertaking the basic requirement is justified by the reduction of risk, shouldn't we know what the risks are of doing something less than what has been determined to be justified? Sound risk assessment demands no less.

My amendment expands the use of risk assessment under the bill. This amendment would simply say that in making the decision to grant these waivers, EPA should do the same risk assessment that this bill would require of many other regulatory decisions. If it's a good way to make regulatory decisions, then let's use it. We owe it to our constituents to be able to say that when industry receives a waiver from the basic, minimum requirements of the Clean Water Act, we required that there be an assessment of the risks posed by such a waiver.

Support my amendment to achieve consistency in and expand the use of risk assessment.

Mr. MICA. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I greatly respect the gentleman from California and his leadership on many issues in the transportation and public works arena, but I rise this afternoon in strong opposition to the amendment he has proposed.

Let me say first of all that this amendment was very soundly rejected in the committee by a very large and wide bipartisan majority of 38 to 18. Earlier in the debate, the chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], referred in his comments on the floor to the liberals big lie strategy to try and defeat this bill.

This amendment is predicated on one of the small fibs that makes up the big lie strategy, I am afraid to say.

This amendment is based on the fiction that risk assessments only apply when standards are being made stronger and do not apply if they are being made weaker. It masquerades as what is good for the goose is good for the gander in the form of an amendment.

This is simply not true, and I will demonstrate that fact in just a minute.

First, let me tell you why the bill distinguishes between generally applicable regulations and site-specific decisions. The reason for this distinction is already clear to the sponsor of this amendment.

I might note that the dissenting views in the committee report support national affluent limitations over site-specific standards because they allow the regulator to implement the Clean Water Act without exhausting resources on complex resource-intensive scientific adjustments, such as those required under many of the waiver provisions of H.R. 961.

□ 1330

I agree that the amount of risk assessment analysis necessary to make up a site-specific permit modification should be left up to the EPA or the State. Some site-specific modification will undoubtedly be needed, but others will not. As the report language warns, a mandatory risk assessment would unnecessarily exhaust precious resources in these cases. Let me tell the Members why this amendment is based on a fib.

The fact is the bill already allows a what-is-good-for-the-goose-is-good-for-the-gander philosophy. There are simply two separate flocks of geese here. The first flock are local site-specific decisions. Site-specific permit modification, regardless of whether a limitation is being made more or less stringent, will not automatically trigger a risk assessment.

For instance, under section 402, EPA can tighten the limitations in a facilities permit based on new site-specific information showing greater ecological harm than was previously expected. H.R. 961 does not require EPA to perform a risk assessment to make the permit more stringent.

The second flock, using that analogy, are significant regulations, such as effluent limitation guidelines for a class of industry. They must be supported by sound risk assessment, regardless of whether they are raising or lowering regulatory requirements, because they can have potentially broad and important effects on a large number of people.

For instance, any deregulation that may be necessary to refocus EPA's priorities will be subject to a risk assessment. What is particularly ironic about this amendment is that it actually does the opposite of its stated purpose. Far from treating all requirements equally, the list of waivers and permit modification it would subject to risk assessment do not include any modification that would tighten permit requirements.

The Mineta amendment before us would not apply risk assessment when EPA wants to tighten requirements for a permittee, but magically, risk assessment would be necessary before a permittee would be granted any kind of variance, no matter how minor. This approach is a microcosm of a well-worn extreme environmentalist strategy: scream long, scream loud about any alleged advantage so-called polluters are getting, while you slip in your own fix that gives you the very advantage you were just condemning.

The American people have really been turned off by this mixture of arrogance and hypocrisy that has been displayed in the past, and this is no place for this today. That is why Congress has overwhelmingly passed risk assessment in every consistent vote before this body by wider and wider margins. That is why we must defeat this amendment. It is an ill-conceived amendment. It does just the opposite of what we need to do.

Mr. Chairman, I strongly oppose this amendment. I urge my colleagues to defeat this amendment, and let us pass a good revision to our clean water legislation.

Mr. BORSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support this commonsense amendment offered by the gentleman from California.

If we are serious about apply risk assessment to the Clean Water Act then we should apply it to proposals to grant waivers of the Clean Water Act.

What could have more risk associated with it than relaxing pollution control standards?

These waivers raise the possibility of adding serious and harmful pollutants into our Nation's rivers, lakes, and streams.

If we are going to allow these waivers, we should at least subject them to the same risk analysis as other parts of the clean water program.

If these waivers can withstand the scrutiny of risk analysis, then there is even more reason for granting them.

If they cannot measure up, they should not be allowed.

This bill allows waivers of the Clean Water Act's requirements to limit discharges into the waters.

I do not believe there is a full understanding of the meaning of those waivers.

The waiver proposal has not been subjected to any kind of scientific evaluation.

The Mineta amendment would apply science—good science—and risk analysis to these waivers.

If we want to limit these waivers to areas where they won't harm the environment, this is the right amendment.

I urge passage of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

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

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 152, noes 271, not voting 11, as follows:

[Roll No. 318]

AYES—152

Abercrombie	Coyne	Furse
Ackerman	de la Garza	Gejdenson
Andrews	DeFazio	Gephardt
Baldacci	DeLauro	Gibbons
Barcia	Dellums	Gonzalez
Barrett (WI)	Deutsch	Gordon
Becerra	Dicks	Gutierrez
Beilenson	Dingell	Hall (OH)
Bentsen	Dixon	Harman
Berman	Doggett	Hastings (FL)
Bishop	Durbin	Hefley
Bonior	Engel	Hinchey
Borski	Eshoo	Hoyer
Brown (FL)	Evans	Jackson-Lee
Brown (OH)	Farr	Jefferson
Bryant (TX)	Fattah	Johnson (SD)
Cardin	Fazio	Johnson, E. B.
Chapman	Fields (LA)	Johnston
Clay	Filner	Kanjorski
Clayton	Flake	Kaptur
Clement	Foglietta	Kennedy (MA)
Clyburn	Forbes	Kennedy (RI)
Collins (MI)	Ford	Kildee
Conyers	Fox	Kleczka
Costello	Frost	Klink
LaFalce	Nadler	Slaughter
Lantos	Neal	Stark
Levin	Oberstar	Stokes
Lewis (GA)	Obey	Studds
Lipinski	Olver	Stupak
Lofgren	Owens	Thompson
Lowey	Pallone	Thornton
Luther	Pastor	Torricelli
Maloney	Payne (NJ)	Towns
Manton	Pelosi	Traficant
Markey	Pomeroy	Tucker
Matsui	Rahall	Velazquez
McCarthy	Rangel	Vento
McDermott	Reed	Visclosky
McHale	Reynolds	Ward
McKinney	Richardson	Waters
McNulty	Rivers	Watt (NC)
Meehan	Roybal-Allard	Waxman
Meek	Rush	Williams
Menendez	Sabo	Wilson
Mfume	Sanders	Wise
Miller (CA)	Sawyer	Woolsey
Mineta	Schroeder	Wyden
Mink	Schumer	Wynn
Mollohan	Serrano	Yates
Moran	Skaggs	

NOES—271

Allard	English	Laughlin
Archer	Ensign	Lazio
Armey	Everett	Leach
Bachus	Ewing	Lewis (CA)
Baesler	Fawell	Lewis (KY)
Baker (CA)	Fields (TX)	Lightfoot
Baker (LA)	Flanagan	Lincoln
Ballenger	Foley	Linder
Barr	Fowler	Livingston
Barrett (NE)	Frank (MA)	LoBiondo
Bartlett	Franks (CT)	Longley
Barton	Franks (NJ)	Lucas
Bass	Frelinghuysen	Manzullo
Bateman	Frisa	Martini
Bereuter	Funderburk	Mascara
Bevill	Gallegly	McCollum
Bilbray	Ganske	McCrery
Bilirakis	Gekas	McDade
Bliley	Geren	McHugh
Blute	Gilchrest	McInnis
Boehlert	Gillmor	McIntosh
Boehner	Gilman	McKeon
Bonilla	Goodlatte	Metcalf
Brewster	Goodling	Meyers
Browder	Goss	Mica
Brownback	Graham	Miller (FL)
Bryant (TN)	Green	Minge
Bunn	Greenwood	Molinari
Bunning	Gunderson	Montgomery
Burr	Gutknecht	Moorhead
Burton	Hall (TX)	Morella
Buyer	Hamilton	Murtha
Callahan	Hancock	Myers
Calvert	Hansen	Myrick
Camp	Hastert	Nethercutt
Canady	Hastings (WA)	Neumann
Castle	Hayes	Ney
Chabot	Hayworth	Norwood
Chambliss	Hefner	Nussle
Chenoweth	Heineman	Ortiz
Christensen	Herger	Orton
Chrysler	Hilleary	Oxley
Clinger	Hilliard	Packard
Coble	Hobson	Parker
Coburn	Hoekstra	Paxon
Collins (GA)	Hoke	Payne (VA)
Combest	Holden	Peterson (MN)
Condit	Horn	Petri
Cooley	Hostettler	Pickett
Cox	Houghton	Pombo
Cramer	Hunter	Porter
Crane	Hutchinson	Portman
Crapo	Hyde	Poshard
Cremeans	Inglis	Pryce
Cubin	Istook	Quillen
Cunningham	Jacobs	Quinn
Danner	Johnson (CT)	Radanovich
Deal	Johnson, Sam	Ramstad
DeLay	Jones	Regula
Diaz-Balart	Kasich	Riggs
Dickey	Kelly	Roberts
Dooley	Kennelly	Roemer
Doolittle	Kim	Rohrabacher
Dornan	King	Ros-Lehtinen
Doyle	Kingston	Rose
Dreier	Klug	Roth
Duncan	Knollenberg	Roukema
Dunn	Kolbe	Royce
Edwards	LaHood	Salmon
Ehlers	Largent	Sanford
Ehrlich	Latham	Saxton
Emerson	LaTourette	Scarborough
Schaefer	Spratt	Vucanovich
Schiff	Stearns	Waldholtz
Scott	Stenholm	Walker
Seastrand	Stockman	Walsh
Sensenbrenner	Stump	Wamp
Shadegg	Talent	Watts (OK)
Shaw	Tanner	Weldon (FL)
Shays	Tate	Weldon (PA)
Shuster	Tauzin	Weller
Sisisky	Taylor (MS)	White
Skeen	Taylor (NC)	Whitfield
Skelton	Tejeda	Wicker
Smith (MI)	Thomas	Wolf
Smith (NJ)	Thornberry	Young (AK)
Smith (TX)	Thurman	Young (FL)
Smith (WA)	Tiahrt	Zeliff
Solomon	Torkildsen	Zimmer
Souder	Upton	
Spence	Volkmer	

NOT VOTING—11

Bono	Collins (IL)	Peterson (FL)
Boucher	Davis	Rogers
Brown (CA)	Martinez	Torres
Coleman	Moakley	

☐ 1354

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mrs. MEYERS of Kansas changed her vote from ''aye'' to ''no.''

Mr. COSTELLO changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BUNNING of Kentucky. Mr. Chairman, I was back in Kentucky on personal business yesterday attending the funeral of Shirley Rogers, the late wife of my Kentucky colleague, HAL ROGERS. I was not present for rollcall votes Nos. 311 through 314.

I would like for the RECORD to show that if I had been present I would have voted ''yes'' on rollcall vote No. 311, ''no'' on rollcall vote No. 312, ''no'' on rollcall vote No. 313, and ''no'' on rollcall vote No. 314.

AMENDMENTS OFFERED BY MISS COLLINS OF MICHIGAN

Miss COLLINS of Michigan. Mr. Chairman, I have a series of amendments at the desk, amendments 9, 10, 11, 12, and 13. I ask unanimous consent that they be considered en bloc. It is my understanding that the majority has no objection to this.

The CHAIRMAN pro tempore (Mr. HOBSON). The Clerk will first designate the amendments.

The text of the amendments is as follows:

Amendments offered by Miss COLLINS of Michigan:

Page 62, after line 14, insert the following:

(d) CONSIDERATION OF CONSUMPTION PATTERNS.—Section 304(a) if further amended by adding at the end the following:

''(13) CONSIDERATION OF CONSUMPTION PATTERNS.—In developing human health and aquatic life criteria under this subsection, the Administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments at disproportionately high risk, such as minority populations, children, and women of child-bearing age.''.

Page 62, line 15, strike ''(d)'' and insert ''(e)''.

Page 63, line 4, strike ''(e)'' and insert ''(f)''.

Page 63, line 24, strike ''(f)'' and insert ''(g)''.

Page 64, line 4, strike ''(g)'' and insert ''(h)''.

Page 73, strike lines 19 through 22 and insert the following:

(c) FISH CONSUMPTION ADVISORIES.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

''(o) FISH CONSUMPTIONS ADVISORIES.—

''(1) POSTING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations establishing minimum, uniform requirements and procedures requiring States, either directly or through local authorities, to post signs, at reasonable and appropriate points of public access, on navigable waters or portions of navigable waters that significantly violate applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.

''(2) SIGNS.—The regulations shall require the signs to be posted under this subsection—

''(A) to indicate clearly the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption;

''(B) to be in English, and when appropriate, any language used by a large segment of the population in the immediate vicinity of the navigable waters;

''(C) to include a clear warning symbol; and

''(D) to be maintained until the body of water is consistently in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated for the body of water or portion thereof.''.

Page 73, after line 18, insert the following:

(c) FISH AND SHELLFISH SAMPLINGS.—Section 304 (33 U.S.C. 1314) is amended by adding at the end the following:

''(n) FISH AND SHELLFISH SAMPLINGS; MONITORING.—Not later than 18 months after the date of the enactment of this Act, the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and analysis and uniform requirements for monitoring of navigable waters that do not meet applicable water quality standards under this Act or that are subject to a fishing or shell-fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination.''

Page 73, line 19, strike ''(c)'' and insert ''(d)''.

Page 203, after line 8, insert the following:

SEC. 410. ENVIRONMENTAL JUSTICE REVIEW.

Section 402 (32 U.S.C. 1342) is further amended by adding at the end the following:

''(u) ENVIRONMENTAL JUSTICE REVIEW.—No permit may be issued under this section unless the Administrator or the State, as the case may be, first reviews the proposed permit to identify and reduce disproportionately high and adverse impacts to the health of, or environmental exposures of, minority and low-income populations.''.

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 213, after line 14, insert the following:

SEC. 508. DATA COLLECTION.

Section 516 (33 U.S.C. 1375) is amended by inserting after subsection (e) the following:

''(f) DATA COLLECTION.—

''(1) IN GENERAL.—The Administrator shall, on an ongoing basis—

''(A) collect, maintain, and analyze data necessary to assess and compare the levels and sources of water pollution to which minority and low-income populations are disproportionately exposed; and

''(B) for waters receiving discharges in violation of permits issued under section 402 or waters with levels of pollutants exceeding applicable water quality standards under this Act, collect data on the frequency and volume of discharges of each pollutant for which a violation occurs into waters adjacent to or used by minority and low-income communities.

''(2) PUBLICATION.—The Administrator shall publish summaries of the data collected under this section annually.''.

Redesignate subsequent sections of the bill accordingly. Conform the table of contents of the bill accordingly.

Page 236, strike lines 13 and 14.

Page 236, line 15, strike ''(k)'' and insert ''(j)''.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

(Miss COLLINS of Michigan asked and was given permission to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr Chairman, my amendment in part directs the Administrator to take into account the differing consumption patterns of different segments of the population when developing water quality criteria.

There is compelling evidence to show that different segments of our population consume greater quantities of fish per capita than do others. Consequently, if the fish are tainted with toxic compounds, these segments of the population would be at far greater risk of health problems than others.

One specific example is in my home State of Michigan. There, different native American ethnic groups such as the Ottawa and Chippewa have a long and well-documented fishing culture. Studies have shown their fish consumption rate to be as high as four times the rate of the average Michigan resident. These higher consumption rates coincide with higher average level of PCB's in the blood of these people.

The Michigan native Americans provide only one example of this problem. So, consequently, I ask that in developing human health and aquatic life criteria under this subsection, the administrator shall take into account, where practicable, the consumption patterns of diverse segments of the population, including segments with disproportionately high risk such as minority population, children, and women of childbearing age.

The next amendment asks that not later than 18 months after the enactment of this act the Administrator shall propose and issue regulations to establish uniform and scientifically sound requirements and procedures for fish and shellfish sampling and uniform requirements for monitoring of navigable waters that do not meet applicable water standards under this act or that are subject to a fishing ban, advisory, or consumption restriction. The amendment asks that the States have uniform requirements to either directly or through local authorities post signs at reasonable and appropriate points of public access.

These amendments are designed for those who rely on lakes and rivers and other navigable waters as a recreation or sustenance. They work together, so there I am presenting them together. The problems addressed by these amendments are quite serious. One-third of the Nation's shellfish beds are closed or restricted to harvest due to pollution. In 1992, over 2,600 beaches were closed or placed under swimming advisories because of dangers to public health. However, there are no uniform requirements for fish and shellfish bans or advisory and consumer restrictions.

Moreover, there are no Federal requirements for public notification when water quality standards are violated. Unfortunately, there is a great disparity in the manner in which States monitor water safety for fishing and swimming. There is also much disparity in their means for notifying the public.

The problems are especially significant for people who depend on local fishing as a regular food source because they may be subjected to higher doses of contaminants.

The public has a right to know if their waters are safe for swimming or fishing, and these amendments will justify that need.

Mr. Chairman, my next amendment seeks to include impact evaluations on minority and low-income populations in their review of pollution discharge permit applications.

Studies by the Environmental Protection Agency, the National Law Journal, the University of Michigan, the United Church of Christ, and the Council on Environmental Quality have demonstrated beyond any reasonable doubt that minority and low-income neighborhoods are more likely to be situated near major sources of pollution than other neighborhoods. Consequently, these neighborhoods suffer greater exposure to health risk. In fact, the President issued Executive Order 12–898 in February 1994 to address issues related to environmental justice in minority and low-income populations.

This amendment would ensure that all permit applications under section 402 of the Clean Water Act be reviewed for their effect on minority and low-income populations. This amendment sends a message that minority neighborhoods and water tables will not be dumping grounds for irresponsible toxic waste dumpers. Mr. Chairman, this amendment seeks to collect and publish data on water pollution affecting minority and low-income populations. The need for such a function is clear. Many different studies have shown a strong correlation between race and income and exposure to unsafe environmental factors.

Studies by the EPA, the National Law Journal, the University of Michigan, the United Church of Christ, and the Council on Environmental Quality have demonstrated that minority and low-income neighborhoods are more likely to be situated near major sources of pollution than are other neighborhoods. For example, three out of the Nation's five largest waste disposal facilities are located in minority areas, including Emil, AL, site of the biggest toxic landfill in the United States. Also, the Nation's biggest concentration of hazardous waste sites is on Chicago's South Side, where the residents are predominantly African-American.

A personal example concerns my hometown of Detroit where the University of Michigan researchers assessed the relative influence of income and race on the distribution of waste management facilities. Their study found that minority residents were four times more likely than white residents to live within a mile of commercial hazardous waste facility, and that race was a better predicator of proximity to the site than was income. In the name of equality and decency, I ask all my colleagues to support this en block amendment.

In the name of equality and decency, I ask all my colleagues to support this enbloc amendment.

□ 1400

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

I must reluctantly oppose these amendments from my good friend. These amendments simply represent the mandating of more regulations so that specific groups will get special protection.

The goal of all environmental legislation is to protect all people from unreasonable risks. The EPA already has sufficient authority to consider the effects on sensitive subject populations in the design of their standards. EPA already is factoring environmental justice considerations into all of its programs. And nothing in this legislation would prohibit those considerations.

We simply believe that we should not be creating new regulations. We should not be forcing EPA, we should not be micromanaging EPA to do what they already have the authority to do if they decide it is in the best interests of the environment in our country.

Further, section 323(b) of our bill requires risk assessment used to develop water quality criteria to provide a description of the specific populations subject to the assessment.

So for all of those reasons, while these are very well-intentioned en bloc amendments, I must urge their defeat.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the en bloc amendment offered by our fine colleague, the gentlewoman from Michigan.

These amendments attempt to provide protection against disease caused by consumption of contaminated fish and shellfish caught from polluted waters.

Waterborne diseases are hazardous to your health. We may recall that more than 100 people died in Milwaukee when they drank contaminated water. Eating contaminated seafood is no less deadly.

This amendment would require scientifically sound sampling and monitoring of fish and shellfish, as well as posting of signs on navigable waters that significantly violate applicable water quality standards. Doing so will let us know if the catch is safe to eat, and if it is not, warn people against eating it.

Low-income and minority communities often are exposed to a higher level of water pollution than society as a whole. To adequately protect residents of these at-risk communities, we need good information and special recognition of their disproportionate exposure.

That is what this amendment will do. It would require EPA to take steps to minimize the health and environmental impacts on poor and minority populations when issuing discharge permits. It would also require EPA to take into account consumption patterns of poor and minority when developing water quality criteria.

These efforts will help address the higher risks facing these communities. I urge support of the Collins enbloc amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Collins en bloc amendments, and I want to tell this group much progress has been made since the Clean Water Act has been enacted. It is one of our Nation's success stories, but much still remains to be done. One-third of the Nation's shellfish beds are still closed or restricted to harvest; one-half of the Nation's rivers are polluted; and there are still great disparities as to how States monitor pollution and warn citizens of polluted waters. Florida was once called the polluted paradise. Many other States still have that distinction, they still can be called polluted areas.

This, Mr. Chairman, puts many Americans at risk. Studies show that many minorities and particularly the poor search for fish and use fish for subsistence. They live from their daily fishing catch.

The clean water bill before us today is really a misnomer, Mr. Speaker. It will not provide clean water. It does nothing to address environmental inequities faced by millions of minority and low-income Americans. Their communities are exposed to disproportionately high levels of pollutants that end up in the water supply.

This environmental injustice is real, Mr. Chairman, and it must be stopped. But the bill before us today is virtually silent on environmental injustice. It ignores the years of environmental abuse suffered by minority and low-income communities across this great country of ours, whether they are farm workers, inner-city teenagers, native Americans on reservations, or minorities in small towns.

The Collins amendments will begin to bring some justice to those Americans who face daily environmental threats to their health.

Mr. Chairman, I urge my colleagues in support of environmental justice to support the Collins amendments.

Mr. BECERRA. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. BECERRA. Mr. Chairman, I also rise in strong support of this en bloc amendment offered by my esteemed colleague from Michigan. It is true that at times we try to do our utmost to protect our societies and our communities from pollution, from hazards, from the environment when we create those hazards. But oftentimes we do not succeed.

It is unfortunate that current law has not done the job of protecting certain communities, mostly low-income communities, minority communities, when it comes to things like environmental hazards. Let me give some very concrete examples.

I represent a portion of the city of Los Angeles. I happen to represent, in portions of my district, some of the wealthiest individuals in Los Angeles, and at the same time in another portion of my district I represent individuals of very low income.

On one end of my district I have no freeways crossing through the district. I have no problems with waste dumps. I have no problems with projects for incineration plants or for pipelines for oil to be passed through. But on the other side of my district, I do. I have a district that has within its 5-mile radius around seven prison facilities that have been housed there over the last 10 years as a result of a supposed need by the county to have a place to house prisoners. We have a toxic waste dump that is on the EPA site for cleanup, and it must be taken care of because it is emitting pollutants and hazardous emissions. I had, at one point nearby, a proposal to build a toxic waste incineration plant in the district or close to the district. It has not gone through, but clearly present law was not enough to protect this. Current legislation is not enough to protect, and we need the en bloc amendments by the gentlewoman from Michigan to make sure we do so, because there is a danger, it is clearly the case, the facts show it, that disproportionately minority communities, low-income communities share the exposure, the highest exposure and the burden of that exposure of those environmental hazards.

We should and we must do what we can to ensure that there is equal treatment of all communities when it comes to hazardous wastes to make sure that they are all protected, but oftentimes we do not go far enough. This gives us an opportunity to ensure that the past wrongs can be righted and that we will never make those mistakes again, so that every community, whether they are very empowered, very enfranchised, or not, have the opportunity to say that they will benefit from the protections of our environment that we are trying to do here today.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is clear that all of us do not represent districts that are exactly alike. My district is very similar to Congressman BECERRA's. We have right now a Superfund site.

I do not think we can address water in this country without addressing health status in this country. And unfortunately, this bill which is before us fails to address this issue from the standpoint of public health. This poses a very serious problem. In families with annual incomes at or below poverty, almost 70 percent of black children suffer from high lead blood levels, while only 36 percent, which is much too high, of the nonblack children. Blood poisoning is the most preventable disease that we can address. It is identifiable. We just need the protections to do it. We know what levels; our scientific levels and science has taught us that.

What we need now are standards that ensure that all of our citizens are protected. Women living less than 1 mile from a hazardous waste site have a 12-percent higher risk of having a child with a birth defect than other mothers. Three million homes or 74 percent of all private housing built before 1980 contains some lead paint.

□ 1415

Minority and low-income people are more likely to live in these older homes. The lead which they are exposed to is stored in the bone, and later calcium and lead are released into the bloodstream, placing these people, particularly women, at risk for continuing lead poisoning many years later.

We are considering now the costs of health care. We cannot do that in a vacuum. We must consider all of the things that lead to a large price tag when we talk about the cost of health care. We cannot afford to ignore a very preventable illness that is so common among the poor.

We cannot stand here and say that we are upholding our oath without remembering that we have a large percentage of poor people and poor children in this country, and they live in the areas that many of us might not see, but that does not mean they do not exist.

The clean water bill now before us is notably silent about these and other important issues relating to the health of minorities and low-income Americans.

These amendments offered by my colleague, the gentlewoman from Michigan [Miss COLLINS] take an important step toward addressing these concerns, and I urge this body, I urge my colleagues who might not know of these kinds of areas, to please give serious consideration in supporting these amendments.

Mr. LEWIS of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Collins amendment.

It is time to do right by our Nation's poor and minority communities. Too often, we throw garbage, place incinerators and dump dirty water in these communities.

This amendment is an important step in making a bad bill better. People have a right to know what is in their water, the water they drink. The poor and minorities have the same right to clean water as the rest of us.

Mr. Chairman, our right to clean water is threatened.

In 1972, Democrats and Republicans came together to end pollution of our water. They recognized that no industry, no person—no matter how rich or how powerful—has the right to poison our streams, our lakes, or our people.

The Clean Water Act is a proud, bipartisan law that stands up for the common person. It says ''no'' to those who would poison our environment. We must not allow it to be weakened.

I plead, with all my colleagues to make this bad bill a little bit better. Support the Collins en bloc amendment.

Mr. STOKES. Mr. Chairman, I rise in support of the Collins amendments.

Mr. Chairman, although pollution affects all people, no matter where they live, direct exposure to water pollutants and other environmental hazards are disproportionately distributed. Data now indicate that low-income, racial and ethnic minorities are more likely to live in areas where they face environmental risk.

However, a stronger data base is needed to better understand the problems, to identify solutions to those problems and evaluate the efficacy of programs that address the problems. This is why it is imperative that the Environmental Protection Agency collect and analyze data on sources of water pollution to which minorities and low-income populations are disproportionately exposed. For example there are clear situations where certain populations are exposed to higher levels of pollutants in waters. Thus it is essential that prior to the granting of discharge permits, the Environmental Protection Agency review the permit application and related elements to ensure that minority and low-income communities will not be adversely impacted.

Recognizing that a number of factors might increase susceptibility to the effects of water pollutants, the environmental justice amendment calls for the development of water quality standards that take into consideration the variations in water usage among diverse segments of the population, including the high risk individuals such as pregnant women and children. These individuals may be more or less sensitive then others to the toxic effects of water pollutants.

Mr. Speaker, these and other provisions of the environmental justice amendment will help ensure that water improvement approaches are applied equitably across racial and socioeconomic groups, minority and low-income communities faced with a higher level of environmental risk.

Therefore, I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Michigan [Miss COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Miss COLLINS of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 271, not voting 10, as follows:

[Roll No. 319]

AYES—153

Abercrombie	Gephardt	Owens
Ackerman	Gibbons	Pallone
Andrews	Gonzalez	Pastor
Barcia	Green	Payne (NJ)
Barrett (WI)	Gutierrez	Pelosi
Becerra	Hall (OH)	Pomeroy
Beilenson	Harman	Poshard
Bentsen	Hastings (FL)	Rahall
Berman	Hayes	Rangel
Bishop	Hefner	Reed
Bonior	Hilliard	Reynolds
Borski	Hinchey	Rivers
Brown (CA)	Hoyer	Roemer
Brown (FL)	Jackson-Lee	Rose
Brown (OH)	Jacobs	Roybal-Allard
Bryant (TX)	Jefferson	Rush
Cardin	Johnson, E. B.	Sabo
Clay	Johnston	Sanders
Clayton	Kaptur	Sawyer
Clyburn	Kennedy (MA)	Schroeder
Coleman	Kennedy (RI)	Schumer
Collins (MI)	Kennelly	Scott
Conyers	Kildee	Serrano
Costello	Lantos	Skaggs
Coyne	Levin	Slaughter
de la Garza	Lewis (GA)	Stark
DeFazio	Lincoln	Stokes
DeLauro	Lipinski	Studds
Dellums	Lofgren	Stupak
Deutsch	Lowey	Thompson
Diaz-Balart	Maloney	Thornton
Dicks	Manton	Thurman
Dingell	Markey	Torres
Dixon	Martinez	Torricelli
Doggett	Matsui	Towns
Durbin	McDermott	Traficant
Engel	McHale	Tucker
Eshoo	McKinney	Velazquez
Evans	Meehan	Vento
Farr	Meek	Visclosky
Fattah	Menendez	Volkmer
Fazio	Mfume	Ward
Fields (LA)	Miller (CA)	Waters
Filner	Mineta	Watt (NC)
Flake	Mink	Waxman
Foglietta	Moran	Williams
Ford	Nadler	Wise
Frank (MA)	Neal	Woolsey
Frost	Oberstar	Wyden
Furse	Olver	Wynn
Gejdenson	Ortiz	Yates

NOES—271

Allard	Barr	Bilirakis
Archer	Barrett (NE)	Bliley
Armey	Bartlett	Blute
Bachus	Barton	Boehlert
Baesler	Bass	Boehner
Baker (CA)	Bateman	Bonilla
Baker (LA)	Bereuter	Brewster
Baldacci	Bevill	Browder
Ballenger	Bilbray	Brownback

Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Bono
Boucher
Collins (IL)
Fields (TX)
McDade
Moakley
Oxley
Peterson (FL)
Richardson
Rogers

☐ 1437

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Bono against.

Mr. RIGGS changed his vote from ''aye'' to ''no.''

Mr. ORTIZ changed his vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: Page 172, line 14, insert ''similar'' before ''risks''.

Page 172, line 15, before the period insert the following: ''regulated by the Environmental Protection Agency resulting from comparable activities and exposure pathways''.

Page 172, after line 15, insert the following: Comparisons under paragraph (7) should consider relevant distinctions among risks such as the voluntary or involuntary nature of risks and the preventability and nonpreventability of risks.

Page 173, line 18, after the period insert closing quotation marks and a period.

Page 173, strike line 19 and all that follows through page 172, line 17.

Page 176, lines 10 and 11, strike ''the requirement or guidance maximizes net benefits to society'' and insert ''the incremental benefits to human health, public welfare, and the environment of the requirement or guidance will likely justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities''.

Page 178, line 14, insert ''and benefits'' after ''costs''.

Page 179, strike line 3, and all that follows through page 180, line 22.

Page 180, line 23, strike ''(g)'' and insert ''(f)''.

Mr. MINETA. Mr. Chairman, this amendment would make this bill's provisions on risk assessment and cost-benefit analysis consistent with those in H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995 already passed by the House earlier this year.

This bill requires elaborate risk assessment and cost-benefit analysis to be performed before regulations to protect clean water can be issued.

The argument in favor of these requirements is that the House has already spoken on the issue of risk assessment and cost-benefit analysis, and we should be consistent with it in the Clean Water Act.

But the provisions in this bill are not consistent with H.R. 1022—they are more extreme and more onerous in three key respects.

First, regarding comparative risk analysis, H.R. 961 would have EPA and the Corps of Engineers compare the risks which are the subject of their rulemaking to not only risks that they know something about, such as the health effects of toxics in water or flooding due to filling of wetlands, but also risks about which they know nothing, such as auto accidents on highways or building collapse due to earthquakes. H.R. 1022 specifically rejected having agencies make risk comparisons outside their areas of expertise, because of a valid concern that agencies wouldn't know what they were doing.

Second, this bill contains a look-back provision which would require risk assessment and cost-benefit analysis to be applied to existing, as well as proposed, regulations. This was the Barton amendment to H.R. 1022, but without safeguards to protect the risk assessment process. This issue was specifically rejected on the House floor during debate on H.R. 1022. The House rejected Mr. BARTON's look-back idea because of concerns that it would overwhelm not only the regulatory process but also the risk assessment procedures, and subject them to endless legal challenges. We should not adopt in this bill what the House has earlier specifically rejected for the risk assessment bill.

And third, this bill goes well beyond the standard established in H.R. 1022, that regulatory benefits would likely justify, and be reasonably related to, costs. Instead, it requires a clean water regulation to maximize net benefits. H.R. 1022 did not adopt that standard because our ability to quantify all costs and all benefits is not that precise. Requiring an agency to select the one regulatory option with the highest net benefits, out of all possible options, assumes a level of measurement precision which does not exist in our agencies, nor can be achieved by cost-benefit analysis. H.R. 1022 did not adopt this standard for the simple reason that it was bound to fail.

Many have argued that on risk assessment and cost-benefit analysis we should be consistent with what the House did on H.R. 1022. That is exactly what my amendment does. I assume this amendment, therefore, will be noncontroversial, and urge its adoption.

☐ 1445

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, again I rise in opposition to another amendment by the distinguished gentleman from California which, unfortunately, would also gut some of the provisions we have worked so hard to establish in this legislation dealing with risk assessment and cost-benefit analysis.

I would like to also share with my colleagues the fact that this amendment, just like the other amendment offered, again by the distinguished gentleman, was soundly rejected by our committee. This amendment has really a grab bag of provisions in it and changes, some of which there is good news for and some bad news for. Unfortunately, most of the news presented in this amendment is bad news.

Let me say, for instance, that the one good thing in this proposed amendment is that it would clarify that risk comparisons should include a discussion of differences between the nature of risks being compared. However, this is already addressed in section 324(b)(2)(C) on page 177, but it does not

really hurt to misstate as the champion of this particular amendment has offered.

Now, that is the good news. Now, my colleagues, let us look at the bad news, and there are a number of areas that fall into that category. Unfortunately, the majority of the changes proposed in the rest of this amendment are all undesirable, and I want to highlight a couple of these.

First, the amendment would change the cost-benefit criterion for maximizing net benefits to a weaker standard. The benefits must be ''reasonably related to the cost.''

This is a standard that already exists under certain sections of the Clean Water Act, such as section 302(b)(2)(A), and would be less than vigorous at weeding out unnecessary and really inept rules.

Further, this standard, since it does not address cost effectiveness, conflicts with the regulatory review criteria adopted by the House in H.R. 1022 this year that passed earlier by a wide margin.

Second, the amendment would greatly restrict the risks that EPA could use for comparison purposes. Under the amendment, EPA could only compare risks if they have already been regulated by EPA and result from comparable activities and exposure pathways. This would greatly diminish the benefit of risk comparisons.

For instance, part of the value of performing these comparisons is to see whether there may be other unregulated risks that deserve more immediate attention. This would not be possible under the amendment proposed by my good colleague.

Finally, and unfortunately, this amendment would wipe out the modest retroactive provisions of this bill. Let me say, I would like to see much more retroactive attention to all of these regulatory matters, even in this legislation.

For instance, the retroactive coverage has been described and misquoted, and let me give you one example here, by the National Wildlife Federation, as repealing ''23 years of existing major Clean Water Act standards by requiring extensive cost-benefit and risk assessment reviews for all major existing standards within an impossible deadline of 18 months.''

This is simply untrue and misleading. In fact, H.R. 961, our legislation, requires EPA to review only those regulatory requirements and guidelines issued after February 15, 1995, that would result in costs of $100 million or more per year. Such reviews must be completed within 18 months of enactment of this section.

Thus far, only one requirement, the Great Lakes Initiative, issued in March 1995, would need to be reviewed under this subsection. Further, since rules costing $100 million or more already are required to be evaluated by EPA and the Office of Management and Budget under Executive Order 12866, the committee expects that the retroactive review required by sections 323 and 324 will place little or no additional burden on EPA, assuming EPA has complied with the Executive order.

These are only three of the serious problems with the grab bag of changes proposed under this amendment, and any one of them is in fact enough for my colleagues to come forth and vote against this amendment.

Mr. Chairman, on the basis of just these three points, I urge my colleagues to vote against the amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MICA] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. MICA was allowed to proceed for 2 additional minutes.)

Mr. MICA. Mr. Chairman, let me say I appreciate the extension of time, and also the opportunity to talk about risk assessment, because this is probably the last frontal attack on risk assessment before the House of Representatives.

As my colleagues know, this issue came before the House in the last Congress and we were denied an opportunity to bring this forth in the form of a complete piece of legislation. It was never voted on as far as affecting all regulatory items before the Congress.

Now we have the first individual bill, a regulatory bill, a regulatory reform bill, and we have an opportunity to pass good cost-benefit risk assessment language. This is in fact going to be the last assault, I believe, on risk assessment.

So many of the colleagues who have come here on many occasions to vote for risk assessment will have that opportunity today. Many of the people who have come here and asked for cost-benefit analysis in the way we pass regulations in this Congress and through the agencies, the Federal Government, will have an opportunity to vote today. And once and for all we can bring common sense to a process, a regulatory process, that has been out of control, out of hand, put people out of work, out of business, out of jobs.

So I urge my colleagues to come to the floor this afternoon, defeat this final amendment that proposes a frontal assault on good risk assessment language and also on cost-benefit language that is so essential to have in this clean water bill. This is what this is all about, bringing common sense, bringing some light into an area of darkness in the regulatory processes of this country.

I thank the gentleman for the additional time.

Mr. DOGGETT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the Mineta amendment. I have to tell the House that the Democratic members of the House Committee on the Budget were put to a very difficult choice yesterday: Should we stay across the street in the Cannon Building and fight the surprise attack disclosed in its details for the first time yesterday morning of the Republican members of the Committee on the Budget to wreck havoc with Medicare, to break their promises with reference to Medicare, and to affect senior citizens across this country by reaching in their pocket and insisting they come up with more money to fund their health care, the same group that wants to challenge the middle class families of this country who want to send a child to college, to thwart their efforts by adding $5,000 to the cost of a Stafford loan, do we stay over there and fight that kind of surprise attack concocted in the shadows of this Capitol by secret Republican task forces, or do we come across the street and help the gentleman from California here on the floor of the Congress stave off the polluters who want to wreck one of the most effective pieces of environmental protection legislation that this country has ever known?

Well, it was a tough choice. But staying there from 10 in the morning until after 1 o'clock this morning did not stop a mean-spirited budget resolution from passing. But I hope it has helped inform the American people about what lies ahead, because with Mother's Day coming up, if there is any American citizen that has not yet bought a present for Mom, they better send her some money if she is on Social Security, because these Republicans are coming after Social Security and coming after Medicare.

Now, what about this issue of water? Not having had a chance to fight the battle yesterday, I do not quite understand why some of our Republican colleagues are so insensitive to the idea of clean water. Maybe it is because they drink Perrier all the time. I do not know what it is. But for whatever the reason, in my part of the country, Colorado on the rocks is still not a bad drink. You take Colorado River water that is pure, and you pour it over some good ice, and on a hot summer day in Texas it tastes might good. This battle is about protecting Colorado on the rocks, protecting the drinking water in the Colorado River, in the critical tributary of that river called Barton Creek, with a natural spring called Barton Springs, which is a source of entertainment and, I might say, a little coolness on a hot summer day in Texas.

Citizens all over central Texas are struggling to protect that natural resource. They recognize we have something very unique in the beauty and the quality of the water of the Colorado River and of Barton Springs, a place to swim, to fish, and, most importantly, a source of drinking water. And what is occurring today affects Austin, TX, very much, because we value our water. We have developed a balance between the necessary part of our economy, the need to expand and

develop and have jobs, and the recognition that does not have to be in conflict with clean water and the environment. Rather, the two can interface and work together.

Our children will benefit because we would not let those two very legitimate concerns get in conflict. What is occurring here today is an effort to thwart the attempt of the people of central Texas to protect their water supply.

Mr. Chairman, the bottomline is that this so-called Clean Water Act is really a dirty water act. And of the many horrible provisions of this bill, and goodness knows there are a lot of them, the one that the distinguished gentleman from California is now trying to fix concerning the standards for risk assessment is one of the worse.

What this measure does is to take an amendment that was rejected by the House Committee on Science, chaired by the gentleman from Pennsylvania [Mr. WALKER], and rejected here on the floor of the House. Let me tell you, an amendment that is so bad that it gets rejected in that committee is so bad you cannot scrub it down with a brush, Members.

Let me assure you that that committee on risk assessment—and let me remind you how it handled the risk assessment bill. This is a committee where when you ask the committee counsel about the risk assessment bill, he cannot give you an answer without turning over his shoulder and getting the answer from the lobbyists that helped draft the bill. That risk assessment bill is the one this House passed. It will be in this piece of legislation even if the amendment of the gentleman from California [Mr. MINETA] is adopted today. The question is, do we go even further than that?

Well, the amendment that is already in the bill has received bipartisan opposition. It was Senator CHAFEE, the Republican Member of the Senate, who indicated that this is not about good science, it is about gumming up the regulatory process or, to use his words, it is a recipe for gridlock. And that is all that people want who oppose this amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Mr. Chairman, risk assessment is a good concept if, and only if, risk assessment means good science. If risk assessment is only good politics, if risk assessment is only gumming up the regulatory process so that you cannot regulate and assure clean water, then it is a pretty worthless concept.

□ 1500

We get a good dose of that in this bill, because it was not 30 minutes ago that the distinguished gentleman from California said, well, let us have it both ways. If they are going to come along and weaken the process, if they are going to come along and have waivers so that polluters can pollute a little here on the side and a little there and a little here, then let us apply risk assessment to that. Was that amendment accepted? Absolutely not, because this is a one way street for polluters.

It is OK to pollute; do not get in the way of anyone trying to regulate the polluter. But if it is someone who wants to do something about regulating pollution, then let us erect as many barriers as possible.

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

Mr. DOGGETT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, is it not true that H.R. 1022 applies to all regulations that may be forthcoming under this legislation? The old risk assessment regulatory reform bill that we passed, the House passed back during the 100 days.

Mr. DOGGETT. It does that. This is a question of whether you go even further than that bad old amendment that we passed back then.

Mr. VOLKMER. Let us say that that bill goes on and eventually becomes law and then we have this bill go on with these provisions that the gentleman from Florida thinks so much about and this House does not think so much, if you follow the regulatory reform process in the House when we voted on these things, but, anyway, this passes. Now we have got two different, EPA, Corps of Engineers for everybody else to follow; is that correct?

Mr. DOGGETT. That is absolutely right.

Mr. VOLKMER. It is absolutely crazy. I do not generally disagree with the thrust of much of this legislation. As far as the agriculture sections of it, I love it. But when it comes to things like this, these are the kinds of things that make me question whether I want to vote for this bill.

Mr. GANSKE. Mr. Chairman, I move to strike the last word.

With respect to the Mineta amendment, I would argue against this and in favor of the bill. President Clinton and Mrs. Browner and many in the press have stated over and over again that big business is responsible for the risk assessment and cost-benefit analysis. This legislation does have the support of over 1,000 industry trade associations, the NFIB, and the National Farm Bureau, but the truth is that the risk and cost-benefit agenda is long overdue and represents principles with broad-ranging support among State and local governments.

The claim that this is just an agenda of big business is nonsense. President Clinton and Mrs. Browner and the press know it. The National Governors Association states:

> Environmental requirements should be based upon sound science and risk-reduction principles, including the appropriate use of cost-benefit analysis that considers both quantifiable and qualitative measures. Such analyses will ensure that funds expended on environmental protection and conservation address the greatest risks first and provide the greatest possible return on investment.

The National Association of Counties in hearings before the Committee on Commerce stated:

> Congress should adopt legislation which requires federal agencies to provide fair, scientifically sound and consistent assessments of purported health, safety or environmental risks prior to the imposition of new regulations. It is just plain wrong to regulate without at least an attempt to make a scientifically based assessment of the risk that is sought to be abated, its relationship to other risks, and the costs involved.

The American public, by a margin of three to one, supports cost-benefit analysis. This amendment would significantly weaken that. That is why I would urge Members to vote against this amendment and in support of the bill.

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

Mr. GANSKE. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I just wanted to make a couple of responses in response to some comments that were made by a previous speaker who came to the floor and said that he was only given the opportunity to be at budget hearings or to run to the floor and talk about this clean water legislation. Indeed, those are some of the choices that we have to face.

We have to face the fact that literally for the last 40 years that we have, that this Congress has robbed every cookie jar in the country and that the cookie jars are all empty and we have busted the budget, and the country is in serious shape, financial shape, and facing a disaster. Those are the choices before us.

The choice is not a question of just balancing the budget or going on in the means that we have done in the past. The choice is that we, in fact, address these serious financial problems and that the cookie jar has been raided for the last time, and we have to make those choices.

The choice on the floor today that we run back and forth on relates to regulation and the regulatory process. We have so overregulated. We have had the experience of this law on the books and we know what it is doing. We know how it is driving people out of business, out of jobs, out of the open world competition market.

We know, in fact, that he talked about bottled water and Perrier. Well, there are probably no Federal regulations except for possibly some fancy labeling regulations. That is a situation we find ourselves in, we are swatting at the flies and missing the elephants. So we have to make those choices and we have to decide.

We have to bring into the regulatory process cost-benefit analysis and risk assessment, which is only a commonsense approach. This is not anything

that is intended to destroy the environment and have a lesser environment, have less pure water or air. It is to bring some reasonableness, some common sense to the process.

So whether it is the physical condition of the United States or the regulatory conditions imposed by this Congress in years and years of overregulation, those are the questions before us.

Now we have a chance with this amendment to defeat the progress we want to make in regulatory reform. I urge my colleagues to defeat the Mineta amendment. Let us go forward. Let us bring common sense to the process. Let us make this Congress work for the people and for business and for jobs and for competition rather than against folks and make some commonsense improvements in the process.

I thank the gentleman for yielding to me.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment offered by the gentleman from California [Mr. MINETA].

Very simply, the House spent a week debating the issues of risk assessment and cost-benefit determinations.

I did not agree with all of the outcomes but the House has made a determination.

Unfortunately, many of the provisions of this bill go far beyond the House-passed provisions.

In one case, this bill contains a look back provision that was specifically rejected on the House floor by a vote of 206 to 220.

The bill also contains language on maximum net benefits that goes well beyond the cost-benefit language approved by the House by a vote of 415 to 15.

Mr. Chairman, we should not go beyond what the House has already done.

I urge support for the amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words in support of the amendment.

Mr. Chairman, I rise in support of the amendment. I do so because the gentleman from Florida gave a very compelling speech here. It just did not happen to be accurate. Because the reason we have the Clean Water Act, the reason we have the Clean Water Act was not because of 40 years of overregulation. It was because of 100 years of people abusing the waterways of this Nation, abusing the airways of this Nation, abusing the natural resources and lands of this Nation that the taxpayers unfortunately now have had to come back and clean up much of that mess.

Without the Clean Water Act, without the Clean Air Act, there was no industry that walked into the Congress and said, I am going to voluntarily clean up the air in the San Francisco Bay area or in Los Angeles or in Cincinnati or in Philadelphia. There was no industry that walked in here and said, I will voluntarily take our sewage, our toxic materials from the steel mills, from the chemical mills, from the refineries out of the bays, out of the rivers, nobody did that. They fought this measure tooth and nail. They have been fighting it for 30 years.

But what has been the net result? The net result is we have the cleanest industry and the most efficient industries in almost every segment of manufacturing, of doing business in the entire world.

The auto industry is now more efficient and it is cleaner. And when you read the business journals, you will understand that much of that innovation, much of that technology, much of that efficiency came about as a result of having to comply with RCRA, with clean air, with clean water.

Why does Dow Chemical now recycle what used to be toxics that were taken off their site, or duPont? Because of the efficiencies that were built in and the cost that was built in when they could no longer dump it in the river, when they could no longer dump it in the land, when they could no longer dump it in people's backyards, when they had to think about how to do it.

What happens now? We refine more oil out of every barrel. We refine more materials and refine more products that are used in exports, that are used in products in this country than ever before. Why? Because it was subsidized before. It was subsidized by throwing it into the river, by sending it up a smokestack and not caring what happened.

If Members want to see what happens to those nations that chose another route, that chose not to have clean water in the 1960's and 1970's, 1980's and 1990's, go to Eastern Europe, go to Asia. You cannot breathe. You cannot go outside of your hotel. Citizens cannot live. They cannot grow vegetables. Lands are taken out of circulation.

No, this is a monument to success.

Wonderful speech by the gentleman from Florida. It simply was not accurate. It simply was not accurate. It was a bunch of anecdotal crap that cannot be supported on the record.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BORSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 157, noes 262, not voting 15, as follows:

[Roll No. 320]

AYES—157

Abercrombie	Bentsen	Cardin
Ackerman	Berman	Clay
Andrews	Bonior	Clayton
Baldacci	Borski	Clement
Barcia	Brown (CA)	Clyburn
Barrett (WI)	Brown (FL)	Coleman
Becerra	Brown (OH)	Conyers
Beilenson	Bryant (TX)	Costello
Coyne	Kennedy (MA)	Rahall
DeFazio	Kennedy (RI)	Rangel
DeLauro	Kildee	Reed
Dellums	Kleczka	Reynolds
Deutsch	Klink	Rivers
Dicks	LaFalce	Roybal-Allard
Dingell	Lantos	Rush
Dixon	Levin	Sabo
Doggett	Lewis (GA)	Sanders
Doyle	Lincoln	Sanford
Durbin	Lipinski	Sawyer
Engel	Lofgren	Schroeder
Eshoo	Lowey	Schumer
Evans	Luther	Scott
Farr	Maloney	Serrano
Fazio	Manton	Shays
Fields (LA)	Markey	Skaggs
Filner	Martinez	Slaughter
Flake	Mascara	Spratt
Foglietta	Matsui	Stark
Ford	McCarthy	Stokes
Frost	McDermott	Studds
Furse	McHale	Thompson
Gejdenson	McKinney	Thornton
Gephardt	Meehan	Torres
Gibbons	Meek	Torricelli
Gonzalez	Menendez	Towns
Gordon	Meyers	Traficant
Green	Mfume	Tucker
Gutierrez	Miller (CA)	Velazquez
Hall (OH)	Mineta	Vento
Harman	Mink	Visclosky
Hastings (FL)	Moran	Volkmer
Hefner	Morella	Ward
Hinchey	Nadler	Waters
Holden	Neal	Watt (NC)
Hoyer	Oberstar	Waxman
Jackson-Lee	Obey	Williams
Jacobs	Olver	Wise
Jefferson	Owens	Woolsey
Johnson (SD)	Pallone	Wyden
Johnson, E. B.	Pastor	Wynn
Johnston	Payne (NJ)	Yates
Kanjorski	Pelosi	
Kaptur	Pomeroy	

NOES—262

Allard	Crane	Hall (TX)
Archer	Crapo	Hamilton
Armey	Cremeans	Hancock
Bachus	Cubin	Hansen
Baesler	Cunningham	Hastert
Baker (CA)	Danner	Hastings (WA)
Baker (LA)	Davis	Hayes
Ballenger	de la Garza	Hayworth
Barr	Deal	Hefley
Barrett (NE)	DeLay	Heineman
Bartlett	Diaz-Balart	Herger
Bass	Dickey	Hilleary
Bateman	Dooley	Hilliard
Bereuter	Doolittle	Hobson
Bevill	Dornan	Hoekstra
Bilbray	Dreier	Hoke
Bilirakis	Duncan	Horn
Bishop	Dunn	Hostettler
Bliley	Edwards	Houghton
Blute	Ehlers	Hunter
Boehlert	Ehrlich	Hutchinson
Boehner	Emerson	Hyde
Bonilla	English	Inglis
Brewster	Ensign	Istook
Browder	Everett	Johnson (CT)
Brownback	Ewing	Johnson, Sam
Bryant (TN)	Fawell	Jones
Bunn	Fields (TX)	Kasich
Bunning	Flanagan	Kelly
Burr	Foley	Kennelly
Burton	Forbes	Kim
Buyer	Fowler	King
Callahan	Fox	Kingston
Calvert	Franks (CT)	Klug
Camp	Franks (NJ)	Knollenberg
Canady	Frelinghuysen	Kolbe
Castle	Frisa	LaHood
Chabot	Funderburk	Largent
Chambliss	Gallegly	Latham
Chapman	Ganske	LaTourette
Chenoweth	Gekas	Laughlin
Christensen	Geren	Leach
Chrysler	Gilchrest	Lewis (CA)
Clinger	Gillmor	Lewis (KY)
Coble	Gilman	Lightfoot
Coburn	Goodlatte	Livingston
Collins (GA)	Goodling	LoBiondo
Combest	Goss	Longley
Condit	Graham	Lucas
Cooley	Greenwood	Manzullo
Cox	Gunderson	Martini
Cramer	Gutknecht	McCollum

McCrery	Pryce	Stenholm
McDade	Quillen	Stockman
McHugh	Quinn	Stump
McInnis	Radanovich	Stupak
McIntosh	Ramstad	Talent
McKeon	Regula	Tanner
McNulty	Riggs	Tate
Metcalf	Roberts	Tauzin
Mica	Roemer	Taylor (MS)
Miller (FL)	Rohrabacher	Taylor (NC)
Minge	Ros-Lehtinen	Tejeda
Molinari	Rose	Thomas
Mollohan	Roth	Thornberry
Montgomery	Roukema	Thurman
Moorhead	Royce	Tiahrt
Murtha	Salmon	Torkildsen
Myers	Saxton	Upton
Myrick	Scarborough	Vucanovich
Nethercutt	Schaefer	Waldholtz
Neumann	Schiff	Walker
Ney	Seastrand	Wamp
Norwood	Sensenbrenner	Watts (OK)
Nussle	Shadegg	Weldon (FL)
Ortiz	Shaw	Weldon (PA)
Orton	Shuster	Weller
Oxley	Sisisky	White
Packard	Skeen	Whitfield
Paxon	Skelton	Wicker
Payne (VA)	Smith (MI)	Wilson
Peterson (MN)	Smith (NJ)	Wolf
Petri	Smith (TX)	Young (AK)
Pickett	Smith (WA)	Young (FL)
Pombo	Solomon	Zeliff
Porter	Souder	Zimmer
Portman	Spence	
Poshard	Stearns	

NOT VOTING—15

Barton	Fattah	Parker
Bono	Frank (MA)	Peterson (FL)
Boucher	Lazio	Richardson
Collins (IL)	Linder	Rogers
Collins (MI)	Moakley	Walsh

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1530

The Clerk announced the following pair:

On this vote:

Mrs. COLLINS of Illinois for, with Mr. BARTON against.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DEFazio: Page 92, line 2, strike ''or other facility'', as inserted on page 14 of the committee amendment offered by Mr. Shuster.

Mr. DEFAZIO. Mr. Chairman, the amendment before the committee would restore three words that were in the act as it passed out of committee. Those three simple words, which were struck yesterday by the so-called technical amendments and an unamendable amendment at the beginning of consideration, are very important because they would subject the Federal Government of the United States and Federal facilities to the same laws that apply to every State, to every private entity in America and every municipal entity in America.

Should we grant a broad exemption to Federal facilities in this bill from the Clean Water Act when private contractors, industry, municipal governments, county governments, sewer districts and others cannot get such broad exemptions? I think that for the sake of consistency, most Members of the House would argue no.

We are going to hear further that this exemption is warranted for national security purposes, because most of these facilities, these are nuclear Navy facilities, are essential to the defense of the United States. There is another section in the bill, and that section allows the President of the United States, by simple Executive order, to exempt any Federal facility or operation from all the requirements of this bill, but that would require a separate action.

I would argue that that would be the more consistent way to deal with these facilities. If some of them truly need an exemption from the Clean Water Act, I do not know what they are doing or what they are putting in the water that they need exemptions. But if they need exemptions so that they can put things in the water that industries and local governments are not allowed to put in the water, then they should ask the Commander in Chief for individual exemptions so there is at least some level of accountability and scrutiny applied.

There are 10 States directly affected by this amendment, and a total of 12 States when you consider downstream entities. Again, the question is what is it that is objected to by the Federal Government? What can the Federal Government not do? What are they putting in the water?

I think the people who live in or represent those 12 States should ask that question. I think their constituents are going to ask them that question in the future. What are they putting in the water that we will not allow industry to put in the water, that we will not allow local governments to put in the water? What is the Federal Government putting in my water it needs a blanket exemption under the act?

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, am I hearing what the gentleman said correctly, that all of the Navy nuclear facilities have been taken out and you did not know about this? Did I hear what he said?

Mr. DEFAZIO. Mr. Chairman, that is correct. The committee saw fit to include them under the bill and then the technical amendments removed them from the jurisdiction of this bill.

Mrs. SCHROEDER. If the gentleman would yield again, I have always really respected him. He is one of the few who really reads the bill. I assume he did not get any notice, he just found this out?

Mr. DEFAZIO. Mr. Chairman, I am afraid that neither the staff nor I caught this before the technical amendments had gone through the Committee on Rules.

Mrs. SCHROEDER. If the gentleman will continue to yield, how many facilities are there like this? I really find it amazing that the Federal Government does not want to be under the same law as everyone else is.

Mr. DEFAZIO. This would exempt 12 Federal facilities, Mr. Chairman, from the laws that every other local government, State government and industry would be subjected to. Furthermore, we will hear, I am certain, and the gentlewoman is familiar with this from her work on the committee, the claim that they need an exemption for national security purposes.

The bill allows the President with the stroke of a pen to exempt anything, any Federal facility, if that is necessary. Beyond that, two are closed and one is being decommissioned. Why would we remove a closed or a decommissioned facility from jurisdiction under the Clean Water Act for national security purposes?

Mrs. SCHROEDER. Mr. Chairman, I thought I heard what he said and I appreciate very much the gentleman clarifying that. That is really shocking. I hope people support the gentleman's amendment.

Mr. DEFAZIO. I thank the gentlewoman.

Again, just back to the basic point here. If indeed there is a threat to national security, particularly at those closed bases or the base that is being decommissioned——

The CHAIRMAN. The time of the gentleman from Oregon [Mr. DEFAZIO] has expired.

(On request of Mrs. SCHROEDER, and by unanimous consent, Mr. DEFAZIO was allowed to proceed for 2 additional minutes.)

Mr. DEFAZIO. Mr. Chairman, again the question is, Why should we grant a blanket exemption under this bill when the President has the authority as Commander in Chief to exempt any individual military facility? In particular, why is it in the States of California, Idaho, and South Carolina that we would exempt facilities that are closed or being decommissioned? It is particularly puzzling.

Even beyond that, I think the residents of the other States, and the list is long, New York, Pennsylvania, South Carolina, Virginia, Idaho, Washington, Hawaii, Connecticut, I think the residents of those States should ask, what is it that the Federal Government is putting into the water that no industry in America is allowed to put into the water, that no local government in America is allowed to put into their water, whether it is recreational water or drinking water or just something that happens to flow through their community; what is it that the Feds are putting in that they need this blanket exemption? I think that is a question that should be answered.

All I am saying is put back in the words, subject the Federal Government to the same requirements as everyone else in this country, the same way we subjected the Congress of the United

States to the same laws as everyone else in this country, for the sake of consistency make the Federal Government follow its own laws, and if it needs an exemption for national security purposes, the bill allows it with a simple signature by the President of the United States.

Mrs. FOWLER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this amendment creates a new and duplicative regulatory authority for the EPA.

The Naval Nuclear Propulsion Program currently exercises regulatory authority over the activities affected by this amendment. This is a system that has worked well and has been found by the GAO to contain ''no significant deficiencies.'' The system is already regulated and has no need for additional or duplicative regulations by the EPA.

Contrary to our efforts to reinvent government, do more with less, and reduce unnecessary regulation, the gentleman's amendment would do just the opposite.

I am particularly concerned with the costs this would impose on the Navy. As with most other branches of the Government, the Navy is facing significant budget cuts. Adding another layer of unnecessary regulation will have the effect of imposing additional tax on the Navy and require the Navy to devote scarce resources from defense programs and missions and instead use them for yet another layer of unnecessary and duplicative regulations.

I urge my colleagues to vote against this amendment and protect scarce naval resources.

Mr. SHUSTER. Mr. Chairman, will the gentlewoman yield?

Mrs. FOWLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentlewoman for yielding.

I would make the point that this simply returns us to current law. In fact, in the Mineta clean water bill of last year, this provision was included. We are simply doing what was in last year's clean water bill.

Perhaps most importantly, I was the author of the provision to change it, and I was wrong. After I studied the issue, I came to the conclusion that the points that the gentlewoman makes are very valid points. We do not need a duplicative process. This is already regulated by the Nuclear Regulatory Commission. It works. ''If it ain't broke, don't fix it.''

Ms. FURSE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am really pleased that my colleague, the gentleman from Oregon [Mr. DEFAZIO], has brought this to my attention because I am just shocked that my constituents are not going to be told that there are nuclear materials being put into the rivers, into the waters, if that polluter is a Federal facility.

We do not allow anyone else in this country to self-regulate. It does not seem fair that private businesses are held to stricter rules, to stricter costs, much greater costs than government facilities. If private businesses are not allowed to self-regulate, why should the Federal Government be?

I represent the First Congressional District of Oregon. That is on the Columbia River. The Idaho National Engineering Lab is upstream from me. That means that my constituents of the First Congressional District of Oregon may be having nuclear materials put into the river and they are not going to be told about it. I just think that is plain wrong.

Mr. Chairman, we are sent here to speak for our constituents, to defend their health. I would like to urge my colleagues who represent districts that are downstream from these Federal facilities to make sure that we do not allow our constituents' health to be damaged.

I am going to vote yes to protect the health of my citizens on the DeFazio amendment, and I would like to urge every other Member who represents someone who is maybe downstream from a Federal facility to do the same.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, just to respond to the previous speech, I was a bit puzzled to hear that the nuclear Navy is subject to the EPA and NRC. If that were true, then there would be and there would never have been any need to include them in this bill.

They are exempt from the Clean Water Act, they are exempt from the authority of the Environmental Protection Agency, and they self-regulate. Unlike any other polluter in America, the nuclear Navy tells us they have adopted standards, they are meeting their standards and we should not worry about it.

Well, if that is good enough for the nuclear Navy, perhaps we should look at that approach for private interests or municipal interests. I resent the fact that my municipal government has to be monitored by the EPA for its sewer system. It costs money.

But at some point we do not allow self-regulation. I realize that of course the Navy is certainly holding itself to higher standards and certainly meeting its own conditions, and if that is true, then it will cost them nothing to comply.

Ms. FURSE. I say to the gentleman from Oregon [Mr. DEFAZIO], the point you make I think is really important. The city of Portland has invested $750 million in cleaning up any pollution site and they are happy to live by the rules of the EPA.

I am just shocked to find the nuclear Navy, this Federal facility, is not held to the same standards. I think it is really great that the gentleman brought it to our attention. I certainly support the amendment and hope my colleagues will do so, too.

Mr. SOLOMON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I do not have much more than 5 minutes because we have to get a budget resolution out here on the floor for next week.

Somebody posed a question a few minutes ago, what is the nuclear Navy putting in the waters that others don't? Well, they put in nuclear submarines, for one thing, torpedoes. They even put this marine in the water once.

This amendment would strike much of what was accomplished yesterday in the chairman's en bloc amendment. Let me emphasize, Mr. Chairman, and I think members ought to listen to this on both sides of the aisle. The Department of the Navy, the Department of Defense, and the Joint Chiefs under President Clinton all strongly oppose this DeFazio amendment. Keep that in mind.

☐ 1545

You know only a few years ago there was a Congressman here by the name of Synar who, like Congressman DEFAZIO, is a remnant of the nuclear freeze movement. You know they led all of that fight a few years ago.

Mr. DEFAZIO. Mr. Chairman, I rise to a point of personal privilege.

Mr. SOLOMON. Can I yield to my good friend, because the gentleman was part of the movement on this floor. You and I have debated it many times.

Mr. DEFAZIO. Will the gentleman yield?

Mr. SOLOMON. I said that with all due respect, as you know.

Mr. DEFAZIO. Mr. Chairman, I understand the gentleman perhaps is overreaching with his rhetoric. I am not aware of a movement which people signed up for. We certainly differ over the need for additional nuclear capability when we have 12,000 hydrogen bombs, that is correct.

Mr. SOLOMON. That is exactly what I was referring to, and I thank the gentleman for repeating what I just said.

But let me just say Mr. Synar and I think Mr. DEFAZIO probably, I do not know, requested that the General Accounting Office determine if there was a safety or a health or an environmental problem with the nuclear Navy. And you know what the GAO report came back with? They found no deficiencies in the area of the environmental protection, they found no deficiencies in nuclear safety, and they even found no deficiencies in occupational safety and health.

Just last month, and I think the minority side of the aisle ought to listen to this too, our President, President Clinton, praised the nuclear Navy. I would like to quote him. He said, ''Our Navy has steamed over 100 million miles on nuclear power * * * in a way that has protected the public and the environment, both here and abroad.'' And that, ladies and gentlemen, that is a fact, 100 million miles.

We all know my colleague and friend from Oregon opposes all things nuclear, but this amendment does not make sense. It is an attempt to fix something that is not only not broken, but is actually working very, very well.

In fact, I would again quote President Clinton, who just recently described the nuclear propulsion program as ''exemplifying the level of excellence we are working toward throughout our government.''

Mr. Chairman, no environmental problem exists with this program. I think we can safely assume this amendment is little more than a backdoor attempt to once again undermine an essential national security program in this country. And again I would request that Members support the position taken by the Navy and our Joint Chiefs of Staff and President Clinton and myself and vote ''no'' on this DEFAZIO amendment.

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

Mr. SOLOMON. I yield to the gentleman from Virginia, one of the most distinguished members of the National Security Committee.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding. I want to join in the comments just made by my colleague from New York, the distinguished chairman of the Rules Committee. I would only offer in addition to that if you take the record of the Navy's nuclear propulsion system, the standards of safety and their performance, the military discipline and integrity that has underlain their program for all of these years, and you wanted to make an amendment to make EPA and others subject to them and give them the money to discharge it, it might make sense, but which certainly do not add any additional cost to the taxpayers for duplicating, replicating that which is already being done in a very distinguished way.

The idea that people are putting things in your water and you do not know about it I think is basically pretty darn frivolous.

Mr. SOLOMON. Let me thank the gentleman for his comments.

Let me remind my colleagues of what is going to happen here next week. There is going to be on this floor a budget resolution which is going to lead to a balanced budget sometime at least by the year 2002. There are going to be drastic cuts in the programs in the Environmental Protection Agency, in all of these programs, and to pile yet another obligation on our Navy which is already so under-funded today is just outrageous. This amendment had better be defeated for the good of America.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words and I rise in strong support of the gentleman's amendment.

I must admit I was very, very surprised, Mr. Chairman, when I came on the floor and heard what the gentleman was saying, because I know those of us in the Colorado delegation have insisted that Federal installations be under the same laws that the private sector is. I think that has been very important and we have wanted that in our own State, and I was really shocked to find out that even though we are lessening some of these standards, we still do want these installations to be at the same standard that the private sector is. And even when if the President thought there was some reason, he could with the stroke of a pen pull them out.

So I think the gentleman's amendment is the right way to go and that is the way the bill was originally, if I remember.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I thank the gentlewoman for yielding. Yes, the bill as passed out of committee by a large margin included these Federal facilities. They would have been subjected to the same laws as all other businesses or Federal facilities in America.

The situation that would be created here, first off, vessels were never a consideration, vessels were not part of this bill. So to bring out the red herring of the nuclear submarines or nuclear-powered carriers is a red herring. They were never included.

This is shore-based fixed facilities in the United States of America which have the potential to harm American citizens. That is what we are trying to regulate here, and in fact the situation would be created if this amendment is not adopted, in Idaho we would have two different Federal agencies regulating two different standards at Idaho nuclear propulsion laboratories, because part of the property is nuclear Navy, which will be exempt from all Federal laws, and part of the property is DOE and will be subject to Federal laws. So the situation we are going to create is bizarre, and to say it is a burden or it is going to create a national security risk when we are dealing with two bases that have already been closed, two that are closed and one that is being decommissioned, that is an absurdity to say somehow by subjecting two closed bases, which perhaps, you know, pose a daily threat to nearby citizens from the Clean Water Act is a threat to our national security. The gentlewoman is on the committee of jurisdiction.

Mrs. SCHROEDER. I do not really understand it, because one of the things I found when we were going through this base-closure process was many of the citizens are very upset. They are so afraid we are going to declare these areas sacrifice zones and not clean them up, and I certainly hope that is not what we are doing in this bill, because if you are saying closed bases do not have to comply, and we are doing it to save money, well, if people who happen to live around it want it to be cleaned up, I guess what we are saying is they have to do it with their own money at the local level and the Federal Government is not going to help. I really think this is surprising, and I am particularly startled that the gentleman was not notified then that the bill was changed before it came to the House floor.

I think the gentleman's point too that he is making is he is talking about the shore installations. He is not talking about tracking ships and doing all of that, you are talking about the shore installations that should be good neighbors, and if there is some reason that cannot be that is highly classified, the gentleman is assuring me there is something in the bill that would allow the President to deal with that, am I correct?

Mr. DEFAZIO. That is correct. On page 86 beginning with line 17, ''The President may exempt any effluent source of any department, agency or instrumentality,'' et cetera, and goes on to explain there is no limitation on that authority.

Mrs. SCHROEDER. I really thank the gentleman from Oregon again for his vigilance.

Mr. CUNNINGHAM. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I am shocked, I am absolutely penetratively shocked. I do not think the gentlewoman from Colorado has even been shocked about anything in her life, especially this.

Second, I look at the individuals that are offering this. Is there any shocking doubt, the same people that would vote to cut defense $177 billion, the same ones that would put homos in the military, the same ones that would not fund BRAC, the same ones that would not clean up.

Mr. SANDERS. Mr. Chairman——

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. No, I will not. Sit down, you socialist.

Mr. SANDERS. Mr. Chairman——

Mr. CUNNINGHAM. The ludicrousness of this, even to appeal this. It is the lunacy of this, the EPA and other organizations have continually stated you take the shore-based and the surface-based, have less problems than any of your public bases, less than all of them put together.

I have operated off these carriers. I have operated out of these. You want to take a Geiger counter, go ahead. I have scuba dived underneath the docks. I am not going to do that if it is polluting. And the same people that would control with big Government the rules and the regulations and try and diminish national security, look at them, just look at them right here. And the same people. The team never changes, and you want to put these burdens, and the problems is that you fail to see the solutions to very simple problems. You state your own opinion as fact when it is not.

There are studies and studies and studies that show that there is no discharge, that it is not regulated, but yet you would cost the American taxpayers and lay on rules and regulations and have bigger Government, more facilities, more control over the regulatory factors, and that is wrong.

Mrs. SCHROEDER. Mr. Chairman, do we have to call the gentleman ''the gentleman'' if he is not one?

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in support of the amendment. I thank the chairman very much and would like the opportunity, if the gentleman from California would respond, just to ask him a brief question, if I might.

My ears may have been playing a trick on me, but I thought I heard the gentleman a moment ago say something quote unquote about homos in the military. Was I right in hearing that expression?

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

Mr. SANDERS. I yield to the gentleman from California.

Mr. CUNNINGHAM. Absolutely, putting homosexuals in the military.

Mr. SANDERS. You said something about homos in the military. Was the gentleman referring to the thousands and thousands of gay people who have put their lives on the line in countless wars defending this country? Was that the groups of people that the gentleman was referring to?

Mr. CUNNINGHAM. I am talking about the military. People in the military do not support this.

Mr. SANDERS. That is not what we were talking about. You used the word homos in the military. You have insulted thousands of men and women who have put their lives on the line. I think they are owed——

Reclaiming my time, Mr. Chairman, I would also say that if my friend in support of this amendment, if my friend from Oregon was involved in the nuclear freeze movement, I want to congratulate him. There are millions of Americans who wonder about the wisdom of spending millions and millions more dollars building more and more nuclear weapons at the same time as the Republicans are cutting back on Medicare, Medicaid, and student loans.

Furthermore, I find it incomprehensible that at a time when the vast majority of the people in this country are terribly concerned about what is going on in the environment, terribly concerned about the environmental implications of nuclear energy, that the American people do not know what is in their waterways, and that various military installations might be exempted from Federal regulatory practices.

So I very much applaud this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 126, noes 294, not voting 14, as follows:

[Roll No 321]

AYES—126

Abercrombie	Green	Olver
Baldacci	Gutierrez	Owens
Barcia	Hall (OH)	Pallone
Barrett (WI)	Hastings (FL)	Payne (NJ)
Becerra	Hefner	Pelosi
Beilenson	Hinchey	Pomeroy
Bentsen	Jackson-Lee	Poshard
Bonior	Jacobs	Rahall
Borski	Johnson (SD)	Rangel
Brown (CA)	Johnson, E. B.	Reynolds
Brown (OH)	Johnston	Rivers
Bryant (TX)	Kaptur	Roybal-Allard
Cardin	Kennedy (MA)	Rush
Clay	Kildee	Sabo
Clyburn	Kleczka	Sanders
Coleman	Lantos	Sawyer
Conyers	Levin	Schroeder
Costello	Lewis (GA)	Serrano
Coyne	Lincoln	Shays
DeFazio	Lipinski	Skaggs
DeLauro	Lofgren	Slaughter
Dellums	Lowey	Stark
Deutsch	Luther	Stokes
Dingell	Maloney	Studds
Dixon	Manton	Stupak
Doggett	Markey	Thompson
Durbin	Matsui	Torres
Engel	McCarthy	Towns
Eshoo	McDermott	Tucker
Evans	McKinney	Velazquez
Farr	Meehan	Vento
Fattah	Meek	Visclosky
Fields (LA)	Menendez	Ward
Filner	Mfume	Waters
Flake	Miller (CA)	Watt (NC)
Foglietta	Mineta	Waxman
Ford	Minge	Williams
Frank (MA)	Mink	Wise
Furse	Nadler	Woolsey
Gejdenson	Neal	Wyden
Gephardt	Oberstar	Wynn
Gibbons	Obey	Yates

NOES—294

Ackerman	Canady	Ehlers
Allard	Castle	Ehrlich
Andrews	Chabot	Emerson
Archer	Chambliss	English
Armey	Chapman	Ensign
Bachus	Chenoweth	Everett
Baesler	Christensen	Ewing
Baker (CA)	Chrysler	Fawell
Baker (LA)	Clayton	Fazio
Ballenger	Clement	Fields (TX)
Barr	Clinger	Flanagan
Barrett (NE)	Coble	Foley
Bartlett	Coburn	Forbes
Bass	Collins (GA)	Fowler
Bateman	Combest	Fox
Bereuter	Condit	Franks (CT)
Berman	Cooley	Franks (NJ)
Bevill	Cox	Frelinghuysen
Bilbray	Cramer	Frost
Bilirakis	Crane	Funderburk
Bishop	Crapo	Gallegly
Bliley	Cremeans	Ganske
Blute	Cubin	Gekas
Boehlert	Cunningham	Geren
Boehner	Danner	Gilchrest
Bonilla	Davis	Gillmor
Brewster	de la Garza	Gilman
Browder	Deal	Gonzalez
Brown (FL)	DeLay	Goodlatte
Brownback	Diaz-Balart	Goodling
Bryant (TN)	Dickey	Gordon
Bunn	Dicks	Goss
Bunning	Dooley	Graham
Burr	Doolittle	Greenwood
Burton	Dornan	Gunderson
Buyer	Doyle	Gutknecht
Callahan	Dreier	Hall (TX)
Calvert	Duncan	Hamilton
Camp	Edwards	Hansen
Harman	McCrery	Scarborough
Hastert	McDade	Schaefer
Hastings (WA)	McHale	Schiff
Hayes	McHugh	Scott
Hayworth	McInnis	Seastrand
Hefley	McIntosh	Sensenbrenner
Heineman	McKeon	Shadegg
Herger	McNulty	Shaw
Hilleary	Metcalf	Shuster
Hilliard	Meyers	Sisisky
Hobson	Mica	Skeen
Hoekstra	Miller (FL)	Skelton
Hoke	Molinari	Smith (MI)
Holden	Mollohan	Smith (NJ)
Horn	Montgomery	Smith (TX)
Hostettler	Moorhead	Smith (WA)
Houghton	Moran	Solomon
Hoyer	Morella	Souder
Hunter	Murtha	Spence
Hutchinson	Myers	Spratt
Hyde	Myrick	Stearns
Inglis	Nethercutt	Stenholm
Istook	Neumann	Stockman
Jefferson	Ney	Stump
Johnson (CT)	Norwood	Talent
Johnson, Sam	Nussle	Tanner
Jones	Ortiz	Tate
Kanjorski	Orton	Tauzin
Kasich	Oxley	Taylor (MS)
Kelly	Packard	Taylor (NC)
Kennedy (RI)	Parker	Tejeda
Kennelly	Pastor	Thomas
Kim	Paxon	Thornberry
King	Payne (VA)	Thornton
Kingston	Peterson (MN)	Thurman
Klink	Petri	Tiahrt
Klug	Pickett	Torkildsen
Knollenberg	Pombo	Torricelli
Kolbe	Porter	Traficant
LaFalce	Portman	Upton
LaHood	Pryce	Volkmer
Largent	Quillen	Vucanovich
Latham	Quinn	Waldholtz
LaTourette	Radanovich	Walker
Laughlin	Ramstad	Walsh
Lazio	Reed	Wamp
Leach	Regula	Watts (OK)
Lewis (CA)	Riggs	Weldon (FL)
Lewis (KY)	Roberts	Weldon (PA)
Lightfoot	Roemer	Weller
Linder	Rohrabacher	White
Livingston	Ros-Lehtinen	Whitfield
LoBiondo	Rose	Wicker
Longley	Roth	Wilson
Lucas	Roukema	Wolf
Manzullo	Royce	Young (AK)
Martini	Salmon	Young (FL)
Mascara	Sanford	Zeliff
McCollum	Saxton	Zimmer

NOT VOTING—14

Barton	Dunn	Peterson (FL)
Bono	Frisa	Richardson
Boucher	Hancock	Rogers
Collins (IL)	Martinez	Schumer
Collins (MI)	Moakley	

☐ 1619

The Clerk announced the following pairs:

On the vote:

Mrs. Collins of Illinois for with Mr. Bono against.

Mr. Moakley for, with Ms. Dunn against.

Miss Collins of Michigan for, with Mr. Frisa against.

Messrs. BERMAN, MORAN, and JEFFERSON, and Mrs. CLAYTON changed their vote from ''aye'' to ''no.''

Mrs. LINCOLN changed her vote from ''no'' to ''aye.''

So the amendment was rejected

The result of the vote was announced as above recorded.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was not on the floor during the last debate, but I was informed of some of the remarks that I want to address. I am here, Mr. Chairman, referring to the comment of the

Member from California in opposition to the last amendment in which he said that this was to be expected from those who supported homos in the military.

Mr. Chairman, I very much regret taking the time away from Members on this serious subject, but the time is over when I will let that kind of gratuitous bigotry go unchallenged, and I take the floor simply to express my contempt for the effort to introduce such unwarranted and gratuitous slurs on decent human beings on the floor of this House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I want to join with the distinguished gentleman from Massachusetts [Mr. FRANK] in expressing my shock, outrage, and contempt for what was said on the floor of this House a little while ago. To express gratuitous bigotry when the subject of gays and lesbians in the military was not on the agenda—we are debating an environmental bill—for someone to get up and make an ad hominem attack on an environmental bill by saying, ''What do you expect from someone who would support homos in the military,'' is beneath the dignity of what should be uttered on the floor of this House and deserves condemnation by every decent individual in this House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, first of all it was not the only item mentioned. It is a series of things in which the liberals in this House have supported their social agenda.

Second, do I support homosexuals in the military? The answer is no. I personally believe that it affects readiness; yes, I do.

Does the majority of the military, men and women in the military, want homosexuals in the military? The answer is no, and, as long as the military leaders and those people feel that way, and if the gentleman could ever prove to me that that does not have an effect, then I will change that position, but that is the position currently, that it affects the national security and readiness of this country, and that is what I support.

Mr. FRANK of Massachusetts. Mr. Chairman, I come to Congress prepared to do a number of things that are difficult. I like the job, and I will undertake them, but trying to prove anything to the gentleman from California goes beyond the pale of my oath, and I will not try.

I will say again that we are not here talking about the merits of that issue. We are talking about the gratuitously bigoted formulation of it by which it was injected into this debate, and I find that to be beneath the dignity of the House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, as I understood the statement which was directed at me, it was not to say that I wanted to put them in the military. Well, I have news for the gentleman from California. There are quite a number of gays and lesbians serving proudly in the U.S. military, unfortunately not serving proudly and openly because of the fact that people like him exist and have pressured, as my colleagues know, the President and others to deny that opportunity to those people.

Mr. FRANK of Massachusetts. Let me say to the gentleman I do not want to get diverted. I am not here debating the substance of the policy; we have done that, and we will do it again. I am particularly calling attention to the formulation, the gratuitously, I believe, bigoted and insulating formulation, and I am very disappointed to see that language on the floor of the House.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. CUNNINGHAM. I think the gentleman would be correct if that is the only issue. I meant it. I said it as a policy of the people in general that support the issues that degrade national security of this country, and that is one of those many issues which the gentleman supports, and in a case of amendment that is absolutely ridiculous, it was meant to formulate those same people that do not support defense are trying to tie the hands of defense even in the future.

Mr. FRANK of Massachusetts. The defense of a bigoted remark, and it was one of several remarks, makes even less sense than I had expected. I am talking about the formulation. It was bigoted, and I would hope it would not be repeated.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

First of all, it is not a bigoted statement. Many times the gentleman from California [Mr. DELLUMS] has told me that people have differences of opinion. It is this Member's opinion that homosexuals in the military do not do service to the national security of this country, and in that vein making a statement that those that support that are supporting the nonreadiness of defense is—and I will be happy to yield in just a second.

The second thing is that there is a tendency by the Members that support that kind of activity, support all the rest of it, and it is meant that we need to support national security in this country.

I say to my colleagues, ''A bigoted statement, if I was directing it to you or anybody else in this thing, in other contexts, yes, would be bigoted, but a personal opinion, that it degrades the national readiness of this country, is not a bigoted statement.''

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I was referring in part to the formulation of homos in the military. The gentleman has been very careful since that time to say homosexuals, but he was not very careful when he got up on the floor, and I took specific offense to the deliberately bigoted and belittling form of words that he chose to use.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, let me say that I used the shorthand term, and it should have been homosexuals instead of homos. We do misspeak sometimes.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the previous speaker, the gentleman from California, attempted to make a correction in the utilization of the word homo or homosexuals. I just want to reemphasize the point that I think my colleagues are making on this side of the aisle. It is the point that we were discussing an environmental issue, and it is the point that for some reason it was thought appropriate to intrude a discussion on another nonmeritorious issue that gave some suggestion that the gentleman was throwing stones, if my colleagues will, at a person for having supported a group of people on another issue on another point. That to me seems to suggest bigotry, and maybe the gentleman did not mean that, and we would accept, certainly, his clarification and even an apology, but it is certainly my understanding that, if my colleagues were discussing one issue, and someone throws another issue in and castigates a group of people, then he has clearly made it an issue of discrimination and bigotry. Inappropriate behavior and words, and this certainly calls for an apology to both the colleague that was speaking and, as well, the whole group that he has maligned.

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NADLER: Page 50, strike line 19 and all that follows through line 10 on page 52.

Mr. NADLER. Mr. Chairman, I rise today so that we will not have to see signs like the one to my left in the future. It is the right of citizens of this country to have clean water. If this bill is passed in its current form, the signs will never come down.

During the committee markup of this legislation, Mr. Chairman, I introduced an amendment that would have deleted a section of the bill that allowed pollution controls to be lowered or eliminated for waterways that had already

been cleaned up if the cost of maintaining those controls outweighed the benefit of maintaining the level of water quality in the opinion of the State. I would like to commend the gentleman from Pennsylvania [Mr. SHUSTER] for taking this section of the bill out of the bill in his en bloc amendments we adopted yesterday. While I am pleased this was done, I believe we must go further.

The bill still permits States to abandon all efforts to attain the previously set water quality goals, or even any water quality goals at all, if the State determines that in its opinion the cost of reaching the designated water quality standard outweighs the benefit.

□ 1630

My amendment would delete this section of the bill and maintain the current process in which the designated use, the designated quality, fishable, swimmable, navigable, can be reviewed by the State every 3 years.

I ask my colleagues to support this amendment for the following reasons: First, this bill waives Clean Water Act quality standards if the cost outweighs the benefit of keeping the water clean.

I ask, how do you measure the benefit of parents being able to take their children fishing, or of children using their favorite watering hole, or a fisherman making their livelihoods, and how do you determine whether that outweighs the cost of attaining that level of water quality?

The bill does not define what constitutes a benefit that would outweigh the cost, and vice versa. The bill does not define how to measure the cost versus the benefit and what standards to apply to measure which exceeds the other.

Second, proponents of this bill never referred to any problems with the current guidelines for determining how clean the waterway must be, what standards must be attained, nor does this bill try to modify existing guidelines. They do not identify why we should change it.

Instead, the bill reflects the notion that if a State believes it is too expensive to reach the water quality levels set pursuant to the standards that it already determined, and that it can change every 3 years, then you can just stop, or not try quite as hard to clean up the water.

The bill essentially says in this section that we do not really care about the health and well-being of the people using this water. If it is expensive for a polluter to clean up the water, do not bother. In other words, the cost to the polluter is more important than the health of our children under this text.

Third, the current law gives the States ample flexibility to adjust the designated uses of a waterway and the level of water quality they must attain. Current law reflects that every 3 years this must be reviewed in the practicality of keeping the designation of each waterway, whether it be fishable, swimmable, navigable, must be reviewed every 3 years. They must take into account health, safety, agricultural, industrial, and recreational uses of the waterway. The States can then, after EPA approval, increase the amount of pollution that is allowed into those waters.

Some of my colleagues argue we should trust the States to make these determinations without EPA approval and allow them greater flexibility. But this is not just a matter of trusting the States. It has to do with preventing polluters, big businesses, from in essence blackmailing the States by saying to a State if you do not lower the water quality standards, we will move to the other States and we will take our taxes and our jobs with us.

The only way to protect the States against this form of blackmail by big polluters is to have the EPA still have a role to set minimal standards, so that the State can say well, while you may be able to move because you do not want to attain the quality standards here, but you will not be able to do the same kind of pollution in the next State either.

It also has to do with preventing interstate pollution. If one State lowers its water quality standards in their section of a river, that pollution then flows down the river to other States that need the same water for fishing or recreational, agricultural, fishing or drinking purposes. As I mentioned earlier, the States already have the ability to lower water quality standards if they need to do so. But by including this cost-benefit analysis without any guidelines, it gives too much leverage to large polluters.

Finally it says that the State may eliminate the water quality standard if the State determines that the costs of achieving the designated use are not justified by the benefits. It can go to no standard at all.

In conclusion, Mr. Chairman, we must adopt this amendment and get rid of this language if we are going to attain a safe and healthy environment for people to fish, swim, and drink the water.

Mr. MICA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am afraid that the gentleman from New York has presented an amendment in search of a problem. States actually have asked for this flexibility, and States currently set these standards now. What we are looking at proposing in our legislation is to allow a reasonable change and a reasonable opportunity to make changes under reasonable circumstances.

The amendment of the gentleman from New York [Mr. NADLER] strikes the provisions of H.R. 961 that allow States to take costs and benefits into account in revising designated uses of water bodies.

Let me point out that in 1975, the administrator required States to designate all navigable waters for which a use had not been designated as follows: They are either fishable, swimmable, and that is to use the quote, the designation by the administrator. They are designated as fishable-swimmable.

As a result, many of the waters have received a designated fishable-swimmable category and an unrealistic designated use. For example, streams in the arid West that are dry most of the year have been designated as fishable and swimmable.

The bill that we have proposed changes current regulations, the revision of designated uses, in two ways. Let me explain those two ways. First, current regulations allow a State to revise designated uses if it demonstrates to EPA that achieving the designated use is infeasible. The bill allows the State to make the determination of feasibility, but feasibility is still defined by EPA.

Second, and let us look at the second point, under current law designated uses may be revised only if attaining the use will result in substantial economic dislocations.

Certainly the author of this amendment is very familiar with economic dislocations. I had the opportunity to visit his district some time ago, and I saw the skyline of his district and the vacated factories, and I think he told how many hundreds of thousands of manufacturing jobs have been gone, how the piers are abandoned and how the housing tenements are abandoned. So we know about this question of substantial economic dislocation. I am sure the gentleman is familiar with that.

Let me say that H.R. 961 allows States to revise a designated use that is not being attained if the cost of attainment is outweighed by the benefits. So what we are trying to do is something reasonable. This is a reasonable approach, and this is an approach that we think makes a lot of sense. So we are using costs and benefits here in a manner that will give flexibility to the States, and the States have requested this flexibility.

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

Mr. MICA. I yield to the gentleman from New York.

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

Mr. Chairman, the gentleman from Florida is quite correct when he says that we are granting this flexibility to the States. The key difference, of course, is that under current law the administrator of EPA has to agree with the State that is changing the designated use that it meets the requirements of the law. That in effect is being removed here. Here the final authority is the States. That is exactly the kind of flexibility which would mean that there would be no uniform standard across the country to make sure that States are in fact making proper progress toward Clean Water Act standards, and that is a key difference.

Mr. MICA. Reclaiming my time, if I may, again, I think feasibility is still defined under our legislation by the Environmental Protection Agency. They will be a participant in this process. Indeed, the gentleman from New York is offering an amendment that is in search of a problem that does not exist, that we have a broad base of support for this from the States, from governors, from counties and cities and local officials. What we are trying to do is take some of the unreasonable approaches, and I gave an example, swimmable-fishable in the desert, in an area that may have water in it a few days a year. This does not make sense.

So we are just trying to take a common sense approach, look at this, and move forward.

Mr. MINETA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment.

Adoption of the amendment will preserve the current, cooperative system of States and EPA combining in the protection of State water quality consistent with the States' goals and desires.

Designated uses are set by the States. They reflect the use of the waterbody which the State determines is appropriate—not what the Federal Government determines is appropriate.

Currently, States may change a designated use if attaining the use is not feasible because the more stringent controls would result in substantial and widespread economic and social impact. The bill would expand the ability to downgrade water quality standards if a State determines that the costs of achieving the designated use are not justified by the benefits.

This gives much too great an emphasis on cost at the expense of environmental and human health impacts. Cost is and always should be of concern in the Clean Water Act. However, cost should be used when determining the method of achieving water quality goals—it should not operate as a limit upon those goals.

If this amendment is rejected, the bill would allow cost to become the overriding concern in establishing water quality standards. That is not the way to achieve expected water quality.

The American people want and expect clean, healthy water in their rivers, lakes and coastal areas. The Nadler amendment will help assure that the wishes of the people are fulfilled. Support the amendment.

Mr. WAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I came to the well yesterday and talked about the pendulum of regulation being pulled back to the middle, not going back to where we were, but to where we should be based on a reasonable balance of regulation.

One of the other defining issues, I believe, in this new Congress is this notion of do we trust those that we elect to office in our respective States with a lot of the decisions that come before the people in those States. We do not have to federally micro-manage every specific element of every program.

We need to Clean Water Act. We do agree with the concept of clean water. But overregulation, I believe, is what brings us to this debate in 1995 to amend the Clean Water Act with some reasonable amendments. I believe the States will do the right thing. I believe the elected leadership of our States are closer to the people, they are more responsible to the people. And I believe that sometimes costs can shut down a free market and there needs to be a reasonable balance of regulation.

That is what we are here today, yesterday, and even tomorrow to debate with these revisions to the Clean Water Act.

I clearly believe that this amendment goes too far again with Federal micro-management of many decisions that can be best made by our States. The 10th amendment clearly articulates the difference here between the Federal micro-management and the rights we should have in our States.

Mr. Chairman, I encourage our friends from both sides of the aisle to oppose this amendment.

□ 1645

Mr. NADLER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. SHUSTER. Mr. Chairman, reserving the right to object, the gentleman has already spoken; has he not?

The CHAIRMAN. That is correct. That is the purpose of the Chair asking if there was objection.

Mr. SHUSTER. Did the gentleman ask for 2 additional minutes?

Mr. NADLER. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. NADLER] is recognized for 2 additional minutes.

There was no objection.

Mr. NADLER. Mr. Chairman, the fundamental question in this amendment is twofold. One, do we not believe, do we recognize that the water quality standards are not, first of all, an issue only with respect to one State? Rivers flow through several States. It is not simply the case that a decision on the quality of water only affects necessarily that one State. When one State decides to permit pollution to continue because it thinks it is too expensive, the costs outweigh the benefits, that will affect the next State the river runs through. This is not simply something that we can keep within one State.

Second, it is not simply a question of do we trust the States? We know that the States are subject to pressures that exceed what the Federal Government is exposed to. We know that the polluting businesses have a major way, a major leverage over the State to tell the State, You had better give us this ability to keep polluting. Do not make us spend this money or move to the other State.

That does not mean the State officials necessarily agree that it is better to let the pollution continue. But they might agree that they have no choice but to submit to this ultimatum and say, We will let you continue polluting. We will lower the water quality standards because we do not want to lose the jobs and the taxes.

The Federal Government is not subject to that pressure and therefore can better represent, therefore has to be in a partnership with the State to represent the interests of the people to fishable, navigable, swimmable, drinkable, safe, clean water.

Therefore, I urge the adoption of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NADLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 294, not voting 19, as follows:

[Roll No. 322]

AYES—121

Abercrombie	Gephardt	Owens
Ackerman	Gibbons	Pallone
Andrews	Gonzalez	Pastor
Baldacci	Gutierrez	Payne (NJ)
Barrett (WI)	Hastings (FL)	Pelosi
Becerra	Hinchey	Pomeroy
Beilenson	Hoyer	Rahall
Berman	Jackson-Lee	Rangel
Bonior	Jefferson	Reed
Borski	Johnson, E. B.	Reynolds
Brown (CA)	Johnston	Rivers
Brown (FL)	Kennedy (MA)	Roybal-Allard
Brown (OH)	Kennedy (RI)	Rush
Bryant (TX)	Kildee	Sabo
Cardin	Kleczka	Sanders
Clay	LaFalce	Sawyer
Clayton	Lantos	Schroeder
Clyburn	Levin	Scott
Coleman	Lewis (GA)	Serrano
Conyers	Lipinski	Skaggs
Coyne	Lofgren	Slaughter
DeFazio	Lowey	Stark
DeLauro	Luther	Stokes
Dellums	Maloney	Studds
Deutsch	Manton	Thompson
Dicks	Markey	Torricelli
Dingell	Matsui	Towns
Dixon	McCarthy	Tucker
Durbin	McDermott	Velazquez
Engel	McHale	Vento
Eshoo	McKinney	Ward
Evans	Meek	Waters
Farr	Menendez	Watt (NC)
Fattah	Meyers	Waxman
Fields (LA)	Mfume	Williams
Filner	Mineta	Wise
Flake	Mink	Woolsey
Foglietta	Nadler	Wynn
Forbes	Oberstar	Yates
Ford	Obey	
Gejdenson	Olver	

NOES—294

Allard	Armey	Baesler
Archer	Bachus	Baker (CA)

Baker (LA)	Gillmor	Nethercutt
Ballenger	Gilman	Neumann
Barcia	Goodlatte	Ney
Barr	Goodling	Norwood
Barrett (NE)	Gordon	Nussle
Bartlett	Goss	Orton
Bass	Graham	Oxley
Bateman	Green	Packard
Bentsen	Greenwood	Parker
Bereuter	Gunderson	Paxon
Bevill	Gutknecht	Payne (VA)
Bilbray	Hall (OH)	Peterson (MN)
Bilirakis	Hall (TX)	Petri
Bishop	Hamilton	Pickett
Bliley	Hansen	Pombo
Blute	Harman	Porter
Boehlert	Hastert	Portman
Boehner	Hastings (WA)	Poshard
Bonilla	Hayes	Pryce
Brewster	Hayworth	Quillen
Browder	Hefley	Quinn
Brownback	Hefner	Radanovich
Bryant (TN)	Heineman	Ramstad
Bunn	Herger	Regula
Bunning	Hilleary	Riggs
Burr	Hilliard	Roberts
Burton	Hobson	Roemer
Buyer	Hoekstra	Rohrabacher
Callahan	Hoke	Ros-Lehtinen
Calvert	Holden	Rose
Camp	Horn	Roth
Canady	Hostettler	Roukema
Castle	Houghton	Royce
Chabot	Hunter	Salmon
Chambliss	Hutchinson	Sanford
Chapman	Hyde	Saxton
Chenoweth	Inglis	Scarborough
Christensen	Istook	Schaefer
Chrysler	Jacobs	Schiff
Clement	Johnson (CT)	Seastrand
Clinger	Johnson (SD)	Sensenbrenner
Coble	Johnson, Sam	Shadegg
Coburn	Jones	Shaw
Collins (GA)	Kanjorski	Shays
Combest	Kaptur	Shuster
Condit	Kasich	Sisisky
Cooley	Kelly	Skeen
Costello	Kennelly	Smith (MI)
Cox	Kim	Smith (NJ)
Cramer	King	Smith (TX)
Crane	Kingston	Smith (WA)
Crapo	Klink	Solomon
Cremeans	Klug	Souder
Cubin	Knollenberg	Spence
Cunningham	Kolbe	Spratt
Danner	LaHood	Stearns
Davis	Largent	Stenholm
de la Garza	Latham	Stockman
Deal	LaTourette	Stump
DeLay	Laughlin	Stupak
Diaz-Balart	Lazio	Talent
Dickey	Lewis (CA)	Tanner
Doggett	Lewis (KY)	Tate
Dooley	Lightfoot	Tauzin
Doolittle	Lincoln	Taylor (MS)
Dornan	Linder	Taylor (NC)
Doyle	Livingston	Tejeda
Dreier	LoBiondo	Thomas
Duncan	Longley	Thornberry
Edwards	Lucas	Thornton
Ehlers	Manzullo	Thurman
Ehrlich	Martinez	Tiahrt
Emerson	Martini	Torkildsen
English	Mascara	Traficant
Ensign	McCrery	Upton
Everett	McDade	Visclosky
Ewing	McHugh	Volkmer
Fawell	McInnis	Vucanovich
Fazio	McIntosh	Waldholtz
Fields (TX)	McKeon	Walker
Flanagan	McNulty	Walsh
Foley	Meehan	Wamp
Fowler	Metcalf	Watts (OK)
Fox	Mica	Weldon (FL)
Frank (MA)	Miller (FL)	Weldon (PA)
Franks (CT)	Minge	Weller
Franks (NJ)	Molinari	White
Frelinghuysen	Mollohan	Whitfield
Frost	Montgomery	Wicker
Funderburk	Moorhead	Wilson
Furse	Moran	Wolf
Gallegly	Morella	Wyden
Ganske	Murtha	Young (AK)
Gekas	Myers	Young (FL)
Geren	Myrick	Zeliff
Gilchrest	Neal	Zimmer

NOT VOTING—19

Barton	Hancock	Richardson
Bono	Leach	Rogers
Boucher	McCollum	Schumer
Collins (IL)	Miller (CA)	Skelton
Collins (MI)	Moakley	Torres
Dunn	Ortiz	
Frisa	Peterson (FL)	

☐ 1708

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Watts against.

Mr. Moakley for, with Mr. Barton against.

Miss Collins of Michigan for, with Ms. Dunn of Washington against.

Mr. MASCARA and Ms. FURSE changed their vote from ''aye'' to ''no.''

Mr. HOYER changed his vote from ''no'' to ''aye''.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR OBERSTAR

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OBERSTAR:

Page 100, strike line 5 and all that follows through the first period on line 10 on page 101.

Page 102, line 1, strike ''Such demonstration'' and all that follows through the first period on line 3.

Page 114, strike line 17 and all that follows through line 4 on page 115.

Page 115, line 5, strike ''(n)'' and insert ''(m)''.

Page 117, line 4, strike ''(o)'' and insert ''(n)''.

Page 117, line 6, strike ''(q)'' and insert ''(p)''.

Page 117, line 10, strike ''(p)'' and insert ''(o)''.

Page 117, line 12, strike ''(r)'' and insert ''(p)''.

Mr. OBERSTAR. Mr. Chairman and colleagues, nonpoint source pollution is the next frontier of our clean water program. The Nation has done very well in cleaning up pollution from point sources. Over the past 20-plus years since the Clean Water Act was enacted in 1972, industry and municipalities both have spent on the order of $230 billion cleaning up point sources.

Yet, although a measure of progress has been made in our lakes and streams, we still have unacceptably high levels of pollution, principally coming from runoff from open land sources: agricultural lands, lands under development for housing or other purposes, forestry lands that have not been properly protected.

The most egregious effect of such runoff from nonpoint source was the already-referred-to attack of Cryptosporidium in the city of Milwaukee a couple of years ago, where runoff from agricultural land carried with it a deadly disease; it got into the drinking water of the city of Milwaukee, and affected some 400,000 citizens, of whom 120-plus died.

Those illnesses and those deaths could have been prevented with effective nonpoint source protection programs. I spent some 10 years attempting to develop such language, which was included in the committee bill introduced by our chairman in the last Congress, the gentleman from California [Mr. MINETA], and which I have very strongly advocated.

That bill died with the 103d Congress, and in the current legislation, the bill before us does attempt to deal with the issue of nonpoint source. I commend our current chairman, the gentleman from Pennsylvania, Mr. SHUSTER, for attempting to address this issue.

However, there are two fatal shortcomings in this bill that make the nonpoint source program utterly ineffective. The first is one that introduces into this debate a totally new concept. On section 319 (B)7, subsection 7, there is language providing for an exemption for whole farm or ranch natural resources management plans, but nowhere in the bill are those two items defined. Nowhere in legislative language do we have those items clarified.

Yes, there is some reference to it in committee report language, but as we all know, when an issue of this kind is challenged in court, the court does not look to committee report language. It scarcely looks at the debate that we conduct here on the floor. It looks to the legislative language, and there is no definition of what is a whole farm or a ranch natural resources management plan.

The bill, therefore, in that section, where it should be addressing runoff from open sources, pesticides, fungicides, rodenticides, fertilizers, herbicides, makes no such reference, has no control mechanism. Then in a further section, the bill provides some funding, for which I do commend our chairman.

It starts off at $100,000 and goes up to $300,000 a year. Then it says ''However, if the appropriation level does not meet the authorization level, the enforcement does not follow.'' The State is not required to enforce the program. EPA has no enforcement authority.

This scenario, and in these tight budget times, that language becomes a self-fulfiling prophecy. If we get close, say $95 million in appropriation, but not $100 million, there is no requirement for enforcement. There is some sort of language that suggests that if the administrator of EPA and the State together certify that the amounts appropriated are sufficient to meet the requirements of the section, that the deadline then will be enforced.

I do not think that will ever happen. I do not think we are ever going to have a Governor saying less will do more.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

□ 1715

Mr. OBERSTAR. Mr. Chairman, although we know the pressures and constraints and we know very well what enormous pressures there will be on Governors not to move to the stage of compliance, I want to see compliance. I want to see our open spaces, runoff of pollution from open lands, cleaned up.

That is the next frontier. That is the challenge that we must meet. This bill gives 19 years to get to that point, but the deadline will always be a mirage. It will always be out there just beyond our grasp because the funding will never be there.

I wish the Chair would agree to a means in which we could accomplish that the objective without having it slip from our grasp and not be so elusive as this bill provides.

I urge my colleagues to support my amendment, which strikes those provisions and puts some teeth into the nonpoint source provisions of this bill, which otherwise are reasonably good.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am surprised that my good friend from the great agricultural State of Minnesota would come forward with a provision that really guts, eliminates whole farm planning in the State's non-point source management program. Essentially what this amendment says is, once again, we do not trust the States. Once again, we in Washington know best.

In fact, we have a letter from the National Governors Association dated just yesterday in which they urge strong support for the language that we have in the bill. They say, ''We support this approach to non-point source pollution.''

So the Governors are strongly in support of what we are attempting to do here, and I think it is time that we trust our States and do not come to the conclusion that Washington always know best.

The whole farm plan is a voluntary initiative that makes environmental sense. What is very significant is that there must be approval from the water quality people in the State, through a written memorandum of agreement, that the whole farm plan is consistent with a non-point source management program before such a whole farm plan can be adopted in the State.

That is fair. That says that we do put emphasis on the environment. That says there has got to be a non-point source management program in a State.

Further, I may not agree with too much of what the Clinton administration is attempting to do, Mr. Chairman, but the Clinton administration, and I say to my friends on the other side of the aisle, the Clinton administration has proposed the whole farm plan in the 1995 farm bill. It is a Clinton farm initiative and it is a good one, and we should support it.

In fact, as to the issue of the definition of what this plan should be, first of all, it is indeed defined in the report; but much more importantly than being defined in the report, we looked to the Committee on Agriculture of this House to define it in the farm bill.

That is where the definition should take place. It is a farm issue. The farm bill should be the place where the definition is provided. We have confidence in the Committee on Agriculture to do that. Further, the gentleman's amendment also strikes the safeguards against unfunded mandates. This is an extremely important point.

The last thing I think we want to do around here is eliminate safeguards against unfunded mandates. Indeed, if the appropriation is enough in any given year to allow the States to implement the program, there is no slippage of deadlines.

For all of those reasons, I think we should support our farmers, we should support our Governors, we should support our States, and we should reject this amendment.

Ms. FURSE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have here in my hand a letter from the Governor of Oregon. He says in this letter, ''The State of Oregon is opposed to H.R. 961. This bill includes several unacceptable provisions that would undermine the careful balance of the Clean Water Act.''

He goes on to say, ''Proposals raise significant concerns that the progress made in improving water quality over the last 20 years will be traded in for short-term economic gains without sufficient consideration of the long-run costs.''

''The proposals,'' he says, ''which raise the greatest concern in Oregon include failure to add clear deadlines, goals, and consequences to the nonpoint source program.''

For 95 percent of Oregon's 100,000 miles of streams, non-point pollution is the only source of pollution. Yet H.R. 961, as the Governor has said, does not provide clear guidance or goals to address non-point source pollution. Even worse, the bill would repeal the State's existing coastal zone non-point pollution programs.

In other words, for 95 percent of the State's streams, the Oregon streams, H.R. 961 would not only fail to make any progress in combating water pollution problems, it would actually undermine existing programs.

Mr. Chairman, I find it a little ironic that the 104th Congress, which has repeatedly said it is a protector of States' rights, is now advocating to pull the rug from under States like Oregon which are diligently trying to improve the quality of life inside their borders.

There is absolutely no point to H.R. 961's non-point provisions. I urge my colleagues to oppose them by supporting the amendment of the gentleman from Minnesota [Mr. OBERSTAR] which would put teeth into non-point source pollution protections.

Mr. EMERSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the gentlemen's amendment to strike the provisions of the bill supporting the concept of whole farm and ranch management programs. The provisions as included in the bill have the support of many major commodity groups (including the U.S. Wheat Growers, National Cotton Council, National Corn Growers, American Soybean Association), several farm and agribusinesses organizations (American Farm Bureau, National Council of Farm Cooperatives), along with that of the National Governor's Association and the National Association of the State Departments of Agriculture. These provisions direct the EPA Administrator, in coordination with the U.S. Department of Agriculture, to consult with individual States in order to reduce or eliminate conflicting requirements and guidelines relating to nonpoint source pollution—this amendment removes those incentives.

As I have stated in this body many times over the years, American farmers and ranchers are the original stewards of the land. No one has a greater interest in maintaining and improving the quality of their soil and water than the domestic farm and ranch producer. I have also noted that the hard-working men and women of today's farming and ranching communities are willing to further commit themselves to continued responsible soil and water practices. These provisions direct farmers and ranchers to work with their individual State in developing and implementing a voluntary plan to address nonpoint source pollution.

For too long, agricultural producers have been subject to onerous rules and regulations from both the federal and state level. In many cases, this confusion has deterred efforts to exercise common-sense, nonpoint source pollution reduction efforts. By rejection of this amendment, farmers and ranchers will be able to utilize sound conservation practices, such as Best Management Practices, low-tillage, no-tillage, buffer strips, and a variety of other USDA approved management practices in their crop production efforts.

Individual farmers and ranchers finally deserve the opportunity to prove their commitment to nonpoint source pollution reduction without the heavy-handed, inflexible mandatory demands of Washington's federal bureaucracy. I ask the Members of this body to reject this attempt to take away incentives to provide some much-needed flexibility to our nation's farmers and ranchers to adopt proven plans to improve water quality on agricultural lands.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support this amendment. It would eliminate two of the most egregious loopholes in the nonpoint source section of the bill.

First, the amendment would strike a provision that exempts agricultural producers from the nonpoint provisions of the Clean Water Act, if a producer has in place a plan referred to as a ''whole farm or ranch natural resources management plan.''

I want to be clear at the outset. I have no objection to the concept of whole farm plans. It makes a lot of sense for farms that are subject to numerous planning requirements to consolidate them into a comprehensive management plan. But that is not what H.R. 961 does.

H.R. 961 creates a mechanism for escape from Clean Water Act coverage without any assurance whatsoever that a farm plan will even address nonpoint source pollution.

Any farmer who prepares a document and calls it a whole farm plan can be out of the nonpoint program entirely.

The bill contains no specifications or standards as to what the farm plan should address, or what it should attempt to accomplish.

There is no requirement that the State or Federal environmental agencies with expertise in protecting water quality play any role in ensuring that these plans address water quality concerns.

In fact, there is no requirement that the plans include measures to address water quality concerns.

H.R. 961 removes from the reach of the Clean Water Act the single greatest source of water quality impairment. By allowing whole farm plans to serve as compliance, the bill takes away from States the ability to require nonpoint control by these producers, even if the State program is not making progress in controlling nonpoint pollution. This will unnecessarily hamper the efforts of States in achieving environmental results.

The Oberstar amendment also would strike provisions that improperly make environmental protection contingent on receipt of Federal funding. Requirements on States for assessments, nonpoint program implementation and monitoring would all be delayed one year for each year that the Federal appropriation for nonpoint programs falls even one dollar short of the amount authorized. And, the amount of federal assistance provided will be taken into consideration in determining whether a State's program is making reasonable progress toward attainment of water quality standards.

These concepts of linking Clean Water Act goals with Federal funding are bad policy and are certain to thwart any progress in addressing the largest remaining source of pollution. The Clean Water Act has never been a fully federally funded program. Individuals and corporations have responsibilities not to contaminate their neighbors' water regardless of whether they receive any payments from the Federal Government.

As with all of the loopholes in the bill, someone will pay the price. Nonpoint sources of pollution need to do more, not less, to reduce water pollution. That is the only way to avoid disproportionate burdens on industrial and municipal dischargers, and enormous losses to the tourism industry, recreation and others. And, it is the only way we can achieve the quality of water that our citizens expect and deserve.

I urge my colleagues to support the Oberstar amendment.

□ 1730

Mr. LATHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strongest possible opposition to the Oberstar amendment. This is an amendment that every single member of the House should oppose.

First of all, as a fourth generation family farmer, I cannot stress strongly enough how offensive the Oberstar amendment is. We, in agriculture, are sick and tired of Washington, DC, bureaucrats treating us with contempt.

There is general agreement among people who understand agriculture that Best Management Practices are the most cost effective programs for reducing agricultural run-off. That is the responsible principle that this bill seeks to put into affect.

And, who are the experts on agricultural run-off? I assure you that the answer is not the bureaucrats at EPA.

H.R. 961 puts the responsibility of developing Best Management Practices in the hands of the USDA.

The Oberstar amendment demonstrates contempt for farmers and contempt for the USDA.

As far as the unfunded mandates portion of the Oberstar amendment, President Clinton has already signed into law the Unfunded Mandates Reform Act to prevent exactly this type of legislation from being passed by Congress.

The provisions of H.R. 961 are simple, but fair. The bill makes an estimate of annual needs toward attaining the goals of the Clean Water Act. If Congress does not appropriate these funds, compliance deadlines for the States are delayed.

This is the type of unfunded mandate relief that both Houses of Congress have already approved overwhelmingly and is already Federal law.

The Oberstar amendment says ''forget all that, let's pretend that the unfunded mandate bill never passed. Let's go back to business as usual, passing the buck as we've done before.''

Even if you didn't support unfunded mandate reform, you should respect that this is now the law of the land. No Member, no matter how you feel about the rest of the bill, should support this amendment.

Vote ''no'' on the Oberstar amendment. It's an insult to farmers. It deserves to be defeated resoundingly. In fact, it deserves to be defeated unanimously.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. OBERSTAR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBERSTAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 290, not voting 22, as follows:

[Roll No. 323]

AYES—122

Abercrombie	Gutierrez	Owens
Ackerman	Harman	Pallone
Andrews	Hastings (FL)	Payne (NJ)
Barrett (WI)	Hinchey	Pelosi
Becerra	Jefferson	Rahall
Beilenson	Johnson (CT)	Rangel
Berman	Johnson, E. B.	Reed
Bonior	Johnston	Reynolds
Borski	Kanjorski	Rivers
Brown (CA)	Kaptur	Roybal-Allard
Brown (FL)	Kennedy (MA)	Rush
Brown (OH)	Kennedy (RI)	Sabo
Cardin	Kennelly	Sanders
Clay	Kildee	Schroeder
Conyers	Kleczka	Scott
Costello	LaFalce	Serrano
Coyne	Lantos	Shays
DeFazio	Levin	Skaggs
DeLauro	Lewis (GA)	Slaughter
Dellums	Lipinski	Stark
Deutsch	Lofgren	Stokes
Dicks	Lowey	Studds
Dingell	Luther	Stupak
Dixon	Maloney	Thompson
Doggett	Manton	Thornton
Engel	Markey	Torricelli
Eshoo	Martinez	Towns
Evans	Matsui	Traficant
Fattah	McDermott	Tucker
Fields (LA)	McHale	Velazquez
Filner	McKinney	Vento
Flake	Meehan	Visclosky
Foglietta	Menendez	Ward
Forbes	Mfume	Waters
Ford	Mineta	Watt (NC)
Furse	Mink	Waxman
Gejdenson	Moran	Woolsey
Gephardt	Nadler	Wyden
Gibbons	Neal	Wynn
Gonzalez	Oberstar	Yates
Green	Olver	

NOES—290

Allard	Buyer	Diaz-Balart
Archer	Callahan	Dickey
Armey	Calvert	Dooley
Bachus	Camp	Doolittle
Baesler	Canady	Dornan
Baker (CA)	Castle	Doyle
Baker (LA)	Chabot	Dreier
Baldacci	Chambliss	Duncan
Ballenger	Chapman	Durbin
Barcia	Chenoweth	Edwards
Barr	Christensen	Ehlers
Barrett (NE)	Chrysler	Ehrlich
Bartlett	Clayton	Emerson
Bass	Clement	English
Bateman	Clinger	Ensign
Bentsen	Clyburn	Everett
Bereuter	Coble	Ewing
Bevill	Coburn	Farr
Bilbray	Coleman	Fawell
Bilirakis	Collins (GA)	Fazio
Bishop	Combest	Fields (TX)
Bliley	Condit	Flanagan
Blute	Cooley	Foley
Boehlert	Cox	Fowler
Boehner	Cramer	Fox
Bonilla	Crane	Frank (MA)
Brewster	Crapo	Franks (CT)
Browder	Cremeans	Franks (NJ)
Brownback	Cubin	Frelinghuysen
Bryant (TN)	Cunningham	Frost
Bryant (TX)	Danner	Funderburk
Bunn	Davis	Gallegly
Bunning	de la Garza	Ganske
Burr	Deal	Gekas
Burton	DeLay	Geren

Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—22

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Meek
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Richardson
Rogers
Schumer
Tanner
Torres
Waldholtz
Watts (OK)
Young (FL)

□ 1751

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Texas for, with Mr. Bono against.

Mr. Markley for with Ms. Dunn against.

Mrs. Collins of Michigan for, with Mr. Watts against.

Messrs. FRANKS, of New Jersey, WISE, CLYBURN, and BRYANT of Texas changed their vote from ''aye'' to ''no.''

Ms. DELAURO and Mr. DOGGETT 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 further amendments?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment, Amendment No. 41.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PALLONE:

H.R. 961

OFFERED BY: MR. PALLONE

AMENDMENT NO. 41: Page 81, after line 1, insert the following:

(a) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Section 101 (33 U.S.C. 1251) is further amended by adding at the end the following:

''(i) FINDING WITH RESPECT TO HARM CAUSED BY VIOLATIONS.—Congress finds that a discharge which results in a violation of this Act or a regulation, standard, limitation, requirement, or order issued pursuant to this Act interferes with the restoration and maintenance of the chemical, physical, and biological integrity of any waters into which the discharge flows (either directly or through a publicly owned treatment works), including any waters into which the receiving waters flow, and, therefore, harms those who use or enjoy such waters and those who use or enjoy nearby lands or aquatic resources associated with those waters.

''(j) FINDING WITH RESPECT TO CITIZEN SUITS.—Congress finds that citizen suits are a valuable means of enforcement of this Act and urges the Administrator to take actions to encourage such suits, including providing information concerning violators to citizen groups to assist them in bringing suits, providing expert witnesses and other evidence with respect to such suits, and filing amicus curiae briefs on important issues related to such suits.''.

(b) VIOLATIONS OF REQUIREMENTS OF LOCAL CONTROL AUTHORITIES.—Section 307(d) (33 U.S.C. 1317(d)) is amended by striking the first sentence and inserting the following: ''After the date on which (1) any effluent standard or prohibition or pretreatment standard or requirement takes effect under this section or any requirement imposed in a pretreatment program under section 402(a)(3) or 402(b)(8) of this Act takes effect, it shall be unlawful for any owner or operator of any source to operate such source in violation of the effluent standard, prohibition, pretreatment standard, or requirement.''.

(c) INSPECTIONS, MONITORING, AND PROVIDING INFORMATION.—

(1) APPLICABILITY OF REQUIREMENTS.—Section 308(a) (33 U.S.C. 1318(a)) is amended by striking ''the owner or operator of any point source'' and inserting ''a person subject to a requirement of this Act''.

(2) PUBLIC ACCESS TO INFORMATION.—The first sentence of section 308(b) is amended—

(A) by inserting ''(including information contained in the Permit Compliance System of the Environmental Protection Agency)'' after ''obtained under this section'';

(B) by inserting ''made'' after ''shall be''; and

(C) by inserting ''by computer telecommunication and other means'' after ''public'' the first place it appears.

(3) PUBLIC INFORMATION.—Section 308 is further amended by adding at the end the following:

''(e) PUBLIC INFORMATION.—

''(1) POSTING OF NOTICE OF POLLUTED WATERS.—At each major point of public access (including, at a minimum, beaches, parks, recreation areas, marinas, and boat launching areas) to a body of navigable water that does not meet an applicable water quality standard or that is subject to a fishing and shell fishing ban, advisory, or consumption restriction (issued by a Federal, State, or local authority) due to fish or shellfish contamination, the State within which boundaries all or any part of such body of water lies shall, either directly or through local authorities, post and maintain a clearly visible sign which—

''(A) indicates the water quality standard that is being violated or the nature and extent of the restriction on fish or shellfish consumption, as the case may be;

''(B) includes (i) information on the environmental and health effects associated with the failure to meet such standard or with the consumption of fish or shellfish subject to the restriction, and (ii) a phone number for obtaining additional information relating to the violation and restriction; and

''(C) will be maintained until the body of water is in compliance with the water quality standard or until all fish and shellfish consumption restrictions are terminated with respect to the body of water, as the case may be.

''(2) NOTICE OF DISCHARGES TO NAVIGABLE WATERS.—Except for permits issued to municipalities for discharges composed entirely of stormwater under section 402 of this Act, each permit issued under section 402 by the Administrator or by a State shall ensure compliance with the following requirements:

''(A) Every permittee shall conspicuously maintain at all public entrances to the facility a clearly visible sign which indicates that the facility discharges pollutants into navigable waters and the location of such discharges; the name, business address, and phone number of the permittee; the permit number; and a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information.

''(B) Each permittee which is a publicly owned treatment works shall include in each quarterly mailing of a bill to each customer of the treatment works information which indicates that the treatment works discharges pollutants into the navigable waters and the location of each of such discharges; the name, business address and phone number of the permittee; the permit number; a location at which a copy of the permit and public information required by this paragraph is maintained and made available for inspection or a phone number for obtaining such information; and a list of all violations of the requirements of the permit by the treatment works over the preceding 12-month period.

''(3) REGULATIONS.—

''(A) ISSUANCE.—The Administrator—

''(i) not later than 6 months after the date of the enactment of this subsection, shall propose regulations to carry out this subsection; and

''(ii) not later than 18 months after such date of enactment, shall issue such regulations.

''(B) CONTENT.—The regulations issued to carry out this subsection shall establish—

''(i) uniform requirements and procedures for identifying and posting bodies of water under paragraph (1);

''(ii) minimum information to be included in signs posted and notices issued pursuant to this subsection;

''(iii) uniform requirements and procedures for fish and shellfish sampling and analysis;

''(iv) uniform requirements for determining the nature and extent of fish and shellfish bans, advisories, and consumption restrictions which—

''(I) address cancer and noncancer human health risks;

''(II) take into account the effects of all fish and shellfish contaminants, including the cumulative and synergistic effects;

''(III) assure the protection of subpopulations who consume higher than average amounts of fish and shellfish or are particularly susceptible to the effects of such contamination;

''(IV) address race, gender, ethnic composition, or social and economic factors, based on the latest available studies of national or regional consumption by and impacts on such subpopulations unless more reliable site-specific data is available;

''(V) are based on a margin of safety that takes into account the uncertainties in human health impacts from such contamination; and

''(VI) evaluate assessments of health risks of contaminated fish and shellfish that are used in pollution control programs developed by the Administrator under this Act.''.

(4) STATE REPORTS.—Section 305(b)(1) (33 U.S.C. 1315(b)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(C) by adding at the end the following:

''(F) a list identifying bodies of water for which signs were posted under section 308(e)(1) in the preceding year.''.

(d) CIVIL PENALTIES.—

(1) ENFORCEMENT OF LOCAL PRETREATMENT REQUIREMENTS.—

(A) COMPLIANCE ORDERS.—

(i) INITIAL ACTION.—Section 309(a)(1) (33 U.S.C. 1319(a)(1)) is amended by inserting after ''of this Act,'' the following: ''or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,''.

(ii) ISSUANCE OF ORDERS.—Section 309(a)(3) is amended by inserting before ''he shall'' the following: ''or is in violation of any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,''.

(B) CRIMINAL PENALTIES.—Section 309(c)(3)(A) is amended by inserting before ''and who knows'' the following: ''or knowingly violates any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act,''.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(1) is amended by inserting after ''or by a State,'' the following: ''or has violated any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or an order issued by the Administrator under subsection (a) of this section,''.

(2) TREATMENT OF SINGLE OPERATIONAL UPSETS.—

(A) CRIMINAL PENALTIES.—Section 309(c) is amended by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(B) CIVIL PENALTIES.—Section 309(d) is amended by striking the last sentence.

(C) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended by striking the last sentence.

(3) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

(A) IN GENERAL.—Section 309(d) is amended by inserting after the second sentence the following: ''The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.''.

(B) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: '', including ordering the use of a civil penalty for carrying out mitigation projects''.

(4) DETERMINATION OF AMOUNT OF PENALTIES.—

(A) CIVIL PENALTIES.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting ''the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations,'' after ''economic impact of the penalty on the violator,''.

(B) ADMINISTRATIVE PENALTIES.—Section 309(g)(3) is amended—

(i) by striking ''or savings''; or

(ii) by inserting ''the amount of any penalty previously imposed on the violator by a court or administrative agency for the same violation or violations,'' after ''resulting from the violation,''.

(5) LIMITATION ON DEFENSES.—Section 309(g)(1) is amended by adding at the end the following: ''In a proceeding to assess or review a penalty under this subsection, the adequacy of consultation between the Administrator or the Secretary, as the case may be, and the State shall not be a defense to assessment or enforcement of such penalty.''.

(6) AMOUNTS OF ADMINISTRATIVE CIVIL PENALTIES.—

(A) GENERAL RULE.—Section 309(g)(2) is amended to read as follows:

''(2) AMOUNT OF PENALTIES; NOTICE; HEARING.—

''(A) MAXIMUM AMOUNT OF PENALTIES.—The amount of a civil penalty under paragraph (1) may not exceed $25,000 per violation per day for each day during which the violation continues.

''(B) WRITTEN NOTICE.—Before issuing an order assessing a civil penalty under this subsection, the Administrator shall give to the person to be assessed the penalty written notice of the Administrator's proposal to issue the order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order.

''(C) HEARINGS NOT ON THE RECORD.—If the proposed penalty does not exceed $25,000, the hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

''(D) HEARINGS ON THE RECORD.—If the proposed penalty exceeds $25,000, the hearing shall be on the record in accordance with section 554 of title 5, United States Code. The Administrator may issue rules for discovery procedures for hearings under this subparagraph.''.

(B) CONFORMING AMENDMENTS.—Section 309(g) is amended—

(i) in paragraph (1) by striking ''class I civil penalty or a class II'';

(ii) in the second sentence of paragraph (4)(C) by striking ''(2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty'' and inserting ''(2)''; and

(iii) in the first sentence of paragraph (8) by striking ''assessment—'' and all that follows through ''by filing'' and inserting ''assessment in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred by filing''.

(7) STATE ENFORCEMENT ACTIONS AS BAR TO FEDERAL ENFORCEMENT ACTIONS.—Section 309(g)(6)(A) is amended—

(A) by inserting ''or'' after the comma at the end of clause (i);

(B) by striking clause (ii); and

(C) in clause (iii)—

(i) by striking ''or the State''; and

(ii) by striking ''or such comparable State law, as the case may be,''.

(8) RECOVERY OF ECONOMIC BENEFIT.—Section 309 is amended by adding at the end the following:

''(h) RECOVERY OF ECONOMIC BENEFIT.—

''(1) GENERAL RULE.—Notwithstanding any other provision of this section, any civil penalty assessed and collected under this section must be in an amount which is not less than the amount of the economic benefit (if any) resulting from the violation for which the penalty is assessed.

''(2) REGULATIONS.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall issue regulations establishing a methodology for calculating the economic benefits or savings resulting from violations of this Act. Pending issuance of such regulations, this subsection shall be in effect and economic benefits shall be calculated for purposes of paragraph (1) on a case-by-case basis.''.

(9) LIMITATION ON COMPROMISES.—Section 309 is further amended by adding at the end the following:

''(i) LIMITATION ON COMPROMISES OF CIVIL PENALTIES.—Notwithstanding any other provision of this section, the amount of a civil penalty assessed under this section may not be compromised below the amount determined by adding—

''(1) the minimum amount required for recovery of economic benefit under subsection (h), to

''(2) 50 percent of the difference between the amount of the civil penalty assessed and such minimum amount.''.

(10) MINIMUM AMOUNT FOR SERIOUS VIOLATIONS.—Section 309 is further amended by adding at the end the following:

''(j) MINIMUM CIVIL PENALTIES FOR SERIOUS VIOLATIONS AND SIGNIFICANT NONCOMPLIERS.—

''(1) SERIOUS VIOLATIONS.—Notwithstanding any other provision of this section (other than paragraph (2)), the minimum civil penalty which shall be assessed and collected under this section from a person—

''(A) for a discharge from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more, or

''(B) for a discharge from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

shall be $1,000 for the first such violation in a 180-day period.

''(2) SIGNIFICANT NONCOMPLIERS.—Notwithstanding any other provision of this section, the minimum civil penalty which shall be assessed and collected under this section from a person—

''(A) for the second or more discharge in a 180-day period from a point source of a hazardous pollutant which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 20 percent or more,

''(B) for the second or more discharge in a 180-day period from a point source of a pollutant (other than a hazardous pollutant) which exceeds or otherwise violates any applicable effluent limitation established by or under this Act by 40 percent or more,

''(C) for the fourth or more discharge in a 180-day period from a point source of any pollutant which exceeds or otherwise violates the same effluent limitation, or

''(D) for not filing in a 180-day period 2 or more reports in accordance with section 402(r)(1),

shall be $5,000 for each of such violations.

''(3) MANDATORY INSPECTIONS FOR SIGNIFICANT NONCOMPLIERS.—The Administrator

shall identify any person described in paragraph (2) as a significant noncomplier and shall conduct an inspection described in section 402(q) of this Act of the facility at which the violations were committed. Such inspections shall be conducted at least once in the 180-day period following the date of the most recent violation which resulted in such person being identified as a significant noncomplier.

''(4) ANNUAL REPORTING.—The Administrator shall transmit to Congress and to the Governors of the States, and shall publish in the Federal Register, on an annual basis a list of all persons identified as significant noncompliers under paragraph (3) in the preceding calendar year and the violations which resulted in such classifications.

''(5) HAZARDOUS POLLUTANT DEFINED.—For purposes of this subsection, the term 'hazardous pollutant' has the meaning the term 'hazardous substance' has under subsection (c)(7) of this section.''.

(11) STATE PROGRAM.—Section 402(b)(7) (33 U.S.C. 1342(b)(7)) is amended to read as follows:

''(7) To abate violations of the permit or the permit program which shall include, beginning on the last day of the 2-year period beginning on the date of the enactment of the Clean Water Compliance and Enforcement Improvement Amendments Act of 1995, a penalty program comparable to the Federal penalty program under section 309 of this Act and which shall include at a minimum criminal, civil, and civil administrative penalties, and may include other ways and means of enforcement, which the State demonstrates to the satisfaction of the Administrator are equally effective as the Federal penalty program;''.

(12) FEDERAL PROCUREMENT COMPLIANCE INCENTIVE.—Section 508(a) (33 U.S.C. 1368(a)) is amended by inserting after the second comma ''or who is identified under section 309(j)(3) of this Act,''.

(e) NATIONAL POLLUTANT DISCHARGE ELIMINATION PERMITS.—

(1) WITHDRAWAL OF STATE PROGRAM APPROVAL.—Section 402(b) (33 U.S.C. 1342(b)) is amended by striking ''unless he determines that adequate authority does not exist:'' and inserting the following: ''only when he determines that adequate authority exists and shall withdraw program approval whenever he determines that adequate authority no longer exists:''.

(2) JUDICIAL REVIEW OF RULINGS ON APPLICATIONS FOR STATE PERMITS.—Section 402(b)(3) is amended by inserting ''and to ensure that any interested person who participated in the public comment process and any other person who could obtain judicial review of that action under any other applicable law has the right to judicial review of such ruling'' before the semicolon at the end.

(3) INSPECTIONS FOR MAJOR INDUSTRIAL AND MUNICIPAL DISCHARGERS.—Section 402(b) is amended—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) by adding at the end the following:

''(10) To ensure that any permit for a discharge from a major industrial or municipal facility, as defined by the Administrator by regulation, includes conditions under which such facility will be subject to at least annual inspections by the State in accordance with subsection (q) of this section;''.

(4) MONTHLY REPORTS FOR SIGNIFICANT INDUSTRIAL USERS OF POTWS.—Section 402(b) is further amended by adding at the end the following:

''(11) To ensure that any permit for a discharge from a publicly owned treatment works in the State includes conditions under which the treatment works will require any significant industrial user of the treatment works, as defined by the Administrator by regulation, to prepare and submit to the Administrator, the State, and the treatment works a monthly discharge monitoring report as a condition to using the treatment works;''.

(5) PERMITS REQUIRED FOR INTRODUCTION OF POLLUTANTS INTO POTWS.—Section 402(b) is further amended by adding at the end the following:

''(12) To ensure that, after the last day of the 2-year period beginning on the date of the enactment of this paragraph, any significant industrial user, or other source designated by the Administrator, introducing a pollutant into a publicly owned treatment works has, and operates in accordance with, a permit issued by the treatment works or the State for introduction of such pollutant; and''.

(6) GRANTING OF AUTHORITY TO POTWS FOR INSPECTIONS AND PENALTIES.—Section 402(b) is further amended by adding at the end the following:

''(13) To ensure that the State will grant to publicly owned treatment works in the State, not later than 3 years after the date of the enactment of this paragraph, authority, power, and responsibility to conduct inspections under subsection (q) of this section and to assess and collect civil penalties and civil administrative penalties under paragraph (7) of this subsection.''.

(7) INSPECTION.—Section 402 is amended by adding at the end the following:

''(r) INSPECTION.—

''(1) GENERAL RULE.—Each permit for a discharge into the navigable waters or introduction of pollutants into a publicly owned treatment works issued under this section shall include conditions under which the effluent being discharged will be subject to random inspections in accordance with this subsection by the Administrator or the State, in the case of a State permit program under this section.

''(2) MINIMUM STANDARDS.—The Administrator shall establish minimum standards for inspections under this subsection. Such standards shall require, at a minimum, the following:

''(A) An annual representative sampling by the Administrator or the State, in the case of a State permit program under this section, of the effluent being discharged; except that if the discharge is not from a major industrial or municipal facility such sampling shall be conducted at least once every 3 years.

''(B) An analysis of all samples collected under subparagraph (A) by a Federal or State owned and operated laboratory or a State approved laboratory, other than one that is being used by the permittee or that is directly or indirectly owned, operated, or managed by the permittee.

''(C) An evaluation of the maintenance record of any treatment equipment of the permittee.

''(D) An evaluation of the sampling techniques used by the permittee.

''(E) A random check of discharge monitoring reports of the permittee for each 12-month period for the purpose of determining whether or not such reports are consistent with the applicable analyses conducted under subparagraph (B).

''(F) An inspection of the sample storage facilities and techniques of the permittee.''.

(8) REPORTING.—Section 402 is further amended by adding at the end the following:

''(s) REPORTING.—

''(1) GENERAL RULE.—Each person holding a permit issued under this section which is determined by the Administrator to be a major industrial or municipal discharger of pollutants into the navigable waters shall prepare and submit to the Administrator a monthly discharge monitoring report. Any other person holding a permit issued under this section shall prepare and submit to the Administrator quarterly discharge monitoring reports or more frequent discharge monitoring reports if the Administrator requires. Such reports shall contain, at a minimum, such information as the Administrator shall require by regulation.

''(2) REPORTING OF HAZARDOUS DISCHARGES.—

''(A) GENERAL RULE.—If a discharge from a point source for which a permit is issued under this section exceeds an effluent limitation contained in such permit which is based on an acute water quality standard or any other discharge which may cause an exceedance of an acute water quality standard or otherwise is likely to cause injury to persons or damage to the environment or to pose a threat to human health and the environment, the person holding such permit shall notify the Administrator, in writing, of such discharge not later than 2 hours after the later of the time at which such discharge commenced or the time at which the permittee knew or had reason to know of such discharge.

''(B) SPECIAL RULE FOR HAZARDOUS POLLUTANTS.—If a discharge described in subparagraph (A) is of a hazardous pollutant (as defined in section 309(j) of this Act), the person holding such permit shall provide the Administrator with such additional information on the discharge as may be required by the Administrator. Such additional information shall be provided to the Administrator within 24 hours after the later of the time at which such discharge commenced or the time at which the permittee became aware of such discharge. Such additional information shall include, at a minimum, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken or being taken (i) to remediate the problem caused by the discharge and any damage to the environment, and (ii) to avoid a repetition of the discharge.

''(3) SIGNATURE.—All reports filed under paragraph (1) must be signed by the highest ranking official having day-to-day managerial and operational responsibility for the facility at which the discharge occurs or, in the absence of such person, by another responsible high ranking official at such facility. Such highest ranking official shall be responsible for the accuracy of all information contained in such reports; except that such highest ranking official may file with the Administrator amendments to any such report if the report was signed in the absence of the highest ranking official by another high ranking official and if such amendments are filed within 7 days of the return of the highest ranking official.''.

(9) LIMITATION ON ISSUANCE OF PERMITS TO SIGNIFICANT NONCOMPLIERS.—Section 402 is further amended by adding at the end the following:

''(t) SIGNIFICANT NONCOMPLIERS.—No permit may be issued under this section to any person (other than a publicly owned treatment works) identified under section 309(j)(3) of this Act or to any other person owned or controlled by the identified person, owning or controlling the identified person, or under common control with the identified person, until the Administrator or the State or States in which the violation or violations

occur determines that the condition or conditions giving rise to such violation or violations have been corrected. No permit application submitted after the date of the enactment of this subsection may be approved unless the application includes a list of all violations of this Act by a person identified under section 309(j) of this Act during the 3-year period preceding the date of submission of the application and evidence indicating whether the underlying cause of each such violation has been corrected.''.

(10) APPLICABILITY.—The amendments made by this subsection shall apply to permits issued before, on, or after the date of the enactment of this Act; except that—

(A) with respect to permits issued before such date of enactment to a major industrial or municipal discharger, such amendments shall take effect on the last day of the 1-year period beginning on such date of enactment; and

(B) with respect to all other permits issued before such date of enactment, such amendments shall take effect on the last day of the 2-year period beginning on such date of enactment.

(f) EXPIRED STATE PERMITS.—Section 402(d) (33 U.S.C. 1342(d)) is amended by adding at the end the following:

''(5) EXPIRED STATE PERMITS.—In any case in which—

''(A) a permit issued by a State for a discharge has expired,

''(B) the permittee has submitted an application to the State for a new permit for the discharge, and

''(C) the State has not acted on the application before the last day of the 18-month period beginning on the date the permit expired,

the Administrator may issue a permit for the discharge under subsection (a).''.

(g) COMPLIANCE SCHEDULE.—Section 302(b)(2)(B) (33 U.S.C. 1312(b)(2)(B)) is amended by adding at the end the following: ''The Administrator may only issue a permit pursuant to this subparagraph for a period exceeding 2 years if the Administrator makes the findings described in clauses (i) and (ii) of this subparagraph on the basis of a public hearing.''.

(h) EMERGENCY POWERS.—Section 504 (33 U.S.C. 1364) is amended to read as follows:

''SEC. 504. COMMUNITY PROTECTION.

''(a) ISSUANCE OF ORDERS; COURT ACTION.—Notwithstanding any other provision of this Act, whenever the Administrator finds that, because of an actual or threatened direct or indirect discharge of a pollutant, there may be an imminent and substantial endangerment to the public health or welfare (including the livelihood of persons) or the environment, the Administrator may issue such orders or take such action as may be necessary to protect public health or welfare or the environment and commence a suit (or cause it to be commenced) in the United States district court for the district where the discharge or threat occurs. Such court may grant such relief to abate the threat and to protect against the endangerment as the public interest and the equities require, enforce, and adjudge penalties for disobedience to orders of the Administrator issued under this section, and grant other relief according to the public interest and the equities of the case.

''(b) ENFORCEMENT OF ORDERS.—Any person who, without sufficient cause, violates or fails to comply with an order of the Administrator issued under this section, shall be liable for civil penalties to the United States in an amount not to exceed $25,000 per day for each day on which such violation or failure occurs or continues.''.

(i) CITIZEN SUITS.—

(1) SUITS FOR PAST VIOLATIONS.—Section 505 (33 U.S.C. 1365) is amended—

(A) in subsection (a)(1) by inserting ''to have violated or'' after ''who is alleged'';

(B) in subsection (b)(1)(A)(ii) by striking ''occurs'' and inserting ''has occurred or is occurring''; and

(C) in subsection (f)(6) by inserting ''has been or'' after ''which''.

(2) TIME LIMIT.—Section 505(b)(1)(A) is amended by striking ''60 days'' and inserting ''30 days''.

(3) EFFECT OF JUDGMENTS ON CITIZEN SUITS.—Section 505(b) is further amended—

(A) in paragraph (1)(B)—

(i) by striking '', or a State''; and

(ii) by striking ''right.'' and inserting ''right and may obtain costs of litigation under subsection (d), or''; and

(B) by adding at the end the following: ''The notice under paragraph (1)(A) need set forth only violations which have been specifically identified in the discharge monitoring reports of the alleged violator. An action by a State under subsection (a)(1) may be brought at any time. No judicial action by the Administrator or a State shall bar an action for the same violation under subsection (a)(1) unless the action is by the Administrator and meets the requirements of this paragrah. No administrative action by the Administrator or a State shall bar a pending action commenced after February 4, 1987, for the same violation under subsection (a)(1) unless the action by the Administrator or a State meets the requirements of section 309(g)(6) of this Act.''.

(4) CONSENT JUDGMENTS.—Section 505(c)(3) is amended by adding at the end the following: ''Consent judgments entered under this section may provide that the civil penalties included in the consent judgment be used for carrying out mitigation projects in accordance with section 309(d).''.

(5) PRETREATMENT REQUIREMENTS.—Section 505(f)(4) is amended by striking ''or pretreatment standards'' and inserting ''or pretreatment standard or requirement described in section 307(d)''.

(6) EFFLUENT STANDARD DEFINITION.—Section 505(f)(6) is amended by inserting ''narrative or mathematical'' before ''condition''.

(7) DEFINITION OF CITIZEN.—Section 505(g) is amended to read as follows:

''(g) CITIZEN DEFINED.—For purposes of this section, the term 'citizen' means a person or persons having an interest (including a recreational, aesthetic, environmental, health, or economic interest) which is, has been, or may be adversely affected and includes a person who uses or enjoys the waters into which the discharge flows (either directly or through a publicly owned treatment works), who uses or enjoys aquatic resources or nearby lands associated with the waters, or who would use or enjoy the waters, aquatic resources, or nearby lands if they were less polluted.''.

(8) OFFERS OF JUDGMENT.—Section 505 is further amended by adding at the end the following:

''(i) APPLICABILITY OF OFFERS OF JUDGMENT.—Offers of judgment pursuant to Rule 68 of the Federal Rules of Civil Procedure shall not be applicable to actions brought under subsection (a)(1) of this section.''.

(j) ISSUANCE OF SUBPOENAS.—Section 509(a)(1) (33 U.S.C. 1369(a)(1)) is amended by striking ''obtaining information under section 305 of this Act, or carrying out section 507(e) of this Act,'' and inserting ''carrying out this Act,''.

(k) JUDICIAL REVIEW OF EPA ACTIONS.—Section 509(b)(1) (33 U.S.C. 1369(b)(1)) is amended—

(1) by inserting after the comma at the end of clause (D) ''including a decision to deny a petition by interested person to veto an individual permit issued by a State,'';

(2) by inserting after the comma at the end of clause (E) ''including a decision not to include any pollutant in such effluent limitation or other limitation if the Administrator has or is made aware of information indicating that such pollutant is present in any discharge subject to such limitation,''; and

(3) by striking ''and (G)'' and inserting the following: ''(G) in issuing or approving any water quality standard under section 303(c) or 303(d), (H) in issuing any water quality criterion under section 304(a), including a decision not to address any effect of the pollutant subject to such criterion if the Administrator has or is made aware of information indicating that such effect may occur, and (J)''.

(l) NATIONAL CLEAN WATER TRUST FUND.—

(1) IN GENERAL.—Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 522 and by inserting after section 518 the following new section:

''SEC. 519. NATIONAL CLEAN WATER TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Water Trust Fund'.

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Clean Water Trust Fund amounts equivalent to the penalties collected under section 309 of this Act and the penalties collected under section 505(a) of this Act (excluding any amounts ordered to be used to carry out mitigation projects under section 309 or 505(a), as the case may be).

''(c) ADMINISTRATION OF TRUST FUND.—The Administrator shall administer the Clean Water Trust Fund. The Administrator may use moneys in the Fund to carry out inspections and enforcement activities pursuant to this Act. In addition, the Administrator may make such amounts of money in the Fund as the Administrator determines appropriate available to carry out title VI of this Act.''.

(2) CONFORMING AMENDMENT TO STATE REVOLVING FUND PROGRAM.—Section 607 (33 U.S.C. 1387) is amended—

(A) by inserting ''(a) IN GENERAL.—'' before ''There is''; and

(B) by adding at the end the following:

''(b) TREATMENT OF TRANSFERS FROM CLEAN WATER TRUST FUND.—For purposes of this title, amounts made available from the Clean Water Trust Fund under section 519 of this Act to carry out this title shall be treated as funds authorized to be appropriated to carry out this title and as funds made available under this title.''.

(m) APPLICABILITY.—Sections 101(h), 309(g)(6)(A), 505(a)(1), 505(b), 505(g), and 505(i) of the Federal Water Pollution Control Act, as inserted or amended by this section, shall be applicable to all cases pending under such Act on the date of the enactment of this Act and all cases brought on or after such date of enactment relating to violations which occurred before such date of amendment.

Redesignate subsequent subsections of section 313 of the bill accordingly.

Page 81, line 4, strike ''(h)'' and insert ''(k)''.

Page 131, line 5, strike ''(r)'' and insert ''(u)''.

Page 188, line 21 strike ''(s)'' and insert ''(v)''.

Page 192, line 6, strike ''(t)'' and insert ''(w)''.

Page 216, line 11, strike ''by'' and all that follows through ''518'' on line 13 and insert ''by inserting after section 519''.

Page 216, line 14, strike ''519'' and insert ''520''.

Page 217, line 7, strike ''before'' and all that follows through the comma on line 8 and insert ''after section 520''.

Page 217, line 9, strike ''520'' and insert ''521''.

Page 321, line 3, strike ''(8)'' and insert ''(7)''.

Mr. PALLONE. Mr. Chairman, my amendment seeks to improve enforcement of the Clean Water Act. Based on EPA data, almost 20 percent of U.S. major industrial, municipal and Federal facilities were in significant noncompliance with their Clean Water Act permits.

The EPA inspector general has found that penalty assessments are not sufficient to recover the economic benefits gained by noncompliance with the Clean Water Act. Small fines and lengthy time limits to achieve compliance promote an it-pays-to-pollute mentality, and failure to recover economic benefits places those who comply with the law at an economic disadvantage relative to those who are in violation of the law.

The Clean Water enforcement program should be strengthened to promote greater incentives to comply with the law.

Mr. Chairman, in New Jersey we have on the books as a State law Clean Water enforcement amendments, which became law in May of 1990, that increase enforcement. In March of 1995, the New Jersey department of environmental protection released their 4th annual report of the Clean Water Enforcement Act in New Jersey. Their findings reflect a significant decrease in penalty assessments as a result of increased compliance. The number of significant noncompliers declined from 70 to 44 in a given year.

Basically, the enforcement provisions in this amendment require State programs to establish mandatory minimum penalties for serious violations of and significant noncompliance with the Clean Water Act. They require penalties recover at least economic benefits, and they improve and increase the frequency of discharge reporting.

In addition to the enforcement provisions, this amendment would remove obstacles to citizen suits. The 1972 Clean Water Act included authority for citizens to sue polluters, thereby recognizing the U.S. EPA and the States might be unable or unwilling to aggressively pursue all violators, and citizen suits are a proven enforcement tool.

According to a U.S. Department of Justice statistical report, private citizen actions over 5 fiscal years have recovered approximately $11 million in penalties and interest. Basically, what we do in this amendment is allow citizens to sue for past violations, overturning a 1987 Supreme Court case which made those kinds of actions more difficult.

The amendment also increases citizens' rights to know, through posting notice requirements and fish consumption advisories. There are currently no Federal requirements the public be notified when water quality standards are violated. There are no uniform requirements for determining the nature and extent of fish and shellfish bans. Essentially, we have posting of notice requirements for areas where you should not swim or fish, and also fish consumption advisories.

Lastly, Mr. Chairman, I would point out the amendment establishes a national Clean Water trust fund to carry out inspections and enforcement pursuant to the act. The idea is the penalties we would get for increased enforcement would go into this fund, and they would be used to carry out the purposes of the act.

Mr. Chairman, I ask that this amendment be considered. I think that one of the most important things we can do is increase enforcement of the Clean Water Act, and that is the primary purpose of this amendment.

Mr. SHUSTER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is 5 congressional pages of mandatory enforcement provisions inserted into the Clean Water Act. This amendment not only is unnecessary but could be, and is, counterproductive to effective enforcement of the act.

This amendment, and get this, this amendment would deny due process to alleged violators in connection with the imposition of administrative penalties. Penalties could be imposed without the alleged violators having the right to due process.

Further, this amendment specifies minimum penalties, mandatory minimum penalties, that must be imposed, and so severely limits the abilities of the enforcement authorities, the EPA and the States, to sit down and compromise proposed penalties, to negotiate proposed penalties. In some instances, it would bar such compromises altogether.

Now, this certainly is not flexibility.

The National Governors' Association is strongly opposed to this amendment. The State water quality officials are strongly opposed to this amendment, and, indeed, this amendment also would allow duplicative enforcement by citizens' groups of violations that have been the subject of State enforcement actions. Not only could the State bring an enforcement action, but citizens' groups could come along and also bring an enforcement action, and even worse, citizens' groups could bring an enforcement action against something that already has been corrected. Let me emphasize that.

Even though something has been corrected, citizens' groups would be able to reach back and bring an enforcement action against somebody even though they corrected the problem.

In sum, this amendment imposes greater rigidity on the Clean Water Act. It would encourage, rather than discourage, protracted litigation. This is a lawyers' paradise, and this should be defeated.

Mr. MINETA. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, it is very important that citizens be notified when a beach or lake where they take their children to swim or fish is subject to a fishing ban due to fish contamination, or is not meeting water quality standards. This amendment would give the public the information it deserves, so that people can protect themselves from illness caused by eating contaminated fish or swimming in polluted water.

It makes sense that where a court finds that a discharger has violated the Act, the penalty should, at a minimum, recoup the economic benefit that the violator realized as a result of its violations. Otherwise, the polluter would gain an advantage over its competitors who complied with the law. This amendment would prevent windfalls that reward polluters.

These are just a few of examples of how the amendment would strengthen enforcement and other provisions of the Act, and ultimately improve the quality of our Nation's waters and the protection provided to our citizens.

Mr. Chairman, I urge support for the amendment.

☐ 1800

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the thrust of this amendment is to bring about mandatory enforcement, and I do not find that as a shocking thing, or something that is undesirable or should not be part of this bill.

I do not believe anybody who is more than 25 or 30 years old in this country has any problem remembering the bad old days, the days when the Cuyahoga River was so polluted that it actually caught fire, the days when the Willamette River in Oregon, a State highly regarded for its environmental laws, was not fishable, swimmable, or drinkable, and, thanks to the Clean Water Act, and actual mandatory enforcement, those rivers have been substantially cleaned up.

But work remains to be done, and I do not see how those on the other side of the aisle who are diluting the standards which would be enforceable under this bill, and minimizing them, and moving significant areas of concern to voluntary compliance, would object for those few things that they leave to be mandatorily regulated, that to be the prospect of fines against polluters and higher fines against repeat polluters. There is due process for every violation. I am puzzled that the esteemed chairman would say there is not due process. It is there.

On the issue of fines, Mr. Chairman, what we would do here is level the playing field among competitors in an industry. For example, in my State, in my district, one of my paper mills has just spent $50 million, and that is a lot of money, to clean up its discharge into the Willamette River because downstream that same river is used for drinking water in addition to the fishing and other benefits, and they are

state-of-the-art, fully in compliance. Now should another mill, which has drug its feet thus far and is not in compliance with existing law, be allowed to continue in that vein and economically benefit? This amendment says no, that the fine would be commensurate at least to the economic benefits. So what we would do is level the playing field among members of an industry, between those who have acted in good faith as good citizens, good corporate citizens and good citizens of their community, and those who have not.

So I do not find it a radical proposal at all that we should have mandatory enforcement of those standards which do remain the bill which is before us today, and I rise in strong support.

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

Mr. DEFAZIO. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, I would just like to point out that what we are basically talking about here are bad actors, repeat offenders, and in the case of the bad actors or the repeat offenders of their discharge permits, we are imposing mandatory minimum penalties, and then they, for the more serious violations, those penalties increase on a daily basis to a maximum penalty which is much higher than what is currently in the law. The idea is basically very similar to what is done in a lot of statutes where we want to make sure that bad actors have to pay a fine that is commensurate with the economic benefit that they have received. Otherwise, what is the point of having the Clean Water Act?

In regard to the State administrative actions, I know the gentleman on the other side mentioned that he did not like the idea of State administrative actions, that they should be able to preclude citizens' suits, but I would point out that in many cases courts have construed the preclusion provision so broadly that almost any State administrative action, no matter how inadequate, has had a preclusive effect on citizens' suits. So we want citizens to be able to bring actions where necessary to enforce the act, and again, in the past those citizen action suits have really done a lot to enforce the Clean Water Act and should be encouraged.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman from New Jersey [Mr. PALLONE] for his good work on this amendment and urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 299, not voting 29, as follows:

[Roll No. 324]

[Roll No 324]

AYES—106

Ackerman
Andrews
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hinchey
Jackson-Lee
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Lantos
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
McDermott
McHale
McKinney
Menendez
Mineta
Moran
Nadler
Oberstar
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Rahall
Reynolds
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Saxton
Schroeder
Scott
Serrano
Shays
Slaughter
Smith (NJ)
Stark
Stokes
Studds
Thompson
Thornton
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Woolsey
Wyden
Wynn
Yates

NOES—299

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Sawyer
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—29

Abercrombie
Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dicks
Dunn
Fattah
Frisa
Hancock
Kleczka
Martini
Meek
Miller (CA)
Mink
Moakley
Nussle
Ortiz
Pastor
Peterson (FL)
Rangel
Richardson
Rogers
Schumer
Tanner
Torres
Watts (OK)
Young (FL)

☐ 1825

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr Nussle against.

Mr. Moakley for, Mr. Barton against.

Miss Collins of Michigan for, Ms. Dunn against.

Mr. Rangel for, Mr. Bono against.

Mr. NEAL of Massachusetts and Mr. TORKILDSEN changed their vote from ''aye'' to ''no.''

Mr. GENE GREEN of Texas changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 70, after line 25, insert the following:

(e) ANCHORAGE, ALASKA.—Section 301 (33 U.S.C. 1311) is further amended by adding at the end the following:

''(v) ANCHORAGE, ALASKA.—The Administrator may grant an application for a modification pursuant to subsection (h) with respect to the discharge into marine waters of

any pollutant from a publicly owned treatment works serving Anchorage, Alaska, notwithstanding subsection (j)(1)(A) and notwithstanding whether or not the treatment provided by such treatment works is adequate to remove at least 30 percent of the biological oxygen demanding material.''.

Mr. YOUNG of Alaska (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 Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman. My amendment will revise section 301(h) of the Clean Water Act to allow the city of Anchorage which has a waiver of secondary treatment to be relieved of the 30-percent BOD removal requirement. This requirement puts a tremendous burden on the city.

EPA requires the Anchorage Wastewater Utility to remove 30 percent of organic material from sewage before it can be discharged. Meeting this requirement for Anchorage has been extremely difficult because sewage inflow is very clean.

In 1991, the utility was approached by 2 fish processors who wanted to discharge 5,000 pounds of fish guts into the system daily. Anchorage approved the request and it made it easier to meet the 30 percent requirement. The discharge was less clean, but the EPA requirement was satisfied. This is a perfect example of why we need cost benefit analysis in our laws.

The cost for Anchorage is $180,000 per year in increased operating expenses. They will be required to spend more than $4 million within the next 2 years. All this while spending $1 million over 6 years to monitor outflows to ensure there is no negative impact from the discharge.

Had their been some flexibility in the law, Anchorage could have avoided millions of unnecessary expenditures.

I urge support of the amendment.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, as I understand it, this is limited to Anchorage, AK.

Mr. YOUNG of Alaska. The gentleman is correct.

Mr. SHUSTER. It makes a lot of sense, and I support the gentleman.

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

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I just would like to make a short comment that I oppose this amendment. This is just another waiver of standards, another rollback of existing requirements, and it is specifically for Anchorage, AK. If this amendment is adopted, the law will allow for less than primary treatment. I am concerned that the next amendment will be to allow totally untreated sewage to be discharged into coastal waters, whether it is offered by the gentleman from Alaska or other amendments that will come forward.

□ 1830

I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Mr. Chairman, I have an amendment at the desk, amendment No. 54.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VISCLOSKY: Page 82, after line 21, insert the following:

(c) NATIONAL CLEAN WATER TRUST FUND.—Section 309 (33 U.S.C. 1319) is further amended by adding at the end the following:

''(i) NATIONAL CLEAN WATER TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (hereinafter in this subsection referred to as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

''(2) TRANSFER OF AMOUNTS.—For fiscal year 1996, and each fiscal year thereafter, the Secretary of the Treasury shall transfer, to the extent provided in advance in appropriations Acts, to the fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other moneys obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including moneys obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a), as the case may be.

''(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such obligations shall be acquired and sold and interest on, and the proceeds from the dale or redemption of, such obligations shall be credited to the Fund in accordance with the requirements of section 9602 of the Internal Revenue Code of 1986.

''(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this Act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.

''(5) SELECTION OF PROJECTS.—

''(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to restore and recover waters of the United States from damages described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) against such violation, or another violation in the same administrative region of the Environmental Protection Agency as such violation, resulted in amounts being deposited in the general fund of the Treasury.

''(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

''(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damages described in paragraph (4), the Administrator shall, in the case of a priority project under subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to such violation pursuant to this section or section 505(a)(1).

''(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection either directly or by making grants to, or entering into contracts with, the Secretary of the Army or any other public or private entity.

''(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall transmit to Congress a report on implementation of this subsection.''.

''(d) USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.—

''(1) IN GENERAL.—Section 309(d) (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: ''The court may, in the court's discretion, order that a civil penalty be used for carrying out mitigation projects which are consistent with the purposes of this Act and which enhance the public health or environment.''.

''(2) CONFORMING AMENDMENT.—Section 505(a) (33 U.S.C. 1365(a)) is amended by inserting before the period at the end of the last sentence the following: '', including ordering the use of a civil penalty for carrying out mitigation projects in accordance with section 309(d)''.

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

Mr. VISCLOSKY. Mr. Chairman, I rise today to offer an amendment to H.R. 961, which would help expedite the cleanup of our Nation's waters. My amendment would create a national clean water trust fund, establishe fines, penalties and other moneys collected through enforcement of the Clean Water Act to help alleviate the problems for which the enforcement actions were taken.

This amendment would not in any way change the way in which enforcement actions were taken, the nature of the penalties or the manner in which the penalties were levied. I would want to make that very clear. A similar provision was included in last year's Clean Water Act reauthorization, H.R. 3948.

Currently, there is no guarantee that fines or other moneys that result from violations of the Clean Water Act be used to correct water quality problems. Instead, some of the money goes into the general fund of the U.S. Treasury without any provision that it be used to improve the quality of our nation's water.

The congressional district I represent is in northwest Indiana. It is home to abundant rivers and wetlands. It is also home to the Indiana Dunes National Lakeshore and five major steel facilities. A century of industrial development has created many toxic hot spots,

including the Indiana Harbor Ship Canal, which pose a constant threat to the health and safety of northwest Indiana residents. I am keenly aware of the need to balance between protecting the environment and encouraging economic growth. It would certainly be a step in the right direction to ensure that penalty moneys paid to the U.S. Treasury for violations of the act were used to clean up polluted water.

Today I am concerned that EPA enforcement activities under which fines and other penalties are levied ignore the fundamental issue of how to pay for the cleanup of the water pollution problems for which the enforcement occurred. If we are really serious about ensuring the successful implementation of the act, we should put enforcement funds to work and actually clean up our nation's waters.

It does not make sense for scarce resources to go into the bottomless pit of the Treasury's general fund especially if we fail to solve our serious water quality problems.

Specifically my amendment would establish a National Clean Water Trust Fund within the U.S. Treasury for fines, penalties, and moneys including consent decrees obtained through enforcement of the act that would otherwise be placed into the Treasury's general fund. Under my proposal, the EPA Administrator would be authorized to prioritize and carry out projects to restore and recover waters of the United States using the funds collected from violations of the Clean Water Act.

However, this amendment would not in any way preclude EPA's authority to undertake and complete supplemental environmental projects as part of settlements related to violations of the act and other legislation. I strongly support the use of SEPs to facilitate the cleanup of serious environmental problems which are particularly prevalent in districts such as mine.

However, my bill would dedicate the cash payment to the Treasury, to the Clean Water Trust Fund. The amendment further specifies that remedial projects be within the same EPA region where enforcement action was taken. Northwest Indiana is in EPA Region 5, and there are 10 EPA regions throughout the United States. Under the proposal, any funds collected from enforcement of the Clean Water Act in Region 5 would remain in the trust fund for that region.

The establishment of the trust fund is an innovative way in which to help improve the quality of our nation's waters by targeting funds accrued from enforcement of the act that would otherwise go into the Treasury. We can put scarce resources to work to facilitate the cleanup of the problem areas throughout not only the Great Lakes but this great country.

I urge support of my amendment.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word. It is with great reluctance that I must oppose the amendment of my good friend.

This amendment has appeal. I would be very happy to work with the gentleman and other interested committees on this to see if indeed we could work something out. The concerns we have here tonight, however, are multifold.

First of all, this could end up creating a slush fund for the EPA. That, I think, we do not want to see happen. This, in effect, could become a superfund for water, if you will, an aquatic superfund. We certainly do not want to see a replay of all the superfund problems we have had.

One of the things that concerns me greatly is that this provision, I am told, could encourage citizen lawsuits for even minor infractions and, indeed, it could possibly create a situation where EPA might exercise prosecutorial discretion. That is something I do not think we want to see happen.

Indeed, it also, as I understand the way it is crafted, could create a situation where hundreds, if not thousands, of citizens groups would be going into the court to seek funds out of this program or, indeed, going into court using, even worse, using the funds from this program to pay for citizen lawsuits.

Finally, the Committee on Ways and Means certainly has a clear interest in this because it does take money out of the general fund Treasury, and so I think anything that we do here would have to be done in concert with the Committee on Ways and Means.

For all of the reasons, I think we should reject this amendment tonight. But I would be happy to work with the gentleman to see if we could craft something that might be acceptable not only to our committee but to the other committees of jurisdiction.

I thank the gentleman.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the gentleman's amendment.

Mr. Chairman, I am pleased to support the gentleman's amendment.

In today's tight economic times, it is important that we attempt to maximize the resources available for environmental protection. This amendment would assure that the fines and penalties which are assessed and collected for violations of the Clean Water Act are used to benefit the environment in the area where the violation occurred.

This amendment will put these fines and penalties to use to create remedial projects to restore and recover from damages resulting from the violation. While consent orders often include environmental remediation, when cases go to trial, fines and penalties often end up as miscellaneous receipts in the Treasury. This may assist the general fund, but it doesn't help the local environment which has suffered the harm.

Funding at all levels of government is under increasing pressure. If we can increase funding for environmental cleanup, without using tax receipts, I believe that we should pursue such an option.

Mr. Chairman, I support the amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just also want to indicate support for the amendment of the gentleman. As those of you who listened to the debate on my amendment previously know, I had advocated establishing a trust fund with fines and penalties that are received from violations for enforcement purposes. But I think that the purpose of the gentleman from Indiana, [Mr. VISCLOSKY], in setting up this trust fund is certainly just as valid.

There is no question that we need more funding for cleanup, and I would like to see nothing better than to have the money that comes from violations of the Clean Water Act placed into a fund that would be used for more cleanup rather than go to the general Treasury. I think that is the way to go in order to provide additional funding for cleanup.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SHUSTER. Mr. Chairman, is the gentleman asking for unanimous consent to be recognized for 1 minute?

Mr. VISCLOSKY. Mr. Chairman, I ask unanimous consent to proceed for an additional 2 minutes.

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

There was no objection.

Mr. VISCLOSKY. Mr. Chairman, I would like to respond to the arguments made by the chairman.

First of all, the idea that a slush fund would be traded is simply not true. If you look at the total national fines that have been imposed by EPA and the courts, you are talking about $12 million in a year like 1989. You are talking about $28 million in a year like 1993.

Second, that the moneys would be used to pay for citizens' suits is absolutely not true. I point out in the text of the amendment it states, ''Amounts in the fund shall be available, as provided in appropriations acts,'' that is your ultimate break on this system, ''to the administrator to carry out projects to restore and recover waters of the United States from damages resulting from violations of this act which are subject to enforcement actions under this section and similar damages resulting from the discharge of pollutants into the waters of the United States.''

Again, the control of this system is the appropriations process. They are subject to it, and they are only available to clean up polluted waterways in the United States.

The final point the gentleman made, that this would encourage bureaucrats to run amok, again, the break on the

system is the subject of the annual appropriations process, just as the highway trust funds, the aviation trust funds and other funds are. So I do not think we have that encouragement. We are not changing the penalties.

I would recommend the amendment to the Members' attention.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman has a very interesting amendment. I think it should be very carefully considered.

The purpose of my rising today is to address an undercurrent that is going on in the House right now. That undercurrent pertains to the vote last night on the coastal zone management program. There are a number of Members who are wondering what really is going to happen now that the House has spoken its will by a vote of 224 to 199.

There are a lot of Members wondering what people outside this Chamber who have a vested interest in the success of this program are saying. So I thought it would be timely to share with my colleagues in the House a letter I have received just today from the Coastal States Organization which says:

''We are writing in great appreciation for the vote on the floor of the House yesterday in restoring and fixing the coastal nonpoint pollution control program during the debate on the reauthorization of the Clean Water Act. Finally, through your amendment''—the letter is addressed to me—''we can address the critical problem of coastal nonpoint pollution in a manner that grants the coastal states, rather than the federal agencies, the flexibility and authority to determine which coastal waters are threatened or degraded, target the coastal nonpoint pollution program as well as prioritize which waters to address first, utilize voluntary measures first to address coastal nonpoint pollution rather than being required to implement mandatory requirements and start working to address this serious problem now, not five years from now.''

The letter from the Coastal States Organization goes on to say:

''Through your amendment, this program has been redesigned to be a state-implemented program. Thank you for taking this 'states rights' approach and granting us the authority and flexibility to address this serious problem as the states deem appropriate as well as for saving over four years worth of work. Please convey our gratitude to all the Members of Congress who supported your efforts to restore and protect this nation's companies.''

☐ 1845

Less than 24 hours ago, the House, by a decisive vote, voted to protect the coastal management program. Now the undercurrent in this Chamber indicates that there is a secretive plan to undo what we did. I want Members to know the Coastal States Organization does not want any secret plan to be implemented. The Coastal States Organization does not want any sleight of hand. The Coastal States Organization, with 30 States involved, representing tens of millions of people, are watching us, and they are saying ''Don't back down.'' I thought it was very important, so timely, to present this letter to this Chamber, so that we could all have the benefit of the wisdom of the Governors in the States and the people we are trying to effectively serve.

What we are about today is addressing a most sensitive environmental and public health piece of legislation. Let no undercurrents undermine what we have already done.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VISCLOSKY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 247, not voting 31, as follows:

[Roll No. 325]

AYES—156

Abercrombie
Andrews
Barcia
Becerra
Beilenson
Berman
Boehlert
Bonior
Borski
Brown (CA)
Brown (OH)
Burr
Castle
Clay
Clement
Clyburn
Condit
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Heineman
Hinchey
Horn
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
McDermott
McHale
McKinney
Meehan
Menendez
Metcalf
Mineta
Mink
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Roybal-Allard
Rush
Sabo
Sawyer
Saxton
Schroeder
Serrano
Sisisky
Skaggs
Slaughter
Smith (NJ)
Souder
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—247

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehrlich
Emerson
English
Everett
Ewing
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lofgren
Longley
Lucas
Manzullo
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—31

Ackerman
Ballenger
Barton
Bono
Boucher
Brown (FL)
Collins (IL)
Collins (MI)
Dunn
Fattah
Frisa
Hancock
Harman
Istook
Johnston
McNulty
Meek
Mfume
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Rogers
Roukema
Sanders
Schumer
Tanner
Torres
Watts (OK)
Young (FL)

☐ 1904

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Watts against.

Mr. Moakley for, with Mr. Bono against.

Miss Collins of Michigan for, with Ms. Dunn of Washington against.

Mr. WAXMAN changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Chairman, today I returned to Arizona to attend the graduation of my daughter from Arizona State University. Consequently, I missed a number of rollcall votes on H.R. 961. Had I been present, I would have voted in the following manner: ''Nay'' on rollcall vote No. 323; ''aye'' on rollcall vote No. 324; ''aye'' on rollcall vote No. 325.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise for the purpose of inquiring from the chairman of the committee or the distinguished majority leader if we could know what the schedule is for the remainder of today and tomorrow.

I rise because we were told during the period when the contract was on that when the contract was finished, that the schedule would be a little more family friendly and that we could get people home at a reasonable hour. This is the second night that we are going to be here late.

I realize this is important legislation but as I look at the schedule for next week, there are days when there is not a lot of business that we could perhaps finish this bill. I inquire of the distinguished majority leader if we could perhaps leave fairly soon so that Members could see their families and come back tomorrow and try to finish.

Mr. ARMEY. If the gentleman would yield, let me thank the gentleman for his inquiry. We have been talking to a variety of Members on both the majority and minority side.

There are for a great many of our Members very serious matters before the House that have very serious consequences to their particular national and local interests. It has been our hope and intention to move this bill to the point that we could complete the work on the bill by 1 p.m. tomorrow because many Members have some departure times that are very strategically important to them there as well.

It is our hope to finish the bill by 1 p.m. tomorrow and to do that in such a way as to not abridge the rights of any Member that chooses to offer the amendment that they in so many cases have so often carefully prepared and so patiently waited their turn to offer, and also to hold without any bias against that Member their right to call their vote. Many times a Member offers an amendment and wants to have a vote, a recorded vote, and it is fundamentally that Member's right.

In the meantime we have been in discussions, and I had hoped that by 7 p.m. we would have some greater clarity of understanding to where I could make an announcement. As it is now, I think discussions are still ongoing.

We are still optimistic that we could either continue tonight to a later hour and finish the bill, so that we could all be done with our week this evening, or to see clearly that it is possible for us to rise at an earlier hour and then complete the bill tomorrow in such a time as to convenience those people who are trying to get their departure by 1 p.m. or thereabouts.

The other option that is out there that we are cognizant of is to hold the bill over into next week. That is something that a great many Members also would like to avoid.

Let me just say that we are continuing that information. Perhaps during the course of the next amendment, between now and the next vote that is called, we can have some definitive final understanding of where we can go, and we will be able to make an announcement that defines which of the three alternatives has sort of presented itself through the will of the Members who are participating in the bill.

Mr. GEPHARDT. I thank the gentleman.

I realize it is difficult to make everything come out on time, but I really believe that there was a great amount of anticipation and excitement among all Members when we talked about making the schedule more family friendly. I admit it is hard to do. I have been in your position, and I know how difficult it is. But in that this bill is not essential, we are not on a strict time line, I really believe it would be helpful if Members could go home at a decent hour, come back tomorrow, get out at 1 p.m., come back on Tuesday and get our work done.

Mr. ARMEY. If the gentleman will yield further, let me just say, I understand that, and again as the gentleman from Missouri knows, we always try to juggle as fairly as possible the heartfelt interests of a large group of different Members with different interests, and we are continuing to work with that.

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

Mr. GEPHARDT. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, the distinguished leader from Texas and I have engaged many times over the course of the last 125 days about the schedule, and about getting a more predictable schedule and a more effective schedule and a more family-friendly schedule.

I would just like to ask the leader a couple of questions.

How many amendments do we have left on this bill?

Mr. ARMEY. If the gentleman would yield, there are a fairly significant number of amendments, about 15. Then there are questions related at who among the 15 choose to offer their amendment? Do they choose to call recorded votes? Are there agreements that might be made?

We have also looked at the option of a time limitation. We have some Members that feel very strongly they do not want that and would object to it.

As I have said, I suppose I have sort of kept the gates of bargaining and negotiation open a little longer perhaps than one normally does. But we like to keep options open for fair consideration for all interested parties as long as we can before we come to some sort of ''This is it, we've got to pick option A, B, or C and close the gate on the other options.''

Mr. ROEMER. If the leader would answer some other questions, we have about 3 or 4 amendments left on this side, so you have 10 or 11 amendments left on your side. Is that correct?

You are working on your side now to try to get some unanimous-consent agreements to bracket the wetlands section or to limit time on this open rule?

Mr. ARMEY. I think the gentleman is almost wholly correct. We are really working with our side rather than on our side. Given that little subtlety, we are working together, and I understand we all would like to get out early. If we are going to come back tomorrow, we would rather get out earlier than later.

I think if we can get back to the bill and maybe again talk to some of these final Members, maybe we can get a final answer.

Mr. ROEMER. Can the leader give us some time as to when he is going to make an announcement tonight to let us know if we will be in until midnight tonight and until 1 p.m. tomorrow? Can we begin to let our staffs know when we can make reservations to fly back home tomorrow?

Can the leader be a little bit more specific, since the 11 or 12 amendments are on his side?

Mr. ARMEY. Again, if I may remind you, the schedule has been, as a matter of fact, the schedule you had before you left for your April recess that scheduled your departure time for tomorrow at 3 p.m. We are working for 1 p.m.

In all due respect to all the other Members, I have more or less felt that anything between now and your printed schedule that you had prior to your April recess that says 3 p.m. is fair game. Again, I am trying to work with everybody.

I would not hold anybody late tonight unless there was some chance we could compensate for that lateness by getting the bill done.

Mr. ROEMER. That is my question to the leader, is if we go late tonight, we could be out earlier than 1 p.m. tomorrow and we could make reservations to fly back home at 10 or 11 a.m. tomorrow.

When would we know that?

Mr. ARMEY. That is a level of fine-tuning that goes even beyond the great expectations of Keynesian fiscal policy in the early 1960's. Certainly we should

be able to get a look at whether or not we can finish the bill tonight or must come back tomorrow. When we get to that definitive point, then we can see the option.

I would not ask Members to stay until midnight tonight, stay late tomorrow, and then come back next week and work on this bill.

Mr. ROEMER. Would the leader be willing to roll votes until tomorrow and have debate on these serious questions?

I agree with the leader that many of these questions and many of these amendments are very serious. We offered a serious substitute yesterday. Many of these amendments need to be seriously debated, but to then limit this serious debate between now and 1 p.m. tomorrow does not do the service that the leader has talked about.

What about on Tuesday, where you have scheduled the New London National Fish Hatchery Conveyance Act? I think that is the only order of business all day Tuesday.

Mr. ARMEY. I thank the gentleman again for that recommendation.

Mr. ROEMER. But he is not going to listen to my recommendation.

Mr. ARMEY. The gentleman, I think, does me a bit of a disservice to presume that I have not taken that into consideration up to this point.

Mr. ROEMER. You are the leader, and I am sure you are way ahead of this minority Member.

Mr. GEPHARDT. Perhaps if I could reclaim my time and bring this to a conclusion, because we are now wasting time.

Mr. ARMEY. As Randy Quaid says, ''I'll get back to you later with the details as quickly as I can.''

Mr. GEPHARDT. I know the gentleman is doing everything that he can to bring this to a successful and swift conclusion. Just please know that there is a lot of, unhappiness maybe is too strong of a word, but deep concern and unhappiness, I am sure, on both sides of the aisle about the failure to get out.

The contract is over. It is time for family friendly.

□ 1915

Let us do everything we can to make that happen.

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

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding. I would like to point out there have been nine recorded votes on your side today, none on ours.

Mr. GEPHARDT. I understand.

Mr. ARMEY. If I may respond to the gentleman?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. I do understand the concern the Members have. And let me just say to a large extent it is out of our concern for the full rights of each individual Member that we have come to this point, and we will get back to that business and try to resolve this as quickly as we can.

Mr. GEPHARDT. I thank the gentleman.

The CHAIRMAN. Are there any further amendments to title III.

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—PERMITS AND LICENSES

SEC. 401. WASTE TREATMENT SYSTEMS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS.

Section 402(a) is amended by adding the following new paragraph:

''(6) CONCENTRATED ANIMAL FEEDING OPERATIONS.—For purposes of this section, waste treatment systems, including retention ponds or lagoons, used to meet the requirements of this Act for concentrated animal feeding operations, are not waters of the United States. An existing concentrated animal feeding operation that uses a natural topographic impoundment or structure on the effective date of this Act, which is not hydrologically connected to any other waters of the United States, as a waste treatment system or wastewater retention facility may continue to use that natural topographic feature for waste storage regardless of its size, capacity, or previous use.''.

SEC. 402. PERMIT REFORM.

(a) DURATION AND REOPENERS.—Section 402(b)(1) (33 U.S.C. 1342(b)(1)) is amended—

(1) in subparagraph (B) by striking ''five'' and inserting ''10'' and by striking ''and'';

(2) by inserting ''and'' after the semicolon at the end of subparagraph (D); and

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

''(E) can be modified as necessary to address a significant threat to human health and the environment;''.

(b) REVIEW OF EFFLUENT LIMITATIONS.—Section 301(d) (33 U.S.C. 1311(d)) is amended to read as follows:

''(d) REVIEW OF EFFLUENT LIMITATIONS.—Any effluent limitation required by subsection (b)(2) that is established in a permit under section 402 shall be reviewed at least every 10 years when the permit is reissued, and, if appropriate, revised.''.

(c) DISCHARGE LIMIT.—Section 402(b)(1)(A) (33 U.S.C. 1342(b)(1)(A)) is amended by inserting after the semicolon at the end the following: ''except that in no event shall a discharge limit in a permit under this section be set at a level below the lowest level that the pollutant can be reliably quantified on an interlaboratory basis for a particular test method, as determined by the Administrator using approved analytical methods under section 304(h);''.

SEC. 403. REVIEW OF STATE PROGRAMS AND PERMITS.

(a) REVIEW OF STATE PROGRAMS.—Section 402(c) (33 U.S.C. 1342(c)) is amended by inserting before the first sentence the following: ''Upon approval of a State program under this section, the Administrator shall review administration of the program by the State once every 3 years.''.

(b) REVIEW OF STATE PERMITS.—Section 402(d)(2) (33 U.S.C. 1342(d)(2)) is amended—

(1) in the first sentence by striking ''as being outside the guidelines and requirements of this Act'' and inserting ''as presenting a substantial risk to human health and the environment''; and

(2) in the second sentence by striking ''and the effluent limitations'' and all that follows before the period.

(c) COURT PROCEEDINGS TO PROHIBIT INTRODUCTION OF POLLUTANTS INTO TREATMENT WORKS.—Section 402(h) (33 U.S.C. 1342(h)) is amended by inserting after ''approved or where'' the following: ''the discharge involves a significant source of pollutants to the waters of the United States and''.

SEC. 404. STATISTICAL NONCOMPLIANCE.

(a) NUMBER OF EXCURSIONS.—Section 402(k) (33 U.S.C. 1342(k)) is amended by inserting after the first sentence the following: ''In any enforcement action or citizen suit under section 309 or 505 of this Act or applicable State law alleging noncompliance with a technology-based effluent limitation established pursuant to section 301, a permittee shall be deemed in compliance with the technology-based effluent limitation if the permittee demonstrates through reference to information contained in the applicable rulemaking record that the number of excursions from the technology-based effluent limitation are no greater, on an annual basis, than the number of excursions expected from the technology on which the limit is based and that the discharges do not violate an applicable water-quality based limitation or standard.''.

(b) PRETREATMENT STANDARDS.—Section 307(d) (33 U.S.C. 1317(d)) is amended by adding at the end the following: ''In any enforcement action or citizen suit under section 309 or 505 of this Act or applicable State law alleging noncompliance with a categorical pretreatment standard or local pretreatment limit established pursuant to this section, a person who demonstrates through reference to information contained in the applicable rulemaking record—

''(1) that the number of excursions from the categorical pretreatment standard or local pretreatment limit are no greater, on an annual basis, than the number of excursions expected from the technology on which the pretreatment standard or local pretreatment limit is based, and

''(2) that the introduction of pollutants into a publicly owned treatment works does not cause interference with such works or cause a violation by such works of an applicable water-quality based limitation or standard,

shall be deemed in compliance with the standard under the Act.''.

SEC. 405. ANTI-BACKSLIDING REQUIREMENTS.

Section 402(o) (33 U.S.C. 1343(o)) is amended by adding at the end the following:

''(4) NONAPPLICABILITY TO PUBLICLY OWNED TREATMENT WORKS.—The requirements of this subsection shall not apply to permitted discharges from a publicly owned treatment works if the treatment works demonstrates to the satisfaction of the Administrator that—

''(A) the increase in pollutants is a result of conditions beyond the control of the treatment works (such as fluctuations in normal source water availabilities due to sustained drought conditions); and

''(B) effluent quality does not result in impairment of water quality standards established for the receiving waters.''.

SEC. 406. INTAKE CREDITS.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (k) the following:

''(l) INTAKE CREDITS.—

''(1) IN GENERAL.—Notwithstanding any provision of this Act, in any effluent limitation or other limitation imposed under the permit program established by the Administrator under this section, any State permit program approved under this section (including any program for implementation under section 118(c)(2)), any standards established under section 307(a), or any program for industrial users established under section 307(b), the Administrator, as applicable, shall or the State, as applicable, may provide credits for pollutants present in or caused by intake water such that an owner or operator of a point source is not required to remove, reduce, or treat the amount of any pollutant in an effluent below the amount of such pollutant that is present in or caused by the intake water for such facility—

''(A)(i) if the source of the intake water and the receiving waters into which the effluent is ultimately discharged are the same;

''(ii) if the source of the intake water meets the maximum contaminant levels or treatment

techniques for drinking water contaminants established pursuant to the Safe Drinking Water Act for the pollutant of concern; or

''(iii) if, at the time the limitation or standard is established, the level of the pollutant in the intake water is the same as or lower than the amount of the pollutant in the receiving waters, taking into account analytical variability; and

''(B) if, for conventional pollutants, the constituents of the conventional pollutants in the intake water are the same as the constituents of the conventional pollutants in the effluent.

''(2) ALLOWANCE FOR INCIDENTAL AMOUNTS.—In determining whether the condition set forth in paragraph (1)(A)(i) is being met, the Administrator shall or the State may, as appropriate, make allowance for incidental amounts of intake water from sources other than the receiving waters.

''(3) CREDIT FOR NONQUALIFYING POLLUTANTS.—The Administrator shall or a State may provide point sources an appropriate credit for pollutants found in intake water that does not meet the requirement of paragraph (1).

''(4) MONITORING.—Nothing in this section precludes the Administrator or a State from requiring monitoring of intake water, effluent, or receiving waters to assist in the implementation of this section.''.

SEC. 407. COMBINED SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

''(s) COMBINED SEWER OVERFLOWS.—

''(1) REQUIREMENT FOR PERMITS.—Each permit issued pursuant to this section for a discharge from a combined storm and sanitary sewer shall conform with the combined sewer overflow control policy signed by the Administrator on April 11, 1994.

''(2) TERM OF PERMIT.—

''(A) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under section 402(b)(1)(B), the Administrator (or a State with a program approved under subsection (b)) may issue a permit pursuant to this section for a discharge from a combined storm and sanitary sewer, that includes a schedule for compliance with a long-term control plan under the control policy referred to in paragraph (1), for a term not to exceed 15 years.

''(B) EXTENSION.—Notwithstanding the compliance deadline specified in subparagraph (A), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a combined storm and sanitary sewer and subject to subparagraph (C), the period of compliance beyond the last day of the 15-year period—

''(i) if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator; and

''(ii) if the owner or operator demonstrates to the satisfaction of the Administrator or the State reasonable further progress towards compliance with a long-term control plan under the control policy referred to in paragraph (1).

''(C) LIMITATIONS ON EXTENSIONS.—

''(i) EXTENSION NOT APPROPRIATE.—Notwithstanding subparagraph (B), the Administrator or the State need not grant an extension of the compliance deadline specified in subparagraph (A) if the Administrator or the State determines that such an extension is not appropriate.

''(ii) NEW YORK-NEW JERSEY.—Prior to granting an extension under subparagraph (B) with respect to a combined sewer overflow discharge originating in the State of New York or New Jersey and affecting the other of such States, the Administrator or the State from which the discharge originates, as the case may be, shall provide written notice of the proposed extension to the other State and shall not grant the extension unless the other State approves the extension or does not disapprove the extension within 90 days of receiving such written notice.

''(3) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal combined storm and sanitary sewer system shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy referred to in paragraph (1) or otherwise achieve the objectives of this subsection. Notwithstanding the preceding sentence, the period of compliance with respect to a discharge referred to in paragraph (2)(C)(ii) may only be extended in accordance with paragraph (2)(C)(ii).''.

SEC. 408. SANITARY SEWER OVERFLOWS.

Section 402 (33 U.S.C. 1342) is further amended by adding at the end the following:

''(t) SANITARY SEWER OVERFLOWS.—

''(1) DEVELOPMENT OF POLICY.—Not later than 2 years after the date of the enactment of this subsection, the Administrator, in consultation with State and local governments and water authorities, shall develop and publish a national control policy for municipal separate sanitary sewer overflows. The national policy shall recognize and address regional and economic factors.

''(2) ISSUANCE OF PERMITS.—Each permit issued pursuant to this section for a discharge from a municipal separate sanitary sewer shall conform with the policy developed under paragraph (1).

''(3) COMPLIANCE DEADLINE.—Notwithstanding any compliance schedule under section 301(b), or any permit limitation under subsection (b)(1)(B), the Administrator or a State with a program approved under subsection (b) may issue a permit pursuant to this section for a discharge from a municipal separate sanitary sewer due to stormwater inflows or infiltration. The permit shall include at a minimum a schedule for compliance with a long-term control plan under the policy developed under paragraph (1), for a term not to exceed 15 years.

''(4) EXTENSION.—Notwithstanding the compliance deadline specified in paragraph (3), the Administrator or a State with a program approved under subsection (b) shall extend, on request of an owner or operator of a municipal separate sanitary sewer, the period of compliance beyond the last day of such 15-year period if the Administrator or the State determines that compliance by such last day is not within the economic capability of the owner or operator, unless the Administrator or the State determines that the extension is not appropriate.

''(5) EFFECT ON OTHER ACTIONS.—Before the date of publication of the policy under paragraph (1), the Administrator or Attorney General shall not initiate any administrative or judicial civil penalty action in response to a municipal separate sanitary sewer overflow due to stormwater inflows or infiltration.

''(6) SAVINGS CLAUSE.—Any consent decree or court order entered by a United States district court, or administrative order issued by the Administrator, before the date of the enactment of this subsection establishing any deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables, for the evaluation, design, or construction of treatment works for control or elimination of any discharge from a municipal separate sanitary sewer shall be modified upon motion or request by any party to such consent decree or court order, to extend to December 31, 2009, at a minimum, any such deadlines, schedules, or timetables, including any interim deadlines, schedules, or timetables as is necessary to conform to the policy developed under paragraph (1) or otherwise achieve the objectives of this subsection.''.

SEC. 409. ABANDONED MINES.

Section 402 (33 U.S.C. 1342) is further amended by inserting after subsection (o) the following:

''(p) PERMITS FOR REMEDIATING PARTY ON ABANDONED OR INACTIVE MINED LANDS.—

''(1) APPLICABILITY.—Subject to this subsection, including the requirements of paragraph (3), the Administrator, with the concurrence of the concerned State or Indian tribe, may issue a permit to a remediating party under this section for discharges associated with remediation activity at abandoned or inactive mined lands which modifies any otherwise applicable requirement of sections 301(b), 302, and 403, or any subsection of this section (other than this subsection).

''(2) APPLICATION FOR A PERMIT.—A remediating party who desires to conduct remediation activities on abandoned or inactive mined lands from which there is or may be a discharge of pollutants to waters of the United States or from which there could be a significant addition of pollutants from nonpoint sources may submit an application to the Administrator. The application shall consist of a remediation plan and any other information requested by the Administrator to clarify the plan and activities.

''(3) REMEDIATION PLAN.—The remediation plan shall include (as appropriate and applicable) the following:

''(A) Identification of the remediating party, including any persons cooperating with the concerned State or Indian tribe with respect to the plan, and a certification that the applicant is a remediating party under this section.

''(B) Identification of the abandoned or inactive mined lands addressed by the plan.

''(C) Identification of the waters of the United States impacted by the abandoned or inactive mined lands.

''(D) A description of the physical conditions at the abandoned or inactive mined lands that are causing adverse water quality impacts.

''(E) A description of practices, including system design and construction plans and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse water quality impacts and a schedule for implementing such practices and, if it is an existing remediation project, a description of practices proposed to improve the project, if any.

''(F) An analysis demonstrating that the identified practices are expected to result in a water quality improvement for the identified waters.

''(G) A description of monitoring or other assessment to be undertaken to evaluate the success of the practices during and after implementation, including an assessment of baseline conditions.

''(H) A schedule for periodic reporting on progress in implementation of major elements of the plan.

''(I) A budget and identified funding to support the activities described in the plan.

''(J) Remediation goals and objectives.

''(K) Contingency plans.

''(L) A description of the applicant's legal right to enter and conduct activities.

''(M) The signature of the applicant.

''(N) Identification of the pollutant or pollutants to be addressed by the plan.

''(4) PERMITS.—

''(A) CONTENTS.—Permits issued by the Administrator pursuant to this subsection shall—

''(i) provide for compliance with and implementation of a remediation plan which, following issuance of the permit, may be modified by the applicant after providing notification to and opportunity for review by the Administrator;

''(ii) require that any modification of the plan be reflected in a modified permit;

''(iii) require that if, at any time after notice to the remediating party and opportunity for

comment by the remediating party, the Administrator determines that the remediating party is not implementing the approved remediation plan in substantial compliance with its terms, the Administrator shall notify the remediating party of the determination together with a list specifying the concerns of the Administrator;

''(iv) provide that, if the identified concerns are not resolved or a compliance plan approved within 180 days of the date of the notification, the Administrator may take action under section 309 of this Act;

''(v) provide that clauses (iii) and (iv) not apply in the case of any action under section 309 to address violations involving gross negligence (including reckless, willful, or wanton misconduct) or intentional misconduct by the remediating party or any other person;

''(vi) not require compliance with any limitation issued under sections 301(b), 302, and 403 or any requirement established by the Administrator under any subsection of this section (other than this subsection); and

''(vii) provide for termination of coverage under the permit without the remediating party being subject to enforcement under sections 309 and 505 of this Act for any remaining discharges—

''(I) after implementation of the remediation plan;

''(II) if a party obtains a permit to mine the site; or

''(III) upon a demonstration by the remediating party that the surface water quality conditions due to remediation activities at the site, taken as a whole, are equal to or superior to the surface water qualities that existed prior to initiation of remediation.

''(B) LIMITATIONS.—The Administrator shall only issue a permit under this section, consistent with the provisions of this subsection, to a remediating party for discharges associated with remediation action at abandoned or inactive mined lands if the remediation plan demonstrates with reasonable certainty that the actions will result in an improvement in water quality.

''(C) PUBLIC PARTICIPATION.—The Administrator may only issue a permit or modify a permit under this section after complying with subsection (b)(3).

''(D) EFFECT OF FAILURE TO COMPLY WITH PERMIT.—Failure to comply with terms of a permit issued pursuant to this subsection shall not be deemed to be a violation of an effluent standard or limitation issued under this Act.

''(E) LIMITATIONS ON STATUTORY CONSTRUCTION.—This subsection shall not be construed—

''(i) to limit or otherwise affect the Administrator's powers under section 504; or

''(ii) to preclude actions pursuant to section 309 or 505 for any violations of sections 301(a), 302, 402, and 403 that may have existed for the abandoned or inactive mined land prior to initiation of remediation covered by a permit issued under this subsection, unless such permit covers remediation activities implemented by the permit holder prior to issuance of the permit.

''(5) DEFINITIONS.—In this subsection the following definitions apply:

''(A) REMEDIATING PARTY.—The term 'remediating party' means—

''(i) the United States (on non-Federal lands), a State or its political subdivisions, or an Indian tribe or officers, employees, or contractors thereof; and

''(ii) any person acting in cooperation with a person described in clause (i), including a government agency that owns abandoned or inactive mined lands for the purpose of conducting remediation of the mined lands or that is engaging in remediation activities incidental to the ownership of the lands.

Such term does not include any person who, before or following issuance of a permit under this section, directly benefited from or participated in any mining operation (including exploration) associated with the abandoned or inactive mined lands.

''(B) ABANDONED OR INACTIVE MINED LANDS.—The term 'abandoned or inactive mined lands' means lands that were formerly mined and are not actively mined or in temporary shutdown at the time of submission of the remediation plan and issuance of a permit under this section.

''(C) MINED LANDS.—The term 'mined lands' means the surface or subsurface of an area where mining operations, including exploration, extraction, processing, and beneficiation, have been conducted. Such term includes private ways and roads appurtenant to such area, land excavations, underground mine portals, adits, and surface expressions associated with underground workings, such as glory holes and subsidence features, mining waste, smelting sites associated with other mined lands, and areas where structures, facilities, equipment, machines, tools, or other material or property which result from or have been used in the mining operation are located.

''(6) REGULATIONS.—The Administrator may issue regulations establishing more specific requirements that the Administrator determines would facilitate implementation of this subsection. Before issuance of such regulations, the Administrator may establish, on a case-by-case basis after notice and opportunity for public comment as provided by subsection (b)(3), more specific requirements that the Administrator determines would facilitate implementation of this subsection in an individual permit issued to the remediating party.''.

SEC. 410. BENEFICIAL USE OF BIOSOLIDS.

(a) REFERENCES.—Section 405(a) (33 U.S.C. 1345(a)) is amended by inserting ''(also referred to as 'biosolids')'' after ''sewage sludge'' the first place it appears.

(b) APPROVAL OF STATE PROGRAMS.—Section 405(f) (33 U.S.C. 1345(f)) is amended by adding at the end the following:

''(3) APPROVAL OF STATE PROGRAMS.—Notwithstanding any other provision of law, the Administrator shall approve for purposes of this subsection State programs that meet the standards for final use or disposal of sewage sludge established by the Administrator pursuant to subsection (d).''.

(c) STUDIES AND PROJECTS.—Section 405(g) (33 U.S.C. 1345(g)) is amended—

(1) in the first sentence of paragraph (1) by inserting ''building materials,'' after ''agricultural and horticultural uses,'';

(2) in paragraph (1) by adding at the end the following: ''Not later than January 1, 1997, and after providing notice and opportunity for public comment, the Administrator shall issue guidance on the beneficial use of sewage sludge.''; and

(3) in paragraph (2) by striking ''September 30, 1986,'' and inserting ''September 30, 1995,''.

SEC. 411. WASTE TREATMENT SYSTEMS DEFINED.

Title IV (33 U.S.C. 1341–1345) is further amended by adding at the end the following:

''SEC. 406. WASTE TREATMENT SYSTEMS DEFINED.

''(a) ISSUANCE OF REGULATIONS.—Not later than 1 year of the date of the enactment of this section, the Administrator, after consultation with State officials, shall issue a regulation defining 'waste treatment systems'.

''(b) INCLUSION OF AREAS.—

''(1) AREAS WHICH MAY BE INCLUDED.—In defining the term 'waste treatment systems' under subsection (a), the Administrator may include areas used for the treatment of wastes if the Administrator determines that such inclusion will not interfere with the goals of this Act.

''(2) AREAS WHICH SHALL BE INCLUDED.—In defining the term 'waste treatment systems' under subsection (a), the Administrator shall include, at a minimum, areas used for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water unless—

''(A) the area was created in or resulted from the impoundment or other modification of navigable waters and construction of the area commenced after the date of the enactment of this section;

''(B) on or after February 15, 1995, the owner or operator allows the area to be used by interstate or foreign travelers for recreational purposes; or

''(C) on or after February 15, 1995, the owner or operator allows the taking of fish or shellfish from the area for sale in interstate or foreign commerce.

''(c) INTERIM PERIOD.—Before the date of issuance of regulations under subsection (a), the Administrator or the State (in the case of a State with an approved permit program under section 402) shall not require a new permit under section 402 or section 404 for any discharge into any area used for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water unless the area is an area described in subsection (b)(2)(A), (b)(2)(B), or (b)(2)(C).

''(d) SAVINGS CLAUSE.—Any area which the Administrator or the State (in the case of a State with an approved permit program under section 402) determined, before February 15, 1995, is a water of the United States and for which, pursuant to such determination, the Administrator or State issued, before February 15, 1995, a permit under section 402 for discharges into such area shall remain a water of the United States.

''(e) REGULATION OF OTHER AREAS.—With respect to areas constructed for detention, retention, treatment, settling, conveyance, or evaporation of wastewater, stormwater, or cooling water that are not waste treatment systems as defined by the Administrator pursuant to this section and that the Administrator determines are navigable waters under this Act, the Administrator or the States, in establishing standards pursuant to section 303(c) of this Act or implementing other requirements of this Act, shall give due consideration to the uses for which such areas were designed and constructed, and need not establish standards or other requirements that will impede such uses.''.

SEC. 412. THERMAL DISCHARGES.

A municipal utility that before the date of the enactment of this section has been issued a permit under section 402 of the Federal Water Pollution Control Act for discharges into the Upper Greater Miami River, Ohio, shall not be required under such Act to construct a cooling tower or operate under a thermal management plan unless—

(1) the Administrator or the State of Ohio determines based on scientific evidence that such discharges result in harm to aquatic life; or

(2) the municipal utility has applied for and been denied a thermal discharge variance under section 316(a) of such Act.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment numbered 47 offered by Mr. RIGGS: Insert at the appropriate place in title IV the following new section:

''DISCHARGE VOLUME.—Section 402(o)(2) (33 U.S.C. 1342(o)(2)) is amended in the first sentence by inserting ''the concentration or loading of'' after the words ''applicable to''.

Mr. RIGGS. Mr. Chairman, I want to thank the chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his excellent work on the bill.

Mr. Chairman, I hope and believe that my amendment should not be controversial. It reaffirms what the EPA

should already know. Clean water is not itself a pollutant, and should not be regulated as such.

Specifically, Mr. Chairman, my amendment clarifies the anti-backsliding exception in the Clean Water Act under section 402(o). The act now allows a discharge permit to be ''renewed, reissued or modified to contain a less stringent effluent limitation applicable to a pollutant'' in certain circumstances.

The amendment would make clear that as long as other clean water precautions are followed, a discharge permit could be renewed, reissued or modified to contain a less stringent effluent limitation applicable to the concentration or loading of a pollutant.

The effect of the language is that increased volumes of treated wastewater could be discharged into a river or other body of water as long as water quality is not degraded.

The amendment is consistent with the spirit of H.R. 961 in that it gives flexibility while preserving requirements that water quality standards be met.

This amendment is particularly important to a jurisdiction, a portion of which I represent, the city of Santa Rosa in Sonoma County, CA.

Mr. Chairman, the anti-backsliding exception criteria explicitly addresses only the concentration of effluent quality constituents, not the pollutant quantity or wastewater flow. It appears that my amendment would enable the city of Santa Rosa to discharge into a nearby river at a greater than 1 percent rate only with modification of the anti-backsliding provision.

Mr. Chairman, this amendment will allow funds to be spent where the environment will benefit the most. Without this proposed language publicly owned wastewater treatment works across the country could be forced by existing regulations to forgo implementation of wastewater reuse projects that would restore wetlands and supply reclaimed water to support local agriculture, the wastewater that would be made available by this amendment and in the case of the city of Santa Rosa, avoid agricultural pumping of water from streams used by salmon and flathead.

For all of these reasons, Mr. Chairman, I urge my colleagues' approval of this amendment, and again I would hope that my amendment would be accepted by the minority and I believe that my amendment is noncontroversial in nature.

Mr. BACHUS. Mr. Chairman, I move to strike the last word, and I rise in support to the Riggs amendment. It provides a needed clarification of the 402(o) exemptions, and I would urge a yes vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

SEC. 501. CONSULTATION WITH STATES.

Section 501 (33 U.S.C. 1361) is amended by adding at the end the following new subsection:

''(g) CONSULTATION WITH STATES.—

''(1) IN GENERAL.—The Administrator shall consult with and substantially involve State governments and their representative organizations and, to the extent that they participate in the administration of this Act, tribal and local governments, in the Environmental Protection Agency's decisionmaking, priority setting, policy and guidance development, and implementation under this Act.

''(2) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to meetings held to carry out paragraph (1)—

''(A) if such meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and

''(B) if such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of this Act.

''(3) IMPLEMENTING GUIDELINES.—No later than 6 months after the date of the enactment of this paragraph, the Administrator shall issue guidelines for appropriate implementation of this subsection consistent with applicable laws and regulations.''.

SEC. 502. NAVIGABLE WATERS DEFINED.

Section 502(7) (33 U.S.C. 1362(7)) is amended by adding at the end the following: ''Such term does not include 'waste treatment systems', as defined under section 406.''.

SEC. 503. CAFO DEFINITION CLARIFICATION.

Section 502(14) (33 U.S.C. 1362(14)) is further amended—

(1) by inserting ''(other than an intermittent nonproducing livestock operation such as a stockyard or a holding and sorting facility)'' after ''feeding operation''; and

(2) by adding at the end the following: ''The term does include an intermittent nonproducing livestock operation if the average number of animal units that are fed or maintained in any 90-day period exceeds the number of animal units determined by the Administrator or the State (in the case of a State with an approved permit program under section 402) to constitute a concentrated animal feeding operation or if the operation is designated by the Administrator or State as a significant contributor of pollution.''.

SEC. 504. PUBLICLY OWNED TREATMENT WORKS DEFINED.

Section 502 (33 U.S.C. 1362) is further amended by adding at the end the following:

''(27) The term 'publicly owned treatment works' means a treatment works, as defined in section 212, located at other than an industrial facility, which is designed and constructed principally, as determined by the Administrator, to treat domestic sewage or a mixture of domestic sewage and industrial wastes of a liquid nature. In the case of such a facility that is privately owned, such term includes only those facilities that, with respect to such industrial wastes, are carrying out a pretreatment program meeting all the requirements established under section 307 and paragraphs (8) and (9) of section 402(b) for pretreatment programs (whether or not the treatment works would be required to implement a pretreatment program pursuant to such sections).''.

SEC. 505. STATE WATER QUANTITY RIGHTS.

(a) POLICY.—Section 101(g) (33 U.S.C. 1251(g)) is amended by inserting before the period at the end of the last sentence ''and in accordance with section 510(b) of this Act''.

(b) STATE AUTHORITY.—Section 510 (33 U.S.C. 1370) is amended—

(1) by striking the section heading and ''SEC. 510. Except'' and inserting the following:

''SEC. 510. STATE AUTHORITY.

''(a) IN GENERAL.—Except''; and

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

''(b) WATER RIGHTS.—Nothing in this Act shall be construed to supersede, abrogate, or otherwise impair any right or authority of a State to allocate quantities of water (including boundary waters). Nothing in this Act shall be implemented, enforced, or construed to allow any officer or agency of the United States to utilize directly or indirectly the authorities established under this Act to impose any requirement not imposed by the State which would supersede, abrogate, or otherwise impair rights to the use of water resources allocated under State law, interstate water compact, or Supreme Court decree, or held by the United States for use by a State, its political subdivisions, or its citizens. No water rights arise in the United States or any other person under the provisions of this Act. This subsection shall not be construed as limiting any State's authority under section 401 of this Act, as excusing any person from obtaining a permit under section 402 or 404 of this Act, or as excusing any obligation to comply with requirements established by a State to implement section 319.''.

SEC. 506. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

(A) differentiate between and establish separate classes for—

(i)(I) animal fats; and

(II) vegetable oils; and

(ii) other oils, including petroleum oil; and

(B) apply different standards and reporting requirements (including reporting requirements based on quantitative amounts) to different classes of fat and oil as provided in paragraph (2).

(2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of the Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) ANIMAL FAT.—The term ''animal fat'' means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.

(2) VEGETABLE OIL.—The term ''vegetable oil'' means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 507. NEEDS ESTIMATE.

Section 516(b)(1) (33 U.S.C. 1375(b)(1)) is amended—

(1) in the first sentence by striking ''biennially revised'' and inserting ''quadrennially revised''; and

(2) in the second sentence by striking ''February 10 of each odd-numbered year'' and inserting ''December 31, 1997, and December 31 of every 4th calendar year thereafter''.

SEC. 508. GENERAL PROGRAM AUTHORIZATIONS.

Section 517 (33 U.S.C. 1376) is amended—

(1) by striking ''and'' before ''$135,000,000''; and

(2) by inserting before the period at the end the following: '', and such sums as may be necessary for each of fiscal years 1991 through 2000''.

SEC. 509. INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—Section 518(d) (33 U.S.C. 1377(d)) is amended by adding at the end the following: ''In exercising the review and approval provided in this paragraph, the Administrator shall respect the terms of any cooperative agreement that addresses the authority or responsibility of a State or Indian tribe to administer the requirements of this Act within the exterior boundaries of a Federal Indian reservation, so long as that agreement otherwise provides for the adequate administration of this Act.''.

(b) DISPUTE RESOLUTION.—Section 518 is amended—

(1) by redesignating subsection (h) as subsection (j); and

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

''(h) DISPUTE RESOLUTION.—The Administrator shall promulgate, in consultation with States and Indian tribes, regulations which provide for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide, in a manner consistent with the objectives of this Act, that persons who are affected by differing tribal or State water quality permit requirements have standing to utilize the dispute resolution process, and for the explicit consideration of relevant factors, including the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards.''.

(c) PETITIONS FOR REVIEW.—Section 518 (33 U.S.C. 1377) is amended by inserting after subsection (h) (as added by subsection (b) of this section) the following:

''(i) DISTRICT COURTS; PETITION FOR REVIEW; STANDARD OF REVIEW.—Notwithstanding the provisions of section 509, the United States district courts shall have jurisdiction over actions brought to review any determination of the Administrator under section 518. Such an action may be brought by a State or an Indian tribe and shall be filed with the court within the 90-day period beginning on the date of the determination of the Administrator is made. In any such action, the district court shall review the Administrator's determination de novo.''.

(d) DEFINITIONS.—Section 518(j)(1), as redesignated by subsection (b) of this section, is amended by inserting before the semicolon at the end the following: '', and, in the State of Oklahoma, such term includes lands held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe, lands which are subject to Federal restrictions against alienation, and lands which are located within a dependent Indian community, as defined in section 1151 of title 18, United States Code''.

(e) RESERVATION OF FUNDS.—Section 518(c) (33 U.S.C. 1377(c)) is amended in the first sentence—

(1) by striking ''beginning after September 30, 1986,'';

(2) by striking ''section 205(e)'' and inserting ''section 604(a)'';

(3) by striking ''one-half of''; and

(4) by striking ''section 207'' and inserting ''sections 607 and 608''.

SEC. 510. FOOD PROCESSING AND FOOD SAFETY.

Title V (33 U.S.C. 1361–1377) is amended by redesignating section 519 as section 521 and by inserting after section 518 the following:

''SEC. 519. FOOD PROCESSING AND FOOD SAFETY.

''In developing any effluent guideline under section 304(b), pretreatment standard under section 307(b), or new source performance standard under section 306 that is applicable to the food processing industry, the Administrator shall consult with and consider the recommendations of the Food and Drug Administration, Department of Health and Human Services, Department of Agriculture, and Department of Commerce. The recommendations of such departments and agencies and a description of the Administrator's response to those recommendations shall be made part of the rulemaking record for the development of such guidelines and standards. The Administrator's response shall include an explanation with respect to food safety, including a discussion of relative risks, of any departure from a recommendation by any such department or agency.''.

SEC. 511. AUDIT DISPUTE RESOLUTION.

Title V (33 U.S.C. 1361–1377) is further amended by inserting before section 521, as redesignated by section 510 of this Act, the following:

''SEC. 520. AUDIT DISPUTE RESOLUTION.

''(a) ESTABLISHMENT OF BOARD.—The Administrator shall establish an independent Board of Audit Appeals (hereinafter in this section referred to as the 'Board') in accordance with the requirements of this section.

''(b) DUTIES.—The Board shall have the authority to review and decide contested audit determinations related to grant and contract awards under this Act. In carrying out such duties, the Board shall consider only those regulations, guidance, policies, facts, and circumstances in effect at the time of the grant or contract award.

''(c) PRIOR ELIGIBILITY DECISIONS.—The Board shall not reverse project cost eligibility determinations that are supported by an decision document of the Environmental Protection Agency, including grant or contract approvals, plans and specifications approval forms, grant or contract payments, change order approval forms, or similar documents approving project cost eligibility, except upon a showing that such decision was arbitrary, capricious, or an abuse of law in effect at the time of such decision.

''(d) MEMBERSHIP.—

''(1) APPOINTMENT.—The Board shall be composed of 7 members to be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

''(2) TERMS.—Each member shall be appointed for a term of 3 years.

''(3) QUALIFICATIONS.—The Administrator shall appoint as members of the Board individuals who are specially qualified to serve on the Board by virtue of their expertise in grant and contracting procedures. The Administrator shall make every effort to ensure that individuals appointed as members of the Board are free from conflicts of interest in carrying out the duties of the Board.

''(e) BASIC PAY AND TRAVEL EXPENSES.—

''(1) RATES OF PAY.—Except as provided in paragraph (2), members shall each be paid at a rate of basic pay, to be determined by the Administrator, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board.

''(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

''(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator shall provide to the Board the administrative support services necessary for the Board to carry out its responsibilities under this section.

''(g) DISPUTES ELIGIBLE FOR REVIEW.—The authority of the Board under this section shall extend to any contested audit determination that on the date of the enactment of this section has yet to be formally concluded and accepted by either the grantee or the Administrator.''.

AMENDMENT OFFERED BY MR. EMERSON

Mr. EMERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. EMERSON: Insert the following new section into H.R. 961:

SEC. . FEDERAL POWER ACT PART I PROJECTS.

Section 511(a) of the Federal Water Pollution Control Act (33 U.S.C. §1371) is amended by adding after ''subject to section 10 of the Act of March 3, 1899,'' the following, and by renumbering the remaining paragraph accordingly:

''(3) applying to hydropower projects within the jurisdiction of the Federal Energy Regulatory Commission or its successors under the authority of Part I of the Federal Power Act (16 U.S.C. §§791 et seq.);''.

Mr. EMERSON. Mr. Chairman, the purpose of this amendment is to resolve the friction and conflict that the Clean Water Act, as interpreted by the Supreme Court in its 1994 Tacoma decision, is creating with the Federal Power Act. The Supreme Court has interpreted the Clean Water Act, in particular section 401 of the Act, so broadly as to effectively supersede the Federal Energy Regulatory Commission's licensing authority over hydropower projects under the Federal Power Act. This amendment would rectify that situation by exempting hydropower projects from regulation under the Clean Water Act.

The Federal Energy Regulatory Commission already conducts a comprehensive review of proposed new hydropower projects when first deciding whether to issue a license and again upon relicensing. That review takes into account the inputs of State and Federal agencies, Indian tribes, and the public. The review also carefully evaluates and addresses the potential environmental impacts of each proposed and existing project. Therefore, in the context of hydropower projects under the Commission's jurisdiction, there is no need for the additional, duplicative layer of regulation that the Clean Water Act now creates. This amendment eliminates the duplicative layer of Federal regulation.

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

Mr. EMERSON. I am happy to yield to the chairman of the committee of jurisdiction.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding. I understand what he is attempting to accomplish here. My judgment is that it does go a little too far, and I am hopeful that we might be able to work out a compromise. I believe either Congressman TATE or myself or Congressman LAUGHLIN will have a compromise, and I would be constrained to vigorously support the compromise and hope the gentleman might be able to see his way clear to do that.

Mr. EMERSON. I am glad to be amended, if that is the intent of the chairman.

Mr. SHUSTER. I thank the gentleman for his cooperation.

Mr. RAHALL. Mr. Chairman, we have heard a great deal of talk this year about unfunded mandates, about the rights of the States, about regulatory burdens on local units of government. Well, I would say to my colleagues, this amendment represents the granddaddy of all burdens on the States, of all unfunded mandates on the States and of all violations of the rights of the States.

What this amendment says is that we will let the Federal Government, in the form of FERC, run roughshod over State water quality determinations during the licensing of hydroelectric power projects.

It is an amendment of convenience. At times, it is convenient to support State primacy. This time, to some, apparently it is not convenient.

And so, what this amendment basically says is that we will allow FERC to shove hydro projects down the throats of the States, and while we're at it, overturn a Supreme Court decision and disregard the views of 40 State attorneys general.

The simple fact of the matter is that water quality, where the States have primacy under section 401 of the act, and water quantity considerations cannot be separated.

For this reason, the States currently have the right to condition hydroelectric power licenses issued by FERC to protect their bona fide interest in maintaining the water quality of their rivers and streams.

This amendment would do away with that fundamental right of the States.

As 40 State attorneys general wrote to the committee leadership recently: ''This Congress is actively pursuing a new federalism, seeking to delegate to states authority previously held by the federal government.''

They concluded: ''How ironic it would be for this Congress to reverse this policy and strip away longstanding state authority over water quality.''

Mr. Chairman, I urge the defeat of this amendment.

AMENDMENT OFFERED BY MR. LAUGHLIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. EMERSON

Mr. LAUGHLIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAUGHLIN as a substitute for the amendment offered by Mr. EMERSON: Page 213, after line 5, insert the following:

SEC. 507. DISPUTE RESOLUTION.

(a) IN GENERAL.—Section 401 of the Federal Water Pollution Control Act does not apply with respect to the licensing of a hydroelectric project under Part I of the Federal Power Act if the relevant federal agency makes the determination referred to in subsection (b) in accordance with the mechanism described in subsection (c).

(b) DETERMINATION.—The determination referred to in subsection (a) is a specific determination that a denial, condition, or requirement of a certification under section 401 of the Federal Water Pollution Control Act for such a project is inconsistent with the purposes and requirements of Part I of the Federal Power Act.

(c) MECHANISM.—The dispute resolution mechanism for purposes of subsection (a) shall be a mechanism established by the relevant federal agency in consultation with the Administrator and the States, for resolving any conflicts or unreasonable consequences resulting from actions taken under section 401 by a State, an interstate water pollution control agency or the Administrator relating to the issuance of a license (or to activities under such license) for a hydroelectric project under Part I of the Federal Power Act. Such mechanism shall include, at a minimum, a process whereby: (1) the relevant federal agency, in coordination with the State, the interstate agency or the Administrator (as the case may be) may determine whether any denial, condition or requirement under section 401 of the Federal Water Pollution Control Act relating to the issuance of such license or to activities under such license is inconsistent with the purposes and requirements of Part I of the Federal Power Act; (2) such denial, condition, or requirement shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act if based on temperature, turbidity or other objective water quality criteria regulating discharges of pollutants; and (3) any denial, condition, or requirement not based on such criteria shall be presumed to be consistent with the purposes and requirements of Part I of the Federal Power Act unless the relevant federal agency, after attempting to resolve any inconsistency, makes a specific determination under subsection (b) and publishes such determination together with the basis for such determination in the license or other appropriate order.

Mr. LAUGHLIN (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 Texas?

There was no objection.

Mr. LAUGHLIN. Mr. Chairman, the Laughlin-Tate-Brewster-Bachus-Parker amendment to the Emerson amendment is a balanced, reasonable amendment to address the ongoing problem involving section 401 of the Clean Water Act and the Federal Energy Regulatory Commission.

This sets up a balanced, fair dispute resolution process. It responds to the conflicts—or at least potential conflicts—between Clean Water Act water quality certifications and FERC hydropower licensing decisions.

A recent Supreme Court case has expanded the interpretation and use of section 401.

This amendment does not overturn that case. It does not weaken States rights to protect water quality.

Instead, it sets up a fair mechanism to resolve potential conflicts or unreasonable consequences. It also retains States rights to protect water quality—the original intent of the Clean Water Act.

I urge my colleagues to support the amendment.

Mr. BACHUS. Mr. Chairman, I rise in support of the substitute amendment.

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

Mr. BACHUS. Mr. Chairman, this amendment deals with hydroelectric power. Hydroelectric power is our largest renewable energy source. Ninety-five percent of our renewable energy in the United States is hydroelectric power. That source of renewable energy is threatened by the 1994 Supreme Court ruling which the gentleman from Texas mentioned, and it has placed this energy resource in jeopardy. The Supreme Court ruling known as the Tacoma decision expands the role of the State water quality agency beyond traditional water quality issues by permitting these agencies to regulate operations of a hydro project, a power previously under the jurisdiction of the Federal Energy Regulatory Commission and Federal natural resource agencies.

□ 1930

Hydropower today provides 12 percent of our Nation's electricity, and I call your attention to the fact that hydropower emits no greenhouse gases or pollutants. It does not produce any toxic waste. It is completely renewable through annual rainfall and snow melt, and it is domestically produced, which is critical to national security. In the next decade a large portion of the Nation's hydroelectric projects will come up for relicensing before FERC.

In my home State of Alabama, 70 percent of the hydroelectric projects must be relicensed in the next 10 years. Unfortunately, as these vital projects come up for relicensing, they are threatened by the Tacoma decision.

If left unaddressed in this present legislation, the Supreme Court's interpretation of section 401 of the existing Clean Water Act threatens the continuing operation of hydroelectric projects throughout this country, and in doing so, it threatens the viability of our most significant renewable resource and millions of business and customers who depend on hydroelectric power. To allow this situation to threaten the hundreds of existing projects that will undergo relicensing in the coming year is simply not good environmental or public policy.

As the largest provider of renewable energy, hydropower must not be strangled by the dual regulatory process that has been inadvertently created by the Tacoma decision.

The substitute being offered by the gentleman from Texas [Mr. LAUGHLIN], the gentlemen from Washington, Oklahoma, Mississippi, and myself, gives this Congress the chance to pull hydroelectric projects out of the regulatory quicksand that has been created and get our energy and environmental policies working together for a secure, clean energy future.

Mr. DEFAZIO. Mr. Chairman, I move to strike the last word.

If I could enter into a discussion with my friend from Missouri, we just received a copy of this, and what I am trying to understand in reading through it is: Are we preempting the States? I know that that was the objective of the original amendment, to preempt the State's authority to control its own water. In this case, we seem to

have some kind of a dispute mechanism being set up, but it seems to me ultimately the decisions will all be made within the Federal Energy Regulatory Commission.

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

Mr. DEFAZIO. I yield to the gentleman from Missouri.

Mr. EMERSON. The object here is to establish a dispute resolution process. That is the intent of the amendment, to avoid duplicative efforts.

Mr. DEFAZIO. Reclaiming my time, who would have the final say in a dispute where a State has determined that a hydro project is inconsistent with that State's regulation of its own waters; that is, of whether they have a concern regarding drinking water quality, turbidity, fisheries, whatever?

Mr. EMERSON. In an issue involving the jurisdiction of FERC, it would be FERC.

Mr. DEFAZIO. Reclaiming my time then, so the gentleman is preempting States' rights, and in the western States a number of States have opted to oppose projects by FERC, and now in this case, should a State oppose a project approved by FERC, FERC could overrule the State? Is that correct? I guess it is.

Mr. EMERSON. If the gentleman would yield, no, the States still have their right to protect their water quality. It is when we get into the issues of water quantity that you need an arbiter above an individual State

Mr. DEFAZIO. Reclaiming my time, I do not know how in the West, where it does not rain in the summertime and some years we do not have a lot of runoff, we can separate the issues of water quantity and quality. They kind of go together. If we do not have enough water, a lot of times there may be something, a problem with resident fish, and there may be a problem with other naturally occurring pollutants. We have some mercury contamination that is natural. If we do not have enough water, it reaches dangerous levels.

Mr. EMERSON. If the gentleman would yield, I think the best way to put it is that when a State acts under the Clean Water Act and there is a dispute, you need a higher authority to go to resolve the dispute. So this is a dispute resolution mechanism more than anything else.

Certainly, it would not be my object to preempt States' rights, but there certainly are issue areas where States, where a higher authority needs to be invoked.

Mr. DEFAZIO. Reclaiming my time, is the gentleman familiar with the position of the Western Governors, and have the Western Governors signed off on this? Because they were opposed to the previous amendment.

Mr. EMERSON. We have worked with the Western Governors. No, they have not signed off on it. We have given them every opportunity to be involved, and that is one of the reasons, quite frankly, for which there needs to be a dispute resolution.

Mr. DEFAZIO. Reclaiming my time, there is a dispute resolution now. It has been determined, you know, through the Supreme Court that, in fact, States ultimately control the waters within their States and they cannot be preempted by a bunch of faceless Federal bureaucrats. I guess I would ask, could the gentleman name the members of the Federal Energy Regulatory Commission? I cannot. I do not know who they are.

Mr. EMERSON. If the gentleman would yield, the Supreme Court specifically did not address the issue that the gentleman is raising, which is why we need a dispute resolution process.

Mr. DEFAZIO. Reclaiming my time, I mean, so we would determine that if a State disagrees with the Federal Energy Regulatory Commission, the Federal Energy Regulatory Commission would essentially have the ultimate say. As a western Member, I have a real concern giving authority over State water in the Western States to a bunch of nameless, faceless bureaucrats in Washington, DC, even if they are appointed by an ostensibly Democrat President and Administration.

Really, it is not something I am particularly interested in granting to this agency, and this amendment seems to do so, and I am not interested in doing that. I am trying to understand this. The staff is furiously reading through it. If we could ask for an additional extension of time, I would appreciate the Chair doing so.

Mr. BACHUS. If the gentleman would yield, I would like to respond to your concerns for the Western States by pointing out to you some testimony from David Conrad, who is the water resource specialist for the National Wildlife Federation, and he, in fact, in testimony given in connection with H.R. 649.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. BACHUS] has expired.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. SHUSTER was allowed to speak out of order.)

Mr. SHUSTER. Mr. Chairman, I wish to take this time in order to make an announcement.

In consultation with several Members, including the majority leader, what we have decided is to rise tonight at 8:30, to come in tomorrow at 10 o'clock, work until 1 o'clock, rise tomorrow afternoon, take this bill up Monday evening, probably around 6 o'clock, as soon as we can Monday. I understand there is other legislation before us Monday, and take the bill up again at 10 a.m. on Tuesday and attempt to complete it on Tuesday.

The majority leader tells me that we would consider setting time limits next week, if necessary, but this is my understanding of where we are. So I would expect that we will rise around 8:30 tonight, and I thank the distinguished chairman.

Mr. DEFAZIO. Mr. Chairman, I ask unanimous consent for an additional 5 minutes for the gentleman from Alabama [Mr. BACHUS] so the gentleman and I may continue our colloquy.

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

There was no objection.

Mr. DEFAZIO. Mr. Chairman, I defer to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. What I was saying was Mr. Conrad gave testimony in 1991, in which he argued against FERC giving up being the final arbitrator of these hydroelectric projects, and he said at that time that he would like FERC preserved as the final arbitrator by saying that if the right was withdrawn, it would eliminate, and he gave three reasons, it would eliminate the critical floor of environmental protection that now exists in the Federal Power Act and in related Federal environmental laws; second, it would make hydroelectric licensing and the protection of the environment much more difficult and unpredictable than it is currently; and third, and to address your specific concerns, it would vastly reduce, especially in the Western States, the opportunities for the public to be involved in the environmental conditions associated with hydropower development.

As I am sure the gentleman is aware, FERC goes through exhaustive hearings in which local citizens are allowed to give testimony. Local agencies are allowed to give testimony, and under the amendment which has been proposed, the States would still have every right to establish and to enforce water quality standards, including adopting water quality standards to rightfully establish the amount of chemicals or pollutants, percentages, in the water, and establish numeric water quality criteria standards.

Mr. DEFAZIO. If I could ask the gentleman, the point I was making, for instance, and I can go to a specific instance but I will not, but it involved quantity, not quality, because without the quantity we do not get to that point because of naturally occurring pollutants. So you are saying if there is a naturally occurring problem or pollutant, the State could control the quantity sufficient to dilute it, because that is essentially what we are doing in this instance, in order to keep up temperatures and in order to offset other problems in the water; we could, the State would still have the right to control quantity if it could make a case based on water quality grounds. Is that the gentleman's understanding of the amendment?

Mr. BACHUS. As the gentleman knows, you have to have adequate inflow for these projects, and FERC would continue to be the final arbiter of that. But the States would, and local governments and citizen groups, would all participate through a mediation or arbitration process that is set up in this amendment.

Mr. DEFAZIO. Reclaiming my time then, I guess ultimately, I mean I would then conclude, in opposition to the amendment, because I do not want the Federal Energy Regulatory Commission to be the final arbiter of something that concerns the waters of a sovereign western State. You know, we had a dispute in my State between FERC and the State, and the State prevailed because the State demonstrated that the project approved by FERC would have caused the decimation of a fishery. The State had wildlife concerns, and also would have very detrimental effects on a very, very heavily used river in terms of whitewater rafting.

So I am not assured by the idea that these faceless, nameless bureaucrats at FERC are going to be the protectors of the 50 States' sovereign water rights. So I would reluctantly rise in objection to the amendment, as I understand it. I have hardly been given the opportunity to review it.

Mr. EMERSON. If the gentleman would yield, we do recognize that quality and quantity are mixed. But let me say to the gentleman that when a State makes a quantity decision that may be in conflict with FERC, there needs to be a dispute resolution process.

Mr. DEFAZIO. Reclaiming my time, my understanding now, in those cases, either it has been decided by the courts, I am not certain, or certainly people have had recourse to the courts, given the conflict between a State agency and a Federal agency. But to have a dispute resolution wherein FERC has the final say, if this were a neutral dispute resolution process with an arbitrator or a mediator or something, someone not part of FERC, I would be more interested and enthusiastic, but to say there will be a dispute resolution and FERC, who disagrees with the State, will get to determine the resolution is going back to the fox guarding the chickenhouse.

Mr. EMERSON. If the gentleman would yield, if it is strictly a FERC issue, FERC will decide. The problem comes when there is a conflict between FERC and the States.

Mr. DEFAZIO. Again, that is my concern. I would like to see the States have at least equal footing, if not preeminence, when it comes to this.

Mr. TATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to thank the chairman of the Transportation Committee for his efforts on this particular issue, trying to forge a compromise, as well as the gentleman from Texas [Mr. LAUGHLIN] and others who have been working on this particular issue.

Since January 4, we have been trying to make Government more efficient, less bureaucracy, trying to streamline all processes of Government.

The Tacoma case complicates this entire issue. What we are trying to do is bring some common sense back to this, and there are some questions left unanswered by the Supreme Court.

Now, this amendment recognizes the expanded role granted to the States by the Supreme Court, but we need a balance. We need a reasoned approach.

The current process under FERC looks at environmental concerns, looks at power production, looks at fish and wildlife, looks at native American treaties, looks at irrigation, looks at management of Federal lands, looks at interstate flow issues, and FERC does not always rule on the side of hydro.

□ 1945

I mean, if we do not have these kind of changes, this is going to be a lawyers' dream. We are going to fight over between who and which is right. The current process is complicated. The current process is lengthy. Otherwise, if we do not make these changes, we are going to have the Noah's Ark approach. We are going to have two of everything. We have got to have some kind of process to solve this problem.

This amendment, I think and I believe, will promote what is our renewable resource right here in America, and that is our water resources. We need to protect it. To me this is a commonsense solution. It has been worked out in a bipartisan way, and I think that it deserves the support of the Members of this body.

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

Mr. TATE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Well, again just returning to—as my colleague knows, I think we all strive for consistency. I mean the issue of preempting the State on waters solely within, as my colleague knows, its jurisdiction disturbs me, and I would assume it disturbs the gentleman to give that power to a bunch of—— Could the gentleman name the members of the Federal Energy Regulatory Commission for me?

Mr. TATE. Once again, I cannot name the names of the FERC, but the point to keep in mind, the gentleman from Oregon, is, if we do not make these differences and changes, we are going to have two processes. I mean we have to decide. Eventually, there has to be an answer. Otherwise this becomes a lawyers' dream. We are going to argue between which is right. I am someone who respects States' rights, but ultimately there needs to be a decision. This provides that ultimate decision. Otherwise we are just hanging out there in space waiting for someone to answer. This gives a final answer, and that is what we need.

Mr. DEFAZIO. If the gentleman will yield, in my State we got to a final answer. FERC approved the project, the State disapproved it, and the project did not go forward, and I would hope that would be the result, but under this amendment FERC would approve it, the State would disapprove it, and FERC would then preempt the State, and I am puzzled that a Western Member would support——

Mr. TATE. Reclaiming my time, that could still occur under this current provision. We are just trying to have some finality to this, some certainty to this, and to move forward with this. The gentleman's scenario would still exist under this particular bill, or actually substitute to the Emerson amendment.

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

Mr. TATE. I yield to the gentleman from Washington.

Mr. DICKS. I rise in support of this substitute amendment. This case occurred in—Tacoma case is in my district and it affected a dam up on the Olympic Peninsula in the State of Washington, and I have thought about this at some great length, and in my judgment we have to have some way to resolve this. I say to my colleagues, You can't have the States being able to completely block. I mean that the FERC should consider the States' objections, they should give them very thorough consideration and that there should be—as I understand the bill, there is basically you're saying that, unless the FERC can show that it's inconsistent with the Federal Power Act, basically it has to go along with the State objection. It seems to me that is fine, but to have this—to have these two processes where both of them are kind of State FERC's and a national FERC I think is a big mistake, and I think this is a good compromise. I think it's well-thought-out and very balanced, and I would hope that it would be adopted.

Mr. TATE. Reclaiming my time to agree with the gentleman from the Sixth District of Washington, I say, You are exactly right. The burden of proof is on FERC to prove that it is the problem, and so that's—we are solving the problem with this. We are getting rid of the duplication, and I commend the gentleman for his support.

Mr. DICKS. I would point out this does mean this is kind of a strong Federal system, but I think in this case it is warranted.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

As my colleagues know, it is very interesting that in the Northwest we rely about 40 percent on hydropower production. Unfortunately, hydropower production is dependent upon water for its fuel source, and unless there is a reliable quantity of water which could be taken away from a project because of quality concerns, and unless there is a stability in that in the long term over the period of the license, a project can be threatened, and ratepayers ultimately have to pay that cost.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield on that point?

Mrs. CHENOWETH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Maybe I misheard the gentlewoman, but I understood her to

say that a project might be deprived of a quantity of water because of quality, water quality, concerns. Well, I would hope that would be the case, and I would imagine that most people in Idaho would hope that would be the case.

Mrs. CHENOWETH. Well, reclaiming my time, if a project is required because of water quality problems to have to spill in order to raise the level of the water downstream because of water quality problems, and they are required by a State agency to spill above and beyond the capacity of the plan to take the water, and they are not only able to produce the electricity that they should be producing over a period of time, that causes a great deal of uncertainty, not only to the power producers, the ratepayers, but also to the bankers and the bond company. The water is the fuel source, and before a license is granted, the license applicant certainly has to go though all of the hoops set forth in the Environmental Comprehensive Protection Act which requires that the State once and for all set the criteria as far as quality and quantity of water and how that would mix. Our concern is that the goal posts do not get moved down the pike so that it can break projects because we are so reliant on hydropower.

Mr. DEFAZIO. Mr. Chairman, will the gentlewoman yield again?

Mrs. CHENOWETH. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I just like to point out, and I do not know the gentlewoman's relationship with the gentleman, but Allen G. Lance, attorney general of Idaho, was opposed to the last iteration of this that he saw, and I do not believe he has had an opportunity to review this one.

Mrs. CHENOWETH. Yes, I do not think our attorney general has had the opportunity to review this amendment, and I have not had the opportunity to speak to him. I am a very strong proponent of States' water rights; that is one of the reasons I ran for Congress, but I think that we have to offer to our ratepayers and to the license holders a certain degree of certainty, and I think that this amendment would do that.

Mr. BREWSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Laughlin amendment. Mr. Chairman, this amendment resolves very simply a potential problem resulting from the so-called Tacoma decision by the Supreme Court. That decision actually puts the Clean Water Act in direct conflict with the Federal Energy Regulatory Commission under the Federal Power Act. It erodes FERC's ability to balance broad national interests when making decisions about hundreds of hydro projects around the country.

Without this amendment, hydroelectricity's clean and affordable contribution to our Nation is threatened. I urge my colleagues to support the Laughlin amendment.

Mr. STOCKMAN. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. STOCKMAN. I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Chairman, I think one unfair thing about this debate is there has been some suggestion that under this amendment that the States and their water quality agencies do not have significant authority under this amendment. I would remind the gentleman from Oregon and anyone that is concerned about this that FERC will still be required to include the State's position on the need for power for the project, the value of the project to the local and regional economy, as well as the effects on recreation, fish and wildlife, and water quality in deciding whether or not to issue a license, and over the past history of FERC's regulation, even prior to this amendment which expands the rights of the water quality agencies of the States, FERC has accepted the recommendations of the States in over 90 percent of the cases, and we strengthen that. We strengthen under this amendment the right of the States to mandatory input and to mandatory participation.

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

Mr. BACHUS. I yield to the gentleman from Oregon.

Mr. DEFAZIO. The qualification I see in here is for such a project, is inconsistent with the purposes and requirement of part 1 of the Federal Power Act. Again, not having been given the time to go back and review the statutes, what protections are in part 1 of the Federal Power Act. Are all the things that the gentleman just mentioned included in part 1 of the Federal Power Act.

Mr. BACHUS. All the present protections of the Federal Power Act are included and preserved under this amendment.

Mr. DEFAZIO. So part 1 of the Federal Power Act includes all of those concerns and additions the gentleman just listed.

Mr. BACHUS. Either those or the Clean Water Act, which is now in effect, or other statutes and FERC regulations, rules and regulations.

Mr. DEFAZIO. If the gentleman would yield further, the point is we are exempting them unless it is inconsistent here, and I guess, as the gentleman knows, I think that this is an amendment of such import to the West, to unveil it with no opportunity to have it reviewed by the rather lengthy list of attorney generals—four pages from the West; I am not sure how many are on here, and other States other than the West: Delaware, Georgia, Hawaii, Illinois, Iowa, Maine. Well, looks like we went to the East: Pennsylvania, New Mexico, et cetera. It looks like most of the State attorney generals signed this, and to not have an opportunity to run it by all the attorney generals that objected to the original iteration, it seems again, as my colleagues know, that this is something that would perhaps be better left until Tuesday to at least give some of us an opportunity to review it with attorney generals.

Mr. BACHUS. In conclusion I would like to say to the gentleman from Oregon and to the Members, ''Remember the days when hydroelectric power was the most popular of energy resources. It was cheap, it was friendly to the environment. Fishermen and boaters loved the reservoirs that were created. The big dams were called the Eight Wonders of the World. The National Geographic had article after article about the popularity and the attractiveness of hydroelectric power.''

I say that is not changed today. It is 95 percent of our renewable energy comes from hydroelectric power. It is as important today, if not more important, than it was then, and 70 percent of those projects, hundreds of projects throughout this country, are going to be coming up for relicensing in the next 10 years. We have to establish an arbitration and a licensing agreement and not keep these tied up in court, as the gentleman alluded to, for years and years. It is a matter of national security. It makes us less dependent on foreign oil.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. LAUGHLIN] as a substitute for the amendment offered by the gentleman from Missouri [Mr. EMERSON].

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

RECORDED VOTE

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DEFAZIO. This vote is on the amendment offered by the gentleman from Missouri [Mr. EMERSON] as amended; is that correct?

The CHAIRMAN. The gentleman is not correct.

Mr. DEFAZIO. All right; go ahead. I was just trying to get straight for Members what we are voting on. We are voting on the amendment offered as a substitute for the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The CHAIRMAN. The gentleman is correct.

The vote as taken by electronic device, and there were—ayes 309, noes 100, not voting 25, as follows:

[Roll No. 326]

AYES—309

Allard	Bachus	Ballenger
Andrews	Baesler	Barcia
Archer	Baker (CA)	Barr
Armey	Baker (LA)	Barrett (NE)

Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Zeliff
Zimmer

NOES—100

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Brown (OH)
Clay
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dixon
Durbin
Engel
Ensign
Eshoo
Evans
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gibbons
Gilchrest
Gutierrez
Hastings (FL)
Hinchey
Jackson-Lee
Jefferson
Johnson (CT)
Johnston
Kennedy (MA)
Kennedy (RI)
Kildee
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Markey
McCarthy
McDermott
McInnis
McKinney
Meehan
Menendez
Meyers
Mineta
Mink
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Serrano
Skaggs
Slaughter
Stokes
Studds
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—25

Barton
Bono
Boucher
Collins (IL)
Collins (MI)
Dunn
Frisa
Hancock
Harman
Istook
Livingston
Meek
Mfume
Miller (CA)
Moakley
Ortiz
Pastor
Peterson (FL)
Rogers
Schumer
Stark
Tanner
Torres
Watts (OK)
Young (FL)

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The Clerk announced the following pairs:

On this vote:

Mr. Bono for, with Mrs. Collins of Illinois against.

Mr. Watts for, with Mr. Moakley against.

Mr. Barton for, with Miss Collins of Michigan against.

Ms. VELÁZQUEZ, Ms. PELOSI, Mrs. JOHNSON of Connecticut, Ms. MCKINNEY, and Messrs. SKAGGS, BARRETT of Wisconsin, and MEEHAN changed their vote from ''aye'' to ''no.''

Messrs. TAYLOR of Mississippi, BROWNBACK, WISE, BARCIA, POMEROY, and HOUGHTON changed their vote from ''no'' to ''aye.''

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Chairman, I was, unfortunately, required to attend to business in my congressional district in Baltimore this evening and thus forced to miss two record votes. Specifically, I was not present to record my vote on rollcall vote No. 325, the amendment offered by Mr. VISCLOSKY of Indiana and rollcall vote No. 326, the amendment offered by Mr. LAUGHLIN of Texas to the Emerson of Missouri amendment.

Had I been here I would have voted ''yea'' on rollcall vote No. 325 and ''nay'' on rollcall vote No. 326.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended.

The question was taken, and the Chairman announced that the noes appeared to have it.

The CHAIRMAN. In the opinion of the Chair, the noes have it, and the amendment is rejected.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state it.

Mr. SHUSTER. Mr. Chairman, I was on my feet and did not hear the Chair announce the vote. What was the announcement of the 5-minute vote?

The CHAIRMAN. The announcement of the 5-minute vote was that the noes prevailed. The Chair stands corrected. It was not a 5-minute vote. There was a voice vote.

On the voice vote, the noes prevailed and the amendment was not agreed to.

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Those in favor of a recorded vote will indicate by standing.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state it.

Mr. MINETA. Mr. Chairman, it seems to me Members have left. To now call for a vote——

The CHAIRMAN. The Committee will be in order.

Mr. SHUSTER. Mr. Chairman——

The CHAIRMAN. The House will be in order. Members will suspend.

The gentleman from California [Mr. MINETA] has been recognized by the Chair. The gentleman from California shall proceed.

Mr. MINETA. Mr. Chairman, on the basis of what we have now heard, I ask unanimous consent that the last vote be reconsidered, that the voice vote be reconsidered; that there be a reconsideration of the voice vote.

The CHAIRMAN. A motion to reconsider is not in order.

Mr. SHUSTER. Mr. Chairman——

The CHAIRMAN. The Members will suspend.

By unanimous consent, the Committee may vacate a voice vote, and do it over.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the voice vote be vacated.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON], as amended.

The amendment, as amended, was agreed to.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after title VI is read, I will then move that the Committee do rise. We will come in tomorrow at 10 o'clock to resume debate on this legislation. We will proceed until 1 o'clock

tomorrow afternoon. We will take up this legislation Tuesday morning. However, I am informed by the majority leader that there will be other votes on Monday, as has been previously announced.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

SEC. 601. GENERAL AUTHORITY FOR CAPITALIZATION GRANTS.

Section 601(a) (33 U.S.C. 1381(a)) is amended by striking ''(1) for construction'' and all that follows through the period and inserting ''to accomplish the purposes of this Act.''.

SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

(a) REQUIREMENTS FOR CONSTRUCTION OF TREATMENT WORKS.—Section 602(b)(6) (33 U.S.C. 1382(b)(6)) is amended—

(1) by striking ''before fiscal year 1995''; and

(2) by striking ''201(b)'' and all that follows through ''218'' and inserting ''211''.

(b) COMPLIANCE WITH OTHER FEDERAL LAWS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following:

''(c) OTHER FEDERAL LAWS.—

''(1) COMPLIANCE WITH OTHER FEDERAL LAWS.—If a State provides assistance from its water pollution control revolving fund established in accordance with this title and in accordance with a statute, rule, executive order, or program of the State which addresses the intent of any requirement or any Federal executive order or law other than this Act, as determined by the State, the State in providing such assistance shall be treated as having met the Federal requirements.

''(2) LIMITATION ON APPLICABILITY OF OTHER FEDERAL LAWS.—If a State does not meet a requirement of a Federal executive order or law other than this Act under paragraph (1), such Federal law shall only apply to Federal funds deposited in the water pollution control revolving fund established by the State in accordance with this title the first time such funds are used to provide assistance from the revolving fund.''.

(c) GUIDANCE FOR SMALL SYSTEMS.—Section 602 (33 U.S.C. 1382) is amended by adding at the end the following new subsection:

''(d) GUIDANCE FOR SMALL SYSTEMS.—

''(1) SIMPLIFIED PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall assist the States in establishing simplified procedures for small systems to obtain assistance under this title.

''(2) PUBLICATION OF MANUAL.—Not later than 1 year after the date of the enactment of this subsection, and after providing notice and opportunity for public comment, the Administrator shall publish a manual to assist small systems in obtaining assistance under this title and publish in the Federal Register notice of the availability of the manual.

''(3) SMALL SYSTEM DEFINED.—For purposes of this title, the term 'small system' means a system for which a municipality or intermunicipal, interstate, or State agency seeks assistance under this title and which serves a population of 20,000 or less.''.

SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

(a) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amended to read as follows:

''(c) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—

''(1) IN GENERAL.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance to activities which have as a principal benefit the improvement or protection of water quality to a municipality, intermunicipal agency, interstate agency, State agency, or other person. Such activities may include the following:

''(A) Construction of a publicly owned treatment works if the recipient of such assistance is a municipality.

''(B) Implementation of lake protection programs and projects under section 314.

''(C) Implementation of a management program under section 319.

''(D) Implementation of a conservation and management plan under section 320.

''(E) Implementation of a watershed management plan under section 321.

''(F) Implementation of a stormwater management program under section 322.

''(G) Acquisition of property rights for the restoration or protection of publicly or privately owned riparian areas.

''(H) Implementation of measures to improve the efficiency of public water use.

''(I) Development and implementation of plans by a public recipient to prevent water pollution.

''(J) Acquisition of lands necessary to meet any mitigation requirements related to construction of a publicly owned treatment works.

''(2) FUND AMOUNTS.—The water pollution control revolving fund of a State shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing financial assistance described in paragraph (1). Fees charged by a State to recipients of such assistance may be deposited in the fund for the sole purpose of financing the cost of administration of this title.''.

(b) EXTENDED REPAYMENT PERIOD FOR DISADVANTAGED COMMUNITIES.—Section 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

(1) in subparagraph (A) by inserting after ''20 years'' the following: ''or, in the case of a disadvantaged community, the lesser of 40 years or the expected life of the project to be financed with the proceeds of the loan''; and

(2) in subparagraph (B) by striking ''not later than 20 years after project completion'' and inserting ''upon the expiration of the term of the loan''.

(c) LOAN GUARANTEES FOR INNOVATIVE TECHNOLOGY.—Section 603(d)(5) (33 U.S.C. 1383(d)(5)) is amended to read as follows:

''(5) to provide loan guarantees for—

''(A) similar revolving funds established by municipalities or intermunicipal agencies; and

''(B) developing and implementing innovative technologies.''.

(d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7) (33 U.S.C. 1383(d)(7)) is amended by inserting before the period at the end the following: ''or $400,000 per year, whichever is greater, plus the amount of any fees collected by the State for such purpose under subsection (c)(2)''.

(e) TECHNICAL AND PLANNING ASSISTANCE FOR SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

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

''(8) to provide to small systems technical and planning assistance and assistance in financial management, user fee analysis, budgeting, capital improvement planning, facility operation and maintenance, repair schedules, and other activities to improve wastewater treatment plant operations; except that such amounts shall not exceed 2 percent of all grant awards to such fund under this title.''.

(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—Section 603(f) (33 U.S.C. 1383(f)) is amended by striking ''and 320'' and inserting ''320, 321, and 322''.

(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—Section 603(g) (33 U.S.C. 1383(g)) is amended to read as follows:

''(g) LIMITATIONS ON CONSTRUCTION ASSISTANCE.—The State may provide financial assistance from its water pollution control revolving fund with respect to a project for construction of a treatment works only if—

''(1) such project is on the State's priority list under section 216 of this Act; and

''(2) the recipient of such assistance is a municipality in any case in which the treatment works is privately owned.''.

(h) INTEREST RATES.—Section 603 is further amended by adding at the end the following:

''(i) INTEREST RATES.—In any case in which a State makes a loan pursuant to subsection (d)(1) to a disadvantaged community, the State may charge a negative interest rate of not to exceed 2 percent to reduce the unpaid principal of the loan. The aggregate amount of all such negative interest rate loans the State makes in a fiscal year shall not exceed 20 percent of the aggregate amount of all loans made by the State from its revolving loan fund in such fiscal year.

''(j) DISADVANTAGED COMMUNITY DEFINED.—As used in this section, the term 'disadvantaged community' means the service area of a publicly owned treatment works with respect to which the average annual residential sewage treatment charges for a user of the treatment works meet affordability criteria established by the State in which the treatment works is located (after providing for public review and comment) in accordance with guidelines to be established by the Administrator, in cooperation with the States.''.

(i) SALE OF TREATMENT WORKS.—Section 603 is further amended by adding at the end the following:

''(k) SALE OF TREATMENT WORKS.—

''(1) IN GENERAL.—Notwithstanding any other provisions of this Act, any State, municipality, intermunicipality, or interstate agency may transfer by sale to a qualified private sector entity all or part of a treatment works that is owned by such agency and for which it received Federal financial assistance under this Act if the transfer price will be distributed, as amounts are received, in the following order:

''(A) First reimbursement of the agency of the unadjusted dollar amount of the costs of construction of the treatment works or part thereof plus any transaction and fix-up costs incurred by the agency with respect to the transfer less the amount of such Federal financial assistance provided with respect to such costs.

''(B) If proceeds from the transfer remain after such reimbursement, repayment of the Federal Government of the amount of such Federal financial assistance less the applicable share of accumulated depreciation on such treatment works (calculated using Internal Revenue Service accelerated depreciation schedule applicable to treatment works).

''(C) If any proceeds of such transfer remain after such reimbursement and repayment, retention of the remaining proceeds by such agency.

''(2) RELEASE OF CONDITION.—Any requirement imposed by regulation or policy for a showing that the treatment works are no longer needed to serve their original purpose shall not apply.

''(3) SELECTION OF BUYER.—A State, municipality, intermunicipality, or interstate agency exercising the authority granted by this subsection shall select a qualified private sector entity on the basis of total net cost and other appropriate criteria and shall utilize such competitive bidding, direct negotiation, or other criteria and procedures as may be required by State law.

''(l) PRIVATE OWNERSHIP OF TREATMENT WORKS.—

''(1) REGULATORY REVIEW.—The Administrator shall review the law and any regulations, policies, and procedures of the Environmental Protection Agency affecting the construction, improvement, replacement, operation, maintenance, and transfer of ownership of current and future treatment works owned by a State, municipality, intermunicipality, or interstate agency. If permitted by law, the Administrator shall

modify such regulations, policies, and procedures to eliminate any obstacles to the construction, improvement, replacement, operation, and maintenance of such treatment works by qualified private sector entities.

''(2) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall submit to Congress a report identifying any provisions of law that must be changed in order to eliminate any obstacles referred to in paragraph (1).

''(3) DEFINITION.—For purposes of this section, the term 'qualified private sector entity' means any nongovernmental individual, group, association, business, partnership, organization, or privately or publicly held corporation that—

''(A) has sufficient experience and expertise to discharge successfully the responsibilities associated with construction, operation, and maintenance of a treatment works and to satisfy any guarantees that are agreed to in connection with a transfer of treatment works under subsection (k);

''(B) has the ability to assure protection against insolvency and interruption of services through contractual and financial guarantees; and

''(C) with respect to subsection (k), to the extent consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade—

''(i) is majority-owned and controlled by citizens of the United States; and

''(ii) does not receive subsidies from a foreign government.''.

SEC. 604. ALLOTMENT OF FUNDS.

(a) IN GENERAL.—Section 604(a) (33 U.S.C. 1384(a)) is amended to read as follows:

''(a) FORMULA FOR FISCAL YEARS 1996–2000.—Sums authorized to be appropriated pursuant to section 607 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be allotted for such year by the Administrator not later than the 10th day which begins after the date of the enactment of the Clean Water Amendments of 1995. Sums authorized for each such fiscal year shall be allotted in accordance with the following table:

''States:	Percentage of sums authorized:
Alabama	1.0110
Alaska	0.5411
Arizona	0.7464
Arkansas	0.5914
California	7.9031
Colorado	0.7232
Connecticut	1.3537
Delaware	0.4438
District of Columbia	0.4438
Florida	3.4462
Georgia	1.8683
Hawaii	0.7002
Idaho	0.4438
Illinois	4.9976
Indiana	2.6631
Iowa	1.2236
Kansas	0.8690
Kentucky	1.3570
Louisiana	1.0060
Maine	0.6999
Maryland	2.1867
Massachusetts	3.7518
Michigan	3.8875
Minnesota	1.6618
Mississippi	0.8146
Missouri	2.5063
Montana	0.4438
Nebraska	0.4624
Nevada	0.4438
New Hampshire	0.9035
New Jersey	4.5156
New Mexico	0.4438
New York	12.1969
North Carolina	1.9943
North Dakota	0.4438
Ohio	5.0898
Oklahoma	0.7304
Oregon	1.2399
Pennsylvania	4.2145
Rhode Island	0.6071
South Carolina	0.9262
South Dakota	0.4438
Tennessee	1.4668
Texas	4.6458
Utah	0.4764
Vermont	0.4438
Virginia	2.2615
Washington	1.9217
West Virginia	1.4249
Wisconsin	2.4442
Wyoming	0.4438
Puerto Rico	1.1792
Northern Marianas	0.0377
American Samoa	0.0812
Guam	0.0587
Pacific Islands Trust Territory	0.1158
Virgin Islands	0.0576''.

(b) CONFORMING AMENDMENT.—Section 604(c)(2) is amended by striking ''title II of this Act'' and inserting ''this title''.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 607 (33 U.S.C. 1387(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

''(6) such sums as may be necessary for fiscal year 1995;

''(7) $2,500,000,000 for fiscal year 1996;

''(8) $2,500,000,000 for fiscal year 1997;

''(9) $2,500,000,000 for fiscal year 1998;

''(10) $2,500,000,000 for fiscal year 1999; and

''(11) $2,500,000,000 for fiscal year 2000.''.

SEC. 606. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

Title VI (33 U.S.C. 1381–1387) is amended—

(1) in section 607 by inserting after ''title'' the following: ''(other than section 608)''; and

(2) by adding at the end the following:

''SEC. 608. STATE NONPOINT SOURCE WATER POLLUTION CONTROL REVOLVING FUNDS.

''(a) GENERAL AUTHORITY.—The Administrator shall make capitalization grants to each State for the purpose of establishing a nonpoint source water pollution control revolving fund for providing assistance—

''(1) to persons for carrying out management practices and measures under the State management program approved under section 319; and

''(2) to agricultural producers for the development and implementation of the water quality components of a whole farm or ranch resource management plan and for implementation of management practices and measures under such a plan.

A State nonpoint source water pollution control revolving fund shall be separate from any other State water pollution control revolving fund; except that the chief executive officer of the State may transfer funds from one fund to the other fund.

''(b) APPLICABILITY OF OTHER REQUIREMENTS OF THIS TITLE.—Except to the extent the Administrator, in consultation with the chief executive officers of the States, determines that a provision of this title is not consistent with a provision of this section, the provisions of sections 601 through 606 of this title shall apply to grants made under this section in the same manner and to the same extent as they apply to grants made under section 601 of this title. Paragraph (5) of section 602(b) shall apply to all funds in a State revolving fund established under this section as a result of capitalization grants made under this section; except that such funds shall first be used to assure reasonable progress toward attainment of the goals of section 319, as determined by the Governor of the State. Paragraph (7) of section 603(d) shall apply to a State revolving fund established under this section, except that the 4-percent limitation contained in such section shall not apply to such revolving fund.

''(c) APPORTIONMENT OF FUNDS.—Funds made available to carry out this section for any fiscal year shall be allotted among the States by the Administrator in the same manner as funds are allotted among the States under section 319 in such fiscal year.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000 per fiscal year for each of fiscal years 1996 through 2000.''.

Mr. OLVER. Mr. Chairman. I rise today in opposition to H.R. 961. This bill has many, many flaws. It allows industry to discharge more toxics than they do today—forcing cities and towns to be responsible for cleaning up industry's discharges, or allowing those pollutants to flow into our waterways. The bill does nothing to address the problems of non-point source pollution, which is now an even bigger problem than point source pollution. The bill establishes wholesale new categories of waivers and exemptions which will roll back protections for our citizens and set us back in our efforts to clean up our rivers and streams.

There is a lot wrong with this bill. However, as a scientist, I want to address in detail one particular set of appalling provisions—those concerning wetlands.

We have heard repeatedly since the start of the 104th Congress and in the debate on this very bill over the last two days that Republicans want to rely on sound science in reforming our environmental laws. Speaker Gingrich himself endorsed this principle in describing his vision of what 21st Century America should look like.

In fact, Mr. Shuster's Committee report emphasizes the importance of using sound science, and says quite plainly ''The Committee also heard repeatedly of the need to ensure that Clean Water Act standards and requirements are based on sound scientific evidence and principles.''

I agree. In fact, I think wetlands regulation is one area crying out for greater reliance on scientific knowledge.

But unfortunately, we are seeing a pattern emerge in this House that sound science is only to be used when it agrees with the preconceived notions of Republicans.

The National Academy of Sciences assembled a very broad and diverse panel to examine how we can identify a wetland. The results of two years of study by the best people working in the field—wetlands professionals and academics alike—are now in.

The study makes it absolutely clear that there is no scientific justification for the wetlands provisions in H.R. 961.

For example, the NAS Committee concluded that the best scientific description of a wetland would use 14 days of water saturation in the root zone. H.R. 961 mandates a definition of 21 days of saturation on the surface. The difference could result in 30 to 50 percent less wetlands across the country.

In addition, H.R. 961 restricts protections of wetlands on the basis of the functions they perform. This might be a fine idea—if we had the knowledge to back it up. I strongly support increased cost-effectiveness and prioritization in our environmental protection. However, the NAS study found that we simply do not know enough about wetlands at this point to reliably classify them on the basis of function. The NAS Committee found that any shorthand

attempt to prioritize wetlands on the basis of size, or proximity to developed areas, is wholly inadequate from a scientific point of view.

We should classify wetlands, but only based on our scientific knowledge. We know that wetlands perform important functions—in flood prevention, water quality, wildlife habitat and other areas. However, the plain fact is that no one has the scientific knowledge to pick and choose which wetlands to regulate on the basis of function.

Each Member of this House faces a straightforward test of whether or not one agrees with the principle of basing our regulatory decisions on sound science.

Any suggestion that the content or timing of the NAS report is politically motivated is outrageous and represents a wholesale rejection of the principle that Congress should utilize professional expertise in making difficult scientific decisions.

The fact is, Members who make such insinuations are simply disappointed that their ostrich-like efforts to schedule floor consideration of H.R. 961 in advance of the release of this report were unsuccessful.

Make no mistake, if you support using sound science in regulatory decisions, you must oppose the provisions of H.R. 961. Anything less is sheer hypocrisy.

Mr. SERRANO. Mr. Chairman, there they go again.

The pattern the Republicans set for the first 200 days was to cut spending and repeal programs intended to help children, the poor, the elderly, legal immigrants, and working families, so they can give tax cuts to the wealthiest Americans at the same time they are balancing the federal budget by 2002.

The first significant piece of legislation for the second hundred days is the Clean Water Amendments of 1995, H.R. 961, known in some circles as the ''Dirty Water Act'' because the Republicans have chosen to protect polluters rather than the health and well-being of ordinary people.

This bill would roll back two decades of progress in reducing pollution in our lakes, rivers, and coastal areas, and halt further progress. It would let corporate polluters increase pollution, and make downstream water users pay to remove pollution that shouldn't get into the water in the first place.

There are problems throughout the bill. Perhaps the most widely debated provisions would redefine 80 percent of the nation's wetlands out from under federal protection.

Now, we don't have a lot of wetlands in the South Bronx, but we do drink water, and wetlands recharge water supplies and filter harmful substances from our water. We eat fish and seafood, and wetlands provide critical habitat, assuring adequate stocks now and in the future. We enjoy fishing, swimming, and other recreation on and around the water, and wetlands help keep our waters clean. But H.R. 961's wetlands provisions would cost us more while reducing the quality of our water and the safety and quantity of our seafood. We have plenty of reasons to care about wetlands.

Another major problem for me, Mr. Chairman, is the burden this bill would place on urban consumers downstream from runoff sources—the agribusinesses, miners, foresters, and developers that would not be required to take even minimal actions to prevent pollution for decades, if every. In many areas, overall water quality continues to be poor because sources of polluted runoff are not doing their share. Under H.R. 961, low-income urban ratepayers would have to pay more to get clean water, while upstream businesses that could afford to limit pollution would not be required to do so.

In addition, I am deeply distressed by the bill's lack of environmental justice protections for poor people and people of color. Amendments to require water quality testing and reporting in areas where the most vulnerable populations live, work, fish, and swim, and posting of fish advisories to warn subsistence fishers that fish in certain waters are too poisoned to eat—low-cost and cost-effective measures—have been rejected.

And, Mr. Chairman, these are only a few of the problems I see in this bill. The Clean Water Act is widely regarded as one of our most effective and successful environmental laws. It has produced marked improvements in the health of our people, the quality of life along our waterways and coasts, and the availability of clean water for household use and recreation. But the Republicans, in H.R. 961 reverse these successes and deny us further progress.

Mr. Chairman, I oppose this bill, as do many thoughtful New Yorkers, who have written letters opposing H.R. 961.

Marcia Fowle of the New York City Audubon Society wrote:

> Over 23 years, the water quality of New York Harbor, the Hudson River, the East River, Long Island Sound and Jamaica Bay—making up 578 miles of New York City waterfront—has markedly improved due primarily to the Clean Water Act. This progress should not be broken nor weakened.

Judith Enck and Linda Babiarz of NYPIRG wrote:

> There are few things as important to sustaining life as water. We must not return to the days when swimming and fishing threatened our health.

Bruce Carpenter of New York Rivers United wrote:

> Regardless of amendments, please vote NO on H.R. 961. The quality of our country's waters must not be undermined by polluters and special interests.

Rav Freidel of Concerned Citizens of Montauk wrote:

> We have tried to find alternative amendments that would make the Clean Water Act clean again. There is no way to fix it. It is simply a dirty water bill.

Marcy Benstock of the Aquatic Habitat Project, Clean Air Campaign in New York City wrote:

> H.R. 961 includes so many harmful changes that it cannot be fixed.

They are right. No amendments adopted in the House will fix this bill and I urge my colleagues to join me in voting against passage of H.R. 961.

Mr. COBLE. Mr. Chairman, the Federal regulation of stormwater in my congressional district has become known simply as the ''rain tax.''

The city has imposed a new utility tax on all property owners in order to raise $5.5 million annually to offset some of the costs of this unfunded Federal mandate. As my constituents in Greensboro, NC, have become aware of the direct tax resulting from the current Clean Water Act, they have called and written my office to express their outrage over this, a perfect example of Federal overreach. ''What will be taxed next?'' they ask.

I have a letter from Greensboro's city manager, Bill Carstarphen, in which he supports the stormwater management provisions in H.R. 961. Further, city officials urge the defeat of amendments that could subvert the improved flexibility in H.R. 961 for State and local governments to address stormwater pollution. Our city's environmental services director, Elizabeth Treadway, praises the recognition in H.R. 961 that stormwater cannot be considered a point-source pollution problem. These are our community experts speaking to the need for developing this program to the States, with an emphasis on voluntary compliance.

Greensboro was issued its permit in late 1994. The city spent almost $1 million over a 2-year period just to secure the permit. The city was forced to spend this money even though a solution to stormwater pollution under current law is unenforceable. It is multisource.

The stormwater provisions in H.R. 961 have been criticized as rolling back existing protections and allowing currently treated stormwater to be discharged without treatment. In fact, H.R. 961 does not eliminate the permit under which Greensboro currently manages its stormwater program. Greensboro and 341 other large cities—and 134,000 industrial facilities—already have stormwater permits. Greensboro would be required to comply with the existing permit until it became subject to voluntary activities, enforceable plans, general permits, and site-specific permits under approved State stormwater management programs described in H.R. 961.

The stormwater provisions of the current Clean Water Act are unworkable. H.R. 961 would replace the current, broken Federal requirements with a new program worked out between local governments and their State. H.R. 961 would recognize city officials' concerns that stormwater varies dramatically by season, by climate, and by each storm. This issue cries out for the application of balance.

I urge my colleagues to reject stormwater amendments designed to perpetuate the status quo.

Mr. BARTON. Mr. Chairman, I support the clean water bill, H.R. 961. Among its many good provisions, which have already been described and extolled, is a commonsense solution to an issue that has unnecessarily burdened cities in my district, as well as many others, regarding separate ''Sanitary Systems Overflows'' [SSO's].

H.R. 961 instructs the EPA to develop a reasonable, flexible, consistent, and economically feasible approach for controlling discharges from SSO's. It also instructs them to stop, review, and modify enforcement actions for projects required under the old policy.

While overinterpreting the Clean Water Act, the EPA has required cities with SSO systems, like Dallas and Fort Worth in my district, to eliminate all overflows. The overflows in question do not present a public health or water quality concern. Yet, to date, the EPA has forced cities in Texas alone to begin hundreds of millions of dollars of work to eliminate all overflows. This bill will correct this situation.

We have come a long way since I asked EPA officials to meet in my office with representatives of Dallas and Forth Worth on this

issue, when few others were raising this concern.

I thank the chairman of the Transportation and Infrastructure Committee for his help on this issue and would like to work with him to make some technical and refining changes that are currently being discussed. I strongly support the solution included in this bill and look forward to it becoming law.

Mr. SHUSTER. 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. WELLER) having assumed the chair, Mr. MCINNIS, 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. 961) to amend the Federal Water Pollution Control Act, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 357

Mr. LAHOOD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 357.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 535, THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–116) on the resolution (H. Res. 144) providing for consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 584, CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–117) on the resolution (H. Res. 145) providing for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 614, THE NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–118) on the resolution (H. Res. 146) providing for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility, which was referred to the House Calendar and ordered to be printed.

□ 2030

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1500

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1500.

The SPEAKER pro tempore (Mr. WELLER). Is there objection to the request of the gentlewoman from California?

There was no objection.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, FRIDAY, MAY 12, 1995 DURING 5-MINUTE RULE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on International Relations; and the Committee on Veterans Affairs.

It it my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I am instructed by the leadership that these committees have been consulted, and it is proper for them to meet tomorrow.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1143, H.R. 1144, AND H.R. 1145

Mr. FOX of Pennsylvania. Mr. Speaker, I ask unanimous consent that Mr. BRYANT of Texas be removed from the list of cosponsors of the following bills introduced by myself: H.R. 1143, H.R. 1144, and H.R. 1145.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. GRAHAM] is recognized for 5 minutes.

[Mr. GRAHAM addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

NATIONAL SPACEPORT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 5 minutes.

Mrs. SEASTRAND. Mr. Speaker, tomorrow I will formally introduce the National Spaceport Act, but today, I would like to take a few minutes to discuss why I believe this is a critical and important step forward for American space policy as we prepare for the 21st century.

America has always been a world leader in space development, exploration, technology, and most recently commercialization. Our Nation has always understand the importance of space and has exercised bipartisan cooperation when it came to advancing space issues. This bipartisan cooperation has come from every corner of the political spectrum because of a universal recognition that space is an area of national unity and importance. I recently saw this bipartisan cooperation first hand during the deliberations over the California Spaceport and its 25-year lease with the Air Force.

We are now into the next frontier of space and that is the growing commercial arena. Commercial space was once an area dominated by the United States. However, over the past few years, we have relinquished our leadership position and stood by as other nation's have stepped in and vigorously embraced the vast opportunities presented by this market.

Today, a European consortium controls over 60 percent of the commercial launch market. In addition, many other nations including China, Russia, Japan, India, Canada, and Australia are becoming stronger and stronger competitors. Most have the benefit of big and seemingly unlimited government subsidies. For example, earlier this year, the Japanese government announced a 5.1-percent increase in their overall space budget. The Russians have also approved a substantial increase in 1995 funding while the Indian Government increased their funding for

1995–96 by 31 percent.There is a strong return on the investment. European industry expects to post sales of up to $12 billion from commercial launches of Ariane rockets by the end of the decade.

Although the United States remains a strong competitor with active spaceports and a healthy booster and satellite market, we have not charted a course to regain a leading role in what has become a very large market. Moreover, this very large market promises to be an even larger international enterprise in the 21st century.

We have to take a step out of the box and employ a new approach with regard to commercial space. The first step is educating and making the case that space is more than a NASA, science, or an exploration issue. Space is a vast area of untapped economic potential for local communities, State, and most importantly our Nation.

We are not looking for government to play the leading role, but instead we are looking to the private sector. But if we are to convince the private sector that commercial space is a worthwhile and ultimately profitable undertaking we have to demonstrate Government's commitment to a comprehensive commercial space policy and the development of commercial spaceports.

A spaceport is a transportation center that moves surface infrastructure into space. I believe that we ought to look at spaceports in the same way that we look at airports and treat them just like we would airports. Rather than moving passengers from one place to another, spaceports move commerce from one place to another.

The spaceport philosophy is a commitment to use-friendly environments, integrated launch services, and low-cost access to space. In addition it is important to recognize that facility development is separate from the overall commercial space industry. In the United States, the available parts of the market are launch bases, boosters, and satellites. The missing piece of the puzzle is a facility for the launches and timing is important. It is imperative that spaceport development progress quickly in order to maintain the other elements of the market.

In America today, there are only two existing spaceports, but many more who want to become active spaceports. I would encourage all States who are interested in developing spaceports to get involved. Commercial spaceports means jobs—many jobs. Jobs in building the spaceports; manufacturing rockets and satellites; research, training, and education.

Commercial spaceports produce positive economic return. In California for example, the growth of a spaceport helps in the revitalization of the high-tech industries which have been hurt by defense cuts. This means more high paying jobs, added business for local service providers, new hotels, homes, shopping centers, education centers, and research facilities.

In America we want to do it a little differently than other nations. We want to reach a point where government acts as a facilitator not an obstacle. We want the government to be primarily a customer rather than a provider. We want to give States the flexibility necessary to develop commercial spaceports and attract private industry support. We want to encourage greater private industry support through tax-exempt bond financing. We want spaceport development to progress free of the traditional regulatory barriers imposed by Government.

Mr. Speaker, commercial spaceport development is in the national economic interest. It is an issue of transportation and it should be pursued as part of a national transportation policy. It means jobs, it means economic opportunity, and it requires American leadership.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

[Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

A SMALLER, MORE EFFICIENT FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. BROWNBACK] is recognized for 5 minutes.

Mr. BROWNBACK. Mr. Speaker, for the first time today in 26 years, something very, very unusual has happened. That is, this morning at 1:05 a.m., the Committee on the Budget of the House of Representatives proposed a balanced budget, a balanced budget, one so that in 7 years our kids and grandkids won't be having more debt to pay off because we were not willing to face the tough task and make the tough choices now to be able to cut things back.

I think this is a grand moment that we are finally addressing this most critical of problems. This year alone the Federal debt is going to $5 trillion. If we don't balance the budget, going on the current projection path we have, if we don't put our oar into the water to make this happen, it is going to be at $7 trillion by the year 2002. It is time we do it.

There is only one way we are going to be able to balance the budget. That is, creating a smaller, more focused, more efficient Federal Government, one that was originally intended by the Founding Fathers, one that is not into all functions and tries to do everything for everybody but a limited government, a focused Federal Government, one I think that Thomas Jefferson would be proud of, one that I would hope that Peter Drucker, the management guru, would be proud of for its efficiency, and one most of all that I would hope the American people would be proud of for what it delivers of services of what they call on their Government to do.

We have had a Federal Government this past quarter of a century that has grown out of control and everybody has contributed to it, everybody in this country, and in this institution here on both sides of the aisle. It is time to get it back into control. It is time to cut it back. It is time to recreate the limited Government that was always intended by our Founding Fathers.

The Federal Government was not meant to be all things to all people. James Madison wrote early on in the founding of our country this:

''The powers delegated by the proposed Constitution to the Federal Government are few and defined.''

We must get the Federal Government back to its core functions of what it was originally intended to be and not flung out here into so many different things but focused, efficient, and smaller so that we can be able to cut back on the spending, so that we can be able to not deliver so much debt to our children, so that we can hold the dream out and push toward even paying off the debt, the nearly $5 trillion in debt that has been accumulated.

There are a number of proposals that have been put forward. Some of them call for the elimination of whole agencies in the Federal Government, agencies such as the Department of Commerce and Energy, HUD and Education, keeping certain of the core functions that are functions of the Federal Government and should be done by the Federal Government and eliminating other portions, privatizing some functions and sending some functions back to State and local units of government so that at the end of the day we have a smaller, more focused, more efficient Federal Government.

This is an absolute need, if for no other reason than for our children and grandchildren, so that they can have a future, not saddled with this huge debt, not saddled with such an enormous mortgage on America.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I rise with great concern over the administration's action in Haiti. On March 31, 1995, President Clinton turned over control of the Multi National Force [MNF] in Haiti, to the United Nations, under the auspice of the U.N. Mission in Haiti [UNMIH]. UNMIH, although still under American command, differs from the previous U.S. operation in two respects. The net effect of these changes is a U.S. commander and U.S. forces under the control of the U.N. Special Representative, Mr. Lakhdar Brahimi and a U.N. mandate for rules of engagement [ROE] which dictate the use of force by U.S. troops.

Mr. Speaker, in his report to the U.N. Security Council on January 17, 1995, Secretary General Boutros Boutros-Ghali stated; ''UNMIH will consist of civilian, military and civilian police components under the control of my special representative, Mr. Lakhdar Brahimi.'' This statement by the Secretary makes it clear he expects that General Kinser will work under the direction of the United Nations. In his report to Congress on February 1, 1995, President Clinton indirectly acknowledged this by stating ''the UNMIH commander will work for the U.N. Special Representative of the Secretary General.''

The administration, Mr. Speaker, will respond to my concern by stating that General Kinzer will have operational control of all forces in Haiti. This is a considerable improvement over the situation in Somali, but it is still not good enough. We all remember Somalia, where United States soldiers were shot down and dragged through the streets while under a foreign command, in an event forever etched in American minds.

Mr. Speaker, my concern is best illustrated by the current situation in Bosnia. Lt. Gen. Rupert Smith has the same operational control in Bosnia that Gen. Kinzer has in Haiti. Serbian gunners attacked Butmir last weekend killing 10 and wounding 50. Mr. Speaker this area was well within the exclusion zone. Lt. Gen. Smith requested NATO support enforcing the U.N. resolution protecting Sarajevo by ordering air strikes. With the planes in the air U.N. Special Representative Akashi rejected the request. Mr. Speaker, I ask you how can Lt. Gen. Smith protect his troops and their commitments when his military judgment is overruled by a U.N. representative.

Mr. Speaker, operational control is simply not good enough. We must take additional steps to assure General Kinzer and our troops will not be overruled by the U.N. civilian command when ordering military action.

The second concern I have deals with the revised rules of engagement under UNMIH. The rules of engagement approved by the Security Council are significantly more restrictive than the rules under U.S. command of the Multi National Force. The rules of engagement of UNMIH were mandated by the United Nations; not by the United States. Any changes to the current rules of engagement must go through the Secretary General and the Security Council, not through Gen. Kinzer or any other American. Mr. Speaker, how can the administration assert U.S. command of our forces when policy is evolving not out of the Pentagon, but the United Nations.

The record of U.N. ''peacekeeping operations'', Mr. Speaker is poor at best. The situation in Bosnia illustrates multiple scenarios were operational control was called into question by the U.N. Special Representative. Moreover, we should never be forced to accept U.N. mandates for rules of engagement that place unreasonable restrictions on our forces. This is not what the House intended under the National Security Revitalization Act. We must take action to restore the integrity and safety of our forces. We must work quickly to protect our forces from the action taken by the administration, before we are forced to accept another tragedy at the hands of the United Nations.

□ 2045

The SPEAKER pro tempore (Mr. WELLER). Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

[Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SAVING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise tonight to give a brief review of how this Congress is fighting for our senior citizens across the country. First, we rolled back the Social Security tax increase of 1993. Second, we have raised the income eligibility level above $11,200 for those under 70. Over the next 5 years, Mr. Speaker, seniors will be able to earn income up to $30,000 without ever having a deduction from their Social Security. Third, Social Security is off the table, Mr. Speaker, when it comes to this budget. And fourth, now House Republicans are determined to save Medicare by using new approaches, new managements, and new technologies to improve it, preserve it, protect it, and eliminate the fraud and abuse.

The Clinton Administration's Trustees Report on Medicare warns that the Medicare trust fund starts to go broke in 1996 and could be bankrupt by 2002. The current Government-controlled Health Care Finance Administration system has much waste and fraud. The General Accounting Office estimates $44 billion a year in Medicare and Medicaid fraud.

Our legislation will obviously make sure that these changes are made so that a strong Medicare system is what we have restored.

We also want to give senior citizens an incentive to fight waste and fraud by paying them 25 percent of any waste or fraud that they find on their bills. We want to strengthen and empower our senior citizens.

Republicans will also increase Medicare spending from $4,700 per retiree today to $6,300 per retiree in 2002. That is a 34-percent increase in Medicare spending per retiree. There is absolutely no cut in Medicare spending.

We will preserve the current Medicare system for seniors who want it, but no one will of course be forced into a system they do not want. We will create a series of new choices so senior citizens can control their own future, Mr. Speaker. Any good ideas citizens have would be appreciated by their Representative on Commerce and Ways and Means Committees as they develop a new and improved Medicare system.

As for me, Mr. Speaker, I will be heading a Medicare preservation task force for the purpose of preserving, improving, and protecting our Medicare system for our seniors.

Together we can create a Medicare system that offers the best care at the lowest cost with the senior citizens having the greatest control over their own health care. We will improve Medicare so it can be protected and saved.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

[Mr. BECERRA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, we have heard comments today about the action of the House Budget Committee early this morning in enacting a budget resolution which basically sets the spending goals for Congress for the next year. But before I address that, I would like to remind those who are listening that just a few weeks ago on the floor of this House of Representatives, as part of the so-called Republican Contract With America, the Republicans by and large with a few Democratic votes enacted a tax cut, yes, a tax cut during a period of high Federal deficits.

Many people, including a number of Republicans, questioned the wisdom of cutting taxes when in fact we are in the red. But the Republicans were determined to do it and went ahead with their plan. Their plan, unfortunately, did not cut taxes primarily for middle-income and working families. No; primarily the tax breaks went to wealthy corporations and wealthy individuals. In fact, for 1.71 million Americans the Republican plan will result in a $20,000 tax break.

Now you cannot give away those Federal taxes without it costing you something, and in fact over the next 7 years that Republican tax break is going to

cost taxpayers an additional $345 billion. Over and above the deficits that we run each year, we are adding another $345 billion dollars to the national debt for this tax cut package.

Why did we do it? A lot of people wonder. Of course it is good news for a politician to go home and say, guess what, I got a tax break for you. But people at home I think are a little wiser and understand at a time of deficits a tax break, particularly for the wealthy people and corporations, is certainly not the right medicine for the patients.

So now let us fast-forward to 1 a.m. this morning when the House Budget Committee decides to put out their House Budget Resolution and lay out the spending goals for Congress for the next year.

Well they had a problem. They not only had to deal with the deficit, they had to figure out how to pay for that tax break, and so they had to make deeper cuts in spending in order to take care of the Republican tax break, and to come out with the so-called balanced budget when it is all said and done.

So, where did they turn to make the cuts in Federal spending to pay for the tax break for wealthy individuals and profitable corporations? They turned to Medicare. In fact, they cut over a 7-year period of time $283 billion from Medicare. Medicare of course is the health insurance plan for America's senior citizens.

What does that mean when you make a $283 billion cut in Medicare? It means that during that 7-year period of time, every senior citizen in America will be asked to pay an average of $3,500 more in premiums in Medicare. So you have the seniors, many of them in very low income situations if any income, paying more, so that they can in fact compensate for the Republican tax break.

That to me raises some serious questions of fairness. And make no mistake, we are talking about cuts in Medicare. Many Republicans will stand up and say it is not really a cut, you Democrats have it wrong all over again. We are increasing spending.

Well, let me try to tell you what they mean by that. Assume for a minute that you get a notice from your bank or savings and loan that your mortgage payment just went up $100 a month. That is a source of real concern for most families. But then your boss tells you, incidently I am giving you a raise of $50 a month.

Well you thank your boss. You think to yourself, I am still $50 short. What the Republicans are doing is providing the $50 a month in Medicare increases when the cost of Medicare is going up $100, and the same thing is going to be happening in the out years. The cost of Medicare goes up, but the Republicans do not provide enough money for it because they have to take care of this tax break that they passed.

And then take a look at what they did on Social Security. We stood on this floor, passed a resolution and said no, not never, never will we cut Social Security, not even to achieve a balanced budget. Just count on it. And everybody ceremoniously voted, went home and put out a press release and told the seniors they never, never have to worry, we are never going to touch Social Security.

Guess what, 1 a.m. this morning in comes the House Republican budget resolution and it cuts Social Security.

It reduces the COLA, the cost-of-living adjustment for Social Security. So here you have the senior citizens getting hit in both directions. First they do not get the cost-of-living adjustment they anticipated for Social Security, and then have to pay for more Medicare.

For what? To pay for the Republican tax break. That to me is upside down. If we are going to balance the budgets, let us do it in a fair way and not nail Medicare and Social Security.

A MOTHER'S DAY TRIBUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, this Sunday, May 14, 1995, we will have another very joyous occasion to celebrate and commemorate a very special day for Americans, and so I thought it appropriate during the course of deliberation and sometimes making very difficult decisions on behalf of all of our citizens to simply take a moment to part the waters and stop for a moment and pause and simply say happy Mother's Day, happy Mother's Day to the mothers, to grandmothers, to mothers-in-law, to stepmothers, to foster mothers, those mothers who take in children, mothers who have adopted, and act as mothers, those women with no relation by blood or law but have really mothered someone somehow, somewhere, and certainly to those mothers in your neighborhoods and cities and towns and our counties and our States and our churches and synagogues and parishes and mothers who are always there to help someone. I simply want to say to you and to all Americans let us make May 14, 1995 a very special time, a very close time, a very rewarding time for that woman who has been so very special to you. Let us make sure we say to each and every one of those mothers and I certainly want to say to all of those in the 18th Congressional District of Texas happy Mother's Day to you. You deserve it and we could not have done it without you.

COME SHOP WITH ME FOR MOTHER'S DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this Sunday America celebrates Mother's Day. And families all over our country will gather on this day to honor the women who strive every day both inside and outside the home to keep the families of America strong; a celebration they richly deserve.

□ 2100

We all know that American women are working more and more inside the home and outside the home, and what we may not know is that many of them are working for less money.

For women in many industries, textiles, apparel footwear, for instance, their pay has actually dropped nearly 5 percent over the last 10 years in spite of the fact that they are working harder and working longer. In fact, one-third of America's working women earn poverty-level wages.

Ironically, many of the gifts which we traditionally give our mothers on Mothers' Day as expressions of our gratitude turn out to be the products of industries which depend on the depression of wages, primarily women's wages, both at home and abroad, products such as new shoes or new handbags or new outfits and, yes, even roses.

Last Tuesday, I had the privilege of participating in a press conference at which we pointed out the discrepancies in wages between products made in our country and the same products made overseas, in fact, products made by U.S. companies that have outsourced production abroad. We, to demonstrate our point, dressed a mannequin in many of these foreign goods, and on the mannequin we had a Coach handbag, where American women used to earn $7.42 an hour, not high wages by any standards, but today those bags are being made by Korean workers being paid $1.64 an hour, and those Coach bags cost nearly $200. So who is making the profit off those women?

Or Naturalizer shoes; women in our country used to make $6.95 an hour in manufacturing Naturalizer shoes, but their wages and jobs are gone, and those shoes are now made in Brazil, where women there earn 47 cents an hour, but, of course, Naturalizer shoes cost well over $50. So who is making the profit off those women?

Or take this sweater, a Chaus sweater that used to be manufactured in the United States, where women earned $7.88 an hour. Now this very same sweater made by that same company in China, where women work for pennies, but, of course, the sweater is not cheap. In fact, the price tag on this one is over $40. Who is making the profit off those women?

Or take this skirt, manufactured by the At Last Company. This skirt used to be made in the United States of America. Women workers earned $7.49 an hour. Now this skirt is being made in India, and chances are if a child in India helped make that skirt, which is very likely, no wages were paid.

So it being Mothers Day, we provided our mannequin with a dozen roses. Roses are grown in this country, and they are harvested, and the average wage of farm workers is $5 an hour. But, of course, the roses that are available in this community today are provided through Colombia, where workers earn 55 cents an hour. But if you try to buy your mom a dozen roses in Washington this week, it is going to cost you $75. So ask yourself, who is making the money off of these women?

But are we getting a real bargain for all of this value for our money? A break for the consumer? Well, I ask you, is a bargain a Coach handbag at $200 or Naturalizer shoes at $50 or a Chaus sweater at $40 or roses at 75?

The Come Shop With Me campaign asks: Is it worth it? Are we really getting a good deal? Can the 7,300 people who have lost their jobs making handbags here in America afford a $200 Coach handbag made in Korea? Can the 17,700 women who have lost their jobs in our country in the footwear industry buy Naturalizer shoes made in Brazil that cost $50? And can the women of Brazil or the women of Korea or the women of India, can they buy those products on the wages they earn? Absolutely not.

Over the last decade in our country, nearly 300,000 women workers have lost jobs in the textile industry alone, mostly to foreign competition.

Mr. Speaker, let me end by saying the Come Shop With Me campaign will continue over the next few months to draw our attention to the human cost of trade.

Tonight I say to the mothers of America and the world, ''Happy Mother's Day. We will not forget you.''

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the majority leader.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

[Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today after 4:15 p.m., on account of illness.

Mr. PASTOR (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of personal business.

Mr. TANNER (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of official business.

Mr. BONO (at the request of Mr. ARMEY), for today and May 12, on account of medical leave.

Ms. DUNN of Washington (at the request of Mr. ARMEY), for today after 3:30 p.m. and the balance of the week, so that she may attend the graduation of her son Reagan from Arizona State University.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.
Mr. DEFAZIO, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. BECERRA, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. BROWNBACK, for 5 minutes, today.
Mr. METCALF, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, on May 16 and 17.
Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE, 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. WATT of North Carolina) and to include extraneous matter:)

Mr. COLEMAN.
Mr. DURBIN.
Mr. RUSH.
Mr. FOGLIETTA.
Mr. GORDON.
Mr. BAESLER.
Mr. TOWNS.
Mrs. THURMAN.
Mr. MONTGOMERY.
Mr. REED.
Ms. KAPTUR.
Mr. MANTON.
Mr. JACOBS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. DUNCAN.
Mr. MARTINI in two instances.
Mr. WALSH.
Mr. PACKARD.
Mr. BILIRAKIS.
Mrs. ROUKEMA.
Mr. DORNAN.
Mr. YOUNG of Florida.
Mr. FORBES.
Mr. HUNTER.
Mr. GOODLING.
Mr. GUNDERSON.
Mr. MCKEON.
Mr. HORN in two instances.

(The following Members (at the request of Ms. KAPTUR) and to include extraneous matter:)

Mr. UPTON.
Mrs. FOWLER.
Mr. GOODLATTE.
Mr. TRAFICANT.
Mr. RAHALL.
Mr. MFUME.
Mr. KIM.
Ms. MCCARTHY.
Mr. STOKES.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Friday, May 12, 1995, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PRYCE: Committee on Rules. House Resolution 144. Resolution providing for the consideration of the bill (H.R. 535) to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas (Rept. 104–116). Referred to the House Calendar.

Mr. MCINNIS: Committee on Rules. House Resolution 145. Resolution providing for consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa (Rept. 104–117). Referred to the House Calendar.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 146. Resolution providing for consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility (Rept. 104–118). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows;

By Mr. THOMAS (for himself, Mr. STARK, Mrs. JOHNSON of Connecticut, Mr. CARDIN, Mr. MCCRERY, Mr. MCDERMOTT, Mr. ENSIGN, Mr. KLECZKA, Mr. CHRISTENSEN, Mr. LEWIS of Georgia, Mr. CRANE, Mr. HOUGHTON, and Mr. SAM JOHNSON):

H.R. 1610. A bill to amend the Internal Revenue Code of 1986 to require employer-provided group health plans to credit coverage under a prior group health plan against any preexisting condition limitation; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 1611. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to assist in alleviating housing shortages for active duty personnel through interest rate buy downs, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky (for himself, Mr. JOHNSTON of Florida, Mr. OWENS, Mr. PARKER, Mr. MCKEON, and Mr. TRAFICANT):

H.R. 1612. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS:

H.R. 1613. A bill to amend the United States Housing Act of 1937 to require the Secretary of Housing and Urban Development to administer a program of construction and revitalization of public housing, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. DURBIN (for himself, Mr. KLECZKA, Mrs. MEEK of Florida, Mr. PALLONE, Mr. ACKERMAN, Mr. WAXMAN, Mr. MCDERMOTT, Ms. PELOSI, Mr. FROST, Mr. KENNEDY of Rhode Island, Ms. KAPTUR, Mr. STARK, Mr. OLVER, Mr. GENE GREEN of Texas, Mr. COLEMAN, Mr. GONZALEZ, Mr. OBERSTAR, Mr. YATES, and Mr. HILLIARD):

H.R. 1614. A bill to amend the provisions of title XVIII of the Social Security Act relating to medigap policies to eliminate age rating in premiums, and for other purposes; to the Committee on Commerce.

By Mr. GOODLATTE (for himself, Mr. INGLIS of South Carolina, Mr. POSHARD, Mr. HANCOCK, Mr. FRANK of Massachusetts, and Mr. BARTLETT of Maryland):

H.R. 1615. A bill to require that a monthly statement of costs charged against the official mail allowance for persons entitled to use the congressional frank be kept and made available to the public, and to reduce the amount of that allowance for any Member of the House of Representatives; to the Committee on House Oversight.

By Mr. UPTON (for himself and Mr. BOUCHER):

H.R. 1616. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide a process for the allocation of liability among potentially responsible parties at Superfund sites; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCKEON (for himself, Mr. GOODLING, Mr. CUNNINGHAM, Mr. GUNDERSON, Mr. RIGGS, Mr. DELAY, Mr. BOEHNER, Mr. KASICH, Mr. MCINTOSH, Mr. PETRI, Mrs. ROUKEMA, Mr. FUNDERBURK, Mr. SOUDER, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. HOEKSTRA, Mr. CASTLE, Mrs. MEYERS of Kansas, Mr. SAM JOHNSON, Mr. TALENT, Mr. GREENWOOD, Mr. HUTCHINSON, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. WELDON of Florida, Mr. NORWOOD, and Mr. DAVIS):

H.R. 1617. A bill to consolidate and reform workforce development and literacy programs, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. GUTKNECHT (for himself, Mr. METCALF, Mr. BROWNBACK, Mr. FOX, Mr. WAMP, Mr. RIGGS, Mr. NEUMANN, Mr. ENGLISH of Pennsylvania, Mr. SOUDER, Mr. DAVIS, Mr. SANFORD, Mr. KLUG, Mr. SMITH of Michigan, Mr. COBURN, Mr. CHRISTENSEN, Mr. SCARBOROUGH, Mr. SHADEGG, Mr. LOBIONDO, Mr. RADANOVICH, Mrs. SEASTRAND, Mr. HAYWORTH, Mrs. SMITH of Washington, and Mr. LARGENT):

H.R. 1618. A bill to amend title 5, United States Code, to impose certain limitations relating to participation by a Member of Congress in the Civil Service Retirement System or the Federal Employees' Retirement System; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MOLINARI (for herself, Mrs. MALONEY, Mr. WILSON, and Mr. PAXON):

H.R. 1619. A bill to amend section 227 of the Housing and Urban-Rural Recovery Act of 1983 to prohibit owners and managers of federally assisted rental housing from preventing elderly residents of such housing from owning or having household pets in such housing; to the Committee on Banking and Financial Services.

By Mr. REGULA (for himself, Mr. VISCLOSKY, Mr. TRAFICANT, Mr. LIPINSKI, Mr. DOYLE, Mr. SERRANO, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. KLINK, Ms. PELOSI, Mr. LATOURETTE, Mr. ENGLISH of Pennsylvania, and Mr. MURTHA):

H.R. 1620. A bill to authorize the Administrator of the Environmental Protection Agency to establish a pilot project providing loans to States to establish revolving loan funds for the environmental cleanup of sites in distressed areas that have the potential to attract private investment and create local employment; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1621. A bill to require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOWNS:

H.R. 1622. A bill to require the Consumer Product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns; to the Committee on Commerce.

By Mr. NEUMANN (for himself, Mr. SOLOMON, Mr. CHRYSLER, Mr. TIAHRT, Mrs. CUBIN, Mr. SOUDER, Mr. COBURN, Mr. DREIER, Mr. GOSS, Mr. ZELIFF, Mr. UPTON, Mr. BARTLETT of Maryland, Mr. GRAHAM, Mr. ROTH, Mr. HILLEARY, Mr. FRISA, Mrs. SMITH of Washington, Mr. STOCKMAN, Mr. COOLEY, Mr. BARTON of Texas, Mr. METCALF, Mr. SCARBOROUGH, Mr. BROWNBACK, Mr. DORNAN, Mr. SMITH of Michigan, Mr. CHRISTENSEN, Mr. SAM JOHNSON, Mr. GILCHREST, Mr. HOSTETTLER, Mr. COMBEST, and Mr. HORN):

H. Con. Res. 66. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

MEMORIALS

Under clause 4 of rule XXII,

79. The SPEAKER presented a memorial of the Legislature of the State of Alaska, relative to medical savings account legislation; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. BRYANT of Tennessee.

H.R. 62: Mr. HOSTETTLER.

H.R. 123: Mr. SAXTON, Mr. KASICH, Mr. MCCRERY, Mr. HOKE, Mr. EWING, Mr. RAHALL, Mr. MCCOLLUM, Mr. ZELIFF, Ms. DUNN of Washington, Mr. CHAMBLISS, Mr. CREMEANS, Mr. METCALF, Mr. RADANOVICH, Mrs. JOHNSON of Connecticut, Mr. SALMON, and Mr. WHITFIELD.

H.R. 373: Mr. HILLIARD and Mr. RADANOVICH.

H.R. 485: Mr. COYNE.

H.R. 499: Mr. NEY, Mr. BONO, and Mr. STEARNS.

H.R. 500: Mr. CALVERT and Mr. KIM.

H.R. 539: Mr. TAUZIN, Mr. SABO, Mr. WICKER, Mr. INGLIS of South Carolina, and Mr. MINGE.

H.R. 540: Mr. RAHALL, Mr. LEWIS of Georgia, Mr. BERMAN, Mr. CAMP, Mr. SAXTON, Mr. OWENS, Ms. MOLINARI, Mr. LIPINSKI, Mr. FOGLIETTA, Ms. SLAUGHTER, Mr. LAFALCE, Mr. FROST, Ms. LOWEY, and Mr. MOAKLEY.

H.R. 575: Mr. BROWNBACK, Mr. BROWN of Ohio, and Ms. FURSE.

H.R. 580: Mr. ABERCROMBIE and Mr. DIAZ-BALART.

H.R. 582: Mr. HUNTER and Mr. FILNER.

H.R. 659: Mr. REYNOLDS, Mr. FOLEY, Ms. FURSE, Mr. HANSEN, Mr. FATTAH, Mr. SENSENBRENNER, Mr. MARTINEZ, Mr. HANCOCK, and Mr. CLEMENT.

H.R. 719: Mr. RANGEL, Mr. MASCARA, Mr. JACOBS, Mrs. MEEK of Florida, Ms. LOWEY, and Mr. BROWN of Ohio.

H.R. 743: Mr. CUNNINGHAM, Mr. RIGGS, Mr. CASTLE, and Mr. HANCOCK.

H.R. 747: Mr. LAFALCE and Mr. LEWIS of Georgia.

H.R. 752: Mr. DURBIN, Mr. HEFLEY, Mr. LAUGHLIN, Mr. MCCOLLUM, Mr. ROTH, and Mr. VOLKMER.

H.R. 769: Mr. DAVIS.

H.R. 789: Mr. MANZULLO, Mr. INGLIS of South Carolina, Mr. BLUTE, and Mr. GANSKE.

H.R. 910: Mr. MINETA.

H.R. 928: Mr. CRANE.

H.R. 946: Mr. BUNN of Oregon.

H.R. 958: Mr. PALLONE, Mr. FOLEY, Mr. KENNEDY of Rhode Island, Mr. FRANK of Massachusetts, and Mr. QUINN.

H.R. 972: Mr. FOX.

H.R. 991: Mr. LEWIS of Georgia and Mr. WYDEN.

H.R. 994: Mr. LATHAM and Mr. WILSON.

H.R. 1020: Mr. OXLEY, Mr. TORKILDSEN, Mr. GOODLATTE, Mr. BARTLETT of Maryland, Mrs. JOHNSON of Connecticut, Mr. CREMEANS, Mr. GUTKNECHT, Mr. MCHALE, Mr. PETRI, Mr. QUILLEN, Mr. GUTIERREZ, Mr. BUNNING of Kentucky, Mr. YOUNG of Florida, Mr.

MANZULLO, Mr. RAHALL, Mr. MCINTOSH, Mr. ROBERTS, Mr. SKEEN, Mr. DUNCAN, Mr. BARTON of Texas, Mrs. CLAYTON, Mr. CLINGER, Mr. FLANAGAN, Mr. DEUTSCH, Mr. PACKARD, and Miss COLLINS of Michigan.

H.R. 1085: Mr. HOEKSTRA.

H.R. 1103: Mr. EVERETT.

H.R. 1118: Mr. SCHAEFER.

H.R. 1173: Mr. BATEMAN.

H.R. 1202: Mr. FRANKS of New Jersey, Mr. ROMERO-BARCELO, Mr. DOYLE, Mr. FAWELL, Mr. JONES, and Ms. PRYCE.

H.R. 1242: Mr. MILLER of Florida, Mrs. WALDHOLTZ, and Mr. HASTINGS of Washington.

H.R. 1264: Mr. FRANK of Massachusetts and Mr. FRAZER.

H.R. 1278: Ms. VELÁZQUEZ, Mr. TORRES, Mr. KANJORSKI, Mr. HILLIARD, and Mr. OLVER.

H.R. 1293: Mr. MINGE.

H.R. 1300: Mr. ENGLISH of Pennsylvania, Mr. BALLENGER, Mr. FOX, Mrs. MYRIK, Mr. ROSE, Mr. SCHAEFER, and Mr. HEFNER.

H.R. 1363: Mr. TANNER, Mr. HEFLEY, and Mr. INGLIS of South Carolina.

H.R. 1389: Mr. NADLER, Mr. EVANS, Mr. SERRANO, and Mr. GUTIERREZ.

H.R. 1406: Mr. MURTHA, Mr. FATTAH, and Mr. RAHALL.

H.R. 1448: Mr. CUNNINGHAM, Mr. SCHAEFER, Mr. ZELIFF, Mr. LIGHTFOOT, Mr. CREMEANS, Mr. HANSEN, Mr. GILCHREST, Mr. DORNAN, and Mr. TEJEDA.

H.R. 1559: Mr. EMERSON, Mr. GENE GREEN of Texas, Mr. HALL of Texas, Mr. HOBSON, Mr. KLINK, Mr. HILLIARD, Mr. JOHNSTON of Florida, Ms. LOFGREN, and Mr. LUTHER.

H.R. 1589: Mr. BARRETT of Nebraska.

H.R. 1594: Mr. CHABOT, Mr. FOLEY, and Mr. BALLENGER.

H.J. Res. 16: Mr. LEWIS OF KENTUCKY and Mr. DUNCAN.

H.J. Res. 70: Mr. ZIMMER, Mr. CUNNINGHAM, Mr. SHAYS, Ms. WOOLSEY, Mr. CARDIN, Mr. GEJDENSON, Mr. WALSH, Mr. MORAN, Ms. DELAURO, Mr. BARRETT of Wisconsin, Mr. BONIOR, Mr. MFUME, Mr. MEEHAN, Ms. LOWEY, Mr. BRYANT of Texas, Mr. FOGLIETTA, and Mr. QUINN.

H.J. Res. 79: Mrs. JOHNSON of Connecticut, Mr. SMITH of Michigan, Mr. DOOLEY, and Mrs. LINCOLN.

H. Con. Res. 47: Mr. FARR, Mr. FOX, Mr. HINCHEY, Mr. KENNEDY of Massachusetts, Mr. MCKEON, Mr. NORWOOD, and Mr. PALLONE.

H. Con. Res. 50: Mr. SOLOMON.

H. Con. Res. 63: Mr. BAKER of Louisiana.

H. Res. 39: Ms. WOOLSEY and Mr. GEJDENSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 357: Mr. LAHOOD.

H.R. 1143: Mr. BRYANT of Texas.

H.R. 1144: Mr. BRYANT of Texas.

H.R. 1145: Mr. BRYANT of Texas.

H.R. 1500: Ms. PELOSI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 961

OFFERED BY: MR. DE LA GARZA

AMENDMENT NO. 63: On page 237, in line 11 after ''treatment works'' insert ''and appropriate connections''.

On page 237, strike line 14, and all that follows through ''(c)'' on line 19 and insert ''(b)''.

On page 237, on line 23 redesignate ''(d)'' as ''(c)''.

H.R. 961

OFFERED BY: MR. LARGENT

AMENDMENT NO. 64: Page 232, strike lines 13 through 17 and insert the following:

''(7) $2,250,000,000 for fiscal year 1996;

''(8) $2,300,000,000 for fiscal year 1997;

''(9) $2,300,000,000 for fiscal year 1998;

''(10) $2,300,000,000 for fiscal year 1999; and

''(11) $2,300,000,000 for fiscal year 2000.''.

Page 232, strike line 18 and all that follows through line 20 on page 234.

Conform the table of contents of the bill accordingly.

Page 32, line 6, strike ''$3,000,000,000'' and insert ''2,250,000,000''.

H.R. 961

OFFERED BY: MR. TAYLOR OF MISSISSIPPI

AMENDMENT NO. 65: Page 292, line 20, strike ''and''.

Page 292, after line 20, insert the following:

''(G) standards and procedures that, to the maximum extent practicable and economically feasible, require the creation of wetlands and other environmentally beneficial uses of dredged or fill material associated with navigational dredging; and

Page 292, line 21, strike ''(G)'' and insert ''(H)''.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, THURSDAY, MAY 11, 1995 *No. 78*

Senate

(Legislative day of Monday, May 1, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we praise You for Your empowering us to stand with strength and courage in the midst of spiritual warfare. We see the results of the works of evil in the violence and terrorism in both word and deed all around us. And inside our own hearts we often feel hassled by the temptations of pride, aggrandizement, and the need to control.

We come to the armory of Your presence to be suited up with Your whole armor for the battles of the mind and spirit today. Thank you for the breastplate of righteousness that makes us secure in Your unqualified love and forgiveness. Shod our feet with the preparation of the Gospel of peace and help us to stride forward with the inner calm of Your perfect peace that passes understanding. Give us the shield of faith to quench the fiery darts of the invasion of Satanic influence. Place over our heads the helmet of salvation and protect our thinking brain from distorted half-truths and confused direction. Then help us to grasp the sword of the Spirit, Your words of guidance for hand-to-hand battles with evil. On time and in time, whisper in our souls the exact word of encouragement and courage that we need.

So, Lord, we gladly accept Your whole armor as we prepare for the battles of this day. In the name of the One who vanquished evil and is our victorious Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. CHAFEE. Mr. President, this morning the leader time has been reserved, and the Senate will immediately resume consideration of S. 534, the interstate solid waste bill. Pending is the Hatch amendment to the Specter amendment regarding Senate hearings on Waco and Ruby Ridge. Also, Senators should be aware that a cloture motion was filed on the committee substitute. Therefore, a cloture vote will occur tomorrow, unless an agreement can be reached. All first-degree amendments should be filed by 1 p.m. today. That is very important. Rollcall votes can be expected throughout the day today and into the evening in order to make progress on this bill.

I would add, Mr. President, it would be my hope that we finish this bill today and that those who have amendments will bring them over and let us consider them and see if we can handle them, and, if not, we will vote. But above all, it is very important that people come over with their amendments. All first-degree amendments have to be filed by 1 p.m. today.

So we are here ready to do business, Mr. President.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The PRESIDENT pro tempore. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Specter amendment No. 754, to express the sense of the Senate on taking all possible steps to combat domestic terrorism in the United States.

(2) Hatch amendment No. 755 (to amendment No. 754), to express the sense of the Senate concerning the scheduling of hearings on Waco and Ruby Ridge in the near future.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

THE BUDGET AND MEDICARE

Mr. THOMAS. Mr. President, I am very anxious that we proceed with the bill before us. In the meantime, I would like to just for a moment or two continue on our freshman focus on the idea of moving forward with these issues that are before the Senate and the House and that do need to be resolved soon, and to emphasize the opportunity that we have to solve them. Specifically, of course, to the budget and more specifically Medicare.

We have talked about Medicare for a good deal of time over the past, but now we come to a time when there is no choice as to whether we have to make a decision or whether we do not. We have before us a report from the trustees, of course, which indicates that unless we do something the fund will be broke in probably 3 years. So it is not a matter of not doing something. It is a matter of what do we do.

I am disappointed, I must say, that the administration has taken the position that we are just going to wait; we are just going to see what happens; we

tried last year; our plan was not acceptable; and therefore we are not going to do anything.

That is not a strong leadership position. That is not a position that the administration should take. Nevertheless, the issue has to be dealt with. We propose to deal with it. The budget will suggest that in terms of part A the remedy might be found in the area of reducing growth—not cuts, not draconian cuts but, rather, reducing the growth from 10 percent to 7 percent, 8 percent, and that we can do this by changing some of the processes.

I think that this is the important thing that we have to talk about; that there ought to be some choices for seniors; that we ought to have some opportunities to use managed care; that there ought to be some incentives for people to find better ways of receiving services.

But the idea that we can simply sit back and continue to do what it is—the suggestion was made yesterday, if we can do something with the budget, we simply ought to take more money and put it into the program without changing.

Mr. President, that is not a useful solution. We have to find some ways to make the program work better. It seems to me that that is the great opportunity that we have had in this Congress for the first time in a number of years, to examine programs; not to do away with programs, but to find ways to deliver services more efficiently, to find ways, better ways, to deliver services to people who are eligible for those services. That is the challenge that we have.

Mr. President, I yield to my colleague, the Senator from Tennessee.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

FACING UP TO OUR RESPONSIBILITIES

Mr. THOMPSON. I thank my colleague from Wyoming. As usual, he hits the mark squarely. He outlines the problem.

Mr. President, I think what we are about here today is a part of a broader consideration, and that is our responsibility to the American people. We are getting about, I believe, responding to an issue here that is on the minds of the American people and we are doing something that is different, I think, than what has been going on in this body and in this city for a long time. And that is, we are facing up to our responsibilities.

Mr. President, I feel that for a long period of time in this country the U.S. Congress, in being more interested in the next election and the next election cycle than the next generation, for a long time has been putting its problems off and rolling them forward again and again and again hoping that perhaps the next generation or someone else will figure out how to dig out from under the present problems that we have laid on them.

This Medicare situation falls into that category. We have to face up to it. I believe it is the responsibility of this body to identify those items, those matters which we have concluded represent a substantial affect on peoples lives in the future. I think the Medicare trustees have put us in that position. They have given us information. We have the bully pulpit. We must inform the American people of what is happening. There is no room for recriminations right now as to how we got there, why we got there. We need to get about solving this problem.

Put in blunt terms, Mr. President, the trustees have informed us that, if we do not do anything, in 7 years Medicare is going to go broke. I do not know how much more simply we can explain it.

Medicare expenditures are increasing at the rate of 10 percent a year. We cannot sustain 10 percent a year. Now, the budget that has been put forward by the Budget Committee increases Medicare spending. It increases Medicare spending at the rate of 7.1 percent a year; not the 10 percent, but 7.1 percent.

We can get the job done at that rate, Mr. President. We can save the trust fund. Obviously, it has budget implications. But, separate and apart from any budget considerations, the Medicare problem, the Medicare crisis, must be addressed.

The budget that was submitted at 7.1 percent is an increase of Medicare spending of twice the rate of inflation. We can increase Medicare spending at twice the rate of inflation and still, by not going the full 10 percent, we can get out of this problem and save the Medicare Program for the 36 million Americans that depend on it. You would think that when you have a clear problem like that pointed out by a bipartisan commission—everyone in this body knows there is a substantial problem—that you would have both branches of Government, the executive branch and the legislative branch, pulling together. You would think you would have both political parties pulling together; that this is indeed a matter of national interest that we all have to work together to solve.

Unfortunately, Mr. President, it seems that the President of the United States has taken the position that, because we did not pass his health care bill last year, he is going to somehow get back at us by not being a player in this game.

These are tough decisions. These are tough political decisions. Even reducing the rate of growth on any program in America is a tough political decision, one that we are prepared to face up to.

But next year, being an election year, apparently the President has decided to sit on the sidelines and not participate because we did not pass his broad-sweeping health care program last year.

I think the President misses the point. People knew last year that the problem was not in the private sector. The problem was with the Federal sector; that is, the Medicare-Medicaid sector. In the private sector, costs are actually stabilizing; in many cases costs are actually going down in the private sector.

What the American people said ''no'' to was a broad-sweeping, perceived-to-be Federal takeover, which included the private sector. They did not say ''no'' to reforming and saving the Medicare Program that we have in this country. And that is what we are dealing with here today.

So let us decouple that. Let us get away from the past politics and who did what when. Let us give the President the benefit of the doubt. Let us say everything he says from a political standpoint is true; that he tried to save the entire health care system and we would have saved all this money. The facts are otherwise in my opinion, but let us give him the benefit of the doubt.

Let us say, assuming all that is true, assuming all that is true, that is the past. This is the future. The problem is a severe one. We have been told by a bipartisan commission that we are going to go bankrupt in this system within 7 years if we do not do something. We have to pull together to save the Medicare system for the 36 million Americans that depend on it.

How do we do that, Mr. President? I do not know anybody in this body or anybody on this side of the aisle who claims that we have all the answers as to exactly how to do that. The Senator from Wyoming has mentioned several different proposals, possibilities. It has been suggested that a commission be formed to look at ways of saving additional moneys, hopefully keeping the same amount of benefits; not being under the illusion that we can squeeze providers forever and get it from that source, but to have more choice, give elderly people more choice and more opportunity, perhaps, to save moneys that have heretofore been spent on the Federal program by availing themselves of options in the private sector.

There are any number of possibilities there. But we have to work together to solve this problem. We have to put aside partisan politics. We have to put aside past politics. The problem is too great. There are too many people that depend on our solving that problem.

Thank you, Mr. President. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

THE BUDGET AND MEDICARE

Mr. WELLSTONE. Mr. President, first of all, I thought I might just respond very briefly to my colleagues about the budget and specifically about Medicare.

Mr. President, let me just simply say that the most fundamental problem about the proposed cuts in Medicare and Medicaid, up to about $400 billion between now and 2002, is that these cuts reflect, I fear, a real lack of knowledge about health care policy. That is what bothers me more than anything else, Mr. President.

Mr. President, no one should be surprised about the increase in the cost of Medicare, which, by the way, is a benefits program. It is not an actuarial program. It is a commitment we made in 1965; by no means perfect. Catastrophic expenses are not covered, prescription drug costs are not covered. There are many gaps.

But, Mr. President, the reason that this is an expensive program and the reason the expense increases is because more and more of our population are aging and more and more of the aged population are now in their eighties.

Obviously, we are not going to be able to do anything about that, and I do not think we want to do anything about that.

The second reason is general inflation.

The third is medical inflation.

Mr. President, the problem with this proposal is you cannot single out one part of the health care costs, one segment of the population and cut there without very serious consequences.

Let me spell out a couple. First of all, you do ration. This time we really do ration. Last year, last Congress, there was a hue and cry about rationing when we wanted to have universal coverage. You are going to ration by age, you are going to ration by income, and you are going to ration by disability.

Mr. President, that is what happens when you just pick out one part of the health care costs and you target the elderly and you target low income, and I want to talk about Medicaid as well.

Second of all, the reason the business community, the larger businesses—and I think they are going to get joined by other businesses as well—are going to be uniformly opposed to this—and we are already hearing from the business community—is because it is just going to get shifted to them. This is the problem of charge shifting, I say to my colleague, of cost shifting. This is the shell game to this whole proposition.

When you pay less than what the providers need, when you do not have adequate reimbursement, which is already too low in rural America, those providers have no other choice but to shift it to those who can pay. That is private health insurance. Then businesses are hurt more. Then employees are hurt more. That is what is going to happen. And more people get dropped. You are going to have a huge amount of cost shifting. You cannot single out one segment of the population. You cannot do it. Welcome to health care reform. That is what we have to get back to.

Mr. President, third of all, in rural America, in rural Minnesota, many of our hospitals and clinics have 75 percent of their patient mix financed by Medicare payments. These hospitals are already having a difficult time. They are going to go under. It is not crying wolf; that is what is going to happen. That is exactly what is going to happen, Mr. President.

Fourth of all, and there are a lot of ''alls,'' but there is another issue I want to talk about as well. But fourth of all, I smile when I hear some of my colleagues make these proposals about vouchers; people can go out and purchase their own health insurance and people have the freedom to do so. Has anybody ever heard of preexisting condition? Do you think that these health insurance companies are going to grant coverage to people who are old and sick? They do not do that. It is called preexisting condition.

By the way, managed care plans, by and large, have been most interested in people that are healthier. I am telling you right now, these cuts—they say they are not cuts—are in relation to an ever-growing percentage of the population who are aged, many who require ever more by way of medical care. I will tell you what, if it is my father and mother—both of them had Parkinson's disease—you better believe I want to make sure they get the best care. So do not tell me you are not going to seriously cut into the quality of care for older Americans. You certainly are.

In addition, you are going to cause a lot of havoc in this whole health care system. Just ask doctors, hospitals, clinics, all sorts of consumer organizations, all sorts of other people whether or not that will not be the case.

So, Mr. President, the irony is we get back to health care reform. There were some very interesting proposals about how to contain costs which we have to do if we are willing to have the courage to go forward. But this just picks out one segment of the population, and, in that sense, it is not intended but I think it will be very cruel in its effect. I do not think it is an intended effect. And it will create widespread havoc in the health care field. No question about it. From where do you think the teaching hospitals are going to get their funding?

FARM BILL

Mr. WELLSTONE. Mr. President, to shift, I want to talk about this 1995 farm bill, and I want to talk about what has come out of the Budget Committee.

I thought we were going to have a farm bill as opposed to just drastic budget cuts. The document that comes out of the Senate proposes cuts of $28 billion over 5 years and $45 billion over 7 years. A fair percentage of these cuts, the majority of these cuts are in nutrition programs—food stamps, Women, Infants and Children Program, School Lunch Program.

By the way, my colleagues in the Senate have gone on record that we will not take any action to create more hunger or homelessness among children. We had studies in the mid- and late 1960's about hunger in America, TV documentaries. That is when we expanded the Food Stamp Program.

Guess what? You bet it was a program that worked. I am not going to let anybody get away with talking about fraud here and fraud there. Yes, there are examples of fraud, no question about it, which should be stopped, but on the whole, this Food Stamp Program has made a gigantic difference in reducing hunger and malnutrition in the United States of America.

Now we want to have drastic cuts in the Food Stamp Program, Women, Infants, and Children Program, and, in addition, you go after the deficiency payments, the target prices, I say to the Chair, for farmers.

The farmers in Minnesota are real clear. We took a big hit last time around on deficit reduction, and people in agriculture in my State are not opposed to deficit reduction, but they want to see some standard of fairness. What family farmers say in Minnesota is, ''If you give us a price in the marketplace, you can eliminate the target prices, you can eliminate the deficiency payments.''

But if we do not have a fair price in the marketplace and you have drastic cuts in deficiency payments, you will erode family farm income, you will erode the value of the land and just as sure as that happens, we will see family farmers go under.

This is simply unacceptable. If you want to raise the loan rate to a higher level, if you want to give us a fair price in the marketplace, great, that is what people want. But instead what we have had is a policy of low prices which, by definition—correct me—means target price deficiency payments are higher, then that is now used as an excuse for cutting these programs, when we have already taken one hit after another.

The future for agriculture in this country is a fair price in the marketplace. The future for agriculture is let us put value to our products. In Minnesota, we lead the Nation with farmer-owned value-added farm co-ops. That is a big part of what people want to do. But we are not interested in not getting the fair price in the marketplace, not having access to capital to move forward with our own cooperatives, not being able to keep the value of what we produce in our communities and, in addition, seeing severe cuts in programs that provide needed income to family farms. That is what these budget cuts do, Mr. President. That is what these budget cuts do.

Why impose the most pain on those for whom it will be most difficult to bear? Why ask the very people who cannot tighten their belts to tighten their belts? Where is the Minnesota standard of fairness?

I do not see a focus on cutting more unneeded military and corporate welfare spending. I do not see a focus on eliminating lucrative tax breaks for special interests. I do not see a focus on moving away on the House side, and it seems to be that some of my colleagues on the other side of the aisle have split on this, on dealing with the problem of tax cuts for wealthy people.

What are we talking about? We are talking about $370-some billion, the vast amount of which flows to people on the top. If you have an income of $200,000 a year, it is a break of about $30,000. If you have a family income of under $30,000 a year, it is a break of about $100 a year. What are we talking about here? Where is the standard of fairness?

Mr. President, over and over and over again, through the time of this 104th Congress, I have been on the floor. I remember when I first uttered these words, I thought to myself, ''Are you just giving a speech or is it going to happen?'' I had to believe it was going to happen to say it. I said that my fear is the deficit reduction is going to be based on the path of least political resistance. That is exactly what is going on.

I remember David Stockman's book about the early eighties. He said what we should have done was go after the weak claims, not the weak claimants. We are not going after the weak claims, we are not going after the corporate welfare, we are not going after the military contracts, we are not going after the tax breaks, but we are going after the family farmers, we are going after the children, we are going after senior citizens, we are going after education.

There is no standard of fairness whatsoever. It is all based upon who are the folks who have the financial and the political clout to get their voice heard here and who are the vast majority of the people who are shut out of the process. We are going to have one sharp budget debate. When it gets to Medicare and Medicaid, I am going to insist that my colleagues know this policy well and understand exactly what the consequences are of what they are doing. When it comes to the cuts in agriculture—disproportionate cuts—I want to make sure that people know that we are talking about farmers not out of sight out of mind, but the producers in this country, and what this is going to do to family farmers. When it comes to education, I want people to understand the consequences of what it means when we do not invest in education and young people. When it comes to children and child nutrition programs, I want to make this argument: Do not go after the most vulnerable citizens in this country.

When it comes to alternatives, I want to talk about the corporate welfare, I want to talk about the tax dodgers, I want to talk about the military contract, and I want to talk about how we really can contain health care costs. I look forward to this debate. I hope all of the people in the United States of America are engaged in it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ASSAULT ON MEDICARE: MYTH AND REALITY

Mr. KENNEDY. The Republican budget plans in the Senate and House of Representatives propose unprecedented cuts in Medicare, some $250 to $300 billion over the next 7 years. Cuts of this magnitude will break America's contract with the elderly. Millions of senior citizens will be forced to go without health care they need. Millions more will have to choose between food on the table, adequate heat in the winter, paying the rent, and medical care.

These cuts will also be a heavy blow to the quality of American medicine. It will damage hospitals and other health care institutions that depend on Medicare and that provide essential care for Americans of all ages, not just senior citizens. Progress in medical research and training of health professionals depend on the financial stability of these institutions. Academic health centers, public hospitals, and rural hospitals will bear an especially serious burden if these deep cuts are enacted.

In addition, such cuts will inevitably impose a hidden tax on workers and businesses who will face increased costs and higher insurance premiums as physicians and hospitals shift even more costs to the nonelderly.

According to recent statistics, Medicare now pays only 64 percent of what the private sector pays for comparable physician services. For hospital care, the figure is 68 percent. The proposed Republican cuts will widen this already ominous gap even farther.

Because of the current gaps in Medicare, senior citizens already pay too much for the health care they need. Elderly Americans pay an average of one-fifth of their income to purchase health care, a higher proportion than they paid before Medicare was enacted.

Yet the reason Medicare was enacted in the first place, 30 years ago, was to deal with the health care crisis affecting the lives of older Americans at that time. How can we care any less about their needs today?

Medicare today does not cover prescription drugs. Its coverage of home health care and nursing home care is extremely limited. We go to any senior citizen home in America and ask the senior citizens there how many of them are paying, say, $50 a month for prescription drugs, half the hands will go in the air. If asked how many pay $25 a month or more per month for prescription drugs, three-quarters of the hands go in the air.

Looking at what has happened in terms of cost of those prescription drugs, which are so necessary for the senior citizens, we find those costs have been going right up through the roof. They are absolutely an essential part of the needs for our elderly people, and they are not included in the Medicare Program, and they are draining down scarce resources for retirees and for senior citizens.

Unlike virtually all private insurance policies, Medicare does not have a ceiling on out-of-pocket costs. It does not cover eye care, it does not cover foot care, it does not cover dental care. All of those are important needs for our senior citizens.

Yet the Republican budget cuts will ask senior citizens to pay $900 more a year out of their pockets when the cuts are fully implemented. And the Republican tax bill already passed by the House of Representatives gives the tax cut of $20,000 to wealthy individuals making more than $350,000 a year. That is not right and the American people know it.

The assault on Medicare is based on five myths. Myth No. 1 is that deep cuts are needed to save Medicare from bankruptcy. The hypocrisy of this claim is astonishing. A few weeks ago, the House Republicans included a provision in their tax bill to take $90 billion out of the Medicare hospital insurance trust fund over the next 10 years. We did not hear a word then about the impending bankruptcy of Medicare. They took that amount of money out of the Medicare trust funds. They did not have to unless they were interested in increasing the tax reductions for the wealthiest individuals, but they took that out of the Medicare trust funds.

Now they are talking about how the Medicare fund itself is facing financial difficulties, when just 3 weeks ago they took $90 billion out of there to use it for tax cuts for the wealthiest individuals.

It is true that an April 3 report of the Medicare trustees projects that the Medicare hospital insurance trust funds will run out of money by the year 2002. Few, if any, Republicans will be talking about deep Medicare cuts to cure that problem if they did not also need such cuts to finance their tax cut for the wealthy.

As the Medicare trustees themselves noted in their report, modest adjustments can keep Medicare solvent for

an additional decade—plenty of time to find fair solutions for the longer term. Similar projections of Medicare insolvency have been made numerous times in the past. Each time, adjustments enacted by Congress were able to deal with the problem without jeopardizing beneficiaries, and we can do the same again.

For example, an estimated 20 percent of all Medicare hospitalizations could be avoided with better preventive services, and more timely primary and outpatient care. As much as 10 percent of all Medicare expenditures may be due to fraud, and that could be reduced substantially by the better certification procedures. This has been shown by the hearings that have been held by Senator COHEN of Maine with a series of recommendations which, fully implemented, would stabilize the Medicare trust fund.

The message is clear: We do not have to destroy Medicare in order to save it. The American people understand that basic point, and Congress should recognize it, too.

Myth No. 2 is that the Republican budget proposal is not a cut, because the total amount of spending will continue to grow. In fact, the Republican plan calls for spending $250 billion less on Medicare than the Congressional Budget Office says is necessary to maintain the current level of services to beneficiaries.

Every household in America knows that if the cost of rent and utilities goes up and income stays the same, there is a real cut in your standard of living. If Medicare pays $80 toward the cost of your visit to a doctor in 1995 and the same $80 in 1996, but his fee goes up by $20, the value of your Medicare protection is cut by $20. Every senior citizen understands that.

The irony is that our Republican colleagues accept this argument when they talk about defense expenditures. They know that defense is being cut if funds increase more slowly than inflation. Our colleagues should apply the same accounting rules to the needs of senior citizens as they do the purchase of guns and tanks.

Myth No. 3 is that Medicare is different from Social Security and is an entitlement less deserving of protection. In fact, the distinction between Medicare and Social Security is false because Medicare is a part of Social Security.

Like Social Security, Medicare is a compact between the Government and the people. It says, ''Pay into the trust fund during your working years and we will guarantee decent health care in your old age.'' Any elderly American who has been hospitalized or suffers from a serious chronic illness knows there is no security without Medicare. The cost of illness is too high. A week in intensive care can cost more than a total yearly income of most senior citizens. Low- and moderate-income elderly will suffer the most from Medicare cuts. Eighty-three percent of all Medicare spending is for older Americans with annual incomes below $25,000. Two-thirds is for those with incomes below $15,000.

Imagine, average income of $15,000 and trying to make ends meet when a person fought in the world wars of this country, has been a part of the whole building of the American economy, sacrificed to bring up children, and is barely making it at $15,000, and then there are the important health care needs to be attended to that are no fault of your own. Those are the people that we are talking about that are going to be adversely impacted with these cuts.

When the Republicans tried to cut Social Security in the 1980's, the American people said, ''No,'' and they will say no to these equally damaging proposals to cut Medicare in the 1990's.

Myth No. 4 is that Medicare costs can be cut by encouraging seniors to join managed care. True, it can help bring medical costs under control in the long run. Enrollment by senior citizens in managed care is already increasing rapidly. It is up by 75 percent since 1990, but no serious analyst believes that increased enrollment in managed care will substantially reduce Medicare expenditures in the timeframe of the proposed Republican cut. In fact, according to the General Accounting Office, Medicare is now actually losing money on managed care because only the healthiest senior citizens tend to enroll in it, leaving Medicare left to pay for those more seriously ill.

The only realistic way to save money in the short term on managed care is to penalize senior citizens who refuse to enroll. This option has already been suggested by the Republican health task force in the House. I say it is wrong to force senior citizens to give up their freedom to choose their own doctors and hospitals. It is wrong to penalize them financially if they refuse to enroll in managed care.

I will add, in the debate we had on the health care measures of last year, that particular option was preserved for our senior citizens and it ought to be preserved in any health care reform.

Myth No. 5 is that the deep, unilateral cuts in Medicare are necessary to balance the budget. As President Clinton told the White House Conference on Aging last week, 40 percent of the projected increase in Federal spending in coming years will be caused by escalating health costs.

What this Republican budget fails to recognize is that the current growth in medical care is a symptom of the underlying program in the entire health care, not a defect in Medicare alone. In fact, Medicare has done a better job than the private sector in restraining costs in recent years.

Since 1984, Medicare costs have risen at an annual rate of 25 percent lower than comparable private health care spending. Slashing Medicare unilaterally is no way to balance the budget. It will simply shift the costs from the budget of the Federal Government to the budgets of senior citizens, their children, and their grandchildren.

If Medicare is cut in isolation, senior citizens will also face greater discrimination from physicians and hospitals, who are less willing to accept the elderly as patients, because Medicare reimbursements are much lower than the reimbursements available under private insurance.

We know that previous cuts in the Medicare reimbursement have led to serious cost-shifting, as physicians and hospitals seek to make up their reduced income from Medicare patients by charging higher fees to other patients. The result has been higher health care costs and higher health insurance premiums for everyone, as cost-shifting becomes a significant hidden tax on individuals and businesses.

The right way to slow Medicare growth is in the context of overall health reform that will slow rising health costs in the economy as a whole. That is the way to bring Federal health costs under control without cutting benefits or shifting costs to working families, comprehensive reform, to try to make available to our seniors good health care, preventive care programs to provide the services to keep people out of the hospitals so they do not go into the high-cost facilities, and to try to do something in terms of home care, community-based care, which is much more satisfactory for our seniors and can be done at considerably less cost. And to build upon the nurses, nursing profession, to assist with skilled nursing attention some of the needs for our seniors.

In the context of broad health reform, the special needs of academic health centers, rural health centers, inner-city hospitals also can be addressed. Deep Medicare cuts alone, by contrast, will undermine the availability and quality of care for young and old alike.

We are talking about the kind and quality of trained health personnel that Medicare participates in. We are talking about necessary institutions, academic institutions which are the center for much of the research that benefits our senior citizens. We are talking about diminishing the kinds of research that has to take place in those areas as well.

President Clinton has emphasized he is willing to work for bipartisan reform of the health care system, but the Republicans have said no. The only bipartisanship they seem to be interested in is the kind that says, ''Join us in slashing Medicare.'' That is not the kind of bipartisanship the American people want. It is not the kind of bipartisanship that senior citizens deserve.

It is especially telling that Republicans are proposing these harsh cuts in Medicare at the same time they support the massive tax cut that will disproportionately benefit the richest individuals and corporations in our society. The Republican tax plan that has

already passed the House will reduce Federal revenues by $250 billion. Without that tax cut for the wealthy there would be virtually no need to cut Medicare in order to achieve a balanced budget under their plan. The Senate Budget Resolution reserves $170 billion for tax cuts. Without that allocation the Medicare cuts could be reduced by two-thirds without any increase in the deficit.

The arguments used to justify deep cuts in Medicare cannot pass the truth-in-labeling test. They will not fool the American people. As the ceremonies on V–E Day earlier this week commemorating the end of World War II in Europe reminded us, today's senior citizens have stood by America in war and peace and America must stand by them now. The senior citizens of today are the veterans of the Army, the Navy, the Air Force, the Marines, and the hard-working men and women on the home front. They pulled us through that terrible war. We cannot pull the rug out from under them on Medicare now.

I urge the Senate to reject these unwise Republican proposals.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BURNS. Mr. President, I ask unanimous consent that I may proceed as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. BURNS. Mr. President, we have all been receiving phone calls and getting letters about the proposed budget that is being recommended now or being talked about and marked up in the respective committees in the Senate and House of Representatives. We have had time to talk to the chairmen of those committees and get copies of the proposal that they have put forth. In other words, the great debate has started on this year's budget.

I think we have to applaud the chairman of each committee because they have come forward with very daring proposals. I applaud the chairmen, especially Senator DOMENICI of the Senate Budget Committee. When you look at our deficit spending we see, yes, that the deficit did become lower last year. It went down. But it now continues to climb. The deficit this year alone stands at $175 billion, and for a while. But, nonetheless, it is growing at the outrageous rate of $482 million a day. That sounds like a lot of money to me.

So, consequently, it is time for this body and this Government to do something responsible and to deal very frankly with the budget, to be up front about it, and to try to address some of the problems that we have because I think most Americans are wanting something done to rein it in.

It is absolutely necessary if we are to continue the economic viability and the leadership in this world for our Nation. We cannot continue to stand by and conduct business as usual, and in so doing allow the national debt to increase by $1 trillion every Presidential term.

So the time has come for bold initiatives to look at getting spending under control, and Senator DOMENICI's budget right now does exactly that.

The chairman of the Budget Committee slows the annual growth of most lines. Every line in that budget, with the exception of a few, grow every year. We have heard a lot of attention brought to the Medicare line, growing 10 to 11 percent every year. Now we want to slow that growth because already the trustees of that trust fund have told us that by the year 2002 it will be broke and they will pay no bills at all.

Also it transforms Medicaid into block grant funds to the States where they will have the responsibility to do something responsible to get spending under control.

It further calls for the establishment of a bipartisan congressional committee to represent policy changes needed to maintain the short-term solvency of the Medicare system. Such measures would generate the savings needed to put the system on a financially sound footing for the next 7 years while we work together to develop a long-term solution for Medicare solvency gap. There can be no getting around the fact that, if we continue on the path that we are presently on, Medicare will lapse into bankruptcy within 7 years and then it will be too late, or too expensive, to solve the problem.

The chairman's budget proposes the elimination of spending for the National Biological Survey. I have long said that we had the resources within the organizations of the Fish and Wildlife, the Park Service, or in the Department of the Interior to do that without creating another bureau or the money that goes with it. We also want our policy decisions based on sound science and we start dealing with the biological makeup of this country or this world. And I think we can do it without the National Biological Survey.

The chairman's budget proposes the reduction in the Agricultural Research Service by 10 percent which would reduce the total outlays in this program by $1 million.

It is true that we all will not agree with this budget. This is one area where I do not agree. This is one area where we cannot pull back on any investment in the research and development in agriculture. I will stand on this floor and maintain until I can draw my last breath that the second thing everybody who lives in this Nation does every morning is eat. I do not know what the first thing is that they do. They have a lot of options there. But I know the second thing they do is eat.

We still have an obligation to feed this Nation and this society.

So when it comes time to talking about budgets, basically that is what a balanced budget amendment would have done; make us talk about the most important things and to set our priorities where we think those important things are.

We have to look to the necessities of life, not to the frills but the necessities of life and also the individual responsibility that each one of us has at just being a citizen of this great country.

You might be surprised to know that for the first time in the history of agriculture our yields in wheat are going down, because we are just not getting enough money for research, plant breeding, developing those strains of wheat that are disease resistant because that is a constant thing; it goes on all the time. And so we must, if we are going to feed this Nation—and right now, 1 farmer feeds 145 other people. Also, one of our greatest exports is agriculture. In fact, it has been in the black forever. We have to continue with our ability to produce foodstuffs, food and fiber for this society.

The chairman of the Budget Committee also proposed the privatization of the PMA's, the power marketing administrations. They are making money for the Treasury. They also generate and produce power for our REA's. In rural America, we would not have electricity yet if it was not for REA's. My father served on an REA board. I have often said if it was not for REA on the farms, we would be watching television by candlelight.

We have to be very cautious in the way we set our priorities in this budget. So consequently I think we have to take a very hard look at long-term revenue implications that would happen, that is, if WAPA, western area power marketing, and the Southwest and the Southeast are moved into private hands.

And this is nothing new. We will argue about different parts of the budget. Where we set our priorities is what is really important for this Nation and the people who live in it. That is what this budget will do. But it will be a responsible budget that I am sure, after America looks at it, we will have the confidence in its integrity to do what we have to do, and that is to balance the budget by the year 2002.

I do not think there is anything that will come before this body that will be any more important than the issue of this budget and the roadmap, the blueprint to get us where we want to be as

not only an economically free and viable leader of the world but also that keeps us free.

In conclusion, I wish to again praise the chairman. He presented a responsible budget resolution, and I pledge to work with the Budget Committee and all my colleagues to make sure we do those things that are necessary and do away with those things, those frills at this time in our history that we cannot afford just because we like to say we have them.

So I wish to work with the chairman and this body in producing a budget that will work for all Americans.

Mr. President, I yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 758

Mr. CHAFEE. Mr. President, on behalf of Senators DODD and LIEBERMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DODD, for himself and Mr. LIEBERMAN, proposes an amendment numbered 758.

The amendment is as follows:

On page 62, line 4, after the words ''public service authority'', add ''or its operator''.

Mr. CHAFEE. Mr. President, this is a technical amendment, obviously. It is needed to be consistent with the language on page 61, line 18 of the legislation.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 758) was agreed to.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

FLOW CONTROL

Mr. DODD. Mr. President, I would like to engage in a colloquy with Senator CHAFEE, the chairman of the Environment and Public Works Committee and Senator BAUCUS, the committee's ranking member, regarding the intent of S. 534 with respect to flow control.

Is it the intent of this bill to allow for the refinancing of public debt for waste management facilities where only the interest rate would change, and not the amount or maturity date of the bond?

Mr. CHAFEE. Yes, that is the intent of the bill.

Mr. DODD. Is this the understanding of the Senator from Montana?

Mr. BAUCUS. Yes, that is my understanding as well.

FLOW CONTROL AND FREE MARKET ISSUES

Mr. SANTORUM. Mr. President, I seek recognition for the purpose of engaging in a colloquy with the distinguished Senator from New Hampshire, Senator SMITH, the manager of S. 534.

First, may I congratulate my colleague on his skillful handling of this difficult legislation.

Second, it is that very difficulty on which I would like to focus in this colloquy.

I think my colleague would agree with me in my characterization of this legislation as statutory interference with the commerce clause of the Constitution of the United States. This interference comes as a result of the Carbone versus Clarkstown decision, which has caused problems with certain public facilities financed by revenue bonds. Carbone invalidated State and local laws which create a solid waste monopoly for those facilities. And, of course, there is the continued desire to come to grips with the problem of interstate transfer of solid waste. I am especially aware of this problem because my own State of Pennsylvania has been the unwilling recipient of solid waste exported from New Jersey and New York, in particular.

Thus, we have a clash between the fundamental wisdom of the commerce clause and the practical effects of the interstate trade in solid waste. May I ask my colleague from New Hampshire the following question?

Is it fair to state that he has attempted to craft legislation which would interfere as little as possible with the commerce clause and thereby he would try to protect the free market where it has worked?

Mr. SMITH. I have stated before that I am not in favor of flow control. Flow control is anticompetitive. But it is only fair and equitable that communities that have indebted themselves—completely within the law prior to the Supreme Court decision—must not be left to suffer the consequences of financial failure. The outstanding municipal bonds that total more than $20 billion must be honored and the communities' financial stability must be maintained. However, only those facilities with bonded revenues are given grandfather coverage under this bill. Any municipality indebted after the Carbone decision is not and will not be protected.

The free market must prevail. Rather than assisting with the creation of yet another bloated Government bureaucracy, we should be encouraging the establishment of a healthy free market, one in which competition keeps prices low, offers consumers better services, and disposal techniques are state-of-the-art.

Mr. SANTORUM. Further, it appears to me that the interstate title of this legislation gives my Commonwealth of Pennsylvania the tools it needs to prevent abuse of our resources and environment. Could my colleague comment on that?

Mr. SMITH. Yes, the interstate title gives the Governor of Pennsylvania and the Governors of other affected States authority to ensure that their States do not continue as unabated dumping grounds for States which do not act to site their own disposal capacity.

Mr. SANTORUM. Last, with regard to title II, flow control, may I inquire of my colleague whether this legislation imposes flow control or in any way makes it mandatory and thereby suppresses the free market?

Mr. SMITH. This legislation does not impose flow control. Flow control is fundamentally incompatible with the principles of free enterprise, market competition, and the best interest of the consumer. Requiring the use of flow control would be a step backward in the handling of municipal solid waste. This bill is designed specifically to protect the bond holders and commitments previously made. The free market is not broken, and with the inclusion of a 30-year sunset provision, the free market will once again take over.

Mr. SANTORUM. Based on the response of my colleague, may I validly draw the following two conclusions?

First, this legislation allows the continuation of flow control as previously enacted under State law under certain conditions but not require or mandate flow control.

Second, it is the intention of the distinguished subcommittee chairman that this legislation not be used in and of itself as an argument to suppress the free market.

Mr. SMITH. My colleague from Pennsylvania is correct in his conclusions regarding the spirit of the legislation. Flow control will continue under certain conditions but is not required or mandated. As I have said before, the free market must be allowed to prevail.

Mr. SANTORUM. I thank my distinguished colleague and again commend him for so ably discharging this difficult responsibility.

Mr. DASCHLE. Mr. President, I am fortunate to come from a State with

sparsely populated expanses of some of the most beautiful land in this country. States like South Dakota have a special interest in the legislation before the Senate today, as it will directly affect their future.

The legislation, S. 534, amends the Solid Waste Disposal Act to provide important authority for States and local governments to better control the transportation of municipal solid waste between and within States.

The time has come to enact this legislation. States and local government are facing increasing challenges in the responsible regulation of municipal waste management. Interstate shipments of waste have been growing in recent years. Between 1990 and 1992, interstate shipments of waste grew by 4 million tons—a 25% increase. Currently, about 15 million tons of municipal waste is transported between States for treatment and disposal, much of it from densely populated regions to less populated areas.

Moreover, the U.S. Supreme Court has ruled that unless Congress acts on this issue, States and local governments can have no meaningful role in controlling the movement of waste into and within their borders.

The combination of increasing interstate shipments of municipal waste and recent Supreme Court decisions understandably has created concern among States like South Dakota, who fear that without authority to restrict unwanted imports of municipal waste, they will become the dumping ground for other, more heavily populated areas.

In addition, Congress has a responsibility to help protect the investments made by towns across America in municipal waste management facilities—investments that have been placed in jeopardy by the Supreme Court's recent Carbone decision.

The temptation can be great to ship waste to the more remote regions of our country. But some of these lands are fragile and are home to some of our country's greatest natural assets. In South Dakota alone, the geological wonderland of the Badlands, the expansive prairie, and the majestic Black Hills are examples of areas that deserve protection from the designs of anyone who would use them for waste disposal.

The responsibility for disposing trash produced by large urban areas should be confronted and met by the citizens and community leaders who live there. Rural States should never be considered as a waste management option, unless they willingly choose to make their land available for that purpose. In the end, the choice must belong to the State and local governments that would bear the long-term environmental consequences of waste disposal.

This bill addresses the rights and responsibilities of States and local governments to achieve their own environmental and economic objectives. It is about State and local self-determination. The interstate waste provisions of this bill represent a delicate balance between States that import and export waste. It is a step in the right direction because it encourages States to take responsibility for managing the waste they generate, rather than sending it elsewhere. Out of sight and out of mind will not work when it comes to management of municipal solid waste, particularly if it means leaving it within the sight and on the minds of those who do not want it.

Reduce, reuse, and recycle is a better solution. It represents a philosophy that more States will have to adopt as a result of this bill.

Like most legislation, this bill will not completely satisfy the objectives of every State or local government. Some States, like South Dakota, would like, and I believe deserve, even greater authority to prevent imports of waste. Other States, which with an interest in exporting municipal waste, would prefer to see fewer restrictions. Likewise, I am aware that while there are cities and towns that would prefer to have greater and more enduring authority to regulate flow control, there are Members of this body who feel that the free and unfettered competition of the marketplace should be given a greater opportunity to determine the flow of municipal waste.

This bill strikes a reasonable balance between these competing interests, one that I believe is essential if we are to move forward and enact meaningful legislation. It gives States and local governments the ability to promote their own environmental goals and meet important financial obligations. We must pilot a course of responsible stewardship of our resources. This bill gives States and cities the power to do just that, and I hope that my colleagues will join me in supporting this important and timely legislation.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 534

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Anna Garcia, a fellow in my office, be allowed floor privileges during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 761

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 761.

Mr. BINGAMAN. Mr. President, I ask unanimous consent further reading be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. ___. BORDER STUDIES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term ''maquiladora'' means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term ''solid waste'' has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—

(1) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(2) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—A study conducted under this section shall provide for the following:

(1) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) In the case of the study described in subsection (b)(1), research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) In the case of the study described in subsection (b)(1), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental

Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In conducting a study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subsection (b)(1), census data prepared by the Government of Mexico.

(2) In the case of the study described in subsection (b)(1), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(3) In the case of the study described in subsection (b)(1), information concerning the type and volume of materials used in maquiladoras.

(4)(A) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(B) In the case of the study described in subsection (b)(1), immigration data prepared by the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(7) In the case of the study described in subsection (b)(1), a profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) With respect to reviewing the study described in subsection (b)(1), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and with respect to reviewing the study described in subsection (b)(1), equivalent officials of the Government of Mexico.

(f) REPORTS TO CONGRESS.—On completion of the studies under this section, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—The conduct of the study described in subsection (b)(2) shall not delay or otherwise affect completion of the study described in subsection (b)(1).

(h) FUNDING.—If any funding needed to conduct the studies required by this section is not otherwise available, the President may transfer to the Administrator, for use in conducting the studies, any funds that have been appropriated to the President under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.''.

Mr. BINGAMAN. Mr. President, this amendment addresses a problem of increasing urgency in my part of the country, my home State of New Mexico. That is, the disposition of solid waste, along the United States-Mexico border.

As the United States and Mexico move further into their trade relationship under the North American Free-Trade Agreement, increased development along the border is inevitable. With that development comes new challenges regarding the transport and disposal of solid waste.

This is not just an issue for the Governments of the United States and Mexico, it is also an issue for the four border States of California, Arizona, New Mexico, and Texas. It is one that we need to deal with in this legislation, and capitalize on the opportunity offered by NAFTA. We are going to have to plan for this increased development. This means conducting necessary research on the scope of the problem.

The amendment authorizes the Administrator of EPA to conduct a study of solid waste management issues associated with this increased use of the area along the border, in order that States and localities can properly plan for waste treatment, transportation, storage and disposal.

The study will address six key issues. First, planning for additional landfill capacity; second, related impact on border communities of a regional siting of solid waste storage and disposal facilities; third, research on methods of tracking the transportation of materials to and from industries located along the border; fourth, the need for materials safety training for workers; fifth, the adequacy of existing emergency response networks in the border region; sixth, a review of solid waste management practices in the entire border region.

It is my expectation that the Administrator, in order to fulfill the requirements of the amendment, would enter into contractual agreements with other entities such as States and universities and university consortia.

Mr. President, I am convinced in the long run NAFTA will prove to be a good movement, a good initiative for economic opportunities for my home State of New Mexico and for the entire border region.

This is only true if we manage these opportunities correctly and deal with the potential health and environment problems that the increased development will bring. This amendment helps to do that.

I urge my colleagues to support the amendment. I understand the amendment has been reviewed by both the manager and the ranking member, and that this amendment is accepted.

Mr. CHAFEE. Mr. President, this is a good amendment, and I congratulate the Senator from New Mexico. It is acceptable to this side.

Mr. BAUCUS. Mr. President, I agree. The Senator from New Mexico has consulted with Senators, and I appreciate the approach he is taking. There is a problem with respect to what he raises.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is agreeing to the amendment.

So the amendment (No. 761) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—S. 534

Mr. BAUCUS. Mr. President, I ask unanimous consent that Ken Berg, a fellow from the office of Senator BOXER, have the privileges of the floor during consideration of S. 534, and that Linda Critchfield, a fellow from the office of Senator LIEBERMAN, be allowed on the floor during consideration of S. 534.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 769

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending amendment for the purpose of offering an amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 769.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, strike line 16 and all that follows through page 58, line 22, and insert the following:

''(4) CONTINUED EFFECTIVENESS OF AUTHORITY DURING AMORTIZATION OF FINANCING.—

''(A) IN GENERAL.—With respect to each designated waste management facility or facilities, or Public Service Authority, authority may be exercised under this section only—

''(i) until the date on which payments under the schedule for payment of the capital costs of the facility concerned, as in effect on May 15, 1994, are completed; and

''(ii) so long as all revenues (except for revenues used for operation and maintenance of

the designated waste management facility or facilities, or Public Service Authority) derived from tipping fees and other fees charged for the disposal of waste at the facility concerned are used to make such payments.

''(B) REFINANCING.—Subparagraph (A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the schedule for payment of capital costs will occur after the date on which completion would have occurred in accordance with the schedule for payment in effect on May 15, 1994, the authority under this section shall expire on the earlier of—

''(i) the date specified in subparagraph (A)(i); or

''(ii) the date on which payments under the schedule for payment, as in effect after the refinancing, are completed.

''(C) Any political subdivision of a State exercising flow control authority pursuant to subsection (c) may exercise such authority under this section only until completion of the original schedule for payment of the capital costs of the facility for which permits and contracts were in effect, obtained or submitted prior to May 15, 1994.''.

Mr. KYL. Mr. President, the amendment which I offer now will tighten the flow control provisions of title II to more accurately reflect what I believe is the committee's intent; namely, to authorize flow control for a limited period of time to ensure that States and political subdivisions are able to service the debt that they incurred for the construction of solid waste management facilities prior to the Carbone decision.

Flow control is inherently anticompetitive. It was ruled a violation of the Constitution's commerce clause by the U.S. Supreme Court in the Carbone case. The Court ruled:

State and local governments may not use their regulatory power to favor local enterprise by prohibiting patronage of out-of-State competitors of their facilities.

While Justice O'Connor in a concurring opinion noted Congress' power to authorize local imposition of flow control, I do not believe it is in the public interest to sanction these Government monopolies intrastate, and it could impede competition, particularly for any more than the minimum amount of time required for State and local governments to pay off the debt that they incurred prior to the Supreme Court decision.

So my amendment would authorize flow control authority only until the debt incurred prior to the Carbone decision is repaid. During the period for which flow control is authorized, revenues derived from tipping fees and other fees charged at the flow control designated facility—these are net of revenues used for operation and maintenance of the facility, of course—must be used to pay off the debt obligations.

This amendment would permit the refinancing of debt to allow State and local governments to take advantage of lower interest rates when they are available. However, flow control authority would end on the date on which the original debt would have been repaid or the date on which the refinanced debt is repaid, whichever is earlier.

Mr. President, it appears to me that flow control has only one purpose; and, that is, to protect State or local monopolies that have developed in the disposal of municipal solid waste. That only hurts taxpayers, and there is no good reason for it.

Flow control does not offer the benefit of added protection for human health and the environment either. According to a March 1995 report by the Environmental Protection Agency:

Protection of human health and the environment is directly related to the implementation and enforcement of federal, State, and local environmental regulations. Regardless of whether State or local governments administer flow control programs, States are required to implement and enforce federally approved regulations that fully protect human health and the environment. Accordingly, there are no empirical data showing that flow control provides more or less protection.

That is the end of quoting from the EPA report. In other words, disposal facilities, whether public or private, must meet the same standards of environmental protection. Flow control does not add to the environmental protection.

Flow controls do result in substantially increased costs to communities across the country. That can have negative impacts on the environment due to the extent that it creates incentives for illegal dumping. In fact, in a column that appeared in the Washington Times on March 23 of this year, the mayor of Jersey City, Bret Schundler, noted;

All of the illegal dumping that New Jersey is now suffering from because of the soaring costs of waste disposal.

In New Jersey, where flow control is in place, the price of disposal is approaching $100 per ton. That compares to an average of about $35 per ton in areas without flow control.

Although flow controls do not typically add as much as that to the cost of disposal in other parts of the country, the increased costs can still be substantial. A study just released by National Economic Research Associates found that flow controls increase disposal costs on average $14 a ton, or 40 percent. That is 40 percent, Mr. President, that flow controls add to the cost of disposal. That is an additional cost that individuals and businesses must ultimately bear.

For example, again, Mayor Schundler notes that flow control prevents his community from reducing property taxes or taking advantage of lower cost alternatives.

That is wrong and it is unnecessary.

Some might say that flow control is needed to ensure sufficient waste management capacity or to help State and local governments achieve goals for source reduction, reuse and recycling. Again EPA's answer is no. In its March report, EPA stated, and I am quoting:

There are no data showing that flow controls are essential either for the development of new solid waste capacity or the long-term achievement of State and local goals for source reduction, reuse and recycling.

What about the necessity of flow control to finance new landfills or landfill expansions? Again EPA's answer is no. Again quoting:

Flow controls do not appear to have played a significant role in financing new landfills.

In fact, Mr. President, EPA goes on to note that private landfill firms have demonstrated their ability to raise substantial capital from publicly issued equity offerings, indicating that investors are willing to provide capital for the expansion of landfills without flow control guarantees. In other words, the private sector is willing and able to accommodate the demand for landfill capacity.

In some instances, flow control laws have not merely been used to generate revenues to finance construction and O&M costs but also for the purpose of funding other activities, like recycling, composting, and hazardous waste collection, to name a few. That would be fine if State and local governments were not using the force of law to compel the use of specified facilities at specified rates, if they competed in the free market. But they are using statutory authority to compel certain sites. Users are therefore required, by law, to subsidize other activities.

To the extent that we are considering limited flow control relief to help protect State and local investments, the revenues derived should be used solely for that purpose and not other things. My amendment will limit the use of revenues to that purpose.

Mr. President, our goal here should not be to preserve anticompetitive practices but to establish a framework for orderly transition, to allow limited relief for State and local governments that had in good faith made commitments based on the law as they understood it prior to the Carbone decision.

I hope my colleagues will join me in supporting this amendment and resist efforts to carve out exceptions to protect or extend local monopoly power. And, Mr. President, for the benefit of my colleagues, I ask that the full text of Mayor Schundler's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington (DC) Times, Mar. 23, 1995]

THE SMELLY TRUTH ABOUT GARBAGE DISPOSAL

(By Bret Schundler)

Last May, in a case called Carbone vs. Town of Clarkstown the United States Supreme Court held that state-imposed waste-flow regulations violate the commerce clause of the Constitution.

This was an important and proper decision.

But today, the Republican-controlled House Commerce Committee will hold hearings on anti-free-market legislation that would re-establish the authority of states to set up government monopolies in garbage disposal. The flow-control legislation that

will be considered is bad public policy, and it should be rejected.

To understand how this issue affects you, let's look at the experience of New Jersey.

Prior to the Carbone decision, New Jersey used the guise of solid-waste-flow regulation to establish county government monopolies called ''improvement authorities'' that are given the power to dictate to mayors where—and at what price—they must dispose of their municipal garbage. Experience teaches us that anytime a public or private monopoly controls the quantity and price of a service, that monopoly will have no incentive to control costs or improve services. And this is precisely what has occurred in New Jersey.

Let's look at the issue of cost. The average price for the disposal of solid waste in America is only $35 per ton. But in New Jersey, thanks to the establishment of governmental disposal monopolies, the price is fast approaching $100 per ton.

Now let's look at the quality of services delivered. The defenders of the status quo argue that allowing private disposal sites to compete on the basis of cost is environmentally unsound. But, in fact, it is easy to regulate private disposal sites to ensure that proper environmental standards are maintained. What is not easy to regulate is all of the illegal dumping that New Jersey is now suffering from because of the soaring costs of waste disposal.

Apologists for the former Soviet Union used to contend that government-run industries are more environmentally sensitive than industries under private control. But we now know that the reverse is true. Government-controlled industry tends to be less responsible than private industry, because when industry and regulator are one in the same, the inherent conflict of interest is invariably resolved in favor of lax enforcement of environmental safeguards.

Instead of building and protecting government monopolies, we should be encouraging the creation of a healthy free market of properly regulated private disposal firms. These firms should compete not only on the basis of price, but also in terms on the basis of price, but also in terms of environmentally sound disposal techniques. Protected government monopolies, in contrast, will never have any incentive to innovate.

The New Jersey Environmental Federation, representing all of the state's lending environmental organizations, has joined me and other New Jersey mayors in opposing waste-flow-control legislation. According to the Federation, New Jersey's governmental monopoly in waste disposal stifles ''technical innovation, private investment, and market development for lower cost, environmentally preferable material recovery and composting technologies.'' The Federation is right on target.

New Jersey Gov. Christine Todd, Whitman supports the maintenance of country waste disposal monopolies. This is because the governor believes that a competitive market would cause financial chaos. She worries that without having a guaranteed source of revenue, county improvement authorities, which have borrowed large sums of money to build incinerators, could possibly default on their bonds. But there is a solution to this problem that is much preferable to the current flawed policy.

Stated simply. New Jersey could issue bonds to pay off the existing debt that county governments have incurred to build government disposal facilities. Next the state could establish a $10-per-ton surcharge on solid waste disposal fees, which could be used to fully amortize the new bonds in just 10 years. County disposal facilities, freed of debt service costs, could immediately drop their rates by a like $10-per-ton—or more. Municipalities, able to find less expensive disposal alternatives, could take advantage of the opportunity, and thereby provide their residents with much-needed property-tax relief.

In many New Jersey counties, the property-tax relief that could be realized is substantial. In some counties, market prices for disposal are than $50-per-ton less than the governmental monopoly price. After the $10-per-ton surcharge that would have to be paid to the state, local taxpayers could still save $40-per-ton of waste generated.

The current system makes no sense. In Jersey City, because of government monopoly pricing we pay almost 50 percent more to dispose of our solid waste than does neighboring New York City, which pays free-market rates to dump at a disposal facility located just outside Newark, NJ. This is ridiculous!

As a mayor, I'm the one who must collect from property owners the taxes they pay for garbage disposal. But New Jersey's waste-flow-control regulations prevent me from taking advantage of lower priced, more environmentally sound disposal alternatives.

The effect of these flow-control regulations is to prohibit me from reducing property taxes for my residents. And when I have to raise property taxes to pay for skyrocketing disposal costs, residents do not get angry with the state. Neither do they direct their ire at the executive director of the county improvement authority for running a costly, inefficient government bureaucracy, bursting at the seams with unnecessary patronage workers. Instead, property owners get mad at me, because I am the one who must send out the bills to pay for all of this foolishness.

I know very well why some county governments in New Jersey support flow-control legislation. It's nice to have a relatively anonymous place where you can place patronage hires and generate huge contracts for law firms and consultants, who subsequently get tapped for political campaign contributions. This arrangement is especially nice, in the view of some county officials, since it is the mayors, and not county executives, who will get the blame for soaring property taxes.

But we should realize by now that government never works well when power is insulated from accountability. Good government requires that power be kept as close to the people as possible. Good government also requires that a clear demarcation of responsibility exist between different levels of government, so that the people know whom to throw out of office for unnecessarily inflating service costs or degrading the environment. Flow control legislation flies in the face of these principles. It is not good government.

America was built on the principles of the free market, where there are natural incentives for the providers of goods and services to be efficient and to keep prices down. There isn't any legitimate reason not to allow these same market forces to ensure that municipalities have the freedom to dispose of garbage by taking advantage of the least expensive, most environmentally sound alternatives.

With Congress now looking at school choice and other forms of empowerment as the way to reform our education system and enhance the provision of essential government services, it would be a travesty to allow states to move away from free-market solutions in the area of garbage disposal.

Mr. KYL. Mr. President, let me conclude by summarizing in this fashion.

What we are dealing with here is municipalities coming to Congress and asking for relief from a Supreme Court decision which said that what certain States had done in the past, limiting the free flow of interstate commerce, in this case in treating garbage, solid waste, was an unconstitutional infringement on the commerce clause, and so unless the Congress acts, these arrangements that have been entered into by the States will not be able to proceed in a monopoly fashion. They will have to compete with the private market. As the EPA report notes, the private market is quite capable of working in this area.

And so some municipalities have said, well, since we made our decision on good faith, based upon the law as we knew it, we should at least be protected to the extent that it takes us to pay off the investment, to pay off the bonds, and my amendment would grant that grandfathering authority. We would say to these municipalities, whatever the length of your bond period is to pay off those bonds, we will grant you the authority to create a monopoly so you have no competition, if that is what you want, and you can pay off those bonds. But you should not be entitled to have a monopoly beyond that point.

What this amendment boils down to, Mr. President, is which side you are on. Are you for saying that for the period of time that it takes a municipality to pay off the bonds we should grant this grandfathering exception, or should we grant even further extensions, and here are the two that are most frequently cited.

In some cases it is said that a municipality has a contract to accept waste and dispose of it lasting longer than the period of the bond repayment. So let us hypothetically assume you have a 20-year bond and a 30-year contract. They would argue that the length of time for the monopoly protection should be 30 years, not 20 years. There is absolutely no logic to that whatsoever.

Once the 20 years has elapsed, the bonds have been paid, the facility now exists debt free, it ought to be able to compete, for the last 10 years of its contract, with anybody in the private market who comes along with the necessity of raising the capital to construct a facility to compete with that municipal facility and then to treat this garbage at a lesser rate.

In any event, the city has the contract for the remaining 10 years, and the other contracting party is required to comply with the terms of the contract. So there are two reasons why there is no reason to extend the grandfathering protection, monopoly protection, of this legislation beyond the term that it takes to repay the debt.

No. 1, the party providing the garbage has to fulfill its end of the contract regardless of what we do, so the municipality is protected in that regard. And No. 2, the municipality has a free facility, in effect, a facility that is

now totally paid up. If it cannot compete with the private market under those circumstances, then there is something drastically wrong and the Congress should not be creating a monopoly to permit that to occur.

As I noted, EPA has noted there is neither a problem with environmental laws nor a problem with generating fees for other purposes here.

So that is the first argument that is raised, that we should extend it to the contract period. The other is more amorphous, and that is that we should extend this to the useful life of the plant. That is in effect selling the entire concept of the free market down the drain. We may as well say let us have socialized garbage. If we are saying that the municipality can have the monopoly protection for the entire life of the plant, then we are providing no opportunity for competition whatsoever.

Is it not enough that we allow them the monopoly protection until they have repaid all of their debts? Is it not enough that a contracting party would still have to abide by the terms of the contract and sell its garbage to the city under the terms of that contract? Are we now being asked to also extend this monopoly power to the useful life of the plant, whatever they may define that to be? It is a very unclear definition as to what that is. And there are not very many plants that are that well planned whose life can be extended without modernizing the plant. So we want municipalities to do this. That is fine. So municipalities are asking for virtually unlimited power.

With that in mind, the committee has wisely said ''enough.'' At 30 years, enough is enough. We will not extend this protection beyond 30 years. That was a wise thing for the committee to do. But I submit the committee should not have gone that far; that it ought to be sufficient that the municipality is granted the monopoly protection until all of its obligations for repayment of the bonds have been satisfied. At that point, it ought to have to compete along with anybody else. And for us to grant an exemption beyond that is to do something which the U.S. Supreme Court has said is violative of the commerce clause of the Constitution. And our oath requires us not to do that.

That is why, despite the fact that I have no interest in this—my State is not involved. I have no municipality or county government in the State of Arizona contacting me on this because we are not a State that does this. So I have no personal interest in this, or political interest. But it does seem to me that as Senators we have an obligation to do what is right as a country. The legislation which the committee has crafted has very carefully taken care of very severe problems in very specific situations.

Those States—and I would mention one, New Jersey—have been accommodated under the committee legislation. It is not necessary to broaden this exemption any beyond what my amendment would provide for.

So, Mr. President, I would be happy to engage in a colloquy with anyone who would like to inquire further as to the effect or intent of my amendment. I intend eventually to call for a vote. I will be very happy to debate this under a time agreement, starting with whenever anyone would wish to enter into such an agreement.

But I certainly hope that my colleagues will realize that the municipalities that need this relief are not in a position to hold leverage over our head. The U.S. Senate does not have to succumb to what municipalities would desire or like to have in this regard, but only that which they need. And that is all that we ought to be granting them if we are talking about monopoly power in an area where the free market should work just fine, again, according to the Environmental Protection Agency.

I yield the floor at this point. If no one wishes to examine my views on this at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, is there a pending amendment and, if so, I ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that a tabling vote occur in relation to the pending Kyl amendment at 2:30 p.m. today and that no second-degree amendments be in order to the Kyl amendment prior to the tabling vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, that vote will occur at 2:30 p.m. on the tabling motion unless it is vitiated. As it is now, it appears we will be having that tabling vote at 2:30.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendments be set aside at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 773

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator FAIRCLOTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. FAIRCLOTH, proposes an amendment numbered 773.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, after line 20, insert the following:

(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (j), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

Mr. CHAFEE. Mr. President, this deals with flow control and it pertains to a community in North Carolina which had a very specialized situation. In effect, it is a technical amendment. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, this has been cleared on both sides.

The PRESIDING OFFICER. If not, the question is on agreeing to the amendment.

The amendment (No. 773) was agreed to.

Mr. CHAFEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending amendment before the Senate be set aside for such length of time as it takes me to offer an amendment which has been accepted by the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 775

(Purpose: To revise the provision providing additional flow control authority)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 775.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, strike line 23 and all that follows through page 59, line 20, and insert the following:

''(5) ADDITIONAL AUTHORITY.—

''(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

''(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

''(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

''(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

''(ii) as of Jan 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

''(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (j)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on Jan 1, 1984.''

Mr. LAUTENBERG. Mr. President, this amendment follows the construct of this bill by protecting flow control authority that was in effect before May 15, 1994. Its provisions will sunset in 30 years.

With these limitations or restrictions, the amendment is narrowly crafted to respond to a very special situation in New Jersey, about which I spoke on the floor yesterday. I appreciate the willingness of the committee chairman, Senator CHAFEE, and the subcommittee chairman, Senator SMITH, to accept this narrowly crafted amendment, which will avoid the need for New Jersey to export increasing volumes of waste and will permit the State to meet its self-sufficiency goals by the year 2000.

While I cannot say that I share the enthusiasm that some have for the structure created by this bill, I, nevertheless, accept it. At present, I intend to support the bill and vote for it. I say at present, obviously, because if there are any amendments that are new and adopted, I reserve the right at that point to reexamine my decision.

At present, as I say, I intend to support the bill. I hope and trust that the bill itself will quickly be adopted in the Senate, in conference, and sent to the President to be signed into law. Otherwise, New Jersey and many other States face a potential waste disposal crisis and serious financial disruption of the plans and the indebtedness that exists out there.

As I earlier said, it has been my understanding that the chairman of the subcommittee, who I worked very closely with on several environmental matters, Senator SMITH, has accepted this amendment. I ask him for any comments he wants to make.

Mr. SMITH. Mr. President, we have accepted the amendment. The Senator from New Jersey has mentioned his amendment is a special situation in New Jersey. We are aware of this. It was the spirit and intent of the compromise language in the bill to deal with those special circumstances that New Jersey has, being an entire system for flow control.

Even though we have some philosophical disagreements on the subject of flow control, part of the very carefully crafted compromise was that we would do our best to deal with those folks who had made certain commitments in this rather unique situation in New Jersey.

This side has no objection to the amendment.

Mr. LAUTENBERG. Mr. President, I thank the subcommittee chairman.

Mr. President, this amendment recognizes the unique situation in New Jersey. New Jersey is the only State in our Nation in which all municipal solid waste is now flow controlled and has been flow controlled for over a decade. This extensive use of flow control was necessary in order to reduce our exports of garbage to other States. And it has worked.

New Jersey has decreased exports by 50 percent since 1988 and we are on target to be self-sufficient by the year 2000.

However, we do face some problems in terms of our existing facilities. Although New Jersey already recycles 53 percent of its waste stream, New Jersey exports 2 million tons of waste. There is not sufficient capacity in my State today to handle that volume. Facilities will be needed if we are to further reduce exports and become self-sufficient.

Therefore, New Jersey will need to build new facilities. Without flow control, however, it will be impossible to provide the needed capacity.

Lenders will not finance new facilities when it appears waste can easily and cheaply be exported. Without this amendment, therefore, it will be impossible to handle the waste volumes that we do export and we will continue to export more waste. That is not what Senators from other neighboring States want. And it is not what New Jersey wants.

New Jersey has attempted, probably more than any other State, to limit its exports. Title I, to restrict exports of solid waste, and further restrictions discussed by Mr. COATS, will make it harder to send waste across State lines.

Under my amendment, New Jersey will be able to live with some interstate restrictions because the amendment will protect the system New Jersey has worked so hard to develop. Under this amendment, title I restrictions on interstate shipments will not be a problem to my State.

And the title II flow control provisions will allow facilities to be built so that New Jersey can control and dispose of its waste.

This amendment follows the construct of the bill in that it protects flow control authority that was in effect before May 15, 1994. It will sunset in 30 years.

With these limitations and restrictions, this amendment is narrowly crafted to respond to the very special situation in New Jersey that I spoke of yesterday on the floor.

I appreciate the willingness of Chairman CHAFEE and Subcommittee Chairman SMITH to accept this narrowly crafted amendment which will avoid the need for New Jersey to export increasing volumes of waste and will allow the State to meet its self-sufficiency goals by 2000.

While I cannot say that I share the enthusiasm that some have for the structure created by this bill, I do accept it. I intend to support the bill and vote for it. And I hope and trust it will quickly be adopted in the Senate, conferenced, and sent to the President to be signed into law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 775) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, it is a unique situation when the Senator who has an amendment on the floor is presiding, because he is in the unfortunate situation of not being able to respond at this particular time. I apologize to the Senator for that, because I have another commitment. I have to chair a subcommittee meeting at 1:30.

I do want to make some remarks, but at some point later, if the Senator wishes to engage in any type of colloquy, I would be more than happy to do that with him.

Mr. President, I want to clarify that the current business before the Senate is the Kyl amendment; is that correct?

The PRESIDING OFFICER. The Hatch amendment to the Specter amendment to the substitute.

AMENDMENT NO. 769

Mr. SMITH. I will make some remarks in response to the amendment offered by the Senator from Arizona, Senator KYL, in regard to shortening the grandfather to the length of the bonds.

This is a difficult situation for this Senator, because in concept and in philosophy I totally agree with what the Senator from Arizona is trying to do.

I have made my statement here on the floor regarding this issue in the opening debate on the bill that I oppose

flow control. I think that the interstate commerce clause should be safeguarded. I do not want Congress to interfere.

The reason why we have had a difficult time with this issue, I say to my colleagues, is that there are special circumstances where people have incurred a tremendous amount of expense. As the Senator from Arizona, Senator KYL, said in his very eloquent remarks regarding his amendment, the free enterprise system should be allowed to work.

We might say, why did those people go ahead and make these financial obligations, knowing full well that they did not have the protection of the law? I think that is a very valuable argument and an argument that we certainly considered as we crafted this bill.

The problem was, and we had a hearing on this matter, and as we heard from so many witnesses, there truly are some real national hardships out there that, in terms of the investors, in some cases through no fault of their own, perhaps, although not deliberately misled, some of the bondholders probably did not get the full explanation of the impact of the Carbone decision and what it meant for all of their investments in these bonds.

It was something that we really struggled with, those members on the committee, Senator CHAFEE and myself and others on the committee, who really oppose flow control and did not want to interfere with the free market on this issue.

On the other side there are two sections of the bill. The interstate waste transfer is part of this legislation as well. So we have flow control and interstate waste. The two parts of this bill, together, is a very carefully crafted compromise to move both things forward at the same time.

I guess with some amusement we think of how when laws and sausages are made, we would be sick if we knew it. Maybe this is an example of that.

Again, I will with great reluctance oppose the amendment of the Senator from Arizona because of the fact it interferes with the compromise. I will be specific, again, on the basis of the compromise, not on the basis of philosophy.

We heard testimony from the Public Securities Association that $20 billion in bonds were used for flow control facilities. So, nationwide there is some $20 billion in bonds out there.

These people have a liability. There is some question, we would say, well, we went in knowing full well—maybe they did, maybe they did not. This Senator is not convinced that all investors knew this. I could be wrong.

I think it is pretty obvious, based on the testimony, all investors were not fully aware of the impact of this, and I think people invested in these facilities believing that they were going to have the protection of flow control. Right or wrong, they believed, in some cases, that they did. I am sure on the other side there are many people who knew full well that they did not and took the risk. Again, every investor bondholder, I do not believe, was fully aware of the ramification.

When Carbone invalidated flow control, this whole situation was left in limbo. Nothing is happening, no one knows what to do. No one knows whether there will be flow control or no flow control. So here it is before the Congress.

Now, most members on the EPW Committee did not want to have the Congress speak to overturning the interstate commerce clause of the Constitution.

There are dozens of incinerators and landfills in immediate danger if flow control is not reauthorized immediately. What we have here is not only a delicately crafted compromise, but an urgency in the sense that every bond based upon flow control authority at this point is threatened.

So I think there is an emergency. Senator CHAFEE asked me to hold hearings on this quickly and to try to move this out of committee and to the floor, and it has been on the calendar for quite some time. We were looking for an opening to get it here.

The purpose, again, looking at the negatives of this which the Senator from Arizona pointed out, the purpose, though, is to try to give relief to these people. It is not to permanently interfere with the free market, which is why the 30-year grandfather was placed there.

The reason for the 30 year was we did not want to go back and review every single bond, whether it was a 10-year bond, a 5-year bond, 20-year bond, or 25-year bond. There were not any bonds beyond 30 years, which is why we selected that date. Could we have selected 15 years and been more in line with what the Senator from Arizona favors? Yes, we could have. Could we have selected the life of the bond as the Senator's amendment addresses? Yes, we could have.

The problem is, though, we also added through language in the bill the opportunity to upgrade facilities. And I think that is where we get into a problem with the amendment of the Senator. If, after the expiration of a bond, someone wants to upgrade these facilities—not really expand but upgrade, keep them maintained—then they have no protection under the Kyl amendment. The underlying bill provides a very narrow flow control authority to protect these bonds. It may not be a perfect compromise, it certainly is not. But I think it is a fair compromise. It serves notice on everyone.

I hope 20 years from now, 25 years from now, Congress will not go back and extend this. It is our intent it be ended. Everybody, all 50 States, all the entities in those 50 States, all the haulers and the Governors and the systems, everyone who is involved with flow control in any way should be on notice that, effective with the passage of this bill, it is over in 30 years and they ought to plan accordingly. That is the goal. The Kyl amendment disrupts that slightly and provides more uncertainty, although it is well intended. Again, the Kyl amendment does limit flow control. There is no question about it. It limits it further than the underlying bill. Philosophically I agree with that but, again, it is the compromise we are concerned about.

The amendment would provide grandfathered authority only until the time the bonds are paid off. So if you have a 15-year bond and a contract that extends beyond those 15 years, or the need to upgrade your facility beyond the 15-year length of the bond, then you cannot do it under the Kyl amendment. You cannot do it with the protection of the flow control legislation.

This amendment also does not cover contracts. It will create havoc in a number of cities and towns that made financial commitments based on the mistaken impression—true, mistaken impression—that they had this authority. I think the phrase ''mistaken impression'' really goes to the heart of why I came down on the side I did on the amendment, on the Kyl amendment, as well as the underlying bill. There are innocent people here who have been impacted. I could not in good conscience allow that to continue without the protection they thought they had when they entered into this agreement.

Maybe it is an interesting conclusion here that it is a compromise, and if to you wanted to put it in direct statements, those who love flow control do not like the Smith-Chafee bill. Those who oppose flow-control do not like the bill. I think that probably means the compromise is about right. It is in the middle.

I know there are those who are going to, from a philosophical perspective, support the Kyl amendment. My fear, and I think it is a legitimate fear, is that at the time the Kyl amendment is agreed to and becomes part of the underlying bill I think it could possibly, conceivably, kill the bill or at least kill the compromise. I think if that happens and the bill gets pulled back from the floor because of the budget legislation which will be coming up next week, the budget resolution that will be coming up next week, then I do not know when we would get back to it as we get into the pressures of time with more legislation. Again, those people who need immediate relief will not have it.

I might just say in conclusion, we have tried to work with a number of States that have had concerns: Florida, Maine, Minnesota—the Senator from Minnesota, Senator WELLSTONE, and I agreed on an amendment yesterday. Senator LAUTENBERG and I disagreed on another amendment in New Jersey. States do have special considerations and special problems. But, again, the intention here—and I want to make

this point, because it is important—the intention here was to strike this balance and not to move too far. Not to allow open-ended flow control authority on the left, if you will, on the one side; and at the same time not to allow it to go back so far over to the free market side on this particular bill that we would lose the balance.

I might say for the benefit of the Senator from Arizona, we have rejected a number of amendments that would allow for open-ended action. If this community says, ''We would like to think about having flow control at some point within the 30-year period, will you exempt us?'' The answer is, ''No, we will not.'' In other words, there had to be some financial commitment, preferably a bond or contract, some amount of money had to be committed, usually in the form of a contract or a bond. So we were very, very tough on those people who came to us. We did not agree to allow that far-reaching aspect of the bill.

Again, it might not be exactly what everybody wanted but it is a compromise and I urge my colleagues, no matter whether you are moving further to the free market side as I am, or whether you are moving further toward flow control where Senator LAUTENBERG and others are, whichever one of those positions you favor, I urge my colleagues to stay here in the center, in the compromise, and reject the Kyl amendment and reject any amendments on the other side that may come up to expand flow control authority. So, on the one hand let us not expand it. On the other hand, let us not restrict it.

I again encourage my colleagues, when the vote does come on this amendment, to defeat it for the reasons given.

Mr. President, I yield the floor. If no other Senators are seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I further ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHOOL BUS SAFETY

Mr. DEWINE. Mr. President, a few weeks ago on this Senate floor I discussed the problem of school bus safety. In February of this year a young girl by the name of Brandie Browder, an eighth grader in Beaver Creek, OH, was killed when the drawstring around the waist of her coat got caught in the handrail of her school bus.

Just 4 days later, in Cincinnati, a seventh grader suffered a broken foot in a very similar accident.

As I pointed out when I spoke previously about this matter, while school buses are certainly among the very safest modes of transportation, the sad fact remains that an average of 30 schoolchildren are killed every single year in America either getting off or getting back on their own school buses—30 children.

Each child, Mr. President, with parents, grandparents, brothers, and sisters, and because of that child's death their life will never be the same; 30 children who will never have the opportunity to grow up, 30 children who will never have the opportunity to live out their potential. The sad fact is, Mr. President, that almost without exception these are preventable deaths.

When I last spoke on this issue, I discussed three specific safety issues, three problems that cause these deaths. One was a handrail problem. The second was the problem of the child getting on and off the bus and how we can make that area safer so the school bus driver will know what is going on in that area. And finally, I talked about the possibility of better training for school bus drivers.

Today, I would like to concentrate on the issue of handrails on these school buses because between the time that I last spoke to the Senate about this issue myself and my staff have spent a great deal of time looking at this issue and finding out additional facts. And the sad fact is that we lose many children because of this handrail problem.

This is a problem, Members of the Senate, that can be corrected very easily for less than $20 per school bus. So it is not something that is going to cost a great deal of money. It is something though that will not be fixed unless parents, teachers, administrators, and members of the public demand that this problem be fixed in each school bus in the country.

As I previously mentioned, an alarming number of these accidents are occurring when a strap from a backpack on a child or the drawstring of a little girl's or little boy's coat gets snagged in the handrail while that child is exiting the bus. We all know I think from our own experience from our own children how many kids today have backpacks or have a poncho or something that has a string that can in fact get caught as that child is getting off the bus.

Mr. President, with many of these handrails there is a small space between the handrail and the wall of the bus where something like the drawstring around the waist of a coat can get snagged. The child is getting off the bus. The child begins to get off that bus but the child's clothing is stuck and is still attached when the bus driver mistakenly begins to pull away thinking the child has exited the school bus. As I pointed out, a number of children have been killed in this exact manner since 1991.

Let me give a little background on the analysis of this problem. Beginning in early 1993, the National Highway Traffic Safety Administration [NHTSA] initiated a series of investigations to find out if the handrails on school buses were actually designed in an unsafe manner. As a result of these investigations, nine distinct models of school buses were recalled because of potentially unsafe handrails. However, tens of thousands of these unsafe buses were not recalled. They are still on the road. The bus that killed little Brandie was not recalled, not because the bus was safe—just the contrary—but it was not recalled because the company that made the bus had already gone out of business.

Mr. President, we clearly must track down these buses. We must make sure that every single bus in this country is inspected. We have to fix them or get them off the road.

Let me again repeat. We are not talking about a very expensive repair. It is not a cost question. It is a question of locating the buses. It is a question of public awareness, which is why I am on the floor today.

We as parents need to make sure our children are not getting on an unsafe bus this afternoon, tomorrow morning, or ever. We can all look for ourselves. When our child gets on the bus tomorrow morning, or gets off the bus this afternoon, look at the handrail to see if that gap does in fact exist. We must not rest until every one of these buses is identified and fixed.

Let me advise my colleagues what we are doing in the State of Ohio with regard to this. I had the opportunity this morning to talk to highway patrol officials who are in charge in the State of Ohio of school bus inspections.

As I have indicated, there really is a simple solution to this particular handrail problem. Every year the Ohio State Highway Patrol during the summer months when school is not in session conduct inspections of every single school bus in the State of Ohio. I suspect that there are other law enforcement agencies that perform the same function in all the other States of the Union as well.

The Ohio State Highway Patrol, when they begin these inspections in the next several weeks, are going to in addition to what they normally do look for this specific problem. When they find the problem, if they do, they are going to take the bus off the road until the problem is corrected because as I indicated it is a very relatively simple problem to solve at a cost of probably no more than $20.

They use an inspection device, a tool. If I describe it, I think it will give our listeners and Members of the Senate a good idea how simple it is. It is a tool made with a long string with a nut attached to the end. From outside the school bus door, you drop the nut end of the device into the crevice where

with the lower end of the handrail is attached to the lower area of the stepped wall. When you pull the device toward the outside of the school bus through the crevice, if the tool gets caught the bus is rejected and then not allowed onto the road until this is fixed.

As I point out, fixing these buses is relatively easy. For around $20 you can put a safe new handrail on the bus, a whole new handrail, or for even less money than that you can modify the handrail by inserting a special wood or rubber spacer between the bottom attachment point of the handrail and the bus wall itself. The process is cheap, simple and will save lives.

Mr. President, I urge that all States that are not currently following this inspection policy and are not looking for this problem start doing this as soon as possible. Ohio certainly does not have a monopoly on these potentially unsafe buses. These unsafe buses can probably and I am sure can be found in any State in the Union.

Mr. President, this week just happens to be National Safe Kids Week. There is no better time than the present during this week to focus our attention on the real dangers to schoolchildren who travel by schoolbus.

The goals of National Safe Kids Week are fourfold, but they are quite simple.

First, raise awareness of the problem of childhood injuries.

Second, build grassroots coalitions to implement prevention strategies.

Third, stimulate changes in behavior and products to reduce the occurrence of injuries.

Fourth, make childhood injuries a public policy priority.

Mr. President, these four goals should set our agenda for safety for children and specifically should set our agenda for school bus safety. I will in the weeks ahead again return to the floor to revisit this entire issue, but at this time I think it is important that we get about the business of dealing with this handrail problem.

In conclusion, I should like to alert my colleagues and other concerned Americans to an important satellite feed about this issue of school bus safety. Later today and tomorrow, the National Highway Traffic Safety Administration will be showing a TV program on this very issue. This program will be available by satellite, and I would urge those who are interested in this vital issue to contact NHTSA about the details.

Again, Mr. President, I thank all the concerned parents and the educators and others who are contributing to the success of National Safe Kids Week. To them I simply say thank you, thank you for caring, and, believe me, you are in fact making a difference.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. DEWINE. Mr. President, I do suggest at this time the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. KYL. Mr. President, while I was presiding, the Senator from New Hampshire made some comments relative to the amendment I had just introduced and spoken on. I regret he is not here, but I would like to respond to those remarks. They were well put, and I appreciate the cooperative spirit in which he gently opposed my amendment. I wish to respond to the points he made to illustrate why I still think my amendment should be adopted.

As you will recall, my amendment provides very simply that the grandfathering of monopoly status that these facilities need because the Supreme Court has declared them unconstitutional ought to be limited to the period of time that it takes for these facilities to repay the bonds; that beyond that time there is no rationale, at least no rationale that the Senate ought to be a party to, that once the bonds are paid off, the investor's money has been returned in full, there is no rationale for protecting the municipality from competition in the handling of garbage.

That is why my amendment would cut it off at that point and not allow the remaining exceptions, which include expanding the life of the plant, or the useful life of the plant to some unknown length of time with a 30-year time limit or for contracts that are in existence.

It would limit the grandfathering to that which is necessary or required but not beyond.

Mr. President, the Senator from New Hampshire made the point that investors believed that they would have the protection of the law and we ought to give it to them, and that is precisely what my amendment does—no less but no more. It says to those investors, you get your money back when the bonds are fully paid off; that then but only then does this exemption from the U.S. Constitution apply. So we give them that grace period. That is point No. 1.

Point No. 2. The Senator from New Hampshire said, well, there is a provision in this carefully crafted compromise for upgrades of facilities. And my response to that is, yes, that is there, but it is not needed and certainly not deserved. It creates a giant loophole which in effect means that all that the owners of these plants have to do is to provide some kind of upgrade to their facility—I presume that is anything beyond usual maintenance—and up to a 30-year period they can foreclose all competition.

That is un-American, it is unconstitutional, and it is not something that the Senate should be a party to, Mr. President. That is why my amendment specifically would not permit this special monopoly to exist beyond the time that it takes to repay the bonds. You cannot just fix your facility up and say we have extended its useful life and we want to continue to have a monopoly during the useful life of the plant.

That would not be a justifiable reason, and I know of no reason which justifies that particular exemption. None has been suggested.

Third, our colleague from New Hampshire made the point that innocent people were impacted as a result of the Supreme Court decision, and that is true. My guess is that most of the people who invested in these bonds had no idea that the Supreme Court would declare the whole practice unconstitutional.

Agreeing with the principle that those innocent people should be protected, my amendment does precisely that. It protects them. It says that until those bonds are paid off, the monopoly status of the facility is protected. So, in other words, the bonds get paid off, the investors get made whole, all of those innocent people have their investment returned, and they lose nothing as a result of my amendment.

Mr. President, there are other innocent people involved in this as well. These are the people who are required to pay the higher taxes because of the unreasonably high prices extracted by virtue of the fact that this is a monopoly. That is why we have antitrust laws. That is why our Constitution contains a clause that says that States cannot interfere with interstate commerce.

But that is what has been done in this case. That is what the Supreme Court outlawed. And the U.S. Senate ought to pay attention not only to the innocent people who invested, who are totally protected under my amendment, but also the totally innocent people of the State who are having to pay two, three, four times as much; the EPA estimates 40 percent more than they would otherwise have to pay as a result of this monopoly status that is being granted. So if the argument is that we should protect innocent people, then the Senate should adopt my amendment.

Finally, and the real reason why I think there is an objection to my amendment is that it might unravel a carefully crafted compromise.

Mr. President, that is the unprincipled but very pragmatic reason frequently given to opposing amendments in this Chamber and in the other body. We have all been a party to those. It is

necessary to craft legislation that is required to make compromises and no one argues against that practice.

But there are certain situations where there are fundamental principles involved. And where fundamental principles are involved, we need to be very, very careful about justifying opposition to principles on the basis of compromise. In other words, Mr. President, there are some things that ought not to be compromised. One of them is the United States Constitution.

When the Supreme Court says that a practice is unconstitutional, we ought to be very, very careful how we override that decision. We ought to do it in the narrowest possible way. That is what my amendment does. It says, until the bonds are repaid, we will grant these municipalities a monopoly power that nobody else can get, that the United States Supreme Court says is unconstitutional but, recognizing that investment decisions were made based upon the previous existing law, we will acknowledge that that exemption should last at least until the bonds are paid off. But my amendment says, at that point, no further. We do not need to go any further. No one else needs protection here.

All we are doing at that point is creating a monopoly protection which creates higher prices and prevents the free market from operating. Now it may be true that standing on that principle will cause a bill to unravel; that if my amendment were to pass, there is insufficient support then for the legislation to get it passed. My response to that is that we do much better politically in this body when we do what is right and that, if we will stick to principles, in the end we will get the kind of legislation that is necessary; that we make mistakes when we compromise principle for the sake of getting something through rather than for the sake of doing what is right.

This is a constitutional issue. I would perhaps suggest an analogy here.

Mr. President, what if a municipality had passed an ordinance declaring that certain speech could no longer be engaged in in the community, and everyone rose up in arms and said, ''Why that is unconstitutional''? A lawsuit was brought and the Supreme Court says, ''That is correct. You cannot impede free speech. Municipality, your actions are unconstitutional.'' And the municipality said, ''But we have a real need to impede free speech in this particular area.''

Do you not think that the U.S. Senate would be very, very careful about granting an exemption from the Constitution, in effect, here; would be very, very careful? Obviously, we could not constitutionally do that, but we would want to be as limited as possible in crafting legislation that would meet the constitutional standards the Court laid down.

That is what we should be doing in this case, because the Court has already spoken. The Court has said that States that have this flow control do so in violation of the U.S. Constitution.

So, in trying to figure out a way around that, we ought to be as careful and as limited as possible, not as expansive as we can think of. And that is why my amendment, I submit, is the only constitutional, commonsense course of action that the Senate can take to protect those situations where there has been an investment made until the investment is paid off. But, after that, no more monopoly.

And if that should cause the compromise to break apart, then it would be necessary, as the Senator from New Hampshire said, to go back to the drawing board and redo it. And I think that would be a good thing. But my hope would be, Mr. President, that it would not cause the compromise to fall apart; that we would all recognize that a limited exemption is all right to pass, we should pass it, but that we should not do more than that simply because some Senators might want to, in effect, overreach beyond what is really necessary or appropriate given the Supreme Court's decision.

So with all due respect to my friend and colleague from New Hampshire, who really helped to make the argument in principle to what I am saying but found it necessary to object nonetheless because of the position he finds himself in, I suggest the best way to a deal with this issue is to adopt my amendment, provide full protection for all those who need protection, but to limit the exemption to that point.

Mr. President, we are going to be voting on the Kyl amendment at 2:30 and, unless our colleagues, who have not been here on the floor, are watching from wherever they may be, it is going to be very confusing what this is all about, because this was not part of the committee action. I just urge my colleagues to consider this, to ask questions about this, come to the floor to engage me in a colloquy if that is their desire. I would be happy to answer any questions I can.

No one—no one—has made the case why we should extend to the useful life of a project a special exemption after the bonds have already been paid off; how it is that an operator cannot simply add something to the plant and say they have extended the useful life, thereby going to the full 30-year limit of this legislation. No one has made the case of why that should be the law. And until that case is made, if it can be made, we should not accept that proposition in dealing with something as sacred as a constitutional principle here.

Mr. President, I will ask my colleagues, again, to support the Kyl amendment when we vote on it at 2:30.

At this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIGGERLOCK

Mr. DEWINE. Mr. President, yesterday I came to the floor to begin a discussion about the crime bill that within the next several days I will be introducing. I would like today to continue to talk about other provisions of that crime bill.

As I indicated yesterday, I believe that there are really two truly fundamental issues that we always need to address when we are looking at the validity or the merits of any particular crime bill. First, what is the proper role of the Federal Government in fighting crime in this country? Second, despite all the rhetoric, what really works in law enforcement; what matters and what does not matter?

It has been my experience, Mr. President, as someone who does not pretend to be an expert in this area but someone who has spent the better part of 20 years in different capacities dealing with this, beginning in the early 1970's as a county prosecuting attorney, it has been my experience that many times the rhetoric does not square very closely with the reality, and that really, if we are serious about dealing with crime, the people that we ought to talk to are the men and women who are on the front lines every single day—the police officers, the tens of thousands of police officers around this country who really are the experts and who know what works and what does not work.

The bill that I will introduce is based upon my own experience, but it is also based on hundreds and hundreds of discussions that I have had over the years with the people who, literally, are on the front line.

Yesterday, I discussed these issues with specific reference to crime-fighting technology. The conclusion I have reached is that we have an outstanding technology base in this country that will do a great deal to catch criminals. Technology does, in fact, matter, and it clearly matters in the area of law enforcement. But we need the Federal Government to be more proactive in this area, more proactive in helping the States get on line with their own technology.

Having a terrific national criminal record system or a huge DNA data base for convicted sex offenders in Washington, DC, is great, but it will not really do much good if the police officer in Lucas County, OH, or Greene County or Clark County or Hamilton County cannot tap into it. It will not do any good if we cannot get the information, the primary source of this information, from them and get it into the system.

Crimes occur locally. Ninety-five percent of all criminal prosecution, of all

criminal investigations, occurs locally, not at the national level. Crime occurs locally, so we have to make sure that the crime-fighting resources, like this high-technology data base that I talked about yesterday, are available to local law enforcement.

Mr. President, today I would like to continue this discussion, and I would like to discuss another component of my crime legislation: How do we go about protecting America from armed career criminals? I am talking about repeat violent criminals who use a gun in the commission of a felony. In this area, too, we need to be asking what works, what does not work, and what level of Federal Government is most appropriate to do what, what level of Federal Government is most appropriate to get certain help from.

Again, experience tells us that we really do know what matters, we really do know what works. In the area of gun crimes, we have a pretty good answer.

We all know that there is a great deal of controversy about guns, controversy over whether general restrictions on gun ownership would help reduce crime. But, Mr. President, there is no controversy over whether taking guns away from convicted felons will reduce crime. Let me guarantee you, if we know one thing, it is this: If we take guns out of the hands of convicted felons, we will reduce crime and we will have fewer victims.

There is legitimate disagreement over bills such as the Brady bill, whether that will reduce crime. Similarly, reasonable people can disagree concerning the question of whether a ban on assault weapons will reduce crime. I happen to support both of these measures, but I recognize that many people do not and many people think that they are not effective.

But what I am talking about today is something on which there is absolutely no controversy, absolutely no dispute. There simply is no question that taking the guns away from armed career criminals will, in fact, reduce crime, and history shows that that works.

When it comes to armed career criminals, we need to disarm them, we need to lock them up, we need to get them out of society. Let us disarm the people who are hurting our victims, who are hurting the citizens of this country. As I said, history indicates that this works. We have a historic track record to point to. We actually have tried this and it does, in fact, work.

One of the most successful crime-fighting initiatives of recent years in this country was a project that was known as Project Triggerlock. This project was very successful, wildly successful, precisely because it addressed a problem squarely and it placed the resources where they were most needed.

Let me tell the Members of the Senate a little bit about the history of this Project Triggerlock.

The U.S. Justice Department began Project Triggerlock in May of 1991. The program targeted for prosecution in Federal court armed and violent repeat offenders. Under Triggerlock, U.S. attorneys throughout the country turned to the local prosecuting attorneys in whatever jurisdiction they were located and said: ''If you catch a felon with a gun, if you want us to, we, under existing Federal statute, we the Federal prosecutors, we the U.S. attorneys will take over that prosecution for you. We will prosecute that individual, we will convict that individual, and we will hit that individual with a stiff Federal mandatory sentence, and we will lock this individual up in a Federal prison at no cost to the local community, to the State.''

That is true Federal assistance. That is Federal assistance that matters. That is Federal assistance that makes a difference. That is Federal assistance and Federal action that will save lives by taking these career criminals off our streets.

Mr. President, that is what Project Triggerlock did. Triggerlock was an assault on the very worst criminals, the worst of the worst in American society. And it worked. This program took 15,000—15,000—career criminals off the streets in just an 18-month period of time. Incredibly—at least incredibly to me as a former prosecutor—the Clinton Justice Department abandoned Project Triggerlock. It was the most effective Federal program in recent history for targeting and removing armed career criminals from our society. But for some reason—for some reason—the Justice Department stopped Triggerlock dead in its tracks.

What I propose in my crime legislation is that we resurrect Project Triggerlock, and we can do it. My legislation includes a provision requiring the U.S. attorneys in every jurisdiction in this country to make a monthly report to the Attorney General in Washington on the number of arrests, the number of prosecutions and convictions they have gotten within that last 30-day period of time on gun-related offenses. The Attorney General then would report semiannually to the U.S. Congress on the success of this program and report on the number of these individuals who have been convicted.

Like all prosecutors, U.S. attorneys have limited resources. In fact, with U.S. attorneys, they have more discretion because of the fact that many times we have concurrent jurisdiction between the local prosecutors under State law and Federal prosecutors under Federal law. So the Federal prosecutors have a great deal of discretion about what type cases to pursue. It really is a question of what the priorities are. It is a question of prioritization.

Like all prosecutors, U.S. attorneys do have to exercise discretion about whom to prosecute. We all recognize that Congress cannot dictate to U.S. attorneys, cannot dictate to the Attorney General who should be prosecuted. But it is clear that we should go on record with the following basic proposition, and that is this: There is nothing more important than getting armed career criminals off the streets. There is nothing more important that the Justice Department can do than to set this as a priority.

Mr. President, I think Project Triggerlock was a very important way to keep the focus on the prosecution of gun crimes. Getting criminals off the streets, criminals who use guns, is a major national priority and we all should behave accordingly.

Let me turn now to a second portion of this bill that deals with the problem of criminals using guns in the commission of a felony. The second thing we need to do is to change the law. We need to toughen the law against those who use a gun to commit a crime. My bill would say to career criminals: If you are a convicted felon and you possess a gun, you will get a mandatory sentence. Under current law, a first-time felon gets a 5-year mandatory sentence. A third-time felon gets a mandatory minimum of 15 years. But there is a gap in current law. There is no mandatory minimum for a second-time felon.

My legislation, Mr. President, would fix that. It would provide a mandatory minimum of 10 years for a second-time felon with a gun. That would make it a lot easier for police to get that gun criminal off of our streets.

Third, bail reform. The third thing we need to do is to reform the bail system. Under current law, the Bail Reform Act, certain dangerous, accused criminals can be denied bail if they have been charged with crimes of violence. But it is unclear under current law whether possession of firearms should be considered a crime of violence or not.

Mr. President, let us do a reality check here today. If someone who is a known convicted felon is walking around with a gun in your community in Michigan, or in my community in Ohio, what is the likelihood that that person is carrying the gun for law-abiding purposes? Convicted felon with a gun. I think it is perfectly reasonable to consider that person prima facie dangerous. We should deny bail to keep that convicted felon off the streets while awaiting trial on the new charge.

My legislation would eliminate the ambiguity in current law. My bill would define a crime of violence to specifically include possession of a firearm by a convicted felon. If you are a convicted felon and you are walking around with a gun, you are dangerous and you need to be kept off the streets. We need to give the prosecutors the legal right to protect the community from these people while they are awaiting trial.

Mr. President, a fourth way we can crack down on gun crimes is to go after

those who knowingly provide—knowingly provide—guns to felons. Under current law, you can be prosecuted by providing a gun only if you knew for certain that it would be used in a crime. The revision I propose would make it illegal to provide a firearm if you have reasonable cause to believe that it is going to be used in the commission of a crime. This is the best way, I believe, to go after the illegal gun trade, those who provide guns to those people who are predators in our society. We will no longer, under this provision, allow these gun providers to feign ignorance. They are helping felons and they need to be stopped.

Mr. President, all of these proposals are motivated by a single purpose. I, along with the police officers of this country, believe that we have to get the guns away from the gun criminals. Project Triggerlock was one major initiative that we can pursue at the Federal level to help make this happen. Imposing stiff mandatory minimums, cracking down on illegal gun providers, are also good, important measures.

All of the gun proposals contained in my crime legislation, Mr. President, really have the same goal. They are designed to assure American families who are living in crime-threatened communities that we are going to do what it takes to get guns off of their streets. We are going to go after the armed career criminals. We are going to prosecute them, convict them, and we are going to keep them off of our streets. That is why we have a Government in the first place, to protect the innocent, to keep ordinary citizens safe from violent, predatory crimes.

Mr. President, I believe that Government needs to do a much better job with this fundamental task. That is why targeting the armed career criminals is such a major component of the crime bill that I will be introducing.

Mr. President, tomorrow I intend to talk briefly about a third major component of my bill, and that is how we help the victims of crime, those who are victimized by the criminals, those who we, many times, forget.

It has been my experience that, unfortunately, many times society treats the criminals as if they are victims and the victims as if they are criminals. Provisions in the bill that I will be discussing tomorrow deal with that. We will reach out to the victims of crime to help them and to make the playing field more level.

Mr. President, at this point, I will yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 789

Mr. SMITH. Mr. President, I send a manager's amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for himself, Mr. CHAFEE, and Mr. BAUCUS, proposes an amendment numbered 789.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 18, strike the phrase ''the Administrator has determined''.

On page 39, after line 8 insert the following: ''For purposes of developing the list required in this Section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this Section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this Section, nor to verify data provided by the States pursuant to this Section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this Section shall be final and not subject to judicial review.''

On page 38, after the ''.'' on line 16 insert the following: ''States making submissions referred to in this Section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.''

On page 33, line 20, strike ''(6)(D)'' and insert ''(6)(C)''.

On page 34, line 13, strike ''determined'' and insert ''listed''.

On page 34, line 13, strike ''(6)(E)'' and insert ''(6)(C)''.

On page 36, line 16, strike ''(6)(E)'' and insert ''(6)(C)''.

On page 50, strike line 18 and insert the following: ''in which the generator of the waste has an ownership interest.''.

Mr. SMITH. Mr. President, this amendment has been agreed to by both sides. It is a managers' amendment, a very technical amendment that has been requested by EPA, and it applies to tracking interstate waste pursuant to title I of the bill.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 789) was agreed to.

Mr. SMITH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Arizona, moves to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 769

Mr. CHAFEE. Mr. President, I would like to address the pending amendment which is, indeed, the Kyl amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, I would just like to say a few words about the amendment presented by the distinguished Senator from Arizona.

In our Environment and Public Works Committee, there are 16 members: 9 Republicans and 7 Democrats. The bill that is before the Senate today that the Senator from Arizona seeks to amend was approved in the committee by a vote of 16 to 0. Every Democrat and every Republican voted for it.

Now, this bill before the Senate represents a delicate balance. There are two sides to this issue. On one side is the following: The State and local governments say, why should we not be allowed to designate that all municipal solid waste, all solid waste within this entity, be it the city of Detroit or be it some small town in Michigan or town or city in Rhode Island, whether it is in the Nation—why should we not be able to designate that all of the municipal waste within that community go to a facility that we designate—we, the town fathers; and in that fashion, we, the town fathers and the community, will be able to afford a proper disposal facility, be it an incinerator or be it a licensed proper landfill?

If our citizens do not like this arrangement, if they think they can have their solid waste hauled away by some private entrepreneur in a different fashion, then they can vote Members out of office and we will be gone and the citizens can have a separate system, if that is what they want. At least we ought to have that power.

Now, on the other side of the equation is the view espoused by Senator KYL, which is that flow control is anticompetitive and is against the U.S. Constitution, in addition to all that. The Constitution has said that flow control is against the commerce clause and it should not be permitted.

However, the Senator in his amendment recognizes that there are some facilities that have been built pursuant to the belief that flow control will be there in perpetuity and, therefore, he has arranged under his amendment that those investments made by those communities can be paid off. In other words, his amendment is tailored to the life of the outstanding bonds.

Once they are paid off, then that ends it regarding flow control existing in that community. In other words, he has kept the flow control limited to a minimal period to provide for the payment of the bonds. Now, he has put a lot of thought into that argument, and as I say, an argument can be made for it, as indeed he has made.

In crafting this view, we balanced these two views. The ones who say on

one side, we do not want to have anything that inhibits competition; and on the other side those who say, why should we, in our communities, not be able to do what we want to do? If it is wrong we will be voted out of office. Leave that to the citizens. Do not have Big Brother in Washington, DC, saying how to do things.

We had those views vigorously brought to our attention both in the committee and on the floor of the Senate and in our conversations with other Senators.

What did we say? We set limits. We said, ''We are going to give broader flow control possibilities than that suggested by the Senator from Arizona in his amendment.'' However, we are going to set an outside limit. This is going to end at a certain time under our bill. It ends at 30 years. That does it. But we did not want to cut it off immediately, for the same reasons the Senator from Arizona has suggested. We go a little beyond him because there are communities here that are tied up in contracts that are different from just paying off the bonds. They have different situations.

Indeed, they feel very strongly about the arrangements they have made within their communities, within some States. They do not want this limitation. If we are going to have this legislation passed, then it seems to me we have to recognize the views on both sides to a greater extent than is recognized by the Senator from Arizona in his amendment.

Therefore, Mr. President, when the proper time comes I will move to table the amendment of the Senator from Arizona—not that I think it is totally out of line. I can see the rationale that is behind his amendment.

The truth of the matter is it will upset this delicate arrangement that we have put together here over the past several weeks. I might say this was not just created by the imagination of this Senator or that Senator. It came as a result of hearings we had in connection with flow control and trying to craft a bill that is very, very difficult.

Indeed, what has been going on today and yesterday? We were on this bill starting at 12 o'clock yesterday, going up until something like 6:30. Today we have been on it since 9:30, with very little action on the floor.

Why? Because we are trying to compromise and recognize and deal with these various forces that are tugging in exactly opposite directions here. That is difficult to reconcile.

Therefore, Mr. President, I would hope that our colleagues would support the efforts of the committee in trying to meet this very, very, difficult compromise.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wonder if the Senator from Rhode Island would engage in a colloquy with me regarding this legislation?

Mr. CHAFEE. I would be happy to.

Mr. KYL. Mr. President, I appreciate his characterization of my remarks. They are precisely as he described them. I appreciate the difficult dilemma that a chairman always has in trying to get legislation which is not uniformly agreed to and, therefore, requires some compromise.

Having conceded that much, first I want to make a very quick point, because there is some misinformation, I think, being conveyed, and that is that our amendment does not permit refinancing.

This is not something that the Senator from Rhode Island addressed but was addressed earlier. Under our amendment, I make it clear, that refinancing is committed so you are not bound by the original financing. Entities can refinance, and however long it takes for either the original bond issue or the refinanced bond issue to be repaid, that would be the length of time that this exemption under my amendment would pertain.

Mr. CHAFEE. In your bill—in other words, you refinance and you could extend beyond the period of the original bond?

Mr. KYL. I believe that is correct, yes.

Mr. CHAFEE. It was my understanding that refinancing was permitted but it could not extend beyond the date of the original financing. I may be wrong there.

Mr. KYL. I am sorry, yes. The Senator from Rhode Island is correct. In subsection (B):

> (A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the scheduled for payment of capital costs will occur after the date on which completion would have occurred. * * *

Then the authority expires at the earlier of those two dates. The Senator is correct. With respect to the issue generally that a community should have the right to grant a monopoly, and that the remedy is to vote them out of office—the argument posited against this—I ask my colleague this question:

It is true that if a municipality, a county government or whatever, creates this monopoly they could be voted out of office. But is it not true that the U.S. Congress, by this legislation, will have created the situation where despite these people being voted out of office, the contract, under the bill as written—the contract term, or as long as it takes to refinance, or even the point at which the useful life ceases to exist, after it has been extended, up to 30 years—would still allow the monopoly to continue? So the candidates themselves may be defeated but that which they constructed, because we protected it, would continue to exist?

Mr. CHAFEE. That is correct.

Mr. KYL. I think that makes my point. We ought to be very, very careful when we are seeking ways to get around the U.S. Supreme Court decision interpreting the Constitution; that we should do so in the narrowest way possible. I think what we have done here is, in order to accommodate the special desires of different Senators from different States to go beyond just the repayment obligations but to actually continue to act as a monopoly so they will have a competitive advantage over others who might wish to provide the same kind of service, that in constructing the compromise we have, I think, gone too far and acted beyond the principle which justifies the more limited grandfathering, if you will, more limited exemption which I provided for in my amendment.

That is why, while I certainly recognize the difficulties the chairman has in cobbling together a compromise in something of this nature, I suggest colleagues may wish to support my amendment. I hope they would support my amendment. If that means we then have to go back and do some more working of the bill, then at least it might be done from a better basis.

I might ask the Senator from Rhode Island another question here. I can understand, under a very limited circumstance, why we might want to recognize a contract term which extends beyond the term for refinancing or financing bonds. There are basically three reasons why the monopoly is being granted here. One, to allow the refinancing to occur—both of us have agreed on that. Two, in order to extend the exemption to the point that contracts are outstanding. And, three, to extend it when something has been done to the plant to extend its useful life. I can understand a limited rationale in the second situation and we both provided for the first.

What I cannot understand is a rationale for the third aspect of the exemption whereby, simply because it makes economic sense to do so, or the jurisdiction in question decides to do something to the plant to extend its useful life, that fact ought to occasion us to grant an additional exemption.

At that point there is no longer contract obligation that might be more difficult to fulfill. There is no more investor interest out there. This is simply, perhaps, a very rational decision to extend the life of the plant, but not one which creates in my mind any rationale for extending the grant of authority here.

Would the Senator from Rhode Island care to respond to that?

Mr. CHAFEE. That is a good question. But the answer is—and we have had this raised, obviously, not only on the floor here but in calls from Governors that come to us. The original plea of the Governors is, ''Why can't we do what we want to do? Who are you in Washington, always telling us, yes/no?''

As the Senator has pointed out, it is the Supreme Court that said no. It is not us who said ''no.'' Indeed, what we

are doing is in effect coming to the rescue, if you would, of those communities that want to extend flow control or have flow control because, as the Senator knows, it was declared unconstitutional. So we are stepping in, trying to fill a void, fill a problem that exists.

But you say, OK, if you step in just step in for this limited period which is, as you say, the length of the bonds that are outstanding or what the contract requires between the facility and the community—whatever it might be. But the answer is that in many of these States and communities they set up arrangements based on flow control continuing to exist. In other words, they pass statutes that flow control be there. So we have some occasions where the length of time of the contract is not necessarily going to cover all the expenses and is going to be renegotiated for a variety of reasons, but all with the anticipation that the flow control statute that the municipality had entered into was going to continue to be there.

So they say, ''We made arrangements.'' The arrangements might be the original bonds, for example, and did not cover the total construction cost of the facility. Or that they were dependent upon flow control to provide the flow of waste and the tipping fees for the rather high maintenance costs. They had it all worked out and they say, ''Why can't we continue to do that?''

That is the rationale that we have, when we have State A, or B, or C, or Governor A, B, or C, calling us and saying this is what we want. So we have tried to juggle it around, leaving not everybody happy, as is apparent today.

Mr. KYL. If I could respond, I appreciate that fact. And I suspected that basically was the rationale for it. But it does seem to me that just because the operators of the plant want a monopoly does not necessarily mean that is good public policy or that we ought to go along with it. By definition, if at the time bonds have been paid off—since I doubt seriously these plants are constructed by anything other than bond issues—but once the bonds have been paid off, they have been built. They may continue to have high operating costs. But at that point it is the citizens of the State and the community whose interests we ought to have in mind, which is the rationale behind the interstate commerce clause in the first place, that a State should not grant a monopoly to either a private business or a State enterprise to extract more money from the taxpayers of the community than is necessary.

And if a private investor or some other competitor can build a plant, can come up with the capital to do so and compete favorably with an institution that has already been totally financed by public funds and had that financing repaid, then at that point public policy would suggest that the people are more benefited by the lower prices and the competition because, by definition, they are the ones who are getting the contract rather than the older, outmoded or very expensive facility that we have been protecting in the meantime.

So I guess I can recognize that the owners or operators of the plants may wish to stay in business without competition. I still am not clear as to why that should occasion us to grant an exemption from an otherwise constitutional prohibition here.

As I say, I can understand the rationale as to the first point as to the bonds, and to some extent on the contracts, but on this third area here—and what I am searching for here is a possible accommodation with the chairman and others who would be involved in this—I just really fail to see the rationale for the third. Perhaps that is something we could explore an agreement on.

Mr. CHAFEE. I think the Senator made a rather telling point. He pointed out that if they enter into these contracts and the town fathers say, ''Look, if you do not like it you can vote us out of office,'' you say, ''What good does it do to vote you out of office, you have locked us in for 20 years? It is little satisfaction for us that you are gone but we are stuck with the contract.''

But I would like to say this. Here we are in a situation where if this Senate does nothing or this Congress does nothing, there will be no flow control at all.

Yet we have publicly elected servants, Governors, Senators, coming to us and say, ''Extend this in perpetuity.'' That is what many of them want. These are people who are saying this before it is a done deal. In other words, the public knows their position, should know it, and many Governors—it has been no secret—do not say, ''Don't tell anybody, I am urging you to do this.''

So there are a lot of factors involved. But pursuant to the wishes and the views of the Senator from Arizona, and our own views likewise, we have set a sunset. We said this is all over with. We do not care what your arguments are. At the end of 30 years, there is not going to be any more flow control. You did give us arguments about bonds, this, that, but that is it. You may say 30 years is a long time. It is not just some people on the floor of the Senate who are after us to change that.

Mr. KYL. Unlike STROM THURMOND, we are going to be gone by the end of 30 years. But I see the point.

If the Senator will just yield for one final comment, I appreciate the arguments the Senator has made. I think what I am suggesting is something that is correct on principle. I would not want it to impede good legislation. I tried to suggest a couple of areas of possible ways of dealing with the issue and would be happy to continue to pursue those areas should anyone be interested.

On my behalf, I am not doing this for anybody in my State, because we do not have this. But I urge my colleagues to support the amendment and enable us perhaps with a little stronger leverage to go back and construct something that would make a little more sense.

I thank the Senator for yielding.

Mr. CHAFEE. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I find this a rather distressing moment because the amendment that is proposed, frankly, will do much to undo a lot of hard work that was done in a consensus fashion in trying to arrive at a way to accommodate the need for States to dispose of their trash in a sensible way. When you say ''trash, garbage,'' et cetera, immediately it sounds like the subject is on the trivial side of things. It is hardly that because there are a few States that do not have a problem. As a matter of fact, this country of ours, and this world of ours is filled with problems created by the excess creation of trash by its citizens.

It is a serious problem when you come from a State like mine, the most crowded State in the country. We still value the quality of life that we can develop. We like our hills. Some call them mountains. It depends on whether you have seen mountains or not. But they are our hills and they are our forests, they are our woodlands, and our streams. And we try to make as good use of those as we can. We want for our children nothing different than those who live in Montana or Wyoming or in the other places, the wide open places. As a matter of fact, population growth in this country is much more toward the crowded areas because young people like to be where other young people are, and as a consequence there has to be a national cooperation on efforts like this to help us deal sensibly with the problem.

Now, this bill is carefully crafted—the bill itself; I am not talking about the amendment of the Senator from Arizona—to give States the power to restrict in some form or fashion the amount of trash that comes to their States from other States. This is not a simple calculation because within States there is often enormous disputes between those who govern the local community—mayors, councils—those sometimes who are responsible for county government and State government because the mayor in a town may very well be able to find a way to get rid of their trash from the community by shipping it to the nearest, cheapest out-of-State facility.

To give you an example, in my own State we have created some waste disposal facilities, and in order to build

those facilities we had to go out and arrange for financing, indebtedness, and that indebtedness, like any other business, was calculated on a particular revenue or financial stream that was going to permit them to pay their bills and also to pay off their indebtedness.

So lots of communities across this country developed something called a flow control program that says a State may regulate where the trash is going to go, not simply permit a mayor, even though it looks on its surface to be in the best interests of the residents of the community, to simply say OK, tipping fees, which are the fees associated with the disposal of garbage, to send it to State X nearby are one-third or 40 percent of what it might cost to send it to a nearby waste processing facility. That can be true on a particular day at a particular moment.

However, Mr. President, what happens if suddenly the opportunity to ship to State X, Y, or Z is terminated by laws that are pending in this body that say look, we are not going to take your garbage. We are not going to permit our communities to take it even though it is a revenue-producing source, even though it is clean, even though it has met all of the standards under RCRA for being a sanitary landfill where there is no possibility of leaching into the water supply, there is no danger to the community, even though we know it is great politics to keep the garbage out of the contract State. The fact is we have a contract and the Supreme Court says you cannot interfere with interstate commerce—unless, of course, laws are drawn to permit obstructing it in an ingenious way so that it gets around the constitutional question.

Well, what happens is those of us who live in exporting States are very nervous about the future, of what happens if suddenly the export possibility is cut off. And I repeat, though I have said it on this floor several times, the New Jersey story. When we were an importing State for garbage—Philadelphia used to ship its trash to my State—we tried through the courts to stop it. We went as far as the Supreme Court, and the Supreme Court said no, you cannot stop it. Well, we learned something. We were a net importer, and now as fate would have it we are an exporter. And in order to protect the solvency of our State, it was determined that my State would have a flow control structure, and they tried to direct the trash to the facilities that can accommodate it not just now, not just next year but in much of the next century as well.

That is the thought that went into this bill. Do not cut us off at the border and at the same time not permit us to control the flow within our States. My State of New Jersey wants to be independent. We do not want to depend on anybody else, to be gracious and fair and all that kind of stuff. We know that we have to take care of ourselves, so as a consequence we wrote the law to permit us to do that.

Well, now, after all of the deliberations that have gone on—and the distinguished chairman of the Environment and Public Works Committee from Rhode Island is in the Chamber. He worked very hard to get a consensus. He supports the flow control notion because he knows how important it is to the States that are concerned. Forty States in this country of ours have flow control authority, and they will be adversely affected by this amendment.

The amendment makes it difficult to expand landfills. For example, there are many landfills that need to be improved. If a 10-year bond was taken out for the original landfill 8 years ago, then that landfill operator will have little incentive to make improvements because he does not know how much waste will be coming in after 20 years. How good business is going to be he does not know because we are liable to cut off the opportunity for him to continue financing.

So we have an amendment now which I frankly believe would be very disruptive, and I want all the Senators from all the States that have flow control authority to pay attention because they could be losing a valuable asset, the sensible management of their trash problems.

We are going to have a vote on this amendment, I understand, at 2:30, and I would caution those offices where there is any interest at all in what happens with flow control to make sure that those Senators are alerted to the problems that might be created for them.

This amendment, by the way, is opposed by the National Association of Counties. They know what the problems are. It would be difficult to finance equipment, to finance new facilities because the amendment limits very specifically the financing of facilities to those that are presently in operation; would limit them to 30 years of life even if 25 have gone by. That means only 5 more. And the State may not have any other solution to its problems.

So I hope our colleagues will listen very carefully to what is being discussed, to note that the chairman of the Environment and Public Works Committee, that the chairman of the Subcommittee on Superfund, under whose jurisdiction this is, will be opposing this amendment and that others will take leave from them.

With that, I yield the floor, Mr. President.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to my colleague, the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will submit an amendment to the pending bill. I ask unanimous consent that the pending amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 867

(Purpose: To provide flow control authority to certain solid waste districts)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself and Mr. LEAHY, proposes an amendment numbered 867.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 2 and 3, insert the following:

''(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

''(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) prior to May 15, 1994, the solid waste district—

''(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

''(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

''(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.''

Mr. LEAHY. Mr. President, I ask unanimous consent that I be listed as a cosponsor with the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, hopefully we will be able to reconcile our differences that we have right now with respect to the pending bill.

Vermont, I think, is a pioneer in this area. Some years ago, it set up a methodology of trying to reach what we believed were national goals as well as our own State's goals, and that was to try and develop recycling to reduce the amount of solid waste that enters into our waste system. Thus, we organized districts throughout the State. And also to try to enhance the ability to recycle, we have allowed some tipping fees to be exacted in order to take care

of the costs that are involved with recycling.

If my memory serves me right, when I was on the committee that is handling this legislation, we had set or were going to set national goals that we ought to try to reach a 30-percent goal of recycling. Vermont right now is over 25 percent and moving toward 30 percent.

What would happen, if this bill passes and if the existing Supreme Court decision is not changed, is that Vermont will have to move away from what is a very desirable situation, and that is to be able to reduce our flow of trash by over 25 percent.

Mr. President, in 1987 the State of Vermont passed a solid waste management act which allowed small rural towns and cities to band together to solve their solid waste problems. Building a landfill which complies with EPA standards under the Resource Conservation and Recovery Act is not cheap. Recognizing that landfills out of compliance would be shutting down, and facing the reality that landfill space was dramatically declining, Vermont acted to assist small communities in their effort to handle their solid waste. The 1987 solid waste management law allows Vermont towns the ability to band together. Passage of Vermont's solid waste law and the implementation of the State's solid waste plan has been incredibly successful to date in achieving this goal. But we are not finished yet.

Mr. President, Vermont has spent over $20 million developing its district waste management plans. The vast majority of these plans rely on flow control. Without this ability, many small towns and cities would not have been able to plan for the future, reduce their production of waste or implement far reaching recycling and waste reduction programs. The communities in my State need to be able to count on the results of their investments. They need to continue to work to solve their solid waste problems together, in coordination with the State.

The loss of local authority over solid waste planning would be disastrous. These solid waste districts have developed comprehensive waste reduction plans, in order to reduce the costs of disposal and remove the need to continually open new and costly landfills. Since 1992, there has been a dramatic increase in the number of households and businesses participating in local waste reduction and recycling programs. And it is working. Currently, Vermont recycles approximately 25 percent of its solid waste and over 40 percent of Vermont's towns have recycling programs in place. And these are rural towns. Recycling in rural areas is not easy, nor cheap. I am proud of what these Vermont communities have achieved and want to ensure the continued growth of this trend in the future.

Mr. President, Vermont is among the most rural States in the Nation. Our solid waste districts generally have not financed disposal facilities, such as landfills, nor recycling infrastructure through the issuance of revenue bonds. Therefore, the exemptions in the bill will not hold. But the financial health of these communities necessitates the continuation of their ability to direct flows of waste. And these waste districts are just beginning to fully implement their waste management plans, which may include the sighting of safe, but expensive, waste disposal facilities.

My State has chosen to manage its waste in this manner. Now, in this time when the theme is to reduce mandates from Washington, are we going to impose a Washington solution on Vermont and other States who are properly managing their waste? Essentially, Washington will be removing Vermont's ability to implement their solid waste management plan. Washington will dismantle Vermont's recycling program. Washington will increase Vermont's waste generation, thereby increasing costs associated with waste disposal. Washington will end Vermont's ability to safely manage its waste, waste which without my amendment can go to out-of-State incinerators and less preferable landfills.

I ask my colleagues to let Vermont manage its waste as it chooses, not as Washington dictates. Do not impose a Washington mandate on Vermont. Let us maintain our extremely successful waste reduction and recycling programs.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I join with Senator JEFFORDS on this, because I think it is extremely important to our State. S. 534, as it is presently written, trashes Vermont's solid waste management plan, I might say literally and figuratively.

What we want to do is let the Vermont solution work in Vermont. We hear a lot about States' rights these days, but we are about to undermine our State's right to manage waste in Vermont. We hear a lot about how States could find the best solutions to their problem, but this bill says the States' solutions are wrong. We hear a lot about not forcing States to adhere to national environmental standards, but when my own State goes and exceeds the national standard within the borders of our own State, we are told we cannot do that.

Now here we have a bill that says States can control what comes across their borders, but they cannot control what is within their borders. That is absurd.

My State uses flow control to reduce the leakage of household hazardous waste into the environment. That is something that benefits all Americans. My State uses flow control to increase recycling in rural areas.

Vermont manages waste better than Federal statutes, like the Clean Air Act and the Clean Water Act require. If a State like Vermont wants to go above and beyond the call of duty in addressing solid waste problems, then the Federal Government ought to stand out of its way. We are not suggesting we do less. We are just saying give us the right to do more if that is what we want.

The opponents of this amendment say the free market will take care of our solid waste management. Well, the fact is in a rural State like Vermont the free market will not increase recycling nor separate and collect household hazardous wastes or address a number of the other things that we are doing in Vermont.

When the State legislature or an individual waste management district chooses to pursue the policy suggested by Senators from other States, they will have the opportunity to do so. Until then, they ought to be allowed to pursue the policies they have set up themselves, especially when everybody agrees the policy goes beyond any national standards. We ought to be able to do what we want within our own borders in a case where we are not only not harming anybody else, but we are actually making the environment better.

Mr. JEFFORDS. Mr. President, I would also point out that this does not interfere in the sense of competition. There are bids that go out for those who want to bid. The only problem that is created is the tipping fee, which has to eventually, of course, be paid by the people that are getting the advantage of the waste disposal. And that helps in paying for the recycling programs.

In rural areas where you do not have large amounts of trash that is recyclable in the sense that it can be sold, you have to make up that cost some way. The question is, is it not better to put that cost on those that are getting the advantages of the waste disposal system? I think everyone would agree, the answer is yes. And if the answer is yes, then why should we not be allowed to do it? It is not in any way interfering with the problems that the Supreme Court handled, which was interfering with respect to fair and open competition

Mr. President, I yield the floor.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, am I correct in believing that 2:30 is the time set for the vote on the Kyl amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. That is the pending amendment, right?

AMENDMENT NO. 769

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of amendment No. 769 offered by the Senator from Arizona [Mr. KYL].

Mr. CHAFEE. Mr. President, I move to table the Kyl amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 769. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—79

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Baucus	Gorton	Moseley-Braun
Bennett	Graham	Moynihan
Biden	Grams	Murray
Bingaman	Grassley	Nunn
Bond	Gregg	Packwood
Boxer	Harkin	Pell
Bradley	Hatch	Pressler
Breaux	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Roth
Chafee	Hollings	Santorum
Coats	Hutchison	Sarbanes
Cohen	Inouye	Shelby
Conrad	Jeffords	Simon
Coverdell	Johnston	Simpson
D'Amato	Kassebaum	Smith
Daschle	Kennedy	Snowe
DeWine	Kerrey	Specter
Dodd	Kerry	Thomas
Dole	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone
Feinstein	Lugar	
Ford	Mack	

NAYS—21

Ashcroft	Domenici	Lott
Brown	Feingold	McCain
Bryan	Gramm	Murkowski
Byrd	Inhofe	Nickles
Campbell	Kempthorne	Robb
Cochran	Kohl	Rockefeller
Craig	Kyl	Stevens

So the motion to lay on the table the amendment (No. 769) was agreed to.

Mr. PRYOR. Mr. President, seeing no other Members of the Senate seeking recognition at this time, I would like to ask unanimous consent that I may be allowed to speak as in morning business, not to exceed 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDATION TO FORMER PRESIDENT BUSH

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me and I thank the distinguished managers for allowing me to speak.

Mr. President, this morning's Washington Post and many television and radio news programs throughout America and perhaps the world, reported on what I would like to call a portrait in courage, and the person standing tall in that portrait was none other than former President George Bush.

Like many of my friends and family in Arkansas, former President Bush is a gun enthusiast. He is a long-time member of the National Rifle Association.

But like many other NRA members, President Bush was deeply offended by a recent NRA fundraising letter signed by Mr. Wayne LaPierre, the NRA's executive vice president. The LaPierre letter referred to several law enforcement officials: ''Jack-booted thugs who harass, intimidate, even murder law-abiding citizens.'' The NRA referred to Federal agents ''wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens.''

This irresponsible, inflammatory NRA fundraising letter incited the former President of the United States to the point that he wrote NRA President Thomas Washington to resign his NRA membership.

Former President Bush's letter reads as follows:

Your broadside against Federal agents deeply offends my own sense of decency and honor and it offends my concept of service to our country.

President Bush continues in his letter:

It indirectly slurs a wide array of government law enforcement officials who are out there day and night, laying their lives on the line for all of us.

Mr. President, I am asking unanimous consent that an excerpt from the story in the Washington Post about President Bush resigning his membership from the National Rifle Association be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

But his resignation letter was more personal than political.

''Al Whicher, who served on my [Secret Service] detail when I was vice president and president, was killed in Oklahoma City,'' Bush wrote. ''He was no Nazi. He was a kind man, a loving parent, a man dedicated to serving his country—and serve it well he did.

''In 1993, I attended the wake for ATF agent Steve Willis, another dedicated officer who did his duty. I can assure you that this honorable man, killed by weird cultists, was no Nazi.'' Willis was one of four federal agents killed in the initial February 1993 raid on the Branch Davidian compound near Waco, Tex.

''John Magaw, who used to head the [Secret Service] and now heads ATF, is one of the most principled, decent men I have ever know,'' Bush wrote. ''He would be the last to condone the kind of illegal behavior your ugly letter charges. The same is true for the FBI's able Director Louis Freeh. I appointed Mr. Freeh to the federal bench. His integrity and honor are beyond question.''

The letter concluded, ''You have not repudiated Mr. LaPierre's unwarranted attack. Therefore, I resign as a life member of NRA, said resignation to be effective upon your receipt of this letter. Please remove my name from your membership list. Sincerely, George Bush.''

GATT AND GENERIC DRUGS

Mr. PRYOR. Mr. President, when we in Congress voted on the GATT treaty recently, we all knew that we were breaking down trade barriers and leveling the playing field in international trade.

Make no mistake, I believe that Americans will benefit from this agreement when it is implemented in June. But never, Mr. President, in our wildest dreams or imagination, would we have ever thought we were voting to give special treatment and a $6 billion windfall to the prescription drug industry on one hand and higher drug prices to American consumers on the other. Yet that is exactly what is happening.

Mr. President, here is what has happened to bring us to this point today. Last year, the United States agreed under GATT to a new patent law, good for 20 years from filing. Our old patents were for 17 years, the effective date from their date of issue.

We also agreed under GATT to give existing patents the longer of the two patent terms. This extension applies to all industries.

At the same time, we knew that generic companies of all kinds all over America had already made significant investments based upon old patent expiration dates. These companies were prepared to introduce their competitively priced drug products just as the brand-name monopolies end.

We did not want to jeopardize the jobs and the factories which were at stake. So we decided under GATT to adopt a formula under which these generic companies could proceed with the introduction of their products if they paid the patent holders ''equitable remuneration'' for the period of time left on their patents.

Mr. President, here is where this story really begins. It just so happens that over 100 prescription drugs now protected by patents will be getting extra patent life under GATT.

For example, Glaxo's patent for the world's best selling drug, Zantac, would have run out December 5, 1995, but will now last until 1997. Generic drug companies have already spent millions of dollars to prepare to market lower cost, equivalent drugs on that date, giving consumers of America a tremendous price break.

But a small handful of brand-name pharmaceutical companies have objected. They are saying, ''Thank you for the extra patent life. We really appreciate that part of GATT. But you should know there is an obscure provision in U.S. drug law which we think protects us from the rest of the GATT treaty. We are sorry our generic competitors have invested heavily in their business, but they do not deserve the protections that are rightfully theirs under GATT. So we guess we will not have any competition for quite some time.''

This is what they have told the Food and Drug Administration. The pharmaceutical manufacturers have even threatened litigation against the Food and Drug Administration.

I am deeply concerned, Mr. President, because if they get their way at this time, they gain a multibillion dollar windfall—alone among the dozens of other industries and thousands of other companies complying rigidly with the GATT treaty.

Even worse, consumers now are going to have to pay double for these drugs. They will have to pay twice, Mr. President, as consumers and as taxpayers. The Federal Government and the State governments are going to pay an extra $1.25 billion for prescription drugs for older Americans under Medicare, veterans, low-income families and children, as well as the active duty military.

That will come out of our tax dollars. The American taxpayers will thus be paying more taxes so that a few brand-name drug companies can make more profits and block competition in the marketplace— forcing the American consumer to continue paying the highest drug prices in the world today.

Most important, I think, will be the effect on older Americans, Americans on fixed incomes, and Americans without adequate health insurance. They will feel the hurt of these soaring drug prices even more.

Mr. President, this chart is fascinating because it demonstrates very clearly that two of our best-selling drugs on the market are about to run out of patent protection, and should have generic competition by the end of this year.

Zantac, for example, is the leading drug for ulcers. It is manufactured by Glaxo. For a typical 2-month supply, the brand-name is $180. For a generic supply of 2 months, the cost is about $90. What we are going to see is, under GATT, an unintended consequence. Glaxo is going to receive a 19-month extension on their patent. This drug's price is not going to go down. There will be no generic competition with Zantac. We will see Zantac continue to soar in price. In fact, Glaxo is anticipating over a $1 billion windfall, because of this unintended consequence in GATT.

Do you think this brand-name drug, Zantac, is going to go down in price? Last year, Zantac's price grew 1½ times faster than inflation. The price for Zantac since 1989, only 6 short years ago, has increased 40 percent. What do you suppose is going to happen to that price if Zantac gains more than a year and a half of additional uncontested market exclusivity?

Mr. President, the intent of GATT, of course, was not to harm American consumers. The goal was to improve their standing in the world economy. The prescription drug marketplace today is one area where the American consumer has been particularly exploited as we have historically paid the highest price for drugs while subsidizing lower drug prices for consumers around the world.

This is why five of my colleagues and I have written to the Food and Drug Administration, asking the Food and Drug Administration to make the right decision—and that right decision is to allow generic drugs to come to the marketplace, offering competition to brand-named drugs which are about to receive an enormous unexpected and undeserved windfall.

This is a textbook case of a loophole resulting in an unwarranted windfall. No single industry deserves special treatment under GATT and today the pharmaceutical manufacturers of brand-name products are getting that special treatment at the expense of the American consumer. Should the Food and Drug Administration fail to provide the proper solution to this problem, I will immediately proceed with legislation to remedy this economic and this moral wrong. And I am hopeful my colleagues will join me.

Mr. President, I ask unanimous consent that an article appearing in Business Week magazine dated May 15, 1995, be printed in the RECORD, as well as letters to Dr. David Kessler, Commissioner of the Food and Drug Administration, from consumer, patient, health care, and trade groups supporting our concerns. These groups include the National Organization for Rare Disorders; Families USA and the Gray Panthers; AmeriNet, of St. Louis, MO, and Premier Health Alliance, of Westchester, IL; the National Association of Chain Drug Stores and the National Pharmaceutical Alliance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Business Week, May 15, 1995]

A PATIENT MEDICINE CALLED GATT—FOR MAKERS OF BRANDED DRUGS, IT COULD PROVE A POWERFUL TONIC

(By John Carey)

It wouldn't be surprising if Robert J. Gunter took a dose of his own medicine. President of generic drugmaker Novopharm USA Inc., he has spent five years gearing up to produce a generic version of Glaxo Holdings PLC's blockbuster ulcer drug, Zantac. He even invested $40 million in a plant in Wilson, NC., built to pump out the low-cost version as soon as Glaxo's first patent expired in December.

Now, Gunter finds himself in the middle of stomach-churning patent battle. Glaxo and other brand name pharmaceutical giants are claiming that the General Agreement on Tariffs & Trade (GATT), signed by President Clinton in December, extends many of their patents, Zantac's among them. More important, they argue, the extended patent term gives them extra months—even years—of protection from competing generics.

While the case relies on complicated legal arguments, it boils down to whether provisions in GATT supersede a 1984 law that prevents the Food & Drug Administration from approving generics until the patent on a name brand expires. If the arguments prevail, more than 100 brand-name products will win an average of 12 months each of extra patent protection (table). A new study from the University of Minnesota estimates that the extra protection could give the drugmakers a windfall of $6 billion over the next 20 years. ''That's obscene,'' fumes Senator David H. Pryor (D-Ark.). ''American consumers are going to pay the bill.''

''EUREKA'' MOMENT

Pryor, a handful of other lawmakers, and the generics companies are fighting back. On Apr. 27, Pryor and five other senators asked the FDA to reject the brand-name companies' interpretation of GATT. Vows Novopharm's Gunter: ''If the pharmaceutical industry thinks generics will roll over and play dead on this, they have another think coming.'' The FDA's decision is expected within weeks, but the wrangling won't end then. FDA officials and executives on both sides predict that whatever the FDA decision, the loser will take the issue to court.

The high-stakes controversy wasn't anticipated when GATT was approved late last year. The agreement harmonized U.S. law with the rest of the world's by changing patent terms to 20 years from the initial filing instead of 17 years after being granted. Most companies thought the change applied only to new patents, but soon after passage, Glaxo's lawyers had a ''eureka'' moment. Poring over the legislation, ''we realized that for many of our existing products, patent life would be extended,'' says associate general counsel Marc Shapiro.

As a result, any patent that took under three years to win approval would have longer protection. Since the U.S. Patent Office took only 17 months to grant the first of two key patents on Zantac, the change would give the company an additional 19 months of protection for its top-selling drug.

But even as GATT changed patent terms, Congress tried to prevent harm to rivals that had been counting on the original expiration dates. Lawmakers inserted a clause permitting a company to introduce a competing product on the original patent expiration date if the company had made significant prior investments and if it paid the patent holder a royalty or some other form of ''equitable remuneration.'' While Jeremiah McIntyre, counsel for generic drugmaker Geneva Pharmaceuticals Inc., calls that ''a fair balance,'' on the theory that it's better to pay a royalty than not be allowed into the market at all, the provision would squeeze generic drugmakers' already thin profit margins.

OVERSIGHT?

Meanwhile, Glaxo, Bristol-Myers Squibb Co., and other brand-name companies are arguing that this escape clause shouldn't even apply to the drug industry. The reason, they say, is that it clashes with provisions in a 1984 U.S. generic-drug law that prevents the FDA from approving a generic drug until the brand-name patent expires. Unlike other instances where Congress amended existing laws to conform with GATT, it failed to resolve this conflict—implying an intent to keep existing law intact, says Glaxo's Shapiro. Pryor and others plead simple oversight. But the big drugmakers insist on claiming what they see as theirs.

In the coming fight, generic drugmakers face an uphill struggle. ''We have to be better organized, and spend more money to get our message across,'' says Bruce Downey, CEO of Barr Laboratories Inc., a generic drugmaker in Pomona, N.Y. As policymakers focus once again on rising health-care costs, the generic companies do have one potent message: If the brand-name companies win, Americans will pay billions more for drugs. Faced with the prospect of dramatically higher costs, ''I can't believe the [FDA] won't make the right choice,'' says Lewis A. Engman, president of the Generic Pharmaceutical Industry Assn. Robert Gunter can only hope he's right.

A WINDFALL IN THE MAKING

Pharmaceutical makers are seeking an average of 12 months' extra protection from generic competitors for more than 100 drugs.

[Dollars in millions]

Drug Company/Use	Months of added protection	Potential extra revenues because of lack of generic alternative
ZANTAC—Glaxo/ulcers	19	$1,000
MEVACOR—Merck/cholesterol-lowering	19	448
DIFLUCAN—Pfizer/antifungal agent	20	410
PRILOSEC—Merck/ulcers	17	586
CAPOTEN—Bristol-Myers Squibb/hypertension	6	101

Data: Prime Institute, University of Minnesota.

NATIONAL ORGANIZATION FOR RARE DISORDERS, INC.,
New Fairfield, CT, April 13, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: The National Organization for Rare Disorders, Inc. (NORD) is deeply concerned with the FDA's pending interpretation of the General Agreements on Tariffs and Trade (GATT) implementing legislation as it applies to pharmaceutical drug patents.

The branded pharmaceutical industry (represented by PhRMA) is seeking an extension of patents solely based on their desire to maximize profits. If these companies succeed in their attempt to limit consumer access to more affordable ''generic'' products, then millions of Americans will have no choice but to pay more for already over-priced drugs. NORD believes that Congress never intended to force American consumers to pay even higher prices for their prescription drugs.

While such patent extensions would significantly increase the cost of our Medicaid program, please consider the even greater burden this would place upon the millions of Americans who are refused health insurance—and in turn prescription drug coverage—because they are afflicted with a rare ''orphan'' disease.

GATT was intended to improve the welfare of American consumers through international trade—including the needs of patients who desperately rely on access to more affordable drugs. GATT was never intended to provide special treatment to any segment of the pharmaceutical industry.

Sincerely,

ABBEY S. MEYERS,
President.

FAMILIES USA FOUNDATION,
Washington, DC, April 10, 1995.

Dear Senator/Representative:

We understand that the FDA is currently reviewing its position on GATT language as it applies to the extension period on drug patents. If GATT rules are retrospectively applied to previously filed or issued patents, the average patent extension for currently marketed drugs would be more than 12 months. The FDA is considering regulations that would withhold approval of generic drugs covered by ''GATT-extended'' patents until the extension period has ended. This would force the American public to pay higher prescription drug prices.

Families USA recently studied price increases in the top-selling drugs used by Americans. In our report, *Worthless Promises: Drug Companies Keep Boosting Price*, we found that the prices consumers pay for the most commonly purchased drugs continue to increase faster than general inflation. Drug price increases are particularly harmful to senior citizens who have the greatest needs for drugs and are most likely to pay for them out of pocket.

Several of the brand-name drugs that could receive patent extensions are among the top-selling drugs used by Americans. Among the drugs whose patents would be extended are: Zantac, the top-selling drug used by Americans, which increased in price 38% from 1989 to 1994; Capoten, a blood pressure medicine which increased in price 65.3% from 1989 to 1994 and 4.9% last year; Pepcid, an ulcer medicine that increased in price 31.3% from 1989 to 1994; Mevacor, a cholesterol medicine which increased in price 27.8% from 1989 to 1994; and Prilosec, an ulcer medicine that increased in price 4.2% last year, and increased in price 7.5% (2.4 times as fast as inflation) in the year 1991 to 1992.

Generic drug products typically enter the market at prices 25% less than patented brand, and their prices are even less compared to the brand-name drug as generics further penetrate the market. Consumers desperately need relief from high drug prices.

A recent study by PRIME institute found that the extension would cost Medicaid about $1 billion. Federal and state governments will face more than $1.25 billion in added costs without generic drugs entering the marketplace.

We ask you to examine this issue and encourage the FDA to delay any ruling until the problem is fully investigated.

Sincerely,

JUDITH G. WAXMAN,
Director, Government Affairs.

GRAY PANTHERS PROJECT FUND,
Washington, DC, April 20, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: I am writing to you because we understand the FDA is reviewing its position on the language in GATT as it applied to extension periods on prescription drug patents. We understand that FDA is considering regulations that would prohibit the entry of generic drugs in the marketplace during this GATT extension period.

It is our position that this action would force the American public to pay higher prices for prescription drugs. It also seems to us, that the primary purpose of GATT is to create level playing fields and the best product at the lowest price to consumers. This action is contrary to that principle.

Many of the brand-name drugs that could receive extended patent protection are some of the most widely prescribed drugs used by Americans—especially the senior population. And these drugs continue to cost more and more each year. In a recent study by PRIME Institute of the University of Minnesota found that Medicare alone would incur about 1 billion added costs without the availability of generic drugs.

A generic prescription drug usually enters the marketplace at up to 25 percent less than the branded drug. To those individuals living on fixed incomes who already faced with rising health costs, the option to choose generic is very important.

Dr. Kessler, I trust that you will further investigate this issue and seriously consider the negative impact that prohibiting the availability of generic drugs on the American consumer.

Sincerely,

DIXIE HORNING,
Executive Director.

AMERIVET,
St. Louis, MO, April 25, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: The FDA is currently deliberating on an important issue that could force the American public to pay millions of dollars in higher prescription drug costs. The debate is over the interpretation of GATT legislation language as it pertains to patents on prescription drugs. This language extends the life of patents on a number of the country's most widely prescribed drugs, potentially generating a windfall to pharmaceutical companies at the expense of the American public.

As a group purchasing organization, the economic impact of the GATT patent extension and the projected cost to consumers is of great concern to us. We strongly urge you to do all you can to make available to consumers the generic drugs that may be delayed in reaching the market if the patents on brand-name drugs are extended.

As you realize, if a provider has a generic equivalent to substitute, the patient receives a cost savings over the brand-name drug. The cost to consumers for the currently marketed brand-name drugs is substantial, projected to be as high as $6,000,000, over potential generic equivalents. The cost will be incurred by the American public as well as Medicare, federal and state governments, employers, private insurers, and managed care firms.

We request that you seriously consider the enormous financial burden to the American public that would result from legislature preventing generic drugs from entering the marketplace during the GATT extension. We fully support your efforts in persuading the FDA to make lower-cost generic drugs available to consumers upon existing brand patent expiration.

Sincerely,

JOSEPH W. MULROY,
President.

PREMIER HEALTH ALLIANCE, INC.,
Westchester, IL, April 14, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

Re GATT Extension Period and Drug Patents

DEAR HONORABLE KESSLER: It has been brought to my attention that certain language in the recently approved GATT legislation may have a negative impact on the price Americans will pay for prescription drugs in the near future. It is also my understanding that the branded pharmaceutical industry is currently pressuring FDA to make a ruling that would prevent generic drugs from entering the marketplace during this extension period—a decision that would place an enormous financial burden on the American health care system and public through higher priced drugs.

It is my firm belief that Congress did not intend for brand name pharmaceutical companies to be the recipient of a $6 billion financial windfall during this GATT extension period to be subsidized by health care providers and the American public.

This ''unintended consequence'' of the GATT language should not be passed on to hospitals and physicians that already are aggressively seeking ways to reduce healthcare costs, as well as private citizens.

I am personally asking you to seriously consider the negative implications that would result from legislation preventing generic drugs from entering the marketplace during the GATT extension. The access to generic drugs is vital to those Americans who need them the most and I trust you will

delay any ruling until further investigation into this matter has been made.

Yours truly,

BILL MAGRUDER,
Vice President, Pharmacy Program.

NATIONAL ASSOCIATION OF
CHAIN DRUG STORES,
Alexandria, VA, April 26, 1995.

Hon. DAVID KESSLER,
Commissioner, Food and Drug Administration, Rockville, MD.

DEAR DR. KESSLER: On behalf of the National Association of Chain Drug Stores (NACDS), I am writing to strongly urge that the Food and Drug Administration (FDA) recognize pre-GATT patent expiration dates for pharmaceuticals, and allow the approval of ANDAs for generic prescription pharmaceutical preparations where the sponsor of such application has made a ''substantial investment'' in the product prior to June 8, 1995, the date of implementation of the General Agreement on Tariffs and Trade (GATT). We understand that the FDA is currently considering whether GATT's implementing legislation provides such statutory authority. NACDS believes that it does.

NACDS represents America's chain drug store industry, and includes more than 160 chain companies in an industry that operates 30,000 retail community pharmacies. Chain pharmacy is the largest component of retail pharmacy practice, providing practice settings for more than 66,000 pharmacists. Our membership base fills over 60 percent of the more than two billion prescriptions dispensed annually in the United States.

We understand and support the importance of having generic prescription drugs available to consumers as soon as possible. Everyday, the availability of generic drugs enables the pharmacists who practice in our stores to help reduce overall prescription medication costs for populations that do not have prescription drug insurance. Among those who benefit from access to generic drugs are millions of older Americans and working poor, publicly-funded prescription drug programs such as Medicaid, and other third party prescription drug plans.

The impact that a misapplication of the GATT implementing legislation could have on the American public is significant. A recent study by the PRIME Institute at the University of Minnesota found that GATT provisions could result in an additional $6 billion in prescription drug expenditures in the United States because of the additional patent protections granted to brand name products, and the relative unavailability of lower-cost generic versions.

In summary, NACDS believes that the GATT agreement should not preclude the manufacturers of generic prescription drugs from bringing their products to market during the period of extended patent protection provided by GATT for brand name prescription drug products.

Sincerely,

RONALD L. ZIEGLER,
President and Chief Executive Officer.

NATIONAL PHARMACEUTICAL ALLIANCE,
Alexandria, VA, April 26, 1995.

Hon. DAVID PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: The National Pharmaceutical Alliance (NPA) is an association of over 165 manufacturers and distributors of pharmaceutical preparations for human and veterinary use. Our members are dedicated to providing safe and affordable alternatives to the American public whenever health needs dictate the use of pharmaceutical products.

In December of last year, the congress ratified the Uruguay Round Agreements Act [P.L. 103–465] (URAA) of the General Agreement on Trade and Tariffs (GATT). This agreement created some fundamental changes to be made in U.S. patent law. The new law provides for patents to be in force 20 years from the date of application as opposed to the historical law of the United States which provided for patents to be in force for 17 years from date of approval. Congress, realizing that such a change would cause a financial hardship on companies that expected to enter the marketplace at the expiration of the old patent date, provided a remedy to allow competing products on the market.

Under H.R. 5110, the implementing language of GATT, companies that could show that a substantial investment had been made in a product could enter the marketplace at the pre-GATT expiry date. The respective companies then would work out an ''equitable remuneration'' during the life of the patent extension. This remedy will work for every industry except the generic pharmaceutical industry due to its regulation by the Food and Drug Administration. Since approvals for Abbreviated New Drug Applications (ANDAs) are governed by the Drug Price Competition and Patent Term Restoration Act of 1984, known as Hatch/Waxman, failure to change its provisions could prevent the FDA from granting approvals until after the patent extension has expired. We do not believe that Congress intended to treat the drug industry differently that other industries.

If the 109 generic pharmaceutical products inversely affected by GATT are kept off the market, the result could be an increased cost to the American consumer of over $6 billion and a cost of over $1.2 billion to Federal and State governments in higher Medicare and Medicaid costs. In 1995 alone, drugs such as alclometrasone dipr. (Alclovate), captopril (Capoten), and ranitidine HC1 (Zantac) could be unavailable to consumers in a generic version. Zantac alone could represent an additional cost to the consumers in excess of $1 billion during the time of the patent extension. At a time when both healthcare costs and government budgets are strained to the limit, it makes no sense for government to take any action that would fuel the growth in these expenditures.

In the ten years since its passage, the Hatch/Waxman legislation has done remarkably well at balancing the interests of proprietary drug companies and the generic drug industry. The public also has come to not only expect, but to rely upon, timely access to high quality, low cost alternatives to monopolistic priced name brand drugs.

NPA is pleased to see that members of Congress, such as yourself, are taking steps to correct this inequity in the law. Your actions are to be applauded and your decision to stand up for the American consumer is appreciated.

Sincerely,

CHRISTINE SIZEMORE,
Executive Director.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. THOMAS). The pending business is the Jeffords amendment No. 867.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

THE NATIONAL RIFLE ASSOCIATION

Mr. LEVIN. Mr. President, our friend from Arkansas has brought to our attention the fact that former President Bush has decided to resign from the National Rifle Association because of its refusal to repudiate some statements which were made by a vice president of NRA in a fundraising letter. I join Senator PRYOR in commending former President Bush for his action. I am sure it is a difficult one for the President, as a decades-long member of the NRA and as someone who believes in so many of its programs and efforts to protect rights under the second amendment.

But what President Bush reacted to is what I think most Americans who have read this letter reacted to, which is a statement by Mr. LaPierre, among others, that the Clinton administration has authorized law enforcement personnel to murder law-abiding citizens.

Those are the words in the letter. It is an outrageous allegation about any American President or any American administration. I do not think 1 percent of the members of the NRA believe that the Clinton administration has authorized its agents, its Treasury agents, its FBI agents, its law enforcement agents, to murder law-abiding citizens. I wrote a letter to Tom Washington, whom I know. He is a resident of Michigan who was president of the National Rifle Association, urging him to retract that statement and some other allegations in that letter which are, I think, equally offensive, but at least that statement.

In his response to me, which I put in the RECORD yesterday or the day before yesterday, he really did not respond to the request. He simply acknowledged that sometimes fundraising letters have exaggerated rhetoric. But this is not a case of just exaggerated rhetoric. This is an allegation by one of the Nation's largest organizations that this administration has given the go-ahead to law enforcement personnel to murder—I am using the word murder because that is exactly the word that they used; indeed the letter underlines it, italicizes it, emphasizes it—to murder law-abiding citizens.

I do not think, again, anybody on this floor would think there is truth to that statement. I do not think 1 percent of the members, as I said, of the NRA believes there is truth to that statement. It is that kind of a statement, of a wild statement, of an irresponsible statement by a major organization, which is creating an unacceptable climate in this country, I believe. Is it the only statement? Of course not. Others have made outrageous statements, too. Do they have a right to make that statement under the first amendment? They do. I will defend it.

They may have a right to make that statement, but that does not make it right to make that kind of a statement. It should be retracted.

I commend President Bush and I hope other members of the NRA, in one way or another, would let their leadership know that kind of rhetoric is unacceptable about an American administration. Like any other administration, it, I am sure, has agents who make mistakes from time to time. There is a place to rectify them. It is called a court. But to make that allegation from an organization the size of the NRA I think is unacceptable, it is irresponsible, and it still should be retracted.

I thank my friend from Arkansas for his continuing effort to try to bring some kind of calmer normalcy into the general climate in this country.

I yield the floor.

Mr. LOTT. Mr. President I just want to observe that the managers of the pending legislation I understand are working on some agreements hopefully that will make it possible to wrap up this legislation before the day is out. Therefore, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I would like to ask the Chair what the pending business is.

The PRESIDING OFFICER. The pending business of the Senate is the Hatch amendment numbered 755.

Mr. COATS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GREGG). Without objection, it is so ordered.

THE NUCLEAR NON-PROLIFERATION TREATY

Mr. ROTH. Mr. President, just a couple of hours ago, the Nuclear Non-Proliferation Treaty—the single most important component of the international effort to prevent the spread of nuclear weapons—was enshrined for all time by an overwhelming decision made by more than 170 countries party to the treaty. The decision to make the NPT permanent was accomplished without any conditions or qualifications.

This is a truly historic day in our ongoing efforts to make ours a safer and more peaceful world. The security of all countries, weapons States and non-weapons States alike, has been strengthened.

The NPT has established the norm prohibiting the further acquisition of nuclear weapons. Indefinite extension of the NPT will help improve the climate of trust conducive to more restrictive controls over weapons-grade nuclear materials and related technologies and activities. It also provides momentum for addressing the dangers posed by other weapons of mass destruction.

Making the NPT permanent, of course, will not end the global nuclear proliferation threat. Treaty membership is never a guarantee of compliance. Yet, when backed by strong national policies, the NPT advances the security interests of all countries. Indeed, it has helped to keep the number of declared nuclear weapons States and so-called ''threshold'' States at five and three respectively.

Clearly, the world remains a dangerous place. Iran, North Korea, and the theft of fissile materials present immediate nuclear proliferation perils. Much progress on controls over other weapons of mass destruction remains to be made. Moreover, as the tragic bombing in Oklahoma has shown, determined terrorists can accomplish their contemptible intentions with even the crudest of weapons.

But today is a time for celebration. We have achieved a critical victory in making the post-cold-war period safer and more secure. This is a victory for all the world's people. I believe this body deserves a measure of credit for the unanimous adoption of a resolution in March calling for permanent, unconditional extension of the NPT. It is also a testament to the hard work of Tom Graham who took the lead in the negotiations. The chairman of the conference held in New York, the Honorable Jayantha Dhanapala of Sri Lanka, also deserves our thanks for his particularly skilled leadership. Happily, Mr. Dhanapala will be returning to Washington within a few days to resume his post as Ambassador of his country to the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NON-PROLIFERATION TREATY AND U.S. SECURITY

Mr. THURMOND. Mr. President, 26 years ago, the Senate provided its advice and consent to ratification of the Nuclear Non-Proliferation Treaty [NPT]. In considering the treaty, Chairman Fulbright prevailed on the Members of the Senate to ratify the NPT, because without it, the world would face a wide array of potential nuclear horrors—such as developing nations acquiring nuclear weapons to elevate their status or national power; regional powers resorting to the use of nuclear weapons to settle their differences; or ethnic or religious differences being settled with nuclear weapons. He foresaw a world where major powers like the United States might be held hostage by small, poor countries who possess a few nuclear weapons and the means to deliver them, or, become drawn into a nuclear confrontation brought about by these small nations through a miscalculation or an accident.

At the time the NPT was negotiated there were relatively few countries who had tested or possessed nuclear weapons. Those countries were the United States, the United Kingdom, Russia, France, and China. They became known as the nuclear weapons states. All other states who did not possess or had not tested nuclear weapons became known as non-nuclear weapons states.

Back in 1969, when the Senate voted to provide its advice and consent to ratification of the NPT, I was one of the 15 members who voted against ratification of the treaty. I voted against it because I had grave reservations about the treaty's goals and whether they could be achieved. I was concerned that if the United States ratified the NPT, it would be unable to fulfill its NATO responsibilities and commitments. I feared that the NPT would also foreclose the ability of NATO members to participate fully in the operations of the Alliance. Lastly, I was concerned that the nuclear weapons states, and in particular, the United States, would bear the huge costs of transferring nuclear technology for peaceful uses to the non-nuclear weapons states.

Mr. President, the overall goal and purpose of the NPT is to stop the spread of nuclear weapons, and to prohibit the transfer, or acquisition and manufacture of nuclear weapons by non-nuclear weapons states. However, there are no enforcement mechanisms to prevent a non-nuclear weapons state from becoming a nuclear weapons state in the NPT. There are no sanctions for violations of the treaty. While the NPT requires the parties to pursue negotiations to end the nuclear arms race and bring about nuclear disarmament, the NPT cannot force an end to the race for nuclear weapons, nor can it force the destruction of all nuclear weapons.

For that matter, the NPT cannot ensure that parties to the Treaty, whether nuclear weapons states or non-nuclear weapons states, do not withdraw from the Treaty if they decide they wish to acquire or develop a nuclear arsenal for their own national security reasons. In fact, the NPT has a withdrawal clause.

The NPT only covers countries that have ratified the Treaty. For example, take the so-called threshold states which have developed nuclear weapons,

or nuclear weapons technology. These countries, India, Pakistan, and Israel, are not parties to the Treaty. Even if these countries signed the NPT as non-nuclear weapons states, there is no way to ensure that these countries will ever stop development of, or destroy, their nuclear arsenals.

Mr. President, in the 26 years of its existence, the NPT did not free the world from the threat of nuclear weapons, and it will not do so in the future. It did, however, establish a global norm for nations to limit the proliferation of nuclear weapons and it has enjoyed the widest adherence of any arms control agreement. It is for this reason, that I rise today in support of extending the NPT. Let me qualify my statement of support of the Treaty by saying that I take no position on whether the Treaty should be indefinitely extended, or, extended only for a fixed period of time. I am concerned that the United States did not make any efforts to improve the NPT and make it a more viable agreement by strengthening its enforcement and inspection mechanisms.

I went back and reviewed the Senate floor debate on the ratification of the NPT. Mr. President, despite wide adherence to the NPT, the world still faces the potential horrors of a nuclear exchange between regional states. The risk of the use of nuclear weapons by countries to suppress governmental factions, or settle old ethnic and religious disputes still exists today, as it did 26 years ago.

Representatives of the international community have been gathered in New York City at the United Nations for the past month to determine the future of the Nuclear Non-Proliferation Treaty. The Clinton administration supports indefinite and unconditional extension of the Treaty, while representatives from the non-aligned member states, led by Indonesia, Iran and Egypt, oppose indefinite extension.

On March 16, a majority of Members of the Senate expressed their support for the administration's position of indefinite and unconditional extension of the NPT. They also expressed concerns that the NPT would be seriously undercut if it is not indefinitely extended, dealing a major below to global nuclear nonproliferation regimes. Mr. President, the treaty can be undermined at any time regardless of its duration because there are no enforcement mechanisms or automatic sanctions.

I remind my colleagues that as a non-nuclear weapons state to the NPT and member in good standing, Iraq, developed an illegal nuclear weapons program under the guise of a peaceful nuclear program, and it has been determined that Iran, under the guise of peaceful use of nuclear technology is pursuing an illegal nuclear weapons program. Likewise, North Korea, a non-nuclear weapons state to the NPT was determined to have violated the NPT. Of course, it was never determined to be a member in good standing of the treaty. Lastly, even though not members of the NPT, India, Pakistan, and Israel, were able to secretly develop nuclear weapons programs.

Representatives and leaders of a number of developing countries, or nonaligned member states, do not support indefinite and unconditional extension of the treaty. They cite as reasons for their lack of support for the U.S. position, the lack of progress in concluding a comprehensive test ban. They claim that the nuclear weapons states have not fulfilled their nuclear disarmament obligations. They believe that the Treaty is discriminatory and that it sanctions the five nuclear powers' rights to hold on to their nuclear weapons and keep the non-nuclear weapon states as nuclear weapons ''have-nots''.

Mr. President, I reject the rationale offered by the non-aligned states for not supporting extension of the Treaty. For the past decade, the United States and Russia have made unprecedented reductions in their nuclear forces—beginning in 1985 with the Intermediate Range Nuclear Forces Treaty and more recently reducing strategic forces under START. Both President Clinton and President Yeltsin have agreed to discuss even further reductions to their nuclear weapons programs once START II is implemented. Prior to START entering into force, President Bush and President Gorbachev implemented unilateral reductions of United States and Russian tactical weapons. Since 1992, a testing moratorium has been in place in the United States, and the United States along with the other nuclear weapons states and members of the Conference on Disarmament have been negotiating a comprehensive test ban treaty.

Last month, the United States and the other four nuclear weapons states restated their support of negative security assurances in the United Nations. Additionally, negotiations will begin soon on a global ban on the production of fissile material for military purposes in the Conference on Disarmament. If these steps do not indicate a good faith effort on the part of the United States and other nuclear weapons states toward nuclear disarmament, I am not sure what else can be done.

Representatives of the non-nuclear weapons states who want to poke the United States in the eye by not supporting indefinite extension of the Treaty, because they believe we have not reduced our nuclear arsenals to zero, or completed the negotiations on a comprehensive test ban, would do well to focus attention on their own efforts at reducing the threat posed by nuclear weapons. How have they worked with their neighbors, and other countries, to build more positive relationships and confidence so that threat of attack and annihilation are reduced and countries do not feel compelled to acquire nuclear weapons for protection?

The Clinton administration and other NPT signatories should stop wringing their hands over the period of time for which the Treaty should be extended. Instead they should be focused on using this month-long conference to enhance the viability of the NPT by making it a living document which enables and ensures multilateral enforcement of the Treaty's provisions. Parties to the NPT should have confidence that its members will comply with the provisions of the Treaty, be supportive of its goals and that the proliferation of nuclear weapons and nuclear technology is eliminated. And, when a determination of a violation has been made by the international monitoring agency through its inspections and the United Nations Security Council has been notified, meaningful and appropriate actions or sanctions should be undertaken immediately.

Mr President, once again, I rise to say that I support extension of the NPT. I only regret that the administration did not believe the NPT was important enough to strengthen it to make it a more viable and effective arms control agreement.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The legislative clerk proceeded to call the roll

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, a vote has been scheduled at 6 o'clock by the managers on an amendment which has been offered by Senator CRAIG, Senator GRASSLEY, Senator BROWN, Senator KEMPTHORNE, and myself which would establish a sense of the Senate that hearings should be held on Ruby Ridge, ID, and Waco, TX, on or before June 30.

The purpose of the amendment is to set a date where there may be an inquiry by the full Judiciary Committee on those events because of the widespread reports of public unrest as to what occurred there.

I have attempted to get a hearing on the Waco incident since mid-1993. The incident there happened on April 19, 1993. It has always seemed to me that it is not sufficient to have the executive branch investigate itself when there is so much concern as to the propriety of the action which was taken there, with the assaults and with the rush and with the gases which were used.

There have been numerous reports and there is very substantial evidence of public unrest on what has happened there. It is speculative to an extent, or it may not be speculative, as to a connection between the Oklahoma City

bombing on April 19, which is 2 years to the day after the events at Waco, TX. The subcommittee has held a series of hearings and had planned to have an inquiry scheduled for April 18, and the full committee did convene on the first date which was set back on April 26. And I think it is entirely appropriate for the full committee to handle the matter as opposed to the terrorism subcommittee.

But after having a series of hearings—we had our third hearing today—I am more convinced than ever that there is real public tension as to the events in Waco, TX, and Ruby Ridge, ID. I think it is just inappropriate for the Senate to wait an indefinite period of time.

Senator HATCH has proposed that there be hearings in the near future, as he categorizes it, and has further articulated the near future to mean sometime in the current session, which would be at the end of the year. If there is unrest, and if there is a causal connection, or if there is any connection, however slight or however tenuous, between the incident at Waco and the Oklahoma City bombing, I suggest it is our duty to proceed to clear the air to the maximum extent possible and to demonstrate that ranking public officials at whatever level will be held accountable. It seems to me this is something which is very important to do.

In establishing the date of June 30, I would be prepared to be flexible until the August recess, to extend the time for another period until August 4, which would be acceptable from my point of view. There has been an issue raised as to the completion of the FBI investigation, and that certainly could be done by August 4.

Mr. President, I think I will relax the language and ask unanimous consent that the amendment be modified so that the date August 4 would be inserted in place of the date June 30.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 754), as modified, is as follows:

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) There has been enormous public concern, worry and fear in the U.S. over international terrorism for many years;

(2) There has been enormous public concern, worry and fear in the U.S. over the threat of domestic terrorism after the bombing of the New York World Trade Center on February 26, 1993;

(3) There is even more public concern, worry and fear since the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995;

(4) Public concern, worry and fear has been aggravated by the fact that it appears that the terrorist bombing at the Federal building in Oklahoma City was perpetrated by Americans;

(5) The United States Senate should take all action within its power to understand and respond in all possible ways to threats of domestic as well as international terrorism;

(6) Serious questions of public concern have been raised about the actions of federal law enforcement officials including agents from the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms relating to the arrest of Mr. Randy Weaver and others in Ruby Ridge, Idaho, in August, 1992 and Mr. David Koresh and others associated with the Branch Davidian sect in Waco, Texas, between February 28, 1993, and April 19, 1993;

(7) Inquiries by the Executive Branch have left serious unanswered questions on these incidents;

(8) The United States Senate has not conducted any hearings on these incidents;

(9) There is public concern about allowing federal agencies to investigate allegations of impropriety within their own ranks without congressional oversight to assure accountability at the highest levels of government;

(10) Notwithstanding an official censure of FBI Agent Larry Potts on January 6, 1994, relating to his participation in the Idaho incident, the Attorney General of the United States on May 2, 1995, appointed Agent Potts to be Deputy Director of the FBI;

(11) It is universally acknowledged that there can be no possible justification for the Oklahoma City bombing regardless of what happened at Ruby Ridge, Idaho, or Waco, Texas;

(12) Ranking federal officials have supported hearings by the U.S. Senate to dispel public rumors that the Oklahoma City bombing was planned and carried out by federal law enforcement officials;

(13) It has been represented, or at least widely rumored, that the motivation for the Oklahoma City bombing may have been related to the Waco incident, the dates falling exactly two years apart; and

(14) A U.S. Senate hearing, or at least setting the date for such a hearing, on Waco and Ruby Ridge would help to restore public confidence that there will be full disclosure of what happened, appropriate congressional oversight and accountability at the highest levels of the federal government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hearings should be held before the Senate Judiciary Committee on countering domestic terrorism in all possible ways with a hearing on or before August 4, 1995, on actions taken by federal law enforcement agencies in Ruby Ridge, Idaho, and Waco, Texas.

Mr. SPECTER. I do that, Mr. President, so that there may be a little more lead time as to the completion of the investigation by the FBI. I make that modification because of my discussion with the FBI Director that, as he put it, 8 to 10 weeks would give ample latitude for that to be completed. So I am prepared to move at that time. I think that it is important that a specific date be set so that there is an acknowledgement by the Senate that we do plan to move forward on a date and the date has been established.

I understand we are to vote at 6 o'clock, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendment, which is the Jeffords amendment, be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 754

Mr. CHAFEE. Mr. President, I move to table the Specter amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 754, offered by the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 23, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—74

Abraham	Feingold	Lieberman
Akaka	Feinstein	Lott
Bennett	Ford	Lugar
Biden	Frist	Mack
Bingaman	Glenn	Mikulski
Bond	Gorton	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Grams	Murkowski
Breaux	Gregg	Murray
Bryan	Harkin	Nunn
Bumpers	Hatch	Pell
Burns	Hatfield	Pryor
Byrd	Helms	Reid
Campbell	Inhofe	Robb
Chafee	Inouye	Rockefeller
Coats	Johnston	Roth
Cochran	Kassebaum	Sarbanes
Conrad	Kennedy	Shelby
Coverdell	Kerrey	Simon
Daschle	Kerry	Simpson
DeWine	Kohl	Snowe
Dodd	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	

NAYS—23

Ashcroft	Heflin	Packwood
Baucus	Hollings	Pressler
Brown	Hutchison	Santorum
Cohen	Jeffords	Smith
Craig	Kempthorne	Specter
Faircloth	McCain	Stevens
Gramm	McConnell	Wellstone
Grassley	Nickles	

NOT VOTING—3

D'Amato	Dole	Warner

So the motion to lay on the table the amendment (No. 754) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I just want to inform all my colleagues—I do not need to take much time on this bill, but just a few minutes—that I called for hearings last year. I have only been chairman for a little over 4 months.

Every Member knows the Judiciary Committee has had a lot on its plate, and we have a lot more on our plate. However, there are very few things that I feel more deeply about than what happened at Waco and at Ruby Ridge.

These are people in States that I admire and love. Many of the people I know—at least in Idaho. I admire and love them. I have said that we will hold hearings on these important issues, and I will do so as expeditiously as I can.

Everybody does know that to do it properly, we are going to have to spend some time investigating this. We are already in the process of that. Recently, I lost my chief investigator who moved to another office.

We will do this as expeditiously as we can. We will do it in the best interests of the Senate. I want to tell my dear friend from Pennsylvania that his desires here are not going to go ignored. It is just that I want to do it the right way. I want to make sure that all of the issues are aired and that they are aired fairly and in front of the full committee, because no hearings could be held unless they are Department of Justice oversight hearings. That is what they will have to be.

I certainly committed the other day, and I will again reaffirm my commitment that these hearings will be held. Therefore, there was no reason to have a sense-of-the-Senate resolution. I understand the sincerity of my colleagues. I hope that they will not feel badly with this vote.

I also want to say that I am very concerned about making sure that every available agent, every available leader of the FBI, every person in law enforcement that we can bring to bear on the Oklahoma situation, is out there doing that, rather than up here testifying on Capitol Hill.

We want to get that solved, and I want it solved. I speak almost daily with members of the Justice Department, including the FBI. We are on top of this. We will do what has to be done here. I want to reaffirm that to the Senate.

I think when we do it, it will be done right, and I think people will be pleased with it in the end. I hope my colleague from Pennsylvania will be particularly pleased with it and, as a distinguished member of the committee, will have every opportunity to participate. And I expect him to do so. In fact, I invite him to do so and will work with him to see what we can do to bring this to a fruition that is satisfactory to everybody.

Having said that, I can say more. There are some things that have been very irritating to some of us with regard to what has gone on here, but we will forget all that and just go forward and make the commitment to do this as expeditiously as we can, in good faith and in a good manner that hopefully will please everybody.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had, frankly, hoped to avoid the necessity of a rollcall vote to spare my colleagues a vote on the matter. But I felt, and continue to feel very, very strongly, that it is incumbent upon the U.S. Senate and the Congress to have oversight hearings in order to show the American people—a lot of people think there has been a coverup on Ruby Ridge, ID, and Waco, TX—and to show those people we are willing to air all of the matters, let the chips fall where they may, and demonstrate that people at the highest ranks of Government will be held accountable.

No one is second to ARLEN SPECTER in concern that the FBI have a full opportunity to complete its investigation. I talked to Director Freeh, who said if he had 8 to 10 weeks more there would be ample time and the FBI would be in a position to cooperate. And this is more than the 8 to 10 weeks that Director Freeh asked for when the amendment was modified beyond the June 30 date, to provide for a date of August 4.

I believe that the potential for violence is enormous. We have had a number of wake-up calls. And it is no coincidence that the Oklahoma City bombing occurred on April 19, 2 years to the day after the incident at Waco, TX. If anything happens in the interim, if we have not had the ventilation, the safety valve, then there is a real issue as to whether the U.S. Senate is doing its job.

We have a lot of hearings in the Judiciary Committee. We have a lot of hearings in other committees. And there is not a single hearing being held which is more important than to air the public concern about Waco and about Ruby Ridge. I have been conducting hearings in the Subcommittee on Terrorism; I finished the third one today. It is an overwhelming problem.

The first hearing which was scheduled became a full committee hearing, which I thought was entirely appropriate, to allow more Senators to participate. But what I intend to do is to continue my own inquiry and my own speaking out on the facts as to what happened. I talked at length with Director Louis Freeh, and I have talked at length with Mr. Spencer, who is the attorney for the Weavers, and I intend to talk to the Weavers and I intend to review all the facts and to make periodic reports to the American people about what I find. Because I think it is totally inadequate to have an inquiry—a hearing sometime in the near future.

I felt strongly enough about it to bring the matter to the floor and I respect the conclusion of my fellow colleagues. But I intend to carry on this inquiry myself and to make these periodic reports.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, while the Senator from Pennsylvania is on the floor I want my colleagues to know that in the good old days, when I was chairman of the committee and the Democrats were in charge, the Senator from Pennsylvania shared the same view. I want the record to show that this is nothing new the Senator from Pennsylvania is suggesting. I have read some accounts that suggest that because the Senator from Pennsylvania may have other aspirations, this is propelling his interests. I want to vouch for the fact that I know that not to be true.

The fact of the matter is that when Waco occurred, shortly after Waco, the Senator did repeatedly talk to me about it and thought that, although I believe that we did have oversight hearings and everybody had an opportunity to ask about Waco—and a few did—that the Senator thought then, thinks now, and is totally consistent, whether he is seeking another office or not, in his view that this issue should be ventilated.

For those of us on this side of the aisle, this has been a little like watching a family quarrel. Both the Senators are my friends but I do not think I have a closer friend in the Senate than the Senator from Pennsylvania, and because a number of press people have come to me, and my colleagues have come to me, to ask me about issues relating to motivation—I can assert with absolute certainty, without any equivocation, that there has been absolutely no change in the intensity of the interest of the Senator from the time the matter occurred when I was chairman of that committee to the time I am the ranking member of that committee.

I just want that to be made clear, notwithstanding the fact I voted the other way. I voted to table the Specter amendment because of my consistent view as to how this should be handled.

The Senator may be right in terms of the value of the ventilation and when, and sooner than later. I have a slight disagreement with him on when. But I do not have any—any—any doubt, and I can confirm for my colleagues and anyone who is listening, that there is an absolute, total, unequivocal consistency to his position on this from the moment the tragedy in Waco occurred through this day.

I just want the record to reflect that. Not that anyone in particular has suggested otherwise, but I get a number of inquiries because people are looking to make press outside this institution. I just want the record to reflect it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I just want to bring this to a head. I would like to put into the RECORD, just so everybody understands, a letter we received today from Louis J. Freeh, Director of the FBI, to me.

DEAR MR. CHAIRMAN: Thank you for your inquiry concerning my views about congressional hearings on Waco and Ruby Ridge. I have no hesitancy about testifying on the issue.

And that is the position he has always taken with me.

I have often stated that a full and open hearing will provide an excellent forum for the Department of Justice and the FBI to bring all the facts before the American public. It undoubtedly would serve to debunk some of the ''conspiracy'' theories being discussed and provide the FBI with an opportunity to explain and distinguish our role in these incidents as well as provide our views concerning the proper role of federal law enforcement.

It is Congress' prerogative as to timing. It would be helpful, however, to remove any hearing from such close proximity to the Oklahoma bombing. All of our attention is focused on this heinous crime as we continue to investigate and prepare for prosecution. While I am looking forward to the opportunity, I believe to schedule the hearing in the immediate future will distract from our Oklahoma efforts and could preclude us from discussion of issues relevant both to Oklahoma and Waco.

Sincerely yours,

LOUIS J. FREEH,
Director.

I just want to put that in the RECORD because that is one of the things that has caused me great concern. We will hold hearings and we will do it in an expeditious and good way and hopefully to the satisfaction of all concerned, including my friend from Pennsylvania.

I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, May 11, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your inquiry concerning my views about congressional hearings on Waco and Ruby Ridge. I have no hesitancy about testifying on the issue.

I have often stated that a full and open hearing will provide an excellent forum for the Department of Justice and the FBI to bring all the facts before the American public. It undoubtedly would serve to debunk some of the ''conspiracy'' theories being discussed and provide the FBI with an opportunity to explain and distinguish our role in these incidents as well as provide our views concerning the proper role of federal law enforcement.

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Sincerely yours,

LOUIS J. FREEH,
Director.

Mr. SPECTER. Mr. President, just a word or two. The letter which Senator HATCH has just read is entirely consistent with the representation I made earlier that I had talked to Director Louis Freeh this afternoon, who told me, as I said earlier, that if he had 8 to 10 weeks that would be ample time. And that is why, as I had said earlier, I modified the amendment from the date of June 30 to August 4, which would give more than the 8 to 10 weeks.

So, when Senator HATCH cites a letter about the immediate future, the 8 to 10 weeks was accorded to the Director and the hearings could have been held within the timeframe of the resolution as framed.

I yield the floor.

Mr. CHAFEE. Mr. President?

The PRESIDING OFFICER. The Senator from Rhode Island.

ORDER OF PROCEDURE

Mr. CHAFEE. Mr. President, for my colleagues I will just outline what in my judgment will take place this evening.

We will have a vote on the Jeffords amendment and I do not know how long that will take. If the Senator could give us some indication, that will be helpful.

But following the Jeffords amendment there will be no more rollcall votes. However, tomorrow it is my belief we will have a series of rollcall votes. There will be a cloture vote at 10 o'clock and there will be some other votes after that.

I would very much hope we could finish this bill tomorrow. I hope, with the negotiations that take place tonight, we will be able to do so. But there will be no votes after the Jeffords vote.

AMENDMENT NO. 867, AS MODIFIED

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have a modification of my amendment at the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is modified.

The amendment (No. 867), as modified, is as follows:

On page 64, between lines 2 and 3, insert the following:

''(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

''(1) the solid waste district political subdivision or municipality within said district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) prior to May 15, 1994, the solid waste district political subdivision or municipality within said district—

''(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

''(B) was authorized by State statute (enacted prior to January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law, ordinance, regulation, regulatory proceeding, contract, franchise, or other legally binding provision; and

''(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

Mr. CHAFEE. I wonder if we could enter into a time agreement?

Mr. JEFFORDS. I had several people who asked to speak. I do not see them present, but I think we could finish in 15 minutes on our side.

Mr. CHAFEE. Would the Senator be willing to agree to 10 minutes on that side and no more than 10 minutes on this side?

Mr. JEFFORDS. That is agreeable to me.

Mr. CHAFEE. Is there any objection to that agreement?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I hope this amendment will not take very long. I think it is a very sensible one. I will explain to my colleagues what the amendment does, and I believe they will find it acceptable.

I understand the position of the chairman of the committee, who is reluctant to grant any exceptions to the bill because there would be two other exceptions. But to my knowledge the exceptions are that the State of Vermont and some municipalities in two other States have a situation which I think this body would agree deserves an exception. Let me review very briefly what we are talking about here.

The U.S. Supreme Court handed down a decision which said the States themselves had no right to be able to control the flow of solid waste, that this has to be approved by the Federal Government because it was an interference with interstate commerce. That decision by the Supreme Court created a serious problem for the State of Vermont and some political subdivisions in West Virginia and Michigan.

The purpose, and what we are trying to accomplish in this Nation with respect to solid waste, is to do three things, basically. First of all, we are trying to reduce the amount of solid waste that we have. Second, we are trying to improve the ability to recycle and to build a system in this Nation which will recycle and, therefore, reduce the demand on resources and reduce costs. Third, to find an equitable way to do it looking toward those that

create the problem to have to pay for it; that is, those who create the trash ought to pay for it.

So Vermont, in view of these national purposes—and I was a member of the Environment and Public Works Committee, and I know we were trying very desperately to set standards for recycling to try to get this country to move up gradually. Vermont, in pursuant of that, passed a plan and program statewide that sets up districts for solid waste. In these districts, the system is set up which allows for haulers to get a tipping fee in order to take care of the additional costs of recycling the materials that were delivered to them. The only way it will work is if we have that ability. There is no other way they can do it other than to require the State of Vermont to provide the tipping fees and to take care of those people that are in those districts, and not others. And it would be very cumbersome. There are districts in West Virginia and Michigan that have a similar problem.

So all we are trying to do here is to make sure that this national goal, which everyone agrees ought to be reached, can be reached by the State of Vermont, which is leading the way in this. Right now we have a system which is recycling 25 percent of our waste. This amendment is limited and says that we might continue forward in pursuance of that goal, and we may continue with our present system, and, if we reach the goal, that we be permitted to do so. We have established a goal of 30 percent, which was the national goal which was in RCRA which was never passed.

Why should a State be penalized which has done what everyone in the Nation believes should be done, and then to turn around in an amendment by the committee to try to help those who have made investments but limit it to those on a temporary basis? In Vermont there are only two areas which qualify when the whole State is doing it. It makes no sense at all. I can understand the committee saying, if we give you an exception, then somebody else is going to come in for an exception.

I say if other communities have an exception like we do and like we are talking about which furthers the national goal, reduces waste, takes care and improves recycling, then sure, maybe they ought to have that. However, I do not know of any in that category.

So I would like to say that I hope the body will recognize that people who are trying to do what is right in this country should not be forced to buy onto a bill which is attempting to help in this area but just by the nature of things makes it impossible for those who are really leading out front doing what is in the national interest, and who would be foreclosed, destroys their system, and makes it impossible for the States to continue to pursue those goals.

I reserve the remainder of my time.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to commend the Senators from Vermont for the amendment that they have offered and to suggest, just as the junior Senator from Vermont has said, that this is an example of federalism at its best. Vermont has some special concerns. It is a State with a very high level of environmental consciousness. It wants to be able to meet those needs in a manner that is appropriate to the specific circumstances of that beautiful State.

Yesterday, I spoke at some length about some of the special concerns that we have in our State of Florida, which are quite different from Vermont. Vermont is a mountainous State. We are a State where anything above 20 or 30 feet is considered to be a mountain. We have the very serious problem of our ground water supply and its vulnerability to contamination and have used the mechanisms which require flow control in order to be able to support effective and appropriate landfills and other technologies to dispose of our solid waste while also diverting a substantial amount of our solid waste into a recycling stream.

My basic concern with this legislation is that it goes beyond what is required to meet the Supreme Court's directive. The Supreme Court, as quoted on page 8 of the committee report, in the words of Justice O'Connor, who stated:

> It is within Congress' power to authorize local imposition of flow control. Should Congress revisit this area and enact legislation providing a clear indication that it intends * * * States and localities to implement flow control, we will, of course, defer to that legislative judgment.

So, clearly, the decision is within our hands. It reminds me of the old story of the callow youth who held a bird behind his back and asked the wise, older man, ''Is the bird dead or alive?'' The wise man, with solemn wisdom, opined, ''It is in your control.'' That is, the young man had the ability to open his hand and allow the bird to fly free or to crush the bird.

Well, we are somewhat in that same situation with the opinion of the Supreme Court. It is in our control to do, allowing States to have a wide range of options as to how to deal with this issue, or to narrowly constrain.

This is particularly focused on the question of whether there should be prospective operations for States. Should States be allowed in the future to utilize this important technique as a means of achieving the broader end result of public health and environmental sensitivity as that State and its local communities find to be most appropriate for their particular set of circumstances?

In an era in which we are applauding federalism, or seriously considering reversing a half century of the consolidation of power by allowing States and local communities to have more control over issues such as health care financing, welfare, child care programs, it seems peculiar and strange in an area that has been as historically local as any in our Nation's history, the disposition of garbage, that we would now be nationalizing that issue.

So I join the Senator from Vermont. I applaud his creativity in crafting this amendment and hope that we will be wise enough to allow Vermont to take this initiative for the protection of that beautiful State and as a statement of our own sensitivity to the tremendous diversity in America and its desire to let the creativity of the local communities operate to the benefit of their local citizens.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, why are we here? We are here because of a Supreme Court decision a year ago, just a year ago, in the so-called Carbone case. So currently, the law of the land is that there cannot be these restrictive agreements that limit the delivery of municipal solid waste to one specific point. In other words, there cannot be what is known as flow control.

Now in our committee, we recognized that many communities across the States had made very, very substantial financial contributions or commitments to incinerators and to landfills, and they would be placed in a very difficult position if so-called flow control did not exist, if they were not able to tie up the entire waste from the community to go to a central point.

But we said we are going to limit this. We are going to limit it to the situations where they have problems arising from debt commitment, from bonded indebtedness, or that they already had flow control on their books and were used to functioning in that fashion.

In the Vermont situation, we have taken care of those communities where there is a commitment into a solid waste facility or—and they do not have incinerators for Vermont—to a landfill. They are taken care of.

But the Senator is stressing that, absent us giving an exception to the situation that exists in Vermont, Vermont will not be able to continue the excellent record it has had in connection with recycling. But, Mr. President, I do not think that necessarily follows. Who knows that recycling will fail because they do not have flow control?

Indeed, here is a report from the Office of Solid Waste in the EPA. The report is dated March 1995, 2 months ago. This is what the report says. There was a question.

> Identify the impact of flow control on the development of State and local waste management capacity and on the achievement of State and local goals for source reduction, reuse, and recycling.

In other words, what flow control does for recycling. We are all for recycling. The conclusion is as follows, on page ES–5.

There is no data showing that flow controls are essential either for the development of new solid waste capacity or for the long term achievement of State and local goals for source reduction, reuse and recycling.

So the Senator's point, it seems to me from the study that has taken place here, just is not valid. He may feel strongly about it, and they have had considerable success in Vermont—although I suspect there are other communities across the Nation in States that have done extremely well likewise—but, at least from the data we have here, there is not a connection between having flow control and having a better recycling record.

But then we get back to the other point. Why did the Supreme Court decide the way it did? The Supreme Court decided the way it did because of the commerce clause.

And what does the commerce clause do? It says that it is good for the Nation to have competition, to permit commerce to flow. And that is exactly what flow control does not do.

Now, you might say, well, I argued earlier today for a situation where we had flow control. That is right. We did it, as I say, in those instances where a community made a commitment and was still involved with that commitment. But the overall thrust of this legislation is to take care of those specific situations that arose where the communities were harmed, financially harmed, as a result of the Carbone decision.

But we said, enough is enough. No matter how long the indebtedness is, no matter what the particular situation as far as bonded indebtedness, at the end of 30 years this privilege that we have given these communities to go against the commerce clause ends.

And so, Mr. President, for that reason, I strongly believe that the proposition from the State of Vermont, as advanced so ably by the junior Senator, is not valid in this particular situation

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, let me answer the arguments that have been put forth by my good friend from Rhode Island. I think if you examine our situation, it does not in any way fly in the face or raise any concerns.

The question is: Is our system working? It is. It is reducing waste, it is bringing about recycling, and most importantly, it does allow competition. There is competition among the haulers. The only thing is, every hauler has to pay the tipping fee. But there is no problem. We have haulers that are bidding on it. We have put contracts out for bid. There is no problem with any interference with competition.

Now, what the Supreme Court said was that the Federal Government can allow this, they just have to do it because a State cannot do it under the commerce clause without the authority of the Federal Government.

All we are asking for is a simple exception for a system that is working well. And there is no way it will work in rural areas unless you can have tipping fees; that is, getting the people in the areas sharing the cost of this to have a way to participate, in other words, in order to get the haulers to come in.

So I think this is a perfect example of what happens when Congress gets to look at a problem and gets carried away with some study done by EPA which is irrelevant to the situation and tramples on States rights to do what is right for the Nation and right for Vermont.

I understand—and this is the basic problem—that my colleagues are afraid of opening this bill up for exceptions. Well, if anybody can come with an exception as we have, fine. But I do not think you will find anybody.

Mr. DASCHLE. Will the Senator yield?

Mr. JEFFORDS. I am happy to yield to my good friend from South Dakota.

Mr. DASCHLE. I thank the Senator for yielding.

I just ask for a moment to associate myself with the remarks of the Senator from Vermont, as well as the other Senator from Vermont, Senator LEAHY.

Obviously, Vermont has had a very good experience with flow control. It has been able to promote programs for recycling and disposal of household hazardous waste. This amendment recognizes that fact and address the issue of flow control as it pertains to these Vermont programs. It recognizes that Vermont may be unique in this regard and gives that state the opportunity to continue to make those programs work.

That is all we are saying with this amendment. Let us give Vermont a little more flexibility. Let us defer to that State with regard to flow control, if it is going to be able to respond to this issue effectively.

So I applaud the Senator's amendment. I certainly hope that our colleagues on both sides of the aisle will support it.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. I yield to the Senator whatever time I have remaining.

Mr. BAUCUS. Mr. President, I encourage Senators to not support this amendment, very simply because the committee has worked long and hard to try to find a balance here, to balance out interests of those communities on the one hand that want to have the right to control the flow of trash, garbage, dedicated facilities in their communities, and, on the other hand, the rights of companies, entrepreneurs, to ship trash to whatever location seems to make the most sense to let the free market work. It is a classic battle between those who want to control by statute and law in the market on the one hand, and those, on the other hand, who want total free market.

As is always the case, the right answer is somewhere in between. The solution crafted by the committee, we think, is a good solution in between.

Frankly, Mr. President, if the amendment offered by the Senator from Vermont were to pass, I believe we are going to start to find this compromise begin to unravel, and it would, therefore, very strongly jeopardize this bill.

If this bill does not pass, then we are not going to be able to have any kind of flow control because of the Carbone decision. At the same time, States will not be able to limit out-of-State trash coming into their State because of another Supreme Court decision.

So I urge Senators to vote against the Jeffords amendment.

Mr. CHAFEE. Mr. President, is the Senator ready to conclude debate on this?

Mr. JEFFORDS. Senator LEAHY wishes to speak.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Vermont has 2 minutes remaining.

Mr. LEAHY. Mr. President, I hope that my colleagues will support the Jeffords-Leahy amendment. If you defeat this amendment, you help nobody in the country, but you hurt one State, the State of Vermont. This simply says that Vermont, provided we want to operate beyond what may be required under Federal laws, would be allowed to do so; that if we want to set up a procedure that fulfills everything that the Federal law might require but does even better but fits our small very special State, that we be allowed to do so.

Basically, we are saying to every Member of the Senate who has given speeches over the last year that States can design programs better, we agree and let us do that. We are making sure that we violate no Federal law, that we have followed every Federal rule, but we be allowed to design something that fits our State.

Every single Senator, I am willing to wager, Mr. President, in this body, has given a speech saying, ''If we can do it better, allow us to do it, allow us to design it.''

Basically what the Senator from Vermont [Mr. JEFFORDS] and I are saying is that is what we want to do. So let us adopt this. This is no different than taking care of a unique situation for Alabama yesterday in the product liability bill. This takes care of Vermont. It hurts nobody, but it helps us.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Vermont. Let me advise the Senator, time has expired.

Mr. JEFFORDS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. I have some time remaining; is that correct?

The PRESIDING OFFICER. That is correct, the Senator has 3 minutes 7 seconds.

Mr. CHAFEE. I will just use a couple minutes of that.

Mr. President, there are a couple of points I briefly want to make. The present situation is that it is against the Constitution of the United States to do what Vermont is suggesting. So what we have done is we have crafted an amendment which will help Vermont and all the other States in the Nation that have made these financial commitments, but it still says when all is said and done, that they cannot go against the Constitution in these other areas.

It is not correct to say that this is just a little something for Vermont. If this is adopted, there is no way in the world that we could keep flow control from being adopted universally across the Nation, because the Vermont case is what you might call a weak case.

So, Mr. President, if this amendment is adopted, then, I suspect, the whole effort to deal with this goes down the tube and then there will be no exceptions to the Constitution as provided.

So I am going to move to table the amendment, and I very much hope my colleagues will join with me.

Mr. President, I yield back the remainder of my time and move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 867, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—46

Ashcroft	Faircloth	Kyl
Baucus	Frist	Lautenberg
Bennett	Gramm	Lieberman
Bond	Grams	Lott
Bradley	Grassley	Lugar
Breaux	Gregg	McCain
Brown	Hatch	McConnell
Burns	Hatfield	Moynihan
Chafee	Helms	Nickles
Coats	Hutchison	Packwood
Coverdell	Inhofe	Pell
Craig	Johnston	Pressler
Dodd	Kassebaum	
Domenici	Kempthorne	
Santorum	Smith	Thompson
Shelby	Thomas	Thurmond

NAYS—51

Abraham	Feinstein	Mikulski
Akaka	Ford	Moseley-Braun
Biden	Glenn	Murkowski
Bingaman	Gorton	Murray
Boxer	Graham	Nunn
Bryan	Harkin	Pryor
Bumpers	Heflin	Reid
Byrd	Hollings	Robb
Campbell	Inouye	Rockefeller
Cochran	Jeffords	Roth
Cohen	Kennedy	Sarbanes
Conrad	Kerrey	Simon
Daschle	Kerry	Simpson
DeWine	Kohl	Snowe
Dorgan	Leahy	Specter
Exon	Levin	Stevens
Feingold	Mack	Wellstone

NOT VOTING—3

D'Amato	Dole	Warner

So the motion to lay on the table the amendment (No. 867), as modified, was rejected.

Mr. FORD. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on the amendment.

Mr. LEAHY. Mr. President, I ask unanimous consent we vitiate the request for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 867), as modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I request now that we proceed to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RUSSIA SUMMIT

Mr. DOLE. Mr. President, President Clinton is now in Ukraine. I support his decision to visit Kiev. Economic and political reform in Ukraine are proceeding very well. There is strong bipartisan support for United States assistance to Ukraine. It is in the American national interest to strengthen our relations with Ukraine. I hope the President has a successful and productive summit with President Kuchman.

The report cards are now being filed on the Moscow Summit. As I said yesterday, I was disappointed at the lack of progress on the two key summit issues: Nuclear sales to Iran and the conflict in Chechnya. It seems pretty clear the American agenda at this summit did not fare well. My staff spoke to State Department and National Security Council officials yesterday afternoon. The White House provided my office with copies of all the joint statements from the Moscow Summit. To conclude that the summit made little progress in advancing American interests is not politics, and it is not partisan. It is simply a review of the facts.

On Iran, Russia did not agree to cancel its sale of nuclear reactors to Iran. If President Yeltsin cannot make the decision to stop the sale, I do not have great confidence that it will be made later at a lower level. With respect to the much-publicized concession on not selling advanced gas centrifuge technology, it seems clear this was floated as a bargaining chip. As recently as last Friday, I note the Washington Post headline: ''Russia denies plan to sell gas centrifuge to Iran.'' It seems this was a plan designed to be a concession from the start.

Just last week, when asked if a halt in the gas centrifuge sale would be enough, Secretary of State Christopher said, ''not at all. We would not be satisfied with that''. I agree with the Secretary's assessment. We should not be satisfied. The bottom line is Russia still intends to proceed with a sale of nuclear technology to the outlaw regime in Tehran. This flies in the face of the summit's joint statement on proliferation which pledges ''To work together closely to promote broad nonproliferation goals.''

On Chechnya, President Yeltsin rejected any effort to address the legitimate concerns of the international community over human rights violations. In President Yeltsin's statement about Chechnya, there is an unfortunate ring of former soviet leaders rejecting western concerns over human rights as meddling. And whatever the political leaders were saying in Moscow, the Russian army kept attacking. Literally within minutes of yesterday's press conference, Russian helicopters attacked Chechen civilian targets.

The situation in Chechnya also raises the issue of the flank limits in the Conventional Forces in Europe [CFE] Treaty. In the fall, if Russian forces are still in Chechnya, the Russian Government will be in violation of these flank limits. The Moscow summit did not result in any assurances of Russian compliance with the CFE limits.

On missile defenses, the administration continued down the same path of seeking Russian permission on the deployment of theater missile defenses—despite the fact that Russian insistence on providing nuclear technology to Iran increases the proliferation threat. The fact is that theater missile defenses are not prohibited by the cold-war era ABM Treaty. Moreover, the United States must not allow Russia to have a veto over matters of national security.

The summit also failed in what was not on the agenda—namely, Bosnia. As the two Presidents were meeting, Sarajevo was being heavily shelled. There was no U.N. response, no NATO response, and no summit response.

It is true that Russia agreed to join the partnership for peace at this summit—as they previously agreed to do last year, before abruptly changing their minds at the OSCE summit in Budapest. At this summit, Russia continued to express strong opposition to the expansion of NATO.

Mr. President, summit diplomacy has a long and distinguished history. Historically, summits have succeeded when the parties had clear agendas, pursued their interests consistently, and were ready, willing, and able to meet each others' concerns. And if agreement is not reached, history shows it is better to state the disagreements clearly rather than paper them over. In the case of the Moscow summit, it is clear that President Yeltsin was not in a position to address our concerns. We should admit that forthrightly and respond appropriately. Congress will respond by looking closely at all forms of aid to Russia—especially aid to the government. Certain types of aid such as democracy support, or Nunn-Lugar funding for nuclear clean up still promote important American interests. Other aid programs may not, and may be halted.

The United States must remain engaged with Russia. It was and is our hope that democracy and free market reforms will prosper. We hope that the Russian elections planned for this year and next year proceed on time—and that they are free and fair. But Russia is not our only strategic relationship—we have other interests in other areas. That is why I support the President's decision to visit Ukraine. That is why NATO expansion should not be subject to a Russian veto. And that is why we cannot allow Iran to become a nuclear weapons state.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, it does not require one to be a rocket scientist to realize that the U.S. Constitution forbids any President's spending even a dime of Federal tax money that has not first been authorized and appropriated by Congress—both and House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that ''Reagan ran up the Federal debt'' or that ''Bush ran it up,'' bear in mind that the Founding Fathers, two centuries before the Reagan and Bush presidencies, made it very clear that it is the constitutional duty of Congress to control Federal spending.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,856,766,568,058.09 as of the close of business Wednesday, May 10. This outrageous debt (which will become the debt of our children and grandchildren) averages out to $18,436.37 on a per capita basis.

PRESERVING MEDICARE FOR OUR SENIORS

Ms. MIKULSKI. Mr. President, I rise to speak about the Medicare Program and the need to protect it from drastic cuts. The Republicans have announced their plans to cut the Medicare budget by over $250 billion in order to fund tax cuts for the rich.

Let me start by saying that I want to make sure that we keep the care in Medicare. I believe that the basic values of honoring your father and your mother should be the anchors of our public policy.

I do not believe our seniors should have to pay almost $900 more in out of pocket health care costs each year. I do not believe that the typical Medicare beneficiary should have to see 40 to 50 percent of his or her Social Security cost-of-living adjustment eaten up by increases in Medicare cost sharing and premiums.

We cannot let this happen. We owe it to our mothers and fathers, and to our family members.

Last week I spoke at the White House Conference on Aging. It was an impressive gathering of 2,500 seniors and senior advocates from all over this Nation. Many of the delegates were current or former doctors, lawyers, administrators, business owners, nurses, social workers, gerontologists, and senior service providers.

The delegates were charged with coming up with a navigational chart to meet the needs of our seniors today and to take us into the 21st century.

The White House Conference on Aging came at a very crucial time in our history. We all know that our senior population is growing and growing rapidly. Demography is destiny. We must anticipate the future and what their needs are and what they will be.

At the end of the conference, the delegates voted on priorities. Ensuring the future of the Medicare Program was one of the top five priorities. More specifically, the conference stated that the United States should:

. . . reaffirm the covenant that it established with the American people 30 years ago with the enactment of Medicare and act to maintain and strengthen the program's structure and purpose, its fiscal solvency, and widespread public support.

. . . continue to protect older Americans and disabled Americans, especially those on low and fixed incomes with respect to health care affordability and access, giving special consideration to the burdens imposed by copayments, deductibles, and premiums.

. . . ensure that programmatic changes safeguard the viability of the Medicare trust funds.

. . . ensure that any changes to Medicare provide access to a standard package of benefits which includes affordable long term care, strengthens the program's financial well-being, preserves the social insurance nature of Medicare, enhances the quality of care and improves the program for beneficiaries within the broad context of health care reform

There is much talk about another contract with America, but I believe the real contracts we must honor are Medicare and Social Security. We must preserve the covenant that we established with our seniors and their families to provide them with health insurance for their old age. Seniors have worked hard all their lives, paid their dues, paid into the system.

We must remember who are seniors are. On May 8, we commemorated victory in Europe and the beginning of the end of World War II. Our seniors were part of the generation that saved Europe from tyranny and changed the course of history. We must never forget that.

We cannot forget them and we cannot forget who will be the next generation of seniors. They will be many of us. And the next generation after that. They will be our children and grandchildren. We must continue to ensure that all seniors now and into the next century have the resources they need for their health care. Without such resources I fear they will become impoverished, their children may become impoverished, and we as a country will become impoverished.

THE 45TH ANNIVERSARY OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. COHEN. Mr. President, in recognition of the 45th anniversary of the Leadership Conference on Civil Rights, I believe it is appropriate to reflect upon this country's history on the issue of civil rights and express some thoughts about the direction the country is heading today.

In 1950, when the Leadership Conference was first formed, we essentially had a system of racial apartheid in many parts of the country. It was illegal for black and white children to attend school together, it was illegal for black and white adults to marry. Black Americans were shut out of the political system—they were not permitted to serve on juries, run for office, or, in many cases, cast a ballot. There was no meaningful equal protection of the laws, especially the criminal laws. Blacks who dared to assert their political rights or buck the mores of the racial caste system, were beaten or lynched. The police and formal legal system always looked the other way. Blacks could not receive a fair trial in a court of law as racial prejudice clouded the normal American presumption that justice is blind.

Through Federal court litigation, and eventually legislative action by the U.S. Congress, many of these barriers were cast aside, the chains of Jim Crow were unlocked, and the Constitution's promise of equal opportunity began to become a reality. As the decades passed and progress was made on many fronts, other groups of American citizens—women, racial minorities, religious groups, and the physically disabled, to name a few—rose to assert the rights that accrue with American citizenship. Their claims have been simple, clear, and powerful: treat us

like everyone else in society is treated, give us the opportunities to succeed that other Americans are given as a matter of birthright, let us participate in the mainstream of American life.

So we have made progress. When in the past Jackie Robinson was spit upon and received death threats over the phone, today Michael Jordan can give genuine happiness to millions of Americans, of all creeds and colors, merely by deciding to trade in his baseball cleats for a pair of sneakers. When one of our country's greatest institutions, the U.S. Army, once had to be desegregated by Presidential decree, in modern times Colin Powell rose to lead that institution and now is one of our most popular public figures. When minorities were once threatened and intimidated from exercising the franchise, now hundreds of minorities hold public office throughout the country and dozens of minority legislators sit here in the U.S. Congress.

The Leadership Conference on Civil Rights has been at the forefront of this march of progress. The principles of equality, inclusion, and tolerance that it promotes are reflected in the structure of the organization, as it is comprised of 180 different groups representing people from all walks of life, all shades of skin color, and all denominations and ethnicities. The legislative achievements of the conference are monumental—not only for the importance of the bills on American life, but for the bipartisan support that they achieved. The Voting Rights Act Amendments of 1982, the Americans With Disabilities Act, and the Religious Freedom Restoration Act are but a few of the conference's noteworthy achievements.

But one cannot look back fondly at successes without also thinking about our past shortcomings as well. Here we stand, a generation after the civil rights revolution, and we must ask how history will judge us. Have we done all we could to make our society more just, opportunities more available, tolerance and understanding more pervasive, violence less prevalent? Have poverty, intolerance, and ignorance been marginalized or have our actions or omissions led to the marginalizations of the poor, the uneducated, and others occupying the bottom rung of society?

Any honest appraisal must conclude that our record is mixed. Progress has been made in many areas, but we are going backward in others. Our problems were once simple and clear issues of equal justice that could be solved merely by changing the law. Our current problems now bear on complex social conditions that few can explain and even fewer know how to solve.

There is also new unrest in the country that is manifesting itself in ugly ways. Extremists seek to place at odds peoples and communities that have been traditional and genuine allies. The ethos of tolerance, dialog, and reconciliation are being subverted by those who, appealing to baser instincts, seek to balkanize America. And remarkably, there are those who now want to move to a color-blind society, based on the make-believe view that racism and intolerance are things of the past and that our centuries of overt discrimination have had absolutely no bearing on the current condition of the least fortunate members of society. It is as if many believe that the Emancipation Proclamation and Civil Rights Acts were written at the time of the Magna Carta and the beating of Rodney King happened centuries, not just years, ago.

But rather than be discouraged in the face of our failures, and lament about the difficult challenges ahead, we must find hope in the progress that has been made and summon the resolve to redouble our efforts to remake our society to bring us closer to the ideals we hold dear. The work of the Leadership Conference is not done. We are a better society as a result of its 45 years of dedication to equality and we will be a better society due to its work in the future.

THE 50TH ANNIVERSARY OF V–E DAY

Mr. HEFLIN. Mr. President, on August 19, 1944, Parisians rose up in defiance of their German occupiers as Hitler ordered his army to destroy the city. His generals, however, delayed the order, and American and Free French Forces liberated Paris on August 25. Meanwhile, General Patton was racing eastward toward the German border and Rhine River. To the north, British Forces led by Field Marshall Montgomery swept into Belgium and captured Antwerp on September 4. On September 17, about 20,000 paratroopers dropped behind German lines to seize bridges in the Netherlands. But bad weather and other problems hampered the operation.

Adolf Hitler pulled his failing resources together for another assault. On December 16, 1944, German troops surprised and overwhelmed the Americans in Belgium and Luxembourg, but they lacked the troops and fuel to turn their thrust into a breakthrough. Within 2 weeks, the Americans stopped the German advance near Belgium's Meuse River. This offensive in the Ardennes Forest of Belgium and Luxembourg became known as the ''Battle of the Bulge,'' because of the bulging shape of the battleground as it appeared on a map. It was to be among the war's most bloody battles. Although Hitler's men knew they were beaten, it became clear that complete victory over Germany would have to wait until 1945.

Soviet Forces entered Poland, Romania, and Bulgaria in January 1945. The Germans had pulled out of Greece and Yugoslavia in the fall of 1944, But held out in Budapest, the capital of Hungary, until February 1945. Vienna fell to Soviet troops in April. By then, Soviet troops occupied nearly all of Eastern Europe, a sign of victory then, but, in retrospect, also an ominous harbinger of the nature of the post-World War II world.

The Allies began their final assault on Germany in early 1945. Soviet soldiers reached the Oder River, about 40 miles from Berlin, in January. Forces in the West occupied positions along the Rhine by early March. British and Canadian Forces cleared the Germans out of the Netherlands and swept into northern Germany as the Americans and French raced toward the Elbe River in central Germany. Hitler ordered his soldiers to fight to the death, but large numbers surrendered each day.

The capture of Berlin was left to the Soviets. By April 25, 1945, they had surrounded the city. From a bunker deep underground, Hitler ordered German soldiers to fight on. On April 30, he committed suicide. He remained convinced that his cause had been right, but that the German people had ultimately proven weak and unworthy of his rule.

Grand Adm. Karl Doenitz briefly succeeded Hitler as the leader of Germany, almost immediately arranging for Germany's surrender. On May 7, 1945, Col. Gen. Alfred Jodl, Chief of Staff of the German Armed Forces, signed a statement of unconditional surrender at General Eisenhower's headquarters in France. World War II in Europe had, at last, come to an end. Fifty years ago, the Allies declared May 8 ''V–E Day''—Victory in Europe Day. America could now concentrate all of its strength toward the battle still being waged in the Pacific, which would last for 3 more months.

Today, the world celebrates a victory that represented the triumph of good over unspeakable evil, and the promise of a peaceful future for a Europe battered and torn by the bloodiest war in its history. May 8 is particularly special this year, since it marks the 50th anniversary of the end of the European chapter of World War II.

As the Allies had advanced in Europe, they discovered the horrifying remnants of the Nazis' ''final solution.'' Hitler had ordered the imprisonment of Jews and members of other minority groups in concentration camps. The starving survivors of the death camps gave proof of the terrible suffering of those who had already died.

Today, we are familiar with those faces and pictures of death and destruction, but that familiarity has not led to understanding in many cases. We have the Holocaust Memorial Museum as a reminder of the past and as a warning to future generations of the grave dangers that are the ultimate fruits of hate, division, depravity. Victory in Europe Day, then, is also a time to reflect and to ask ourselves how such brutality could have been inflicted on the human race, and how it can be prevented from ever occurring again.

Hitler's rise to power was based upon a message of hate, of pitting one class

against another, of demonizing Jews and others. His was a message of division, of blaming others for one's problems. During the early 1930's, Hitler instituted a policy of elimination of political opponents, of ''enemies of the state.'' According to the statutes of the security police, Jews, politically active churches, Freemasons, politically dissatisfied people, members of the Black Front, and economic manipulators, among others, were singled out for persecution.

Hitler set down his political goals in his notorious book, ''Mein Kampf.'' His foreign policy plans revolved around the central aim of exterminating the Jews as the mortal enemy of the Aryan race. During the first stage, following the seizure of power, the ''cancerous democracy,'' as he called it, was to be abolished, and Jews, Bolsheviks, and Marxists were to be banished from the national community. Following the internal consolidation of the Reich, the German position in central Europe was to be secured step by step and then strengthened into world dominance.

While Hitler had fought the existing government aggressively prior to his imprisonment for high treason, during which he wrote ''Mein Kampf,'' he adopted a new tactic after his early release from jail. Power was to be won slowly and legally as he systematically and methodically built up the Nazi empire. He used the Reichstag fire of February 27, 1933, as an opportunity to replace the constitutional laws of the Weimar Republic by passing an emergency decree ''to protect the people and the state.'' This marked the beginning of the hounding and arresting of political opponents, especially those on the left. The public was subjected to propaganda on a grand scale, instructed ''to think nothing but German, to feel German, and to behave German.'' Germans were also placed under heavy surveillance by the police and secret agents.

Hitler was able to create the Nazi state by fanning the flames of paranoia, distrust, and fear. By making the Jews and others ''faceless rats'' devoid of humanity, he was able to make his henchmen commit acts which shock and offend our sensibilities as human beings. He was successful in making these groups scapegoats responsible for all of Germany's economic and social ills. Just as some today try to divide, demonize, and scapegoat, Hitler managed to unite his people through their hatred of common enemies.

Too often today, the solution to our problems seems to be to blame someone else—the poor, minorities, immigrants, and bureaucrats. The politics of blame is a basic tactic of those who preach intolerance and division, whether on the left or right. Hitler was perhaps history's most terrible and tragic example of what can result when the politics of blame and hate are allowed to fester and grow. Too often, people attempt to glorify themselves by tearing down those with whom they disagree and by pitting one group against another. We need a return to moderation, tolerance, responsibility, and compassion so that nothing approaching the Holocaust and the hatred which fostered it will ever be allowed to again scar humanity in such a way.

It is appropriate to take the time to not only celebrate V–E Day and reflect upon the roots of what led to World War II, but to also remember the selfless heroism of the 15 million Americans and the millions of other Allied servicemen who fought valiantly to preserve the democratic ideals that we so cherish. All risked their lives, and, sadly, some 407,000 Americans gave their lives to defend those ideals and the individual freedom and human rights upon which they are based.

Fifty years after V–E Day, the light of history has shone brightly on the complex and harrowing events of World War II. Much of what has been revealed makes us shudder, and we would just as soon it not be illuminated. But only by looking can we learn, and as each year passes, we realize more fully just how much we owe our veterans for their patriotism, bravery, and sacrifice in serving on the battlefields of Europe during World War II.

JENA BAND OF THE CHOCTAW INDIANS

Mr. JOHNSTON. Mr. President, over 90 years ago, a small poverty ridden community of Choctaw Indians who lived in the area around Jena, LA, walked for 9 months from their homes to Muskogee, OK, to testify before the Dawes Commission. Although that commission determined that the Jena Band were full-blooded native American Indians, entitled to land and services, lands were not yet ready for allotment. Consequently, the Jena Band returned to Louisiana empty-handed. Soon thereafter they were told by letter that they could claim such lands and benefits—but only if they returned to Oklahoma within 4½ months. This was impossible for them, they did not return, and therefore received no land or benefits to which they were rightfully entitled.

This story of promised benefits, land, and services has been repeated throughout the last 90 years. Each time the Jena Band has come close to receiving the recognition they deserve, some additional obstacle has been thrown in their way. Yet, despite this long history of broken promises and neglect the Jena have maintained their identity, their dignity, and their hope that the Federal Government will at long last live up to the commitments made to them so long ago in Muskogee.

On May 18, 1995, the Jena Band will finally celebrate the arrival of justice as the Assistant Secretary for Indian Affairs at the Department of the Interior, Ada Deer, signs the documents establishing a government-to-government relationship between the United States of America and the Jena Band of the Choctaw.

Mr. President, I have known the Jena through their chief, Jerry Jackson, as we have struggled together for many years to gain their rightful recognition. The Jena are proud of there heritage and of their community. I look forward to seeing the strengthening of their tribe and their cooperation with the surrounding communities in the years to come, and I ask my colleagues to join me in celebrating this long-awaited event.

CARE ANNIVERSARY

Mr. NUNN. Mr. President, during this year 1995 we are commemorating many anniversaries of the last days of World War II—of terrible battles, of the liberation of concentration camps with their unspeakable crimes against humanity, and of the final victories—but I rise today to congratulate one of the great humanitarian organizations that was born in the ashes of that great war.

CARE begins the celebration of its 50th year today, on the anniversary of the day when the first CARE package arrived in France. A coalition of organizations and individual Americans founded CARE—the Cooperative for American Remittances to Europe—on November 27, 1945, and the first CARE package was received in France on the following May 11. They set out to create a large and efficient distribution network, because they knew the huge scope of the needs in a Europe devastated by a long and destructive war.

That package was the beginning of the largest person-to-person relief effort of this century—perhaps of any century. Millions of Americans sent more than 100 million CARE packages of food, clothing, medicine, and other relief supplies to war survivors in desperate need. CARE packages provided the first food some Holocaust victims received after being released from the camps. Later, CARE packages brought West Berliners their first food after the 1949 blockade.

CARE was a unique American phenomenon—highly individual, extremely generous, idealistic and—against all odds—tremendously successful. Germans, Italians, and Japanese remember how stunned they were to receive gifts from people with whom they had been at war only a few months before. CARE packages not only eased the suffering of survivors trying to rebuild their lives and their countries, but helped to build the bridges between former enemies that made possible a more lasting peace.

Every single American President has been involved in the relief effort since President Harry Truman who sent the first 100 CARE packages to the bombed-out town of Le Havre, France. American cities and towns had CARE package drives, businesses put up displays encouraging people to send CARE packages, Hollywood stars, including Bob Hope, Gregory Peck, Marlene

Deitrich, Lauren Bacall, and Ingrid Bergman, joined in the effort that would make the CARE package a part of our language and history.

As Europe and Asia recovered from World War II, CARE adopted a new name—the Cooperative for Assistance and Relief Everywhere—and a new mission: to help the poorest of the world's poor.

Today CARE helps 30 million people in more than 60 developing countries each year to improve their lives through comprehensive disaster relief programs as well as assistance for long-term, sustainable development projects in agriculture, the environment, health, nutrition, population, and small business. In the years since that first package, CARE packages have helped more than 1 billion people in 121 countries around the world, sending more than $7 billion worth of assistance. The countries Americans helped 50 years ago have become our political and economic partners and many are now partners as well in providing CARE packages to others in need. CARE has 11 international offices in Europe and Japan, and has twice been nominated for a Nobel Prize.

The plain brown boxes stamped CARE have been a symbol of the best American spirit of generosity and hope to a hurting world for half a century. I am proud that CARE now is headquartered in Atlanta, GA, and proud of the wonderful work it has done throughout the world. This is an appropriate time for a new generation to learn about the real CARE package—not just goodies from home, but a package reflecting that same love and caring that reaches out in friendship to those in need.

Mr. President, as CARE begins its 50th anniversary celebration, I would urge that new generations—and their mothers, fathers, grandmothers, and grandfathers who have been sending those plain brown boxes stamped CARE all these years—to join in the effort to change lives and send a real CARE package.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1361. An act to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1361. An act to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–891. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to U.S. exports to South Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–892. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to provide for alternative means of acquiring and improving housing and supporting facilities for the armed forces and their families; to the Committee on Armed Services.

EC–893. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation to amend title 49, United States Code (Transportation), to eliminate the requirement for preemployment alcohol testing in the mass transit, railroad, motor carrier and aviation industries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–894. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Superconducting Super Collider project; to the Committee on Energy and Natural Resources.

EC–895. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the safety of shipments of plutonium by sea; to the Committee on Environment and Public Works.

EC–896. A communication from the Chief Counsel of the Department of Justice, transmitting, pursuant to law, the annual report of the Foreign Claims Settlement Commission for 1993; to the Committee on Foreign Relations.

EC–897. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to international agreements, other than treaties entered into by the United States within the 60-day period after May 4, 1995; to the Committee on Foreign Relations.

EC–898. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, a report relative to wiretap applications for calendar year 1994; to the Committee on the Judiciary.

EC–899. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, a draft of proposed legislation to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to equalize mandatory minimum penalties relating to similar crack and powder cocaine offenses; to the Committee on the Judiciary.

EC–900. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the Administration's report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–901. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, amendments to the sentencing guidelines; to the Committee on the Judiciary.

EC–902. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation to amend chapter 11 of title 35 to provide for early publication of patent applications, to amend chapter 14 of title 35 to provide provisional rights for the period of time between early publication and patent grant and to amend chapter 10 of title 35 to provide a prior art effect for published applications; to the Committee on the Judiciary.

EC–903. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the OPM's fiscal year 1994 report on the Federal Equal Opportunity Recruitment Program; to the Committee on Governmental Affairs.

EC–904. A communication from the Chairperson of the Department of the Navy Retirement Trust, transmitting, pursuant to law, reports relative to the 1992 annual pension report; to the Committee on Governmental Affairs.

EC–905. A communication from the HUD Secretary's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the Inspector General's report for the 6-month period ending March 31, 1995; to the Committee on Governmental Affairs.

EC–906. A communication from the Director, Federal Management Issues, General Accounting Office, transmitting, pursuant to law, a report entitled ''Government Corporations: Profiles of Recent Proposals''; to the Committee on Governmental Affairs.

EC–907. A communication from the Acting Director, Federal Management Issues, transmitting, pursuant to law, a report entitled ''Managing for Results: Experiences Abroad Suggest Insights for Federal Management Reforms''; to the Committee on Governmental Affairs.

EC–908. A communication from the Attorney General of the United States, transmitting, pursuant to law, the 1994 annual report on the Federal Prison Industries, Inc.; to the Committee on Governmental Affairs.

EC–909. A communication from the Chairperson of the Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, a report relative to the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–910. A communication from the Inspector General of the Environmental Protection Agency, transmitting, pursuant to law, the Agency's Superfund report for fiscal year 1994; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–103. A joint resolution adopted by the Council of the City of Kwethluk, Alaska relative to the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

POM–104. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Energy and Natural Resources.

''RESOLUTION NO. 2

''Whereas, the Clinton Administration and Congress are considering proposals to sell the Western Area Power Administration (WAPA), which provides low-cost power to municipal utilities, electric cooperatives, and state facilities in Minnesota; and

''Whereas, sale of WAPA could trigger an estimated $36,000,000 increase in annual power costs for customers of the municipal utilities at Ada, Adrian, Alexandria, Barnesville, Baudette, Benson, Breckenridge, Detroit Lakes, East Grand Forks, Elbow Lake, Fairfax, Fosston, Granite Falls, Halstad, Hawley, Henning, Jackson, Kandiyohi, Lake Park, Lakefield, Litchfield, Luverne, Madison, Marshall, Melrose, Moorhead, Mountain Lake, Nielsville, Olivia, Ortonville, Redwood Falls, Roseau, Sauk Centre, Sleepy Eye, Springfield, Staples, St. James, Stephen, Thief River Falls, Tyler, Wadena, Warren, Warroad, Westbrook, Willmar, Windom, and Worthington; and

''Whereas, sale of WAPA could trigger an estimated $20,000,000 increase in annual power costs for customers of the following rural electric cooperatives: Agralite, Beltrami, Brown County, Clearwater-Polk, Federated, Itasca-Mantrap, Kandiyohi, Lake Region, Lyon-Lincoln, McLeod, Meeker, Minnesota Valley, Nobles, North Star, PKM, Red Lake, Red River, Redwood, Renville-Sibley, Roseau, Runestone, South Central, Southwestern Minnesota, Stearns, Todd-Wadena, Traverse, and Wild Rice; and

''Whereas, sale of WAPA could trigger an estimated $1,000,000 increase in annual power costs for Fergus Falls State Hospital, Southwest Minnesota State University, and Willmar Regional Treatment Center; and

''Whereas, the cities, cooperatives, and state agencies that receive power from WAPA committed to the federal power program more than 40 years ago, and have relied on continued access to federal power in their long-range energy plans; and

''Whereas, the customers of WAPA's Eastern Pick Sloan facilities have repaid approximately 40 percent of the original investment in these facilities, with interest, and sale of the facilities would wipe out the customers' equity contribution; and

''Whereas, the customers of WAPA pay for the operation of the federal power facilities through their rates, the program places no drain on the federal treasury, and the program does not contribute to the federal deficit; and

''Whereas, in addition to producing electricity, WAPA's multipurpose power projects produce revenue for power sales which helps pay for irrigation, flood control, navigation, municipal and industrial water supply, wildlife enhancement, recreation, and salinity control; and no private party can step in and act as a surrogate for government in performing these functions; and

''Whereas, sale of these assets is extremely complex, due to the multipurpose nature of the projects, numerous legal and contractual problems, Indian, Mexican, and Canadian treaty provisions, and environmental concerns; and

''Whereas, the federal power program is one of our nation's greatest assets and it should be preserved; and

''Whereas, dismantling the federal power program is a short-sighted quick fix that will not benefit the nation in the long run: Now, therefore be it,

''*Resolved by the Legislature of the State of Minnesota,* That the President and the Congress of the United States should not pursue the sale of the Western Area Power Administration.

''*Be it further resolved,* That the Minnesota municipal utilities, cooperatives, and state facilities which receive federal power from the Western Area Power Administration should continue to receive their allocations of power at cost-based rates.

''*Be it further resolved,* That the Secretary of State of the State of Minnesota is directed to prepare copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the chair of the Senate Committee on Energy and Natural Resources, the chair of the House Committee on Energy and Commerce, and Minnesota's Senators and Representatives in Congress.''

POM–105. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Energy and Natural Resources.

''SUBSTITUTE SENATE JOINT MEMORIAL 8015

''Whereas, the preservation and enhancement of wetlands is extremely important to the state of Washington to protect wildlife habitat and viable waterfowl nesting areas; and

''Whereas, the Federal Clean Water Act and the Endangered Species Act both place a high priority on the creation or restoration of wetland areas; and

''Whereas, the Centralia Mining Company is the largest surface coal mining operation in the state and is unique among surface mines because of its location in Western Washington, which incurs a relatively high rainfall and can support healthy rechargeable wetlands; and

''Whereas, the Centralia Mining Company has been diligent in its extraordinary reclamation efforts and concerns for the environment as exemplified in their honor of receiving the prestigious directors' award from the Office of Surface Mining, Department of the Interior, in 1991, and receiving a national award from the Office of Surface Mining for excellence in surface mining reclamation including the environmental benefits their wetlands play in enhancing natural wildlife and waterfowl habitat in 1994; and

''Whereas, Ducks Unlimited, the largest private wetland conservation organization in the world, has affirmed their support for the need for the deep lake-like systems, intermediate-sized marsh areas, smaller seasonal wetlands, riparian stringers, and other wetlands which have been created on the Centralia Mining Company property; and

''Whereas, the Centralia Mining Company location is in close proximity to the migration pattern of numerous species of ducks and geese; and

''Whereas, surface mining creates many opportunities for innovative final land uses during the ongoing reclamation process which could enable the development of new wetlands that can enhance fish and wildlife habitat as well as the development of recreational lakes for the enjoyment of Washington citizens; and

''Whereas, the Centralia Mining Company is regulated by the Department of the Interior, Office of Surface Mining, and the provisions of the Surface Mining Control and Reclamation Act; and

''Whereas, the Office of Surface Mining rules and regulations for land reclamation have been very stringent and restrictive and require former-mined areas to be returned to the same land contours as prior to being mined; and

''Whereas, there were limited wetland areas prior to the commencement of mining at the Centralia mine and if the regulations do not allow for a variance, then the mine would be obligated to eventually destroy certain wetland areas and lakes that have been created in the mining process; and

''Whereas, the Office of Surface Mining has recently been reevaluating their position regarding the retention and creation of wetlands in reclaiming mine areas;

''Now, therefore, Your Memorialists respectfully pray that the Office of Surface Mining continue to be encouraged to expand its effort to find ways to preserve wetlands of significant size and value that are created as a result of substantial surface mining activities and to amend its rules and regulations in order to recognize the climatic differences of surface mine operations in differing regions throughout the United States and to allow the states to encourage their local mining industries to take advantage of the unique opportunities to preserve and enhance wetlands for the benefit of wildlife, fisheries, and recreation: Now, therefore, be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, the Secretary of the United States Department of the Interior, and the Director of the Office of Surface Mining.''

POM–106. A resolution adopted by the Dakota Dunes Community Improvement District, Dakota Dunes, South Dakota relative to the Missouri River Master Water Control Manual; to the Committee on Environment and Public Works.

POM–107. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

''SENATE CONCURRENT MEMORIAL 1004

''Whereas, a modern, well-maintained, efficient and interconnected system is vital to the economic growth, health and global competitiveness of this state and the entire nation; and

''Whereas, the highway network is the backbone of a transportation system for the movement of people, goods and intermodal connections; and

''Whereas, it is critical that highway transportation needs are addressed through appropriate transportation plans and program investments; and

''Whereas, the 1991 intermodal surface transportation efficiency act established the concept of a one hundred fifty-five thousand mile national highway system that includes the interstate system; and

''Whereas, on December 9, 1994, the United States department of transportation transmitted to Congress a one hundred fifty-nine thousand mile proposed national highway system that identified one hundred four ports, one hundred forty-three airports, one hundred ninety-one rail-truck terminals, three hundred twenty-one Amtrak stations and three hundred nineteen transit terminals; and

''Whereas, the 1991 intermodal surface transportation efficiency act requires that the national highway system and interstate maintenance funds not be released to the states if the national highway system is not approved by September 30, 1995; and

''Whereas, the uncertainty associated with the future of the national highway system precludes the possibility of this state effectively undertaking necessary, properly developed planning and programming activities.

''Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

''1. That the Congress of the United States enact legislation to approve and designate the national highway system no later than September 30, 1995 and to provide essential funding to this state and all other states for the maintenance, preservation and, where necessary, the improvement of the Congressionally designated national highway system.

''2. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation.''

POM–108. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

''HOUSE CONCURRENT MEMORIAL 2005

''Whereas, the United States Congress is currently attempting to formulate long-term solutions to the myriad environmental concerns facing our nation; and

''Whereas, numerous environmental laws, rules, regulations and policy directives create the risk of imminent loss of precious national resources; and

''Whereas, numerous environmental laws, rules, regulations and policy directives impede the ability of states and their subdivisions to provide vital government services to their citizens, threaten the survival of essential industries and jeopardize the health, safety and welfare of our nation's citizens; and

''Whereas, emergency legislation providing immediate short-term relief from federal environmental laws, rules, regulations and policy directives while the United States Congress crafts long-term solutions to our nation's environmental problems would allow the continued provision of government services and the survival of industries and would protect the health, safety and welfare of our nation's citizens until such time as long-term solutions are found.

''Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

''1. That the One Hundred Fourth Congress of the United States enact legislation that:

''(a) Places a moratorium on the issuance of new environmental rules, regulations and policy directives by the Environmental Protection Agency, the United States Department of the Interior, the United States Department of Agriculture, the United States Army Corps of Engineers, the National Marine Fisheries Service and the Council on Environmental Quality until such time as the Congress has formulated long-term solutions to the environmental concerns facing our nation.

''(b) Allows for the continued operation of current contracts and the continued provision of vital government services notwithstanding existing environmental laws, rules, regulations and policy directives until such time as the United States Congress has formulated long-term solutions to the environmental concerns facing our nation.

''(c) Allows timber harvests and sales in national and tribal forests to go forward up to the maximum quantities specified in current forest plans notwithstanding existing environmental laws, rules, regulations and policy directives until such time as the United States Congress has formulated long-term solutions to the environmental concerns facing our nation.

''2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the Speaker of the United States House of Representatives, the President of the United States Senate and to each Member of the Arizona Congressional Delegation.''

POM–109. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Environment and Public Works.

''HOUSE CONCURRENT MEMORIAL 2002

''Whereas, current federal restrictions on the use of chlorofluorocarbons such as those found in the air conditioning process are based on unreliable and unsubstantiated ''scientific'' studies conducted by individuals utilizing propagandist scare tactics in support of their own co-called environmentalist agenda; and

''Whereas, by its very nature, research on the effects of chlorofluorocarbons fails to assess entirely the long-term impacts that the use of this class of compounds may have on the environment and particularly on the ozone. Observation of an alleged ''hole'' in the earth's ozone layer is a recent and unproven phenomenon, and short-term research cannot possibly predict with any degree of accuracy a potential threat that chlorofluorocarbons might pose to the environment. Indeed, studies on alleged ozone depletion do not indicate lasting repercussions resulting from the use of chlorofluorocarbons, nor that this occurrence is even a consequence of human activity; and

''Whereas, observations made by the scientific community regarding depletion of the ozone layer have failed to assign responsibility of this occurrence to any particular chemical, class of chemicals or chemical process. Furthermore, these studies have not conclusively shown there to be a continued threat to the ozone layer into the future, nor have they recommended a revision in public policy or social life-style regarding the use of chlorofluorocarbons; and

''Whereas, chlorofluorocarbons in the earth's atmosphere are minuscule when compared to the vastness of the ozone layer, and it is presumptuous to assume that they can substantially affect it. Any trivial benefits to be gained from prohibiting the use of chlorofluorocarbons do not warrant the economic and social costs resulting from such drastic and unnecessary measures.

''Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

''1. That the Members of the United States Congress and the officials of the Environmental Protection Agency immediately initiate efforts to repeal the federal ban on the use of chlorofluorocarbons.

''2. That the Secretary of State of the State of Arizona transmit copies of this Concurrent Memorial to each Member of the United States House of Representatives and the United States Senate and to the director of the Environmental Protection Agency.''

POM–110. A resolution adopted by the House of the Legislature of the State of Arkansas; to the Committee on Environment and Public Works.

''RESOLUTION

''Whereas, catastrophic natural disasters are occurring with greater frequency, a trend that is likely to continue for several decades, according to prominent scientists; and,

''Whereas, portions of Arkansas lie in the area of the New Madrid fault and are susceptible to earthquake damage; and,

''Whereas, the federal government has responded to disasters by appropriating relief funds which provide only short-term assistance to victims, but long-term burdens to taxpayers; and,

''Whereas, the increasing reliance on federal disaster relief has overshadowed the need to perform more comprehensive disaster planning and rely on private insurance for protection against disaster risks; and,

''Whereas, many Arkansans are not able to obtain adequate insurance coverage for the risk of natural disaster, particularly earthquake damage; Now therefore, be it

''*Resolved by the House of Representatives of the Eightieth General Assembly of the State of Arkansas*, That the House of Representatives hereby requests the United States Congress to pass legislation, in the 104th Congress, which would enable those who live in areas of high risk from natural disasters to assume more responsibility for their actions by insuring against such risks. We believe Congress should create a pooling mechanism for the spreading of disaster risk, in order to encourage the continued availability and affordability of private insurance.

''*Be it further resolved*, Upon approval of this Resolution, a copy hereof shall be transmitted by the Chief Clerk of the House of Representatives, to the President of the Senate and Speaker of the House of the United States Congress.''

POM–111. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Environment and Public Works.

''SENATE JOINT RESOLUTION NO. 71

''Whereas, the Honorable James H. Quillen has served the good people of Tennessee's First Congressional District as their representative to the U.S. Congress for the past thirty-two years with the utmost in acumen, perspicacity, devotion and industry; and

''Whereas, as a member of the 88th U.S. Congress through the 104th U.S. Congress, James H. Quillen has distinguished himself as a true statesman and an exemplary elected official who can be relied upon to carry out the people's will expeditiously; and

''Whereas, throughout his outstanding legislative career, Congressman Quillen has proven himself to be a good friend and stalwart supporter of the courageous veterans who risked their lives in time of war to defend and preserve the many blessed freedoms our nation and our state enjoy today; and

''Whereas, Congressman James H. Quillen has contributed significantly to the quality and availability of health care in the Northeast Tennessee community; and

''Whereas, he was instrumental in securing passage of the legislative initiative known as the Teague-Cranston legislation, which legislation provided for the establishment of a number of new medical colleges in conjunction with already existing Veterans Affairs facilities; and

''Whereas, Congressman Quillen also secured the addition of Mountain Home Veterans Affairs Center to the list of facilities covered under the terms of the Teague-Cranston legislation; and

''Whereas, James H. Quillen was also instrumental in the establishment of the School of Medicine at East Tennessee State University, which now bears his name; and

''Whereas, he also worked assiduously to secure federal funding for the construction of the modern Veterans Affairs Medical Center at Mountain Home; and

''Whereas, because of the important role he played in the establishment of this stellar medical facility, it is most appropriate that the Mountain Home Veterans Affairs Medical Center should bear the honorable name of James H. Quillen: Now, therefore, be it

''*Resolved by the Senate of the Ninety-Ninth General Assembly of the State of Tennessee, the House of Representatives concurring,* That this General Assembly hereby most feverently urges and encourages the members of Tennessee's delegation to the U.S. Congress to introduce and work for the passage of legislation to redesignate the Mountain Home Veterans Affairs Medical Center as ''The James H. Quillen Veterans Affairs Medical Center'' at Mountain Home, Tennessee in honor of Congressman Quillen's superlative leadership and vision as a member of the U.S. Congress and his lifetime of meritorious service to his constituents in Northeast Tennessee.

''*Be it further resolved,* That the Chief Clerk of the Senate is directed to transmit a certified copy of this resolution to each member of Tennessee's congressional delegation; the Speaker and the Clerk of the U.S. House of Representatives; and the President and the Secretary of the U.S. Senate.''

POM–112. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Works.

''SENATE CONCURRENT RESOLUTION NO. 33

''Whereas, the Endangered Species Act originally was intended to protect threatened and endangered flora and fauna but has become a means to effect broader changes in land and water management; and

''Whereas, overdue for reauthorization by the Congress of the United States, the Endangered Species Act does not currently provide for adequate input by the states into the process of adding new species to the endangered species list; and

''Whereas, the United States Fish and Wildlife Service is poised to add the Arkansas River shiner to the endangered species list; and

''Whereas, the 74th Legislature of the State of Texas does not support the United States Fish and Wildlife Service's claim that the species is in danger of extinction in the foreseeable future because of habitat loss from the diversion of surface water, stream dewatering/depletion, water quality degradation, construction of impoundments, or possible inadvertent collection by the commercial bait fish industry or from competition with the introduced Red River shiner; and

''Whereas, this listing could effectively remove from the state, the cities, and local water districts control over the Ogallala Aquifer; Now, therefore, be it

''*Resolved,* That the 74th Legislature of the State of Texas hereby reject the suggestion by the United States Fish and Wildlife Service that it has failed to manage it natural resources in the Ogallala Aquifer in an environmentally conscious manner; and, be it further

''*Resolved,* That the 74th Legislature of the State of Texas hereby express its adamant opposition to the addition of the Arkansas River shiner to the endangered species list until such time as the Endangered Species Act has been reauthorized and amended by the Congress of the United States; and, be it further

''*Resolved,* That the 74th Legislature of the State of Texas hereby request the Secretary of Interior to direct the United States Fish and Wildlife Service to inform the governor, the lieutenant governor, the speaker of the house of representatives, the attorney general, and the Texas Parks and Wildlife Department, which is the state fish and wildlife agency, of any actions contemplated to further the process of listing the Arkansas River shiner as an endangered species; and, be it further

''*Resolved,* That the Texas Secretary of State forward official copies of this resolution to the Secretary of the Department of Interior of the United States, to the President of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress.''

POM–113. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Environment and Public Works.

''HOUSE JOINT MEMORIAL 4028

''Whereas, the establishment of the National Highway System (NHS) is deemed necessary to ensure that our citizens are connected to the rest of the nation and the world, and that all citizens of our nation are connected to the natural resources, national parks, cities, and other points of national importance now and in the future; and

''Whereas, the provisions of the Intermodal Surface Transportation Efficiency Act (ISTEA) provide States with overall responsibility for NHS route and project selection; and

''Whereas, the planning and public participation provisions of the ISTEA ensure that Metropolitan Planning Organizations (MPO), other transportation agencies, and the general public have a significant role in the NHS program; and

''Whereas, an equitable process for designation of NHS routes as defined by the ISTEA and Federal Highway Administration (FHWA) rules and procedures has been established; and

''Whereas, the flexibility and transferability provisions in Section 1006 of the ISTEA, describing the NHS, enable States to address critical transportation needs identified in the MPO and State transportation planning processes; and

''Whereas, the FHWA has submitted their proposed designations to Congress; and

''Whereas, after September 30, 1995, no Federal funds made available for the National Highway System or the Interstate Maintenance program may be apportioned unless a law has been approved designating the National Highway System; Now therefore, Your Memorialists respectfully urge that Congress pass legislation approving the National Highway System (NHS) at the earliest date possible, but no later than September 30, 1995.

''*Be it resolved,* That copies of this Memorial be immediately transmitted to the President and the Secretary of the United States Senate, to the Speaker and the Clerk of the United States House of Representatives, and to each member of this state's delegation to Congress.''

POM–114. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Environment and Public Works.

''ENROLLED JOINT RESOLUTION NO. 3,

''Whereas, the Federal Government, through the United States Fish and Wildlife Service, and under the authority of the Endangered Species Act, is reintroducing wolves into Yellowstone National Park; and

''Whereas, wolves are predatory animals, and left with no population control, may pose a threat to wildlife and domestic livestock outside the boundaries of Yellowstone National Park; and

''Whereas, the Endangered Species Act, and its implementing regulations, will provide extensive protection of the wolves, even outside the boundaries of Yellowstone National Park, making adequate control of the wolf population impossible; and

''Whereas, Yellowstone National Park will provide ample food, space and protection in order to sustain a viable population of wolves and will also provide viewing opportunities for the general public; and

''Whereas, hunting of the wolves outside the boundaries of Yellowstone National Park will provide protection for resident wildlife populations and the livestock industry and will assist in keeping the wolves inside the boundaries of Yellowstone National Park; Now, therefore, be it

''*Resolved by the members of the Legislature of the State of Wyoming:*

''Section 1. That the United States Congress amend the Federal Endangered Species Act to expressly provide for the State of Wyoming to control the hunting and population of wolves found outside the boundaries of Yellowstone National Park.

''Section 2. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Secretary of the Interior and to the Wyoming Congressional Delegation.''

POM–115. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Environment and Public Works.

''A LEGISLATIVE RESOLUTION

''Whereas, the United States Fish and Wildlife Service has been petitioned to include the black-tailed prairie dog (cynomys ludovicianus) to the list of candidates species to be listed as a threatened or endangered species pursuant to the Endangered Species Act of 1973; and

''Whereas, the black-tailed prairie dog (cynomys ludovicianus) is very prolific and has habitat over a large part of Wyoming public and private land; and

''Whereas, the prairie dog destroys all ground cover in its habitat; and

''Whereas, this destruction causes soil erosion leading to increased sediment in streams causing poor habitat for fish; and

''Whereas, this loss of ground cover is very detrimental to feed for livestock and wildlife. Now, therefore, be it

''*Resolved by the undersigned members of the Legislature of the State of Wyoming:*

''Section 1. The state of Wyoming will not tolerate the designation of the black-tailed prairie dog (cynomys ludovicianus) as a threatened or endangered species.

''Section 2. The United States Fish and Wildlife Service should deny any petition requesting the black-tailed prairie dog (cynomys ludovicianus) be further considered for listing as a threatened or endangered species under the Endangered Species Act of 1973.

''Section 3. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Acting Director of the Wyoming Game and Fish Department, to the lead United States Fish and Wildlife Service Field Office for consideration of the referenced petition and to the Wyoming Congressional Delegation.''

POM–116. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Environment and Public Works.

''A LEGISLATIVE RESOLUTION

''Whereas, a modern, well maintained, efficient and interconnected transportation system is vital to the economic growth, the

health and the global competitiveness of the state of Wyoming and the entire nation; and

''Whereas, the highway network is the backbone of a transportation system for the movement of people, goods, and intermodal connections; and

''Whereas, it is critical to effectively address highway transportation needs through appropriate transportation plans and program investments; and

''Whereas, the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) established the concept of a 155,000 mile national highway system which includes the interstate system; and

''Whereas, on December 9, 1994, the United States department of transportation transmitted to Congress a 159,000 mile proposed national highway system which identified 104 port facilities, 143 airports, 191 rail-truck terminals, 321 Amtrak stations and 319 transit terminals; and

''Whereas, ISTEA requires that the national highway system and interstate maintenance funds not be released to the states if the system is not approved by September 30, 1995; and

''Whereas, the uncertainty associated with the future of the national highway system precludes the possibility of the state to effectively undertake the necessary, properly developed planning and programming activities; Now, therefore, be it

''Resolved by the members of the fifty-third Wyoming Legislature;

''Section 1. That the process for developing and approving the national highway system should be accelerated and that the Congress of the United States of America should pass legislation which approves and designates the national highway system no later than September 30, 1995.

''Section 2. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Governor of the state of Wyoming and to the Wyoming Congressional Delegation.''

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN (for himself, Mr. LEVIN, Mr. ROTH, Mr. GLENN, and Mr. COHEN):

S. 790. A bill to provide for the modification or elimination of Federal reporting requirements; read the first time.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 791. A bill to provide that certain civil defense employees and employees of the Federal Emergency Management Agency may be eligible for certain public safety officers death benefits, and for other purposes; to the Committee on Governmental Affairs.

By Ms. MOSELEY-BRAUN (for herself, Mr. BURNS, and Mr. ROBB):

S. 792. A bill to recognize the National Education Technology Funding Corporation as a nonprofit corporation operating under the laws of the District of Columbia, to provide authority for Federal departments and agencies to provide assistance to such corporation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMPSON (for himself, Mr. MOYNIHAN, and Mr. KYL):

S. 793. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from income tax for certain common investment funds; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. INOUYE, Mr. SANTORUM, Mr. CRAIG, Mr. COHEN, Mr. MACK, Mr. PRESSLER, Mr. BURNS, Mr. KERREY, Mr. GRAHAM, Mr. COATS, Mr. GORTON, Mr. PACKWOOD, Mr. CAMPBELL, Mr. DORGAN, Mr. MCCONNELL, Mr. THURMOND, Mr. DOLE, Mr. JEFFORDS, Mr. HELMS, Mr. BOND, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. INHOFE, Mr. ABRAHAM, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HATCH, Mr. NICKLES, Mr. HATFIELD, Mr. KEMPTHORNE, Mr. SPECTER, Mr. COCHRAN, Mr. PRYOR, Mr. DASCHLE, Mr. HEFLIN, Mr. COVERDELL, Mr. LOTT, and Mr. CONRAD):

S. 794. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COHEN:

S. 795. A bill for the relief of Pandelis Perdikis; to the Committee on the Judiciary.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 796. A bill to provide for the protection of wild horses within the Ozark National Scenic Riverways, Missouri, and prohibit the removal of such horses, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S. 797. A bill to provide assistance to States and local communities to improve adult education and family literacy, to help achieve the National Education Goals for all citizens, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CONRAD (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. BRADLEY, and Mr. ROCKEFELLER):

S. 798. A bill to amend title XVI of the Social Security Act to improve the provision of supplemental security income benefits, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. LEVIN, Mr. ROTH, Mr. GLENN, and Mr. COHEN):

S. 790. A bill to provide for the modification or elimination of Federal reporting requirements; read the first time.

FEDERAL REPORTS ELIMINATION AND SUNSET ACT

Mr. MCCAIN. Mr. President, on behalf of Senator LEVIN and myself, I'm pleased to introduce the Federal Reports Elimination and Sunset Act of 1995. This legislation would terminate or modify the statutory requirement for over 200 mandatory reports to Congress, and sunset most other mandatory reports after 4 years. This legislation would also require the President to identify which reports he feels are unnecessary or wasteful in his next budget submission of Congress, which will hopefully spur Congress to swiftly dispose of those specific reports.

This legislation is a combination of two separate bills that Senator LEVIN and I have previously introduced, both of which were passed by the Senate as amendments to S. 244, The Paperwork Reduction Act. The intent of the Federal Reports Elimination and Sunset Act is to end the needless expense of hundreds of millions of taxpayer dollars each year on many Federal reports that are of minor value to the Congress and our constituents.

Mr. President, by passing this legislation the Senate can help bring to an end one of Congress' most unessential and burdensome practices. Each year members of Congress add layer upon layer of onerous paperwork requirements upon Executive Branch agencies by mandating various reports. This problem has a very real and substantive cost to taxpayers in terms of wasting hundreds of millions of dollars, in addition to taking up untold numbers of work-hours by federal employees, and untold amounts of other agency resources that could be far better utilized in more worthy endeavors.

It is astounding that in 1993 the Congress required the Office of the President and Executive branch agencies to prepare over 5,300 reports! This is a problem that is reaching truly epic proportions of unnecessary and wasteful paper shuffling! This practice has been criticized by both Vice President Gore in his ''National Performance Review,'' and the Senate's members of the Joint Committee on the Organization of Congress. The Joint Committee stated that:

> These reports should not continue in perpetuity without some clear evidence that the report serves a useful policy purpose. The proliferation of mandatory agency reports has been a matter of wide concern in the Congress and in the Executive Branch.

Furthermore, in 1992 the GAO found that:

In the 101st Congress, a single House committee received over 800 reports from Federal agencies in response to mandates from the Congress;

Another 600 reports were sent to the same committee in the 102d Congress;

The Office of Management and Budget had to submit 38 reports to a single House committee just to comply with the 1990 Budget Reconciliation Act;

Are these reports necessary? Does Congress really need to force every Federal agency to keep a small army of bureaucrats on the payroll solely to satisfy its insatiable appetite for reports? I think the answer is clearly no, and I'm confident most people sincerely interested in reducing the size and cost of Government will agree.

While I firmly believe we should sunset most annual or semi-annual mandatory reporting requirements, I in no way wish to contend that there are not many reports required by Congress that are vitally important. The recurring flow of timely and accurate information from the executive branch to the Congress is essential to our oversight responsibilities as Members, and as a legislative body. However, I will strongly contend that the cumulative weight and cost of the reporting mandates we've enacted year after year has gotten totally out of hand.

The problem of foisting massive reporting requirements on Federal agencies is not only very real, it's extremely expensive. The Department of Agriculture alone spent over $40 million in taxpayers money in 1993 to produce the 280 reports it was required to submit to the Congress. That is astounding, Mr. President—$40 million in taxpayer dollars spent by a single department last year on reports mandated by the Congress. The Department of Agriculture isn't even the leader in this respect, however, because the Department of Defense has estimated that it must prepare 600 reports each year for Congress! At a time when our country is struggling to alleviate the burdens of the middle class and also address the urgent needs of our citizenry, this is an especially egregious waste of money.

Let's consider this startling cost of reports at the USDA in another context: the money the Congress forced the Department of Agriculture to fritter away on reporting mandates last year could have provided services to an additional 100,000 low-income women and children under the USDA's WIC program. Think about that, Mr. President; an additional 100,000 women and children could have been provided vital nutritional and health services with the funds the USDA had to spend researching and preparing hundreds of reports! That same $40 million could have enrolled another 10,000 disadvantaged children in Head Start, as well! Imagine what the cost to taxpayers was to produce the more than 5,300 reports that the Congress required of Federal agencies in 1993!

Furthermore, this problem is getting worse and worse with each passing year. The GAO stated that in 1970, the Congress mandated only 750 recurring reports from Federal agencies. Now we have spiralled well past 5,300, and the GAO determined that ''Congress imposes about 300 new requirements on Federal agencies each year!'' Clearly, Mr. President, the wasteful blizzard of paperwork that Vice President Gore criticized is becoming an avalanche, and it's time for the Senate to take decisive action to remedy it.

This legislation would terminate the statutory requirement for all annual or recurring congressionally-mandated reports four years after it is signed into law, with two specific exceptions. The reports to be exempted are those required under the Inspector Generals Act of 1978 and the Chief Financial Officers Act of 1990. The Inspector Generals Act requires the Congress to be advised of activities regarding investigations into waste, fraud, and abuse in Federal agencies; and the CFO Act requires agencies to provide financial information about their short and long-term management of agency resources.

I believe the reports required by these two laws are very important and merit continuation, and I also recognize that there are many other reports that my colleagues feel have great value because of the information they provide to Congress. Such reports can simply be reauthorized at any time in the 4 years before this legislation would sunset them.

I want to commend my colleague, Senator LEVIN, for his considerable contribution to this legislation. Senator LEVIN and his staff worked for months in developing a list of over 200 mandatory reports that should either be promptly eliminated or modified in order to lessen the burdens and costs that the Congress has placed on Federal agencies. The provisions of this bill that he developed will terminate the production of some of the most dubious examples of unnecessary paperwork shuffling by Federal agencies, and I thank him for his valuable work in this area. The combined impact of the legislation we are introducing today will certainly help remove the millstone of unnecessary and costly paperwork that Congress has hung around the neck of the Federal Government for too long.

Mr. President, I am very pleased that the chairman and ranking member of the Governmental Affairs Committee, Senator ROTH and Senator GLENN, respectively, are cosponsors of this legislation. I further want to thank both Senator ROTH and Senator GLENN for clearing this bill to be placed directly on the Senate Calendar upon introduction, so that no further action by the committee is necessary. I hope it will be passed by the full Senate in the near future.

Mr. LEVIN. Mr. President, I am pleased to introduce along with Senators MCCAIN, ROTH, GLENN, and COHEN the Federal Reports Elimination and Sunset Act of 1995, which eliminates and modifies over 200 outdated or unnecessary congressionally mandated reporting requirements and also places a sunset on those reports with an annual, semi-annual, or other regular periodic reporting requirement 4 years after the bill's enactment. The legislation is designed to improve the efficiency of agency operations by eliminating paperwork generated and staff time spent in producing unnecessary reports to Congress.

The legislation that we are introducing today is similar to the bill Senator COHEN and I introduced last year, and is the product of a thorough effort to identify those congressionally-mandated agency reporting requirements that have outlived their usefulness and now serve only as an unnecessary drain on agency resources—resources that could be devoted to more important program use. The Congressional Budget Office estimates that enactment of this legislation could result in savings of up to $5 to $10 million without even factoring in the savings from the sunset provision.

In 1985, when a previous Reports Elimination Act was passed, there were approximately 3,300 reporting requirements. The 1985 act affected only 23 of these reports. Today, there are over 5,300 reporting requirements. Some estimates of the annual cost of meeting these reporting requirements are as high as $240 million a year, and the GAO reports that Congress imposes close to 300 new requirements every year.

This bill is the product of an extensive process that started with recommendations from executive and independent agencies. Senator COHEN and I wrote to all 89 executive and independent agencies and asked that they identify reports required by law that they believe are no longer necessary or useful and, therefore, that could be eliminated or modified. We stressed the importance of a clear and substantiated justification for each recommendation made. We received responses from about 80 percent of the agencies. For the most part, the agencies made a serious effort to review and recommend a respectable number of reporting requirements for elimination.

We then went to the chairman and ranking member of each of the relevant Senate committees—for their review and comment—the recommendations made by the agencies under their respective jurisdictions. We also asked that the committees provide us with any additional recommendations for eliminations or modifications that they might have.

Many of the committees responded to the request. Those responses were generally supportive of the subcommittee's efforts and most contained only a few changes to the agency recommendations. Those changes were primarily requests by committees to retain reports under their jurisdiction because the information contained in the report is of use to the committee or, in some cases, of use to outside organizations.

After this extensive review and comment period, Senator COHEN and I introduced S. 2156, the Federal Reports Elimination and Modification Act, on May 25, 1994. As introduced, the bill contained nearly 300 recommendations for eliminations or modifications. Senators GLENN, ROTH, STEVENS, and MCCAIN cosponsored that bill. Shortly after the introduction of S. 2156, Senator COHEN and I again wrote to all the committees and asked for comments on the bill as introduced.

S. 2156 was unanimously approved by the Governmental Affairs Committee on August 2, 1994. Unfortunately, the Senate was unable to act on S. 2156 before the end of the 103d Congress. But I am more hopeful that both Houses of Congress will pass this very timely piece of legislation this year. In fact, in March 1995, the Senate agreed to include the language of this bill in the form of two separate amendments to the 1995 Paperwork Reduction Act, S. 244.

The amendments, however, were struck in conference. The chairman of the House Committee on Government Reform and Oversight agreed, however,

to support similar legislation in a free-standing bill.

Under this bill, 157 reports will be eliminated and 61 will be modified. The legislation also includes a modified version of Senator MCCAIN's sunset provision which will facilitate Congress's review of these reports. Rather than undergoing the same lengthy process of assessing the usefulness of each and every reporting requirement on a periodic basis, the sunset provision will eliminate those reports with a annual, semi-annual, or regular periodic reporting requirement 4 years after the bill's enactment, while allowing Members of Congress to re-authorize those reports it deems necessary in carrying out effective congressional oversight. The sunset provision does not apply to any reports required under the Inspector General Act of 1978 or the Chief Financial Officers Act of 1990.

Because the Senate had already passed similar legislation earlier this year, we will be seeking to place the bill directly on the calendar for the Senate's immediate consideration.

The enactment of this legislation is long overdue. Congressional staffers are being inundated with reports that are never read and are simply dropped into file cabinets or wastebaskets, never to be seen again. We are introducing this bipartisan legislation in the hopes that Congress will act quickly to plug this drain on needed resources caused by unnecessary and extraneous reporting requirements.

Mr. COHEN. Mr. President, I am pleased to be an original cosponsor of S. 790, the Federal Reports Elimination and Sunset Act of 1995, legislation to eliminate or modify over 200 statutory reporting requirements that have outlived their usefulness and sunset many others.

Senators LEVIN, MCCAIN, and I offered the text of this bill as two separate amendments, which were accepted by the Senate, during the debate on the Paperwork Reduction Act earlier this year. Because of the concerns of House conferees that the House Committees had not had adequate time to review the various reports targeted for elimination or sunset, the amendments were dropped in conference. The House conferees assured us, however, that the House would act quickly to take up separate legislation combining the two amendments.

The issue of eliminating unnecessary government reporting requirements is an area that Senator LEVIN and I have worked on for a number of years in our capacity as chairman and ranking minority member of the Governmental Affairs Subcommittee on Oversight of Government Management. The text of the amendment that Senator LEVIN and I offered to the Paperwork Reduction Act was based on legislation we introduced last Congress which CBO estimated would reduce agencies' reporting costs by $5 million to $10 million annually. The legislation was the product of more than a year's worth of discussions with Government agencies and congressional committees.

An example of the type of report this legislation will eliminate is an annual Department of Energy report on naval petroleum and oil shale reserves production. The same data in this report is included in the Naval Petroleum Reserves Annual Report. Other provisions of the bill will consolidate information to reduce the number of reports required. For example, the Department of Labor's annual report will be modified to include the Department's audited financial statements and, thereby, eliminate the need for a separate annual report for all money received and disbursed by the Department. Finally, the bill will also eliminate reports that are simply no longer necessary—reports that were useful at the time they were required but stopped serving a useful purpose and were kept on the books because no one was looking closely enough at them.

The bill also sunsets in 4 years reports made on a regular basis. Under the bill, the sunset will not apply to reports triggered by specific events such as a report to Congress required under the War Powers Act as a result of certain actions. The sunset will also not apply to reporting requirements required by the Inspector General Act or the Chief Financial Officers Act. The sunset provision will force Congress to periodically review mandated reporting requirements and reauthorize those that are still serving a valid purpose. The sunset is based on legislation introduced by Senator MCCAIN and will save additional taxpayers' dollars.

In closing, I believe this legislation is a reasonable approach to eliminating unnecessary reporting requirements and it is consistent with efforts by the Congress to reinvent Government and make it more efficient. The legislation is intended to reduce the paperwork burdens placed on Federal agencies, streamline the information that flows from these agencies to the Congress, and save millions of taxpayers' dollars. I hope the congress will act expeditiously to pass this legislation.

By Mr. COCHRAN (for himself and Mr. LOTT):

s. 791. A bill to provide that certain civil defense employees and employees of the Federal Emergency Management Agency may be eligible for certain public safety officers death benefits, and for other purposes; to the Committee on Governmental Affairs.

PUBLIC SAFETY OFFICERS BENEFITS ACT EXTENSION

● Mr. COCHRAN. Mr. President, today I am introducing legislation to extend coverage under the Public Safety Officers Benefits Act to employees of the Federal Emergency Management Agency [FEMA] and employees of State and local emergency management and civil defense agencies who are killed or disabled in the line of duty.

The Public Safety Officers Benefits Act provides benefits to eligible survivors of a public safety officer whose death is the direct result of a traumatic injury sustained in the line of duty. The act also provides benefits to those officers who are permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty.

The act now covers State and local law enforcement officers and fire fighters, Federal law enforcement officers and fire fighters, and Federal, State, and local rescue squads and ambulance crews. However, an employee of a State or local emergency management, or civil defense agency, or an employee of FEMA, who is killed or permanently disabled performing his or her duty in responding to a disaster is not covered under the act.

The legislation I am introducing today will remedy this situation by extending the act to those employees. This will ensure that the survivors and family members of an employee killed in the line of duty will receive benefits and that an employee permanently and totally disabled as a result of injury sustained in the line of duty will also receive the benefits of the act.

During his confirmation hearing in the last Congress, FEMA Director James Lee Witt said that emergency management and civil defense employees put their lives on the line almost every time they respond to an event. Enactment of this legislation will provide them with some assurance that, should death or disabling injury result from the performance of their duty, their families will receive survivor benefits or they will receive disability benefits.

I hope my colleagues will carefully consider this legislation and join me in support of its enactment.●

By Ms. MOSELEY-BRAUN (for herself, Mr. BURNS, and Mr. ROBB):

S. 792. A bill to recognize the National Education Technology Funding Corporation as a nonprofit corporation operating under the laws of the District of Columbia, to provide authority for Federal departments and agencies to provide assistance to such corporation, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION ACT

Ms. MOSELEY-BRAUN. Mr. President, I introduce the National Education Technology Funding Corporation Act, legislation designed to connect public schools and public libraries to the information superhighway.

PUBLIC EDUCATION

Mr. President, if there is any objective that should command complete American consensus, it is to ensure that every American has a chance to succeed. That is the core concept of the American dream—the chance to achieve as much and to go as far as

your ability and talent will take you. Public education has always been a part of that core concept. In this country, the chance to be educated has always gone hand in hand with the chance to succeed.

Yet, as I have stated time and time again, education is more than a private benefit, it is also a public good. My experiences as a legislator have shown me that the quality of public education affects the entire community. Education prepares our work force to compete in the emerging global economy. It increases our productivity and competitive advantages in world markets. It also promotes our economy and the standard and quality of living for our people.

TECHNOLOGY

Nonetheless, I am convinced that it will be difficult if not impossible for us to prepare our children to compete in the emerging global economy unless we change the current educational system. If American students are to compete successfully with their foreign counterparts, systemic school reform must occur. And that means taking into account and addressing all aspects of the educational system.

Mr. President, the increased competition created by the emerging global economy requires teachers and students to transform their traditional roles in many ways. It requires teachers to act as facilitators in the classroom, guiding student learning rather than prescribing it. It also requires students to construct their own knowledge, based on information and data they manipulate themselves.

Technology can help teachers and students play the new roles that are being required of them. Technology can help teachers report and chart student progress on a more individualized basis. It can also allow them to use resources from across the globe or across the street to create different learning environment for their students without ever leaving the classroom. On the other hand, technology can allow students to access the vast array of material available electronically and to engage in the analysis of real world problems and questions.

FIRST GAO REPORT

A recent report released by the General Accounting Office concluded that our Nation's education technology infrastructure is not designed or sufficiently equipped to allow our children to take advantage of the benefits technology offers.

Last year, I asked the General Accounting Office [GAO] to conduct a comprehensive, nationwide study of the condition of our Nation's public schools. In responding to my request, the General Accounting Office surveyed a random sample of our Nation's 15,000 school districts and 80,000 public schools from April to December 1994. Based on responses from 78 percent of the schools sampled, GAO began preparing five separate reports on the condition of our Nation's public schools.

The first GAO report, which was released on February 1, 1995, examined the education infrastructure needs for our Nation's public elementary and secondary schools. As expected, this report made clear what most of us already knew; that our schools are deteriorating and we need to fix them. More specifically, the GAO report concluded that our Nation's public schools need $112 billion to restore their facilities to good overall condition.

SECOND GAO REPORT

The most recent GAO report, which was released on April 4, 1995, concluded that more than half of our Nation's public schools lack six or more of the technology elements necessary to reform the way teachers teach and students learn including: computers, printers, modems, cable TV, laser disc players, VCR's, and TV's.

In fact, the GAO report found that more of our Nation's schools do not have the education technology infrastructure necessary to support these important audio, video, and data systems. For example, their report states that: 86.8 percent of all public schools lack fiber-optic cable; 46.1 percent lack sufficient electrical wiring; 34.6 percent lack sufficient electrical power for computers; 51.8 percent lack sufficient computer networks; 60.6 percent lack sufficient conduits and raceways; 61.2 percent lack sufficient phonelines for instructional use; and 55.5 percent lack sufficient phonelines for modems.

LOCAL PROPERTY TAXES

Mr. President, these results are simply unacceptable. There is absolutely no reason why, in 1995, all of our Nation's children should not have access to the best education technology resources in the world.

The most recent GAO report did find that students in some schools are taking advantage of the benefits associated with education technology. For example, advanced chemistry students at Centennial High School in Champaign, IL, are developing experiments that allow them to move parts of molecules on their computer screens in response to their own computer commands. In one simulation, students watch the orbitals of electrons in reaction to imposed actions. Another simulation demonstrates the ionization of atoms—how the size of atoms changes when ions are added or subtracted.

The bottom line, however, is that we are still failing to provide all of our Nation's children with education technology resources like those being provided at Centennial High School because the American system of public education has forced local school districts to maintain our Nation's education infrastructure primarily with local property taxes.

For a long time, local school districts were able to meet that responsibility. Local property taxes, however, are now all too often an inadequate source of funding for public education. What is even worse is that this financing mechanism makes the quality of public education all too dependent on local property value.

As a result, the second GAO report found that, on average, only 8 percent of local school bond proceeds were spent on computers and telecommunications equipment. That is, for the average $6.5 million bond issue, only $155,600, or 2 percent was provided for the purchase of computers and only $381,100, or 6 percent for the purchase of telecommunications equipment.

Yet, most States continue to force local school districts to rely increasingly on local property taxes for public education, in general, and for education technology, in particular. In Illinois, for example, the local share of public education funding increased from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State share fell from 43 to 34 percent during this same period.

The Federal Government must also accept a share of the blame for failing to provide our Nation's children with environments conducive to learning. The Federal Government's share of public education funding has fallen from 9.1 percent during the 1980–81 school year to 5.6 percent during the 1993–94 school year.

GOALS 2000

Mr. President, Congress passed the goals 2000: Educate America Act which President Clinton signed into law on March 31, 1994. I support this legislation because it promises to create a coherent, national framework for education reform founded on the national education goals. Nonetheless, I firmly believe that it is inherently unfair to expect our children to meet national performance standards if they do not have an equal opportunity to learn.

EDUCATION INFRASTRUCTURE ACT

That is why I introduced the Education Infrastructure Act last year. This legislation addresses the needs highlighted in the first GAO report by helping local school districts ensure the health and safety of students through the repair, renovation, alteration, and construction of school facilities. More specifically, this legislation authorizes the Secretary of Education to make grants to local school districts with at least a 15 percent child poverty rate and urgent repair, renovation, alteration, or construction needs.

INFORMATION SUPERHIGHWAY

Mr. President, President Clinton and Vice President Gore have taken leadership roles in addressing the needs highlighted in the most recent GAO report. On September 15, 1993, the information infrastructure task force created by the Vice President released its report—''National Information Infrastructure: Agenda for Action.'' This report urges the Federal Government to support the development of the information superhighway—the metaphor used to describe the evolving technology infrastructure that will link homes, businesses, schools, hospitals, and libraries

to each other and to a vast array of electronic information resources.

On this same day, President Clinton issued Executive Order 12864 which created the National Information Infrastructure Advisory Council to facilitate private sector input in this area.

Mr. President, a substantial portion of the information superhighway already exists. Approximately 94 percent of American households have telephone service, 60 percent have cable, 30 percent have computers, and almost 100 percent have radio and television. Local and long-distance telephone companies are currently investing heavily in fiber-optic cables that will carry greater amounts of information; cable companies are increasing their capacity to provide new services; and new wireless personal communications systems are under development. One prototype, the Internet, connects approximately 15–20 million people worldwide.

FEDERAL SUPPORT

Nonetheless, the results of the second GAO report suggest to me that the Federal Government must do more to help build the education portion of the national information infrastructure. Federal support for the acquisition and use of technology in elementary and secondary schools is currently fragmented, coming from a diverse group of programs and departments. Although the full extent to which the Federal Government currently supports investments in education technology at the precollegiate level is not known, the Office of Technology Assessment estimated in its report—''Power On!''—that the programs administered by the Department of Education provided $208 million for education technology in 1988.

COST OF TECHNOLOGY

There is little doubt that substantial costs will accompany efforts to bring education technologies into public schools in any comprehensive fashion. In his written testimony before the House Telecommunications and Finance Subcommittee on September 30, 1994, Secretary of Education, Richard Riley, estimated that it will cost anywhere from $3 to $8 billion annually to build the education portion of the national information infrastructure. The Office of Technology Assessment has also estimated that the cost of bringing the students to computer ratio down to 3-to-1 would cost $4.2 billion a year for 6 years.

NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Mr. President, three leaders in the areas of education and finance came together recently to help public schools and public libraries meet these costs. On April 4, John Danforth, former U.S. Senator from Missouri, Jim Murray, past President of Fannie Mae, and Dr. Mary Hatwood Futrell, past President of the National Education Association, created the National Education Technology Funding Corporation.

As outlined in its articles of incorporation, the National Education Technology Funding Corporation will stimulate public and private investment in our Nation's education technology infrastructure by providing loans, loan guarantees, grants, and other forms of assistance to States and local school districts.

LEGISLATION

I am introducing the National Education Technology Funding Corporation Act today to help provide the seed money necessary to get this exciting, new private sector initiative off the ground. Rather than promoting our Nation's education technology infrastructure by creating another Federal program, this legislation would simply authorize Federal departments and agencies to make grants to the NETFC.

The National Education Technology Funding Corporation Act would not create the NETFC or recognize it as an agency or establishment of the U.S. Government; it would only recognize its incorporation as a private, nonprofit organization by private citizens. However, since NETFC would be using public funds to connect public schools and public libraries to the information Superhighway, my legislation would require NETFC to submit itself and its grantees to appropriate congressional oversight procedures and annual audits.

This legislation will not infringe upon local control over public education in any way. Rather, it will supplement, augment, and assist local efforts to support education technology in the least intrusive way possible by helping local school districts build their own on-ramps to the Information Superhighway.

Senator BURNS and Senator ROBB has endorsed this bill, and it has been endorsed by the National Education Association, the National School Boards Association, the American Library Association, the Council for Education Development and Research, and Organizations Concerned About Rural Education [OCRE].

CONCLUSION

Mr. President, I would like to conclude my remarks by urging my colleagues to help connect public schools and public libraries to the Information Superhighway by quickly enacting the National Education Technology Funding Corporation Act into law.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 792

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Education Technology Funding Corporation Act of 1995''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications.

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this Act is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 3. DEFINITIONS.

For the purpose of this Act—

(1) The term ''Corporation'' means the National Education Technology Funding Corporation described in section 2(a)(1);

(2) the terms ''elementary school'' and ''secondary school'' have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term ''public library'' has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 4. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) AUTHORIZATION OF ASSISTANCE.—Each Federal department or agency is authorized to award grants or contracts, or provide gifts, contributions, or technical assistance, to the Corporation to enable the Corporation to carry out the corporate purposes described in section 2(a)(3).

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 2(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 2(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 2(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 5; and

(B) the reporting and testimony requirements described in section 6.

(c) CONSTRUCTION.—Nothing in this Act shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 5. AUDITS.

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 6(a).

(b) AUDITS BY THE COMPTROLLER GENERAL OF THE UNITED STATES.—

(1) AUDITS.—The programs, activities and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the Comptroller General shall have access to such books, accounts, financial records, reports, files and such other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and the representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The representatives of the Comptroller General shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under this section, to any books, financial records, reports, files or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to papers, records, files, and reports of the auditor used in such an audit.

(2) REPORT.—A report on each audit described in paragraph (1) shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Corporation, together with such recommendations as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed or reviewed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this Act. A copy of each such report shall be furnished to the President and to the Corporation at the time such report is submitted to the Congress.

(c) AUDIT BY INSPECTOR GENERAL OF THE DEPARTMENT OF COMMERCE.—The financial transactions of the Corporation may also be audited by the Inspector General of the Department of Commerce under the same conditions set forth in subsection (b) for audits by the Comptroller General of the United States.

(d) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 6. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this Act and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this Act, or any other matter which any such committee may determine appropriate.

Mr. ROTH. Mr. President, I rise today in support of the legislation introduced by my colleague from Illinois. I applaud her for her vision and persistence in looking out for our Nation's most precious resource—our children, and I am pleased to join Senator MOSELY-BRAUN as an original cosponsor of the National Education Technology Funding Corporation Act.

During committee consideration of the telecommunications bill last year, I offered related legislation to ensure that every school and classroom in the United States has access to telecommunications and information technologies. I proposed an educational telecommunications and technology fund to support elementary and secondary school access to the information superhighway. Regrettably, last year's telecommunications bill was not taken up by the full Senate before adjournment.

The new telecommunications bill that recently passed the Commerce Committee has a provision, introduced by Senators SNOWE, ROCKEFELLER, and BOB KERREY, to make advanced telecommunications more affordable for schools. Specifically, the provision allows elementary and secondary schools, as well as libraries, to receive telecommunications services at affordable monthly rates. Currently, schools all over the country, including those in my own State of Virginia, are forced to pay business rates for access to the information superhighway. That means that schools are subsidizing residential customers.

Even with affordable monthly rates, many schools have limited or no technological infrastructure. They lack modern electrical wiring, a sufficient number of plugs, and access to wired or wireless technology that would allow them internal networking capabilities or connections to the Internet. The absence of this infrastructure leaves these schools without a technological on-ramp to the information superhighway. As a result, American children are left by the wayside.

This is where the National Education Technology Funding Corporation can play a critical role. We need a single efficient, expert entity that State and local authorities can approach for funding so they can join the Internet, participate in distance learning, investigate interactive computer learning, or explore other innovative technologies.

A private non-profit is a logical link between the public and commercial

sectors. It is often difficult for schools to identify where to go to request Federal funding for new technologies, or where to go simply to learn more about technology applications for schools. Also, there is much more than can be done to promote the use of technologies in schools and to encourage private investments and standards. I can think of no better way to meet all of these needs than a private corporation run by a board that includes representatives from States, from public schools and libraries, and from the private sector.

Many opponents of Federal efforts to improve educational technologies claim that the private stock will have adequate incentives to assist schools with educational technologies. Just leave it to the private sector, they argue. This is a very shortsighted viewpoint.

There is no question that the private sector is doing great things for America's schools—and libraries—in the area of educational technologies. Computers and software are frequently donated by private firms. Internet access is provided in some areas. Several weeks ago I visited Arlington County Central Library, just a few miles from here, which MCI had made a generous grant to the library to install public Internet workstations. As a result, this library will be one of the first public locations in northern Virginia to offer Internet access. More recently, my staff visited Chantilly High School in Fairfax County to witness a state-of-the-art Internet lab made possible by assistance from the cable company, Media General. These are important private sector initiatives that will hopefully be duplicated time and time again across the nation.

But there are problems with a let the free market reign approach. First, wealthier schools will receive a disproportionate benefit. Wealthier schools can afford advanced educational technologies. Corporations are more likely to provide equipment and internet access to schools that have already invested in related technologies. Corporations are more likely to offer services in urban or suburban areas that have good telecommunications infrastructures. Yet the rural schools gain the most from internet access, distance-learning, and a host of other educational technologies. It is rural schools that are in danger of rapidly losing ground to those schools with access to the new technologies. We have to put an end to the ever-growing bifurcation of our educational system. As set forth in this bill, the corporation would encourage equitable technology funding to all elementary and secondary schools.

The second problem is commonality. Although we don't want to constrain educational technology development by mandating Government standards, we don't want to create a smorgasbord of technologies that can't communicate with each other and can't be shared across school systems. The proposed corporation could play an invaluable role in making sure school technology efforts nationwide are not wasteful, incompatible, or duplicative.

The third problem is time. The technologies are here today. It is a relatively straightforward process to make an internet connection or to establish a video link or to learn the highly effective software now available for education. We shouldn't rely solely on the timetables of the private sector to field the technologies that exist today for preparing our children for the next century. The Educational Technology Corporation would play a key role in promoting the use of technologies in education, and could significantly accelerate their introduction into America's schools.

For those of our colleagues that have any doubts about the value of new educational technologies, I challenge them to sit down on a computer with internet access, and surf. They'll be visiting the largest, most up-to-date, and fastest-growing library in the world. You can chat with experts from across the globe. You can set up a video link with teachers at distant schools, using a small camera costing as little as $100. You can share data or results in a joint research effort spanning continents. You can take an electronic tour of the White House, or visit the so-called webb-site of a Member of Congress. You can even see images or molecules or galaxies. The possibilities are endless.

In discussions with school administrators, it becomes clear that students are fascinated by the internet and other educational technologies. Students that might otherwise be indifferent are eagerly pursuing new subjects and sharing their new-found knowledge with the global community of students. Simply put, the child with access will be at a distinct advantage and better prepared for future employment. We simply cannot afford to let our school systems slip behind those of our leading competitors when the technology is at our fingertips—a technology pioneered here in the United States. Mr. President, I urge my colleagues to support the most cost-effective education we can offer our Nation's children. I urge my colleagues to cosponsor the National Education Technology Funding Corporation Act.

By Mr. SIMPSON (for himself, Mr. MOYNIHAN, and Mr. KYL):

S. 793. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from income tax for certain common investment funds; to the Committee on Finance.

COMMON FUND LEGISLATION

Mr. SIMPSON. Mr. President, I rise today to join my good friends, Senator DANIEL PATRICK MOYNIHAN and Senator JON KYL, in introducing a bill to permit private and community foundations to pool investment assets into a ''common fund'' or cooperative organization. This legislation was twice passed by the Senate in 1992 as part of the comprehensive tax legislation ultimately vetoed by the President.

This bill would extend to foundations the same ''common fund'' model which has proven so successful for colleges and universities. The university common fund now manages over $10 billion—with more than 900 educational institutions participating.

Once established, a common fund for foundations would allow smaller foundations to increase their total return on investment and significantly reduce investment management fees by taking advantage of economies of scale. Both results have the same bottom line: Increased assets and income will then be available for private and community foundation grants to charitable groups.

Studies disclose that total investment returns earned by smaller foundations lag substantially behind those of many larger foundations. One major reason for this difference is that many of the best professional investment manages demand that new accounts to meet certain minimum size requirements. Smaller foundations often do not meet the minimum size.

Second, since management investment fees are based on percentages that decline as the size of the account increases, smaller foundations are less able to take advantage of economies of scale and cannot benefit from lower fee levels.

This bill would permit foundations to ''band together'' for investment purposes by providing tax-exempt status to common funds handling foundation investments. This would thus give foundation common funds the same tax treatment as educational institution common funds.

I feel this is a most appropriate response to a vexing problem. I urge your support.

By Mr. LUGAR (for himself, Mr. INOUYE, Mr. SANTORUM, Mr. CRAIG, Mr. COHEN, Mr. MACK, Mr. PRESSLER, Mr. BURNS, Mr. KERREY, Mr. GRAHAM, Mr. COATS, Mr. GORTON, Mr. PACKWOOD, Mr. CAMPBELL, Mr. DORGAN, Mr. MCCONNELL, Mr. THURMOND, Mr. DOLE, Mr. JEFFORDS, Mr. HELMS, Mr. BOND, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. INHOFE, Mr. ABRAHAM, Mrs. MURRAY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. HATCH, Mr. NICKLES, Mr. HATFIELD, Mr. KEMPTHORNE, Mr. SPECTER, Mr. COCHRAN, Mr. PRYOR, Mr. DASCHLE, Mr. HEFLIN, Mr. COVERDELL, Mr. LOTT, and Mr. CONRAD):

S. 794. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE MINOR USE CROP PROTECTION ACT OF 1995

● Mr. LUGAR. Mr. President, I am pleased to introduce today the Minor Use Crop Protection Act of 1995 to help ensure the availability of minor use pesticides for farmers and an abundant and varied food supply for our Nation.

This legislation has gained broad bipartisan support as evidenced by the 41 Senators who have joined as original cosponsors. This strong show of support will help us move swiftly toward enactment of this bill.

Minor use pesticides are generally used on relatively small acreage or for regional pest or disease problems. Manufacturers incur a significant cost to develop scientific data to register or reregister these products and yet face a limited market potential once the pesticide is approved for use. Therefore, Minor use pesticides are not being supported or are being voluntarily canceled for economic, not safety reasons.

This situation has been exacerbated by the Environmental Protection Agency's pesticide reregistration requirements. A law enacted in 1988 required that all pesticides, and their uses, registered before November 1984, be reregistered.

Loss of minor use pesticides could cause substantial production problems for many fruit, vegetable, and ornamental crops. Farmers also fear that loss of minor use pesticides will put them at a competitive disadvantage with foreign producers who would still have access to the pesticides.

While this is an important industry, fruits and vegetables have also taken on a more important role in the diet of Americans. Health experts recommend increased consumption of fruits and vegetables. A reduction in the availability of these foods or an increased cost due to less production would have a disproportionate impact on the health of low income Americans, who spend a greater amount of their disposable income on food.

The bill offers several incentives for manufacturers to maintain and develop new safe and effective pesticides for minor uses without compromising food safety or adversely affecting the environment.

Here are some examples where this bill would have a positive impact. Last year fire blight posed a serious threat to apple and pear production in Washington State. This bill would help to encourage registration of new products to control fire blight. Exports are also impacted by this pest. Japan restricts the entry of apples from areas near those where fire blight occurs. Last year half of the acreage in the State initially eligible for exports was later denied due to fire blight.

In my home State of Indiana, alternatives are needed for Dimethenamid used for weed control for strawberries. The manufacturer has not reregistered this product for this use due to economic reasons. Obviously, Indiana is not a large strawberry producing State. However, strawberry growers there still do need products to control Lambsquarters and Johnsongrass which can lower yields and in some cases reduce quality.

In California, sodium orthophenolphenate [OPP] has been used for decay control in citrus packinghouses. OPP is used in very small amounts and the manufacturers will not be supporting this use since the costs of reregistration outweigh the annual sales volume. This bill could help provide funding for additional studies required for reregistration if growers wanted to band together to continue this use and would also help encourage the development of additional alternative minor use products.

This is an important issue for our Nation's farmers and consumers. I pledge timely consideration of this bill within the Senate Agriculture Committee. I urge my colleagues to join me in cosponsorship and support of this needed legislation.

I ask unanimous consent that the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 794

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Minor Use Crop Protection Act of 1995''.

(b) REFERENCES TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

SEC. 2. DEFINITION OF MINOR USE.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

''(hh) MINOR USE.—The term 'minor use' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health if—

''(1)(A) in the case of the use of the pesticide on a commercial agricultural crop or site, the total quantity of acreage devoted to the crop in the United States is less than 300,000 acres; or

''(B) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

''(i) the use does not provide a sufficient economic incentive to support the initial registration or continuing registration of a pesticide for the use; and

''(ii)(I) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

''(II) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

''(III) the pesticide plays, or will play, a significant part in managing pest resistance; or

''(IV) the pesticide plays, or will play, a significant part in an integrated pest management program; and

''(2) the Administrator does not determine that, based on data existing on the date of the determination, the use may cause unreasonable adverse effects on the environment.''.

SEC. 3. EXCLUSIVE USE OF MINOR USE PESTICIDES.

Section 3(c)(1)(F)(i) (7 U.S.C. 136a(c)(1)(F)(i)) is amended—

(1) by striking ''(i) With respect'' and inserting ''(i)(I) With respect'';

(2) by striking ''a period of ten years following the date the Administrator first registers the pesticide'' and inserting ''the exclusive data use period determined under subclause (II)''; and

(3) by adding at the end the following:

''(II) Except as provided in subclauses (III) and (IV), the exclusive data use period under subclause (I) shall be 10 years beginning on the date the Administrator first registers the pesticide.

''(III) Subject to subclauses (IV), (V), and (VI), the exclusive data use period under subclause (II) shall be extended 1 year for each 3 minor uses registered after the date of enactment of this subclause and before the date that is 10 years after the date the Administrator first registers the pesticide, if the Administrator in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

''(aa) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

''(bb) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

''(cc) the pesticide plays, or will play, a significant part in managing pest resistance; or

''(dd) the pesticide plays, or will play, a significant part in an integrated pest management program.

''(IV) Notwithstanding subclause (III), the exclusive data use period established under this clause may not exceed 13 years.

''(V) For purposes of subclause (III), the registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered 1 minor use for each representative crop for which data are provided in the crop grouping.

''(VI) An extension under subclause (III) shall be reduced or terminated if the applicant for registration or the registrant voluntarily cancels the pesticide or deletes from the registration a minor use that formed the basis for the extension, or if the Administrator determines that the applicant or registrant is not actually marketing the pesticide for a minor use that formed the basis for the extension.''.

SEC. 4. TIME EXTENSIONS FOR DEVELOPMENT OF MINOR USE DATA.

(a) IN GENERAL.—Section 3 (7 U.S.C. 136a) is amended by adding at the end the following:

''(g) TIME EXTENSION FOR DEVELOPMENT OF MINOR USE DATA.—

''(1) SUPPORTED USE.—In the case of a minor use, the Administrator shall, on the request of a registrant and subject to paragraph (3), extend the time for the production of residue chemistry data under subsection (c)(2)(B) and subsections (d)(4), (e)(2), and (f)(2) of section 4 for data required solely to support the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

''(2) NONSUPPORTED USE.—

''(A) If a registrant does not commit to support a minor use of a pesticide, the Administrator shall, on the request of the registrant and subject to paragraph (3), extend the time for taking any action under subsection (c)(2)(B) or subsection (d)(6), (e)(3)(A), or (f)(3) of section 4 regarding the minor use until the final date under section 4 for submitting data on any other use established

not later than the date of enactment of this subsection.

''(B) On receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date on which the uses not being supported will be deleted from the registration under section 6(f)(1).

''(3) CONDITIONS.—Paragraphs (1) and (2) shall apply only if—

''(A) the registrant commits to support and provide data for—

''(i) any use of the pesticide on a food; or

''(ii) any other use, if all uses of the pesticide are for uses other than food;

''(B)(i) the registrant provides a schedule for producing the data referred to in subparagraph (A) with the request for an extension;

''(ii) the schedule includes interim dates for measuring progress; and

''(iii) the Administrator determines that the registrant is able to produce the data referred to in subparagraph (A) before a final date established by the Administrator;

''(C) the Administrator determines that the extension would not significantly delay issuance of a determination of eligibility for reregistration under section 4; and

''(D) the Administrator determines that, based on data existing on the date of the determination, the extension would not significantly increase the risk of unreasonable adverse effects on the environment.

''(4) MONITORING.—If the Administrator grants an extension under paragraph (1) or (2), the Administrator shall—

''(A) monitor the development of any data the registrant committed to under paragraph (3)(A); and

''(B) ensure that the registrant is meeting the schedule provided under paragraph (3)(B) for producing the data.

''(5) NONCOMPLIANCE.—If the Administrator determines that a registrant is not meeting a schedule provided by the registrant under paragraph (3)(B), the Administrator may—

''(A) revoke any extension to which the schedule applies; and

''(B) proceed in accordance with subsection (c)(2)(B)(iv).

''(6) MODIFICATION OR REVOCATION.—The Administrator may modify or revoke an extension under this subsection if the Administrator determines that the extension could cause unreasonable adverse effects on the environment. If the Administrator modifies or revokes an extension under this paragraph, the Administrator shall provide written notice to the registrant of the modification or revocation.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

''(vi) Subsection (g) shall apply to this subparagraph.''.

(2) Subsections (d)(4), (e)(2), and (f)(2) of section 4 (7 U.S.C. 136a–1) are each amended by adding at the end the following:

''(C) Section 3(g) shall apply to this paragraph.''.

(3) Subsections (d)(6) and (f)(3) of section 4 (7 U.S.C. 136a–1) are each amended by striking ''The Administrator shall'' and inserting ''Subject to section 3(g), the Administrator shall''.

(4) Section 4(e)(3)(A) (7 U.S.C. 136a–1(e)(3)(A)) is amended by striking ''If the registrant'' and inserting ''Subject to section 3(g), if the registrant''.

SEC. 5. MINOR USE WAIVER.

Section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended by adding at the end the following:

''(E) In the case of the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of the data will not prevent the Administrator from determining—

''(i) the incremental risk presented by the minor use of the pesticide; and

''(ii) whether the minor use of the pesticide would have unreasonable adverse effects on the environment.''.

SEC. 6. EXPEDITING MINOR USE REGISTRATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended by adding at the end the following:

''(C)(i) As expeditiously as practicable after receipt, the Administrator shall review and act on a complete application that—

''(I) proposes the initial registration of a new pesticide active ingredient, if the active ingredient is proposed to be registered solely for a minor use, or proposes a registration amendment to an existing registration solely for a minor use; or

''(II) for a registration or a registration amendment, proposes a significant minor use.

''(ii) As used in clause (i):

''(I) The term 'as expeditiously as practicable' means the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data submitted with the application not later than 1 year after submission of the application.

''(II) The term 'significant minor use' means—

''(aa) 3 or more proposed minor uses for each proposed use that is not minor;

''(bb) a minor use that the Administrator determines could replace a use that was canceled not earlier than 5 years preceding the receipt of the application; or

''(cc) a minor use that the Administrator determines would avoid the reissuance of an emergency exemption under section 18 for the minor use.

''(iii) Review and action on an application under clause (i) shall not be subject to judicial review.

''(D) On receipt by the registrant of a denial of a request to waive a data requirement under paragraph (2)(E), the registrant shall have the full time period originally established by the Administrator for submission of the data, beginning on the date of receipt by the registrant of the denial.''.

SEC. 7. UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.

Section 6(f) (7 U.S.C. 136d) is amended by adding the following:

''(4) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.—The Administrator shall process, review, and evaluate the application for a voluntarily canceled pesticide as if the registrant had not canceled the registration, if—

''(A) another application is pending on the effective date of the voluntary cancellation for the registration of a pesticide that is—

''(i) for a minor use;

''(ii) identical or substantially similar to the canceled pesticide; and

''(iii) for an identical or substantially similar use as the canceled pesticide;

''(B) the Administrator determines that the minor use will not cause unreasonable adverse effects on the environment; and

''(C) the applicant certifies that the applicant will satisfy any outstanding data requirement necessary to support the reregistration of the pesticide, in accordance with any data submission schedule established by the Administrator.''.

SEC. 8. MINOR USE PROGRAMS.

The Act is amended—

(1) by redesignating sections 30 and 31 (7 U.S.C. 136x and 136y) as sections 33 and 34, respectively; and

(2) by inserting after section 29 (7 U.S.C. 136w–4) the following:

''SEC. 30. ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.

''(a) ESTABLISHMENT.—The Administrator shall establish a minor use program in the Office of Pesticide Programs.

''(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Administrator shall—

''(1) coordinate the development of minor use programs and policies; and

''(2) consult with growers regarding a minor use issue, registration, or amendment that is submitted to the Environmental Protection Agency.

''SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a minor use program.

''(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate the responsibilities of the Department of Agriculture related to the minor use of a pesticide, including—

''(1) carrying out the Inter-Regional Research Project Number 4 established under section 2(e) of Public Law 89–106 (7 U.S.C. 450i(e));

''(2) carrying out the national pesticide resistance monitoring program established under section 1651(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882(d));

''(3) supporting integrated pest management research;

''(4) consulting with growers to develop data for minor uses; and

''(5) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

''SEC. 32. MINOR USE MATCHING FUND PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Administrator, shall establish and administer a minor use matching fund program.

''(b) RESPONSIBILITIES.—In carrying out the program, the Secretary shall—

''(1) ensure the continued availability of minor use pesticides; and

''(2) develop data to support minor use pesticide registrations and reregistrations.

''(c) ELIGIBILITY.—Any person that desires to develop data to support a minor use registration shall be eligible to participate in the program.

''(d) PRIORITY.—In carrying out the program, the Secretary shall provide a priority for funding to a person that does not directly receive funds from the sale of a product registered for a minor use.

''(e) MATCHING FUNDS.—To be eligible for funds under the program, a person shall match the amount of funds provided under the program with an equal amount of non-Federal funds.

''(f) OWNERSHIP OF DATA.—Any data developed through the program shall be jointly owned by the Department of Agriculture and the person that receives funds under this section.

''(g) STATEMENT.—Any data developed under this subsection shall be submitted in a statement that complies with section 3(c)(1)(F).

''(h) COMPENSATION.—Any compensation received by the Department of Agriculture for the use of data developed under this section shall be placed in a revolving fund. The fund shall be used, subject to appropriations, to carry out the program.

''(i) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each fiscal year.''.

SEC. 9. CONFORMING AMENDMENTS TO FIFRA TABLE OF CONTENTS.

The table of contents in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new item:

''(hh) Minor use.'';

(2) by adding at the end of the items relating to section 3 the following new items:

''(g) Time extension for development of minor use data.
''(1) Supported data.
''(2) Nonsupported data.
''(3) Conditions.
''(4) Monitoring.
''(5) Noncompliance.
''(6) Modification or revocation.'';

(3) by adding at the end of the items relating to section 6(f) the following new item:

''(4) Utilization of data for voluntarily canceled chemicals.'';

and

(4) by striking the items relating to sections 30 and 31 and inserting the following new items:

''Sec. 30. Environmental Protection Agency minor use program.
''(a) Establishment.
''(b) Responsibilities.
''Sec. 31. Department of Agriculture minor use program.
''(a) Establishment.
''(b) Responsibilities.
''Sec. 32. Minor use matching fund program.
''(a) Establishment.
''(b) Responsibilities.
''(c) Eligibility.
''(d) Priority.
''(e) Matching funds.
''(f) Ownership of data.
''(g) Statement.
''(h) Compensation.
''(i) Authorization for appropriations.
''Sec. 33. Severability.
''Sec. 34. Authorization for appropriations.''.●

SUMMARY—MINOR USE CROP PROTECTION ACT OF 1995

Establishes a minor use definition. The use of a pesticide on an animal, or on a commercial agricultural crop or site, or for the protection of public health could qualify as a minor use if the total acreage of the crop is less than 300,000 acres or if the use does not provide sufficient economic incentive to the manufacturer to support its registration and it meets one of four ''public interest'' criteria. The four public interest criteria are that there are insufficient efficacious alternatives available for the use, or the alternatives pose a greater risk to the environment or human health, or the pesticide can help manage pest resistance problems or the pesticide would be part of an integrated pest management program.

The current 10 year exclusive use protection for registrants of new chemicals could be extended one year for each three minor uses which a manufacturer registers, up to a maximum of three additional years for nine or more minor uses registered by EPA. In order to receive the extension, new minor uses must be approved before the end of the original exclusive use period. One of the above four ''public interest'' criteria must also be met. Exclusive use is subject to review by EPA to ensure that new minor uses are being marketed.

The time necessary for the development of residue chemistry data for a minor use could be extended until the final study due date for data necessary to support the other registered uses being maintained by the registrant.

EPA may waive minor use data requirements in certain circumstances where EPA can otherwise determine the risk presented by the minor use and such risk is not unreasonable.

EPA is to review and act on minor use registration applications within 1 year if the active ingredient is to be registered solely for a minor use, or if there are three or more minor uses proposed for every non-minor use, or if the minor use would serve as a replacement for any use that has been canceled within 5 years of the application or if the approval of the minor use would avoid the reissuance of an emergency exemption.

If a minor use waiver of data requirements is submitted to EPA and subsequently denied, the registrant would be given the full time period for supplying the data to EPA.

As a transition measure, the effective date of the voluntary cancellation of minor uses by a registrant could coincide with the due date of the final study required in the reregistration process for those uses being supported by the registrant.

EPA can consider data from a pesticide which has been voluntarily canceled in support of another minor use registration that is identical or similar and for a similar use. The new registration must be submitted before the voluntary cancellation occurs. Any additional data needed would have to be supplied by the new applicant.

A minor use program within EPA's Office of Pesticide Programs would be established.

A minor use program within USDA would be established. This would include a minor use matching fund for the development of scientific data to support minor uses.

By Mr. BOND (for himself and Mr. ASHCROFT):

S. 796. A bill to provide for the protection of wild horses within the Ozark National Scenic Riverways, Missouri, and prohibit the removal of such horses, and for other purposes; to the Committee on Energy and Natural Resources.

OZARK WILD HORSE PROTECTION ACT

Mr. BOND. Mr. President, today I am joined by Senator ASHCROFT in introducing the Ozark Wild Horse Protection Act. Since 1990, the citizens in southeast Missouri have been engaged in a struggle with the Department of the Interior's National Park Service [NPS] to prevent a group of about 30 feral horses from being rounded up by the Government and relocated or slaughtered. On behalf of these Missouri citizens who have fought to protect these horses, Congressman BILL EMERSON has tirelessly led the fight to stop this action.

This legislation I introduce today is companion legislation to H.R. 238, introduced in the House by Congressman EMERSON on January 4, 1995. It prohibits the removal or assistance in the removal of, any free-roaming horses from the Ozark National Scenic Riverways [ONSR], except in the case of medical emergency or natural disaster.

Mr. President, unfortunately, this is yet another case where the bureaucrats think they know best and have blatantly disregarded the perspective, suggestions, and views of the local citizens. St. Louis, MO, conservationist and landowner Leo Drey noted that these horses were in the park long before the NPS and ''The horses probably spend more time loafing on our land than they do on the riverways. There's only a few of them and they don't congregate to the extent they do any serious trampling or damage.''

A Missouri citizen's group called the Missouri Wild Horse League, which is based in Eminence, MO, was created several years ago to protect the horses from the National Park Service. This group has roughly 3,000 members. Mr. President, that membership is more than six times the number of citizens who live in the league's headquarters city of Eminence, MO.

It has been the contention of the NPS that the 30 horses that roam the 71,000-acre site should be removed because their presence is in conflict with the management policies of the NPS and their activities threaten plant communities. We are talking about a site almost two times the size of the District of Columbia where the 30 horses roam. I suggest that the NPS would be hard pressed to even find the horses on roundup day.

In 1990, to prevent removal of a part of this area's heritage that the National Park Service is charged to preserve, 1,000 local citizens signed a petition to keep the wild horses in the ONSR. That same year, the Missouri Senate unanimously passed a resolution objecting to the removal of the horses. Still, the NPS ignored the importance of this local treasure to the people in this area.

Subsequently, citizens in Missouri filed suit and, in June of 1990, U.S. District Judge Stephen Limbaugh issued an injunction. The NPS would still not yield, appealing the ruling. They would not concede in their fight to impose the Federal Government's will on the public, notwithstanding the views of the local citizens, notwithstanding the views of the Missouri Senate, notwithstanding the views of Missouri representatives in Congress, and notwithstanding the decision of a U.S. district court judge. The NPS prevailed in the higher courts. That is why it is urgently needed for the Congress to intervene and prevent this Government-managed horse rustling.

At the request of Congressman EMERSON, former ONSR Superintendent Sullivan agreed to delay any roundup until there is opportunity to address this issue in the 104th Congress. While I appreciate this one concession on the part of the former superintendent, I find it inconceivable that the intransigence of former Superintendent Sullivan has brought this issue before the Secretary of the Interior, the U.S. Supreme Court, and now before the U.S. Congress. It is rare to find Federal field personnel as out of touch and acting with total disregard for local sentiment—that is typically reserved for their bosses in Washington.

Unfortunately, it is this form of raw arrogance that has the Federal Government in such low standing with the

American citizens—the notion that it is the olympians on the hill who know what's best for the peasants in the valley. At this juncture, I believe Congress has no other alternative but to pursue this matter as expeditiously as possible. The National Parks Subcommittee of the House Committee on Resources is scheduled to hold a hearing on May 18 to consider H.R. 238.

I congratulate Congressman EMERSON for keeping up the heat on this issue. Had he not, I expect the horses would already be gone. And, I fear that if we cannot expedite action on this bill, they will be gone.

By Mr. KENNEDY:

S. 797. A bill to provide assistance to States and local communities to improve adult education and family literacy, to help achieve the national education goals for all citizens, and for other purposes; to the Committee on Labor and Human Resources.

ADULT EDUCATION AND FAMILY LITERACY REFORM ACT

Mr. KENNEDY. Mr. President, today I am introducing, on behalf of the Clinton administration, the Adult Education and Family Literacy Reform Act of 1995. This measure will reform and improve literacy services for adults and families.

As the 1993 National Adult Literacy Survey showed, 20 percent of adults perform at or below the fifth-grade level in reading and math—far below the level needed for effective participation in the work force. And because parents' educational level is a strong predictor of children's academic success, the problem seriously affects children as well as adults.

Despite the clear need for better literacy services for adults, the current Federal program serves only a small percentage of those who need assistance. While many adults benefit from participation in the program, many others leave before they achieve any significant improvement in literacy.

Current adult education and family literacy programs are too diffuse. They divert human and financial resources from what should be the focus of all Federal literacy efforts—the provision of high-quality, results-oriented services.

The problem of illiteracy presents the country with a number of serious challenges ranging from the way men and women function in the workplace to whether parents are able to participate effectively in their children's education. The Adult Education and Family Literacy Reform Act uses a single stream of funding to States and localities to create a partnership designed around five broad principles—streamlining, flexibility, quality, targeting, and consumer choice.

The single funding stream recognizes the need to eliminate duplication and overlap in current programs. The bill is a 10-year authorization to encourage States to engage in long-range planning. It consolidates 12 existing programs which now have separate line items in the Federal budget

First, the Library Literacy Program, which provides small competitive grants supporting literacy programs in public libraries,

Second, Workplace Literacy Partnerships, which support partnerships of education agencies and employers that help employees develop basic skills,

Third, the Literacy Training for Homeless Adults, which funds projects for homeless adults in all States,

Fourth, the Literacy Program for Prisoners, a nationally competitive grant awarded to correctional education agencies,

Fifth, Even Start, which provides literacy training to parents of public schoolchildren,

Sixth, adult education State grants, which provide funds to State education agencies to support programs that assist educationally disadvantaged adults in developing basic skills,

Seventh, gateway grants, which fund at least one adult education project in a public housing authority in each State,

Eighth, State literacy resource centers, which support Statewide coordination and training,

Ninth, Literacy for Institutionalized Adults, which supports literacy projects for adults in State hospitals and correctional institutions,

Tenth, the set-aside for education coordination in title II of the Job Training Partnership Act, which serves eligible adults who have basic education needs,

Eleventh, the National Institute for Literacy, as interagency institute which provides Federal leadership in coordinating and improving literacy services, and

Twelfth, evaluation and technical assistance, which provides Federal aid for research and technical assistance.

The fiscal year 1995 appropriation for these programs is $488 million. The bill recommends a $490 million authorization for the consolidated programs for fiscal year 1996, and such sums as may be necessary in future years.

While consolidating many categorical programs, the proposal requires States to ensure that the needs of at-risk populations are met. Under the bill, States can continue to use libraries and the workplace as sites for literacy services. It requires States to assess the adult education and family literacy needs of hard-to-serve and most-in-need individuals, and to describe how the program will meet those needs. Targeting provisions of the bill also will ensure that local areas with high concentrations of individuals in poverty or low levels of literacy, or both, receive priority for Federal funds.

This legislation responds to the well-documented literacy problem in this country. I look forward to working closely with other Senators to achieve the bipartisan support we need in order to assist the large number of adults in this country who are ready, willing, and able to become more productive citizens and better parents. What they need now is a helping hand, and this message will give it to them.

I ask unanimous consent that the letter of transmittal, the text of the bill, and a section-by-section analysis of the bill may be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Adult Education and Family Literacy Reform Act of 1995.''

TITLE I—AMENDMENT TO THE ADULT EDUCATION ACT AMENDMENT

SECTION 1. The Adult Education Act (20 U.S.C. 1201 *et seq.*; hereinafter referred to as ''the Act'') is amended in its entirety to read as follows:

''SHORT TITLE; TABLE OF CONTENTS

''SEC. 101. (a) SHORT TITLE.—This Act may be cited as the 'Adult Education and Family Literacy Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''TABLE OF CONTENTS

''FINDINGS; PURPOSE

''SEC. 2. (a) FINDINGS.—The Congress finds that:

''(1) Our Nation's well-being is dependent on the knowledge, skills, and abilities of all of its citizens.

''(2) Advances in technology and changes in the workplace are rapidly increasing the knowledge and skill requirements for workers.

''(3) Our social cohesion and success in combatting poverty, crime, and disease also depend on the Nation's having an educated citizenry.

''(4) The success of State and local educational reforms supported by the Goals 2000: Educate America Act and other programs that State and local communities are implementing requires that parents be well educated and possess the ability to be a child's first and most continuous teacher.

''(5) There is a strong relationship between educational attainment and welfare dependence. Adults with very low levels of literacy

are ten times as likely to be poor as those with high levels of literacy.

''(6) Studies, including the National Adult Literacy Survey, have found that more than one-fifth of American adults demonstrate very low literacy skills that make it difficult for them to enter high-skill, high-wage jobs, to assist effectively in their children's education, or to carry out their responsibilities as citizens.

''(7) National studies have also shown that existing federally supported adult education programs have assisted many adults in acquiring basic literacy skills, learning English, or acquiring a high school diploma (or its equivalent), and family literacy programs have shown great potential for breaking the intergenerational cycle of low literacy and having a positive effect on later school performance and high school completion, especially for children from low-income families.

''(8) Current adult education programs, however, are often narrowly focused on specific populations or methods of service delivery, have conflicting or overlapping requirements, and are not administered in an integrated manner, thus inhibiting the capacity of State and local officials to implement programs that meet the needs of individual States and localities.

''(9) The President's GI Bill for America's Workers, of which this Act is a key component, will help strengthen the capacity of States, educational institutions, and businesses, working together, to upgrade the skills and literacy levels of youth and adults.

''(10) The Federal Government can, through a performance partnership with States and localities based on clear State-developed goals and indicators, increased State and local flexibility, improved accountability and incentives for performance, and enhanced consumer choice and information, assist States and localities with the improvement and expansion of their adult education and family literacy programs.

''(11) The Federal Government can also assist States and localities by carrying out research, development, demonstration, dissemination, evaluation, capacity-building, data collection, professional development, and technical assistance activities that support State and local efforts to implement successfully services and activities that are funded under this Act, as well as adult education and family literacy activities supported with non-Federal resources.

''(b) PURPOSE.—(1) It is the purpose of this Act to create a performance partnership with States and localities for the provision of adult education and family literacy services so that, as called for in the National Education Goals, all adults who need such services will, as appropriate, be able to—

''(A) become literate and obtain the knowledge and skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship;

''(B) complete a high school education;

''(c) become and remain actively involved in their children's education in order to ensure their children's readiness for, and success in, school.

''(2) This purpose shall be pursued through—

''(A) building on State and local education reforms supported by the Goals 2000: Educate America Act and other Federal and State legislation;

''(B) consolidating numerous Federal adult education and literacy programs into a single, flexible grant;

''(C) tying local programs to challenging State-developed performance goals that are consistent with the purpose of this Act;

''(D) holding States and localities accountable for achieving such goals;

''(E) building program quality though such measures as encouraging greater use of new technologies in adult education and family literacy programs and better professional development of educators working in those programs;

''(F) integrating adult education and family literacy programs with States' school-to-work opportunities systems, career preparation education services and activities, job training programs, early childhood and elementary school programs, and other related activities; and

''(G) supporting the improvement of State and local activities through nationally significant efforts in research, development, demonstration, dissemination, evaluation, capacity-building, data collection, professional development, and technical assistance.

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 3. (a) STATE GRANTS FOR ADULT EDUCATION AND FAMILY LITERACY.—For the purpose of carrying out this Act there are authorized to be appropriated $490,487,000 for fiscal year 1996 and such sums as may be necessary for each of the fiscal years 1997 through 2005.

''(b) RESERVATIONS.—(1) Except as provided in paragraph (2), from the amount appropriated for any fiscal year under subsection (a), the Secretary may reserve—

''(A) not more than 5 percent to carry out section 202;

''(B) not more than 3 percent to carry out sections 201 and 203; and

''(C) not more than $5,000,000 for Even Start family literacy programs for migratory families and Indian families under section 104(c).

''(2) The Secretary may reserve funds under paragraph (1)(A) beginning in fiscal year 1998.

''TITLE I—ADULT EDUCATION AND FAMILY LITERACY

''PROGRAM AUTHORITY; PRIORITIES

''SEC. 101. (a) PROGRAM AUTHORIZED.—In order to prepare adults for family, work, citizenship, and job training, and adults and their children for success in future learning, funds under this title shall be used to support the development, implementation, and improvement of adult education and family literacy programs at the State and local levels.

''(b) PROGRAM PRIORITIES.—In using funds under this title, States and local recipients shall give priority to—

''(1) services and activities designed to ensure that all adults have the opportunity to achieve to challenging State performance standards for literacy proficiency, including basic literacy, English language proficiency, and completion of high school or its equivalent;

''(2) services and activities designed to enable parents to prepare their children for school, enhance their children's language and cognitive abilities, and promote their own career advancement; and

''(3) adult education and family literacy programs that—

''(A) are built on a strong foundation of research and effective educational practices;

''(B) effectively employ advances in technology, as well as learning in the context of family, work, and the community;

''(C) are staffed by well-trained instructors, counselors, and administrators;

''(D) are of sufficient intensity and duration for participants to achieve substantial learning gains;

''(E) establish strong links with elementary and secondary schools, postsecondary institutions, one-stop career centers, job-training programs, and social service agencies; and

''(F) offer flexible schedules and, when necessary, support services to enable people, including adults with disabilities or other special needs, to attend and complete programs.

''STATE GRANTS FOR ADULT EDUCATION AND FAMILY LITERACY

''SEC. 102. (a) STATE GRANT.—From the funds available for State grants under section 3 for each fiscal year, the Secretary shall, in accordance with section 111, make a grant to each State that has an approved State plan under section 106, to assist that State in developing, implementing, and improving adult education and family literacy programs within the State.

''(b) RESERVATION OF FUNDS.—From the amount awarded to a State for any fiscal year under subsection (a), the State—

''(1) may use up to 5 percent, or $80,000, whichever is greater, for the cost of administering its program under this title;

''(2) may use up to 10 percent for leadership activities under section 103;

''(3)(A) may, beginning in fiscal year 1998, use up to 5 percent for financial incentives or awards to one or more eligible recipients in recognition of—

''(i) exemplary quality of innovation in adult education or family literacy services and activities; or

''(ii) exemplary services and activities for individuals who are most in need of such services and activities, or are hardest to serve, such as adults with disabilities or other special needs; or

''(iii) both.

''(B) The incentives or awards made under subparagraph (A) shall be determined by the State through a peer review process, using the performance goals and indicators described in section 109 and, if appropriate, other criteria; and

''(4) shall use the remainder for subgrants to eligible applicants under section 107, except that at least 25 percent of the remainder shall be used for Even Start family literacy programs, under section 104, unless the State demonstrates in its State plan under section 106, to the satisfaction of the Secretary, that it will otherwise meet the needs of individuals in the State for family literacy programs in a manner that is consistent with the purpose of this Act.

''(c) FEDERAL SHARE.—(1) The Federal share of expenditures to carry out a State plan under section 106 shall be paid from the State's grant under subsection (a).

''(2) The Federal share shall be no greater than 75 percent of the cost of carrying out the State plan for each fiscal year, except that with respect to Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands the Federal share may be 100 percent.

''(3) The State's share of expenditures to carry out a State plan submitted under section 106 may be in cash or in kind, fairly evaluated, and may include only non-Federal funds that are used for adult education and family literacy activities in a manner that is consistent with the purpose of this Act.

''(d) Maintenance of Effort.—(1) A State may receive funds under this title for any fiscal year only if the Secretary finds that the aggregate expenditures of the State for adult education and family literacy by such State for the preceding fiscal year were not less than 90 percent of such aggregate expenditures for the second preceding fiscal year.

''(2) The Secretary shall reduce the amount of the allocation of funds under section 111 for any fiscal year in the exact proportion to which a State fails to meet the requirement of paragraph (1) by falling below 90 percent

of the aggregate expenditures for adult education and family literacy for the second preceding fiscal year.

''(3) The Secretary may waive the requirements of this subsection if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resource of the State.

''(4) No lesser amount of State expenditures under paragraphs (2) and (3) may be used for computing the effort required under paragraph (1) for subsequent years.

''STATE LEADERSHIP ACTIVITIES

''SEC. 103. (a) STATE LEADERSHIP.—Each State that receives a grant under section 102(a) for any fiscal year shall use funds reserved for State leadership under section 102(b)(2) to conduct activities of Statewide significance that develop, implement, or improve programs of adult education and family literacy, consistent with its State plan under section 106.

''(b) USES OF FUNDS.—States shall use funds under subsection (a) for one or more of the following—

''(1) professional development and training;

''(2) disseminating curricula for adult education and family literacy programs;

''(3) monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this title, including establishing performance goals and indicators under section 109(a), in order to assess program quality and improvement;

''(4) establishing State content standards for adult education and family literacy programs;

''(5) establishing challenging State performance standards for literacy proficiency;

''(6) promoting the integration of literacy instruction and occupational skill training, and linkages with employers;

''(7) promoting the use of and acquiring instructional and management software and technology;

''(8) establishing or operating State or regional adult literacy resource centers;

''(9) developing and participating in networks and consortia of States that seek to establish and implement adult education and family literacy programs that have significance to the State or region, and may have national significance; and

''(10) other activities of Statewide significance that promote the purposes of this Act.

''EVEN START FAMILY LITERACY PROGRAMS

''SEC. 104. (a) EVEN START GRANTS.—Each State that receives a grant under section 102(a) for any fiscal year shall use funds reserved under section 102(b)(4) to award subgrants to partnerships described in subsection (b)(5) to carry out Even Start family literacy programs.

''(b) PROGRAM ELEMENTS.—An Even Start family literacy program shall—

''(1) provide opportunities (including opportunities for home-based instructional services) for joint participation by parents or guardians (including parents or guardians who are within the State's compulsory school attendance age range, so long as a local educational agency provides, or ensures the availability of, their basic education), other family members, and children;

''(2) provide developmentally appropriate childhood education for children from birth through age seven;

''(3) identify and recruit families that are most in need of family literacy services, as indicated by low levels of income and adult literacy (including limited English proficiency), and such other need-related indicators as may be appropriate;

''(4) enable participants, including individuals with disabilities or other special needs, to succeed through services and activities designed to meet their needs, such as support services and flexible class schedules; and

''(5) except as provided in subsection (c), be operated by a partnership composed of—

''(A) one or more local educational agencies; and

''(B) one or more community-based organizations, institutions of higher education, private non-profit organizations, or public agencies (including correctional institutions or agencies) other than local educational agencies.

''(c) MIGRATORY AND INDIAN FAMILIES.—From funds reserved under section 3(b)(1)(C) for any fiscal year, the Secretary shall, under such terms and conditions as the Secretary shall establish, support Even Start family literacy programs through grants to, or cooperative agreements with—

''(1) eligible applicants under section 107(b) for migratory families; and

''(2) Indian tribes and tribal organizations for Indian families.

''STATE ADMINISTRATION

''SEC. 105. (a) DESIGNATED STATE AGENCY OR AGENCIES.—A State desiring to receive a grant under section 102(a) shall, consistent with State law, designate an education agency or agencies that shall be responsible for the administration of services and activities under this title, including—

''(1) the development, submission, and implementation of the State plan;

''(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of programs assisted under this title, such as business, industry, labor organizations, and social service agencies; and

''(3) coordination with other State and Federal education, training, employment, and social service programs, and one-step career centers.

(b) STATE-IMPOSED REQUIREMENTS.—Whenever a State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline), it shall identify the rule or policy as a State-imposed requirement.

''STATE PLAN

SEC. 106. (A) Five-Year Plans.—(1) Except as provided in subsection (f), each State desiring to receive a grant under this title for any fiscal year shall submit to, or have on file with, the Secretary a five-year State plan in accordance with this section. Each State plan submitted to the Secretary shall be approved by the designated State agency or agencies under section 105(a).

''(2) The State may submit its State plan as part of a comprehensive plan that includes State plan provisions under one or more of the following statutes: section 14302 of the Elementary and Secondary Education Act of 1965; the Carl D. Perkins Career Preparation Education Act of 1995; the Goals 2000: Educate America Act; the Job Training Partnership Act, and the School-to-Work Opportunities Act of 1994.

''(b) PLAN ASSESSMENT.—In developing its State plan, and any revisions to the State plan under subsection (e), the State shall base its plan or revisions on a recent, objective assessment of—

''(1) the needs of individuals in the State for adult education and family literacy programs, including individuals most in need or hardest to serve (such as educationally disadvantaged adults and families, recent immigrants, individuals with limited English proficiency, incarcerated individuals, homeless individuals, recipients of public assistance, and individuals with disabilities);

''(2) the capacity of programs and providers to meet those needs, taking into account the priorities under section 101 and the State's performance goals under section 109(a).

''(c) PUBLIC PARTICIPATION.—In developing its State plan, and any revisions under subsection (e), the State shall consult widely with individuals, agencies, organizations, and institutions in the State that have an interest in the provision and quality of adult education and family literacy, including—

''(1) individuals who currently participate, or who want to participate, in adult education and family literacy programs;

''(2) practitioners and experts in adult education and family literacy, social services, and workforce development; and

''(3) representatives of business and labor.

''(d) PLAN CONTENTS.—The plan shall be in such form and contain such information and assurances as the Secretary may require, and shall include—

''(1) a summary of the methods used to conduct the assessment under subsection (b) and the findings of that assessment;

''(2) a description of how, in addressing the needs identified in the State's assessment, funds under this title will be used to establish adult education and family literacy programs, or improve or expand current programs, that will lead to high-quality learning outcomes, including measurable learning gains, for individuals in such programs;

''(3) a statement of the State's performance goals and indicators established under section 109, or, in the first plan, a description of how the State will establish such performance goals and indicators;

''(4) a description of the criteria the State will use to award funds under this title or eligible applicants under section 107, including how the State will ensure that its selection of applicants to operate programs assisted under this title will reflect the finds of program evaluations carried out under section 110(a);

''(5) a description of how the State will integrate services and activities under this Act, including planning and coordination of programs, with those of other agencies, institutions, and organizations involved in adult education and family literacy, such as the public school system, early childhood education programs, social service agencies, business, labor unions, libraries, institutions of higher education, public health authorities, vocational education and special education programs, one-stop career centers, and employment or training programs, in order to ensure effective us of funds and to avoid duplication of services;

''(6) a description of the leadership activities the State will carry out under section 103;

''(7) any comments the Governor may have on the State plan; and

''(8) assurances that—

''(A) the State will comply with the requirements of this Act and the provisions of the State plan;

''(B) the State will use such fiscal control and accounting procedures as are necessary for the proper and efficient administration of this title; and

''(C) programs funded under this title will be of such size, scope, and quality as to give realistic promise of furthering the purpose of this Act.

''(e) PLAN REVISIONS.—When changes in conditions or other factors require substantial modifications to an approved State plan, the designated State agency or agencies shall submit a revision to the plan to the Secretary. Such a revision shall be approved by the designated State agency or agencies.

''(C) programs funded under this title will be of such size, scope, and quality as to give realistic promise of furthering the purpose of this Act.

''(e) PLAN REVISIONS.—When changes in conditions or other facets require substantial modifications to an approved State plan, the designated State agency or agencies shall submit a revision to the plan to the Secretary. Such a revision shall be approved by the designated State agency or agencies.

''(f) PLANNING YEAR.—(1) For fiscal year 1996 only, a State may submit a one year State plan to the Secretary that either satisfies the specific requirements of this section or describes how the State will complete the development of its State plan with respect to those specific requirements within the following year. A State may use funds reserved under section 102(b)(2) to complete the development of its State plan.

''(2) A one year plan under this subsection shall—

''(A) be developed in accordance with subsection (c); and

''(B) contain the assurances described in subsection (d)(8).

''(3) In order to receive a grant under section 102(a) of fiscal year 1997, a State that submits a one year State plan under this subsection shall submit a four year State plan that covers fiscal year 1997 and the three succeeding fiscal years.

''(g) CONSULTATION.—The designated State agency or agencies shall—

''(1) submit the State plan, and any revision to the State plan, to the Governor for review and comment; and

''(2) ensure that any comments the Governor may have are included with the State plan, or revision, when the State plan, or revision, is submitted to the Secretary.

''(h) PLAN APPROVAL.—(1) The Secretary shall approve a State plan, or a revision to an approved State plan, if it meets the requirements of this section and is of sufficient quality to meet the purpose of this Act, and shall not finally disapprove a State plan, or a revision to an approved State plan, except after giving the State reasonable notice and an opportunity for a hearing.

''(2) The Secretary shall establish a peer review process to make recommendations regarding approval of State plans and revisions to the State plans.

''SUBGRANTS TO ELIGIBLE APPLICANTS

''SEC. 107. (a). AUTHORITY.—(1) From funds available under section 102(b)(4), States shall make subgrants to eligible applicants under subsection (b) to develop, implement, and improve adult education and family literacy programs within the State.

''(2) To the extent practicable, States shall make multi-year subgrants under this section.

''(b) ELIGIBILITY.—(1) Except as provided for subgrants for Even Start family literacy programs under section 104, the following entities shall be eligible to apply to the State for a subgrant under this section:

''(A) local education agencies

''(B) community-based organizations;

''(C) institutions of higher education;

''(D) public and private nonprofit agencies (including State and local welfare agencies, corrections agencies, public libraries, and public housing authorities); and

''(E) consortia of such agencies, organizations, institutions, or partnerships, including consortia that include one or more for-profit agencies, organizations, or institutions, if such agencies, organizations, or institutions can make a significant contribution to attaining the objectives of this Act.

''(2) Each State receiving funds under this title shall ensure that all eligible applicants described under subsection (b)(1) receive equitable consideration for subgrants under this section.

''APPLICATIONS FROM ELIGIBLE APPLICANTS

''SEC. 108. (a) APPLICATION.—Any eligible applicant under sections 104(a) or 107(b)(1) that desires a subgrant under this title shall submit an application to the State containing such information and assurances as the State may reasonably require, including—

''(1) a description of the applicant's current adult education and family literacy programs, if any;

''(2) a description of how funds awarded under this title will be spent;

''(3) a description of how the applicant's program will help the State address the needs identified in the State's assessment under section 106(b)(1);

''(4) the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement, and how the applicant will measure and report to the State regarding the information required in section 110(a); and

''(5) any cooperative arrangements the applicant has with others (including arrangements with social service agencies, one-stop career centers, business, industry, and volunteer literacy organizations) that have been made to deliver adult education and family literacy programs.

''(b) FUNDING.—In determining which applicants receive funds under this title, the State shall—

''(1) give preference to those applicants that serve local areas with high concentrations of individuals in poverty or with low levels of literacy (including English language proficiency), or both;

''(2) consider—

''(A) the results of the evaluations required under section 110(a), if any; and

''(B) the degree to which the applicant will coordinate with and utilize other literacy and social services available on the community.

''STATE PERFORMANCE GOALS AND INDICATORS

''SEC. 109. (a) STATE-ESTABLISHED PERFORMANCE GOALS AND INDICATORS.—Any State desiring to receive a grant under section 102(a), in consultation with individuals, agencies, organizations, and institutions described in section 106(c), shall—

''(1) identify performance goals that define the level of student achievement to be attained by adult education and family literacy programs, and express such goals in an objective, quantifiable, and measurable form;

''(2) identify performance indicators that State and local recipients will use in measuring or assessing progress toward achieving such goals; and

''(3) by July 1, 1997, ensure that the State performances indicators include, at least—

''(i) achievement in linguistic skills, including English language skills;

''(ii) receipt of a high school diploma or its equivalent;

(iii) entry into a postsecondary school, job training program, employment, or career advancement; and

''(iv) successful transition of children to school.

''(b) TRANSITION.—Except as provided in subsection (a)(3), each State receiving funds under this title may continue to use the indicators of program quality it developed under section 331(a)(2) of the Adult Education Act as in effect before the date of enactment of the Adult Education and Family Literacy Reform Act of 1995, to the extent that they are consistent with the State's performance goals.

''(c) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States regarding the development of the State's performance goals and indicators under subsection (a). Notwithstanding any other provision of law, the Secretary may use funds reserved under section 3(b)(1)(B) to provide technical assistance under this section.

''EVALUATION, IMPROVEMENT, AND ACCOUNTABILITY

''SEC. 110. (a) LOCAL EVALUATION.—Each recipient of a subgrant under this title shall biennially evaluate, using the performance goals and indicators established under section 109, the programs supported under this title and report to the State regarding the effectiveness of its programs in addressing the priorities under section 101 and the needs identified in the State assessment under section 106(b)(1).

''(b) IMPROVEMENT ACTIVITIES.—If a State determines, based on the applicable performance goals and indicators established under section 109 and the evaluations under subsection (a), that a subgrant recipient is not making substantial progress in achieving the purpose of this Act, the State may work jointly with the local recipient to develop an improvement plan. If, after not more than two years of implementation of the improvement plan, the State determines that the recipient is not making substantial progress, the State shall take whatever corrective action it deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with State law. The State shall take corrective action under the preceding sentence only after it has provided technical assistance to the recipient and shall ensure that any corrective action it takes allows for continued services and activities to the recipient's students.

''(c) STATE REPORT.—The State shall biennially report to the Secretary on the quality and effectiveness of the adult education and family literacy programs funded through its subgrants under this title, based on the performance goals and indicators under section 109(a) and the needs identified in the State assessment under section 106(b)(1).

''(d) TECHNICAL ASSISTANCE.—If the Secretary determines that the State is not properly implementing its responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this Act, based on its performance goals and indicators under section 109(a), the Secretary shall work with the State to implement improvement activities.

''(e) WITHHOLDING OF FEDERAL FUNDS.—If, after a reasonable time, but not earlier than one year after implementing activities described in subsection (d), the Secretary determines that the State is not making sufficient progress, based on its performance goals and indicators under section 109(a), the Secretary shall, after notice and opportunity for a hearing, withhold from the State all, or a portion, of the State's allotment under this title. The Secretary may use funds withheld under the preceding sentence to provide, through alternative arrangements, services and activities within the State that meet the purposes of this Act.

''ALLOTMENTS; REALLOTMENT

''SEC. 111. (a) ALLOTMENT TO STATES.—(1) Subject to subsection (b), from the funds available under section 102(a) for each fiscal year, the Secretary shall allot to each State—

''(A) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 16 years of age or older and not enrolled, or required to be enrolled, in secondary school and who do not possess a high school diploma or its equivalent, bears to the number of such individuals in all the States; and

''(B) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 18 years of age or older and who are living at or below poverty bears to the number of such individuals in all the States.

''(2)(A) The Secretary shall allot to the Commonwealth of Puerto Rico an amount equal to 2.95 percent of the funds available under section 102(a) for each fiscal year.

''(B) For the purpose of the subsection, the term 'State' shall be deemed to exclude the Commonwealth of Puerto Rico.

''(3) The numbers of individuals specified in paragraph (1) shall be determined by the Secretary on the basis of the latest estimates available to the Department that are satisfactory to the Secretary.

''(b) HOLD-HARMLESS.—(1) Notwithstanding any other provision of law and subject to paragraph (2)—

''(A) for fiscal year 1996, no State shall receive under title I of this Act less than 90 percent of the sum of the payments made to the State for the fiscal year 1995 for programs authorized by section 313 of the Adult Education Act, section 1202 of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of the Adult Education and Family Literacy Reform Act of 1995; and

''(B) for fiscal year 1997, no State shall receive under title I of this Act less than 90 percent of the amount it received under title I for fiscal year 1996.

''(2) If for any fiscal year the amount available for allotment under this section is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all States for such services and activities as necessary.

''(c) REALLOTMENT.—If the Secretary determines that any amount of a State's allotment under this section for any fiscal year will not be required for carrying out the program for which such amounts has been allotted, the Secretary shall make such amount available for reallotment to one or more other States on a basis that the Secretary determines would best serve the purposes of this Act. Any amount reallotted to a State under this subsection shall be deemed to be part of its allotment for the fiscal year in which it is obligated.

''(d) REPORT.—The Secretary shall, by September 30, 2000—

''(1) conduct a study to determine the availability and reliability of statistical data on the number of immigrants and limited English proficient individuals in each State; and

''(2) report to the Congress on the feasibility and advisability of including such populations as factors in the formula under subsection (a)(1).

''TITLE II—NATIONAL LEADERSHIP

''NATIONAL LEADERSHIP ACTIVITIES

''SEC. 201. (a) AUTHORITY.—From the amount reserved under section 3(b)(1)(B) for any fiscal year, the Secretary is authorized to establish a program of national leadership and evaluation activities to enhance the quality of adult education and family literacy nationwide.

''(b) METHOD OF FUNDING. The Secretary may carry out national leadership and evaluation activities directly or through grants, contracts, and cooperative agreements.

''(c) USES OF FUNDS.—Funds used under this section may be used for—

''(1) research and development;

''(2) demonstration of model and innovative programs;

''(3) dissemination;

''(4) evaluations and assessments, including independent assessments of services and activities assisted under this Act and of the condition and progress of literacy in the United States;

''(5) capacity building at the State and local levels;

''(6) data collection;

''(7) professional development;

''(8) technical assistance; and

''(9) other activities designed to enhance the quality of adult education and family literacy nationwide.

''AWARDS FOR NATIONAL EXCELLENCE

''SEC. 202. The Secretary may, from the amount reserved under section 3(b)(1)(A) for any fiscal year after fiscal year 1997, and through a peer review process, make performance awards to one or more States that have—

''(1) exceeded in an outstanding manner their performance goals under section 109(a);

''(2) made exemplary progress in developing, implementing, or improving their adult education and family literacy programs in accordance with the priorities described in section 101; or

''(3) provided exemplary services and activities for those individuals within the State who are most in need of adult education and family literacy services, or are hardest to serve.

''NATIONAL INSTITUTE FOR LITERACY

''SEC. 203. (a) PURPOSE.—The National Institute for Literacy shall—

''(1) provide national leadership;

''(2) coordinate literacy services; and

''(3) be a national resource for adult education and family literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved services.

''(b) ESTABLISHMENT.—(1) There shall be a National Institute for Literacy (in this section referred to as the ''Institute''). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the ''Interagency Group''). The Secretary may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education whose purpose is determined by the Secretary to be related to the purpose of the Institute.

''(2) The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (the 'Board') under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve such goals. The daily operations of the Institute shall be carried out by the Director.

''(c) DUTIES.—(1) In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized, to—

''(A) establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

''(i) effective practices in the provision of literacy and basic skills instruction, including the integration of such instruction with occupational skills training;

''(ii) public and private literacy and basic skills programs and Federal, State,and local policies affecting the provision of literacy services at the national, State, and local levels;

''(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

''(iv) a communication network for literacy programs, providers, social service agencies, and students;

''(B) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

''(C) coordinate the support of research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement, and carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies;

''(D) collect and disseminate information on methods of advancing literacy that show great promise;

''(E) work with the National Education Goals Panel, assist local, State, and national organizations and agencies in making and measuring progress towards the National Education Goals, as established by P.L. 103–227;

''(F) coordinate and share information with national organizations and associations that are interested in literacy and workforce development; and

''(G) inform the development of policy with respect to literacy and basic skills.

''(2) The Institute may enter into contracts or cooperative agreements with, or make grants to, individuals, public or private institutions, agencies, organizations, or consortia of such institution, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

''(d) LITERACY LEADERSHIP.—(1) The Institute may, in consultation with the Board, award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

''(2) Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

''(3) The Institute, in consultation with the Board, is authorized to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's mission and to accept assistance from volunteers.

''(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—(1)(A) There shall be a National Institute for Literacy Advisory Board (the 'Board'), which shall consist of 10 individuals appointed by the President.

''(B) The Board shall comprise individuals who are not otherwise officers or employees of the Federal Government and who are representative of such entities as—

''(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English as a second language programs and services, social service organizations, and providers receiving assistance under this Act;

''(ii) businesses that have demonstrated interest in literacy programs;

''(iii) literacy students, including those with disabilities;

''(iv) experts in the area of literacy research;

''(v) State and local governments; and

''(vi) organized labor.

''(2) The Board shall—

''(A) make recommendations concerning the appointment of the Director and staff of the Institute; and

''(B) provide independent advice on the operation of the Institute.

''(3)(A) Appointments to the Board made after the date of enactment of the 'Adult Education and Family Literacy Reform Act of 1995' shall be for three-year terms, except that the initial terms for members may be established at one, two, or three years in order to establish a rotation in which one-third of the members are selected each year.

''(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that members' term until a successor has taken office.

''(4) The Chairperson and Vice Chairperson of the Board shall be elected by the members.

''(5) The Board shall meet at the call of the Chairperson or a majority of its members.

''(f) GIFTS, BEQUESTS, AND DEVISES.—(1) The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

''(2) The responsible official shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible services would reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

''(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

''(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

''(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

''(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(k) REPORT.—The Institute shall submit a biennial report to the Interagency Group and the Congress.

''(1) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

''TITLE III—GENERAL PROVISIONS

''WAIVERS

''SEC. 301. (a)(1) REQUEST FOR WAIVER.—Any State may request, on its own behalf or on behalf of a local recipient, a waiver by the Secretary of Education, the Secretary of the Interior, or the Secretary of Labor, as appropriate, of one or more statutory or regulatory provisions described in subsection (c) in order to carry out adult education and family literacy programs under title I more effectively.

''(2) An Indian tribe or tribal organization may request a waiver by a Secretary described in subsection (a)(1), as appropriate, of one or more statutory or regulatory provisions described in subsection (c) in order to carry out an Even Start family literacy program under section 104(c) more effectively.

''(b) GENERAL AUTHORITY.—(1) Except as provided in subsection (d), a Secretary described in subsection (a)(1) may waive any requirement of a statute listed in subsection (c), or of the regulations issued under that statute, for a State that requests such a waiver—

''(A) if, and only to the extent that, the Secretary determines that such requirement impedes the ability of the State or a subgrant recipient under title I to carry out adult education and family literacy programs or activities in an effective manner;

''(B) if the State waives, or agrees to waive, any similar requirements of State law;

''(C) if, in the case of a statewide waiver, the State—

''(i) has provided all subgrant recipients of assistance under this title I in the State with notice of, and an opportunity to comment on, the State's proposal to request a waiver; and

''(ii) has submitted the comments of such recipients to the Secretary; and

''(D) if the State provides such information as the Secretary reasonably requires in order to make such determinations.

''(2) A Secretary shall act promptly on any request submitted under paragraph (1).

''(3) Each waiver approved under this subsection shall be for a period not to exceed five years, except that a Secretary may extend such period if the Secretary determines that the waiver has been effective in enabling the State to carry out the purpose of this Act.

''(c) EDUCATION PROGRAMS.—(1) The statutes subject to the waiver authority of the Secretary of Education under this section are—

''(A) this Act;

''(B) part A of title I of the Elementary and Secondary Education Act of 1965 (authorizing programs and activities to help disadvantaged children meet high standards);

''(C) part B of title II of the Elementary and Secondary Education Act of 1965 (Dwight D. Eisenhower Professional Development Program);

''(D) title VI of the Elementary and Secondary Education Act of 1965 (Innovative Education Program Strategies);

''(E) part C of title VII of the Elementary and Secondary Education Act of 1965 (Emergency Immigrant Education Program);

''(F) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Labor; and

''(G) the Carl D. Perkins Career Preparation Education Act of 1995.

''(2) The Secretary of Interior may waive under this section the provisions of part B of the Education Amendments of 1978.

''(3) The statutes subject to the waiver authority of the Secretary of Labor under this section are—

''(A) the Job Training Partnership Act; and

''(B) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Education.

''(d) WAIVERS NOT AUTHORIZED.—A Secretary may not waive any statutory or regulatory requirement of the programs listed in subsection (c) relating to—

''(1) the basic purposes or goals of the affected programs;

''(2) maintenance of effort;

''(3) comparability of services;

''(4) the equitable participation of students attending private schools;

''(5) parental participation and involvement;

''(6) the distribution of funds to States or to local recipients;

''(7) the eligibility of an individual for participation in the affected programs;

''(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

''(9) prohibitions or restrictions relating to the construction of buildings or facilities.

''(e) TERMINATION OF WAIVERS.—A Secretary shall periodically review the performance of any State or local recipient for which the Secretary has granted a waiver under this section and shall terminate such waiver if the Secretary determines that the performance of the State affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law in accordance with subsection (b)(1)(B).

''DEFINITIONS

''SEC. 302. For the purpose of this Act:

''(1) the term 'adult' means an individual who is 16 years of age, or beyond the age of compulsory school attendance under State law, and who is not enrolled, or required to be enrolled, in secondary school;

''(2) the term 'adult education' means services or instruction below the college level for adults who—

''(A) lack sufficient education or literacy skills to enable them to function effectively in society; or

''(B) do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

''(3) the term 'community-based organization' means a private nonprofit organization that is representative of a community or significant segments of a community and that provides education, vocational rehabilitation, job training, or internship services and programs;

''(4) the term 'family literacy program' means a program that integrates adult education, parenting education, and early childhood education into a unified set of services and activities for low-income families that are most in need of such services and activities, and that is designed to help break the cycle of intergenerational poverty and undereducation;

''(5) the terms 'Indian tribes' and 'tribal organizations' have the meaning given such terms in section 3 of the Indian Self-Determination and Education Assistance Act;

''(6) the term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

''(A) whose native language is a language other than English; or

''(B) who lives in a family or community environment where a language other than English is the dominant language;

''(7) the term 'institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

''(8) the term 'literacy' means an individual's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and develop one's knowledge and potential;

''(9) the term 'local educational agency' means a public board of education or other

public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority;

''(10) the term 'migratory family' means a family with a migratory child as defined in section 1309(2) of the Elementary and Secondary Education Act of 1965;

''(11) the term 'public housing authority' means a public housing agency, as defined in 42 U.S.C. 1437a(b)(6), that participates in public housing, as defined in 42 U.S.C. 1437a(b)(1).

''(12) except under section 301, the term 'Secretary' means the Secretary of Education; and

''(13) except as provided in section 111(a)(2)(B), the term 'State' means each of the 50 States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.''.

TITLE II—EFFECTIVE DATE; TRANSITION

EFFECTIVE DATE

SEC. 201. This Act shall take effect on July 1, 1996.

TRANSITION

SEC. 202. Nothwithstanding any other provisions of law—

(1) upon enactment of the Adult Education and Family Literacy Reform Act of 1995, a State or local recipient of funds under the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of the Adult Education and Family Literacy Reform Act of 1995, may use any such unexpended funds to carry out services and activities that are authorized by those statutes or the Adult Education and Family Literacy Act; and

(2) a State or local recipient of funds under the Adult Education and Family Literacy Act for the fiscal year 1996 may use such funds to carry out services and activities that are authorized by either such Act or were authorized by the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(A) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of the Adult Education and Family Literacy Reform Act of 1995.

TITLE III—REPEALS OF OTHER ACTS

REPEALS

SEC. 301 (a) EVEN START.—Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is repealed.

(b) NATIONAL LITERACY ACT.—The National Literacy Act of 1991 (20 U.S.C. 1201 et seq.) is repealed.

(c) GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.—Part E of title X of the Higher Education Act of 1965 (20 U.S.C. 1135g) is repealed.

DEPARTMENT OF EDUCATION,
Washington, DC, May 8, 1995.

Hon. ALBERT GORE, JR.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for consideration of the Congress is the ''Adult Education and Family Literacy Reform Act of 1995,'' the Administration's plan to create a comprehensive strategy for meeting our Nation's adult education and family literacy needs. Also enclosed is a section-by-section analysis summarizing the contents of the bill. I am sending an identical letter to the Speaker of the House.

As part of the G.I. Bill for America's Workers, the Administration is consolidating and restructuring nearly 70 separate programs into a streamlined system to empower youth and adults to acquire the education and skills they need for new and better jobs. The Adult Education and Family Literacy Reform Act is central to this goal.

Results from the 1993 National Adult Literacy Survey reveal a literacy crisis in this country. More than 20 percent of adults performed at or below a 5th-grade level in reading and math—far below the level needed for effective participation in the workforce. And because parents' educational level is a strong predictor of children's academic success, the effects of this crisis extend beyond adults to their children. Despite the obvious need for literacy services among our Nation's adults, the recent National Evaluation of Adult Education Programs found that the current Adult Education program serves only small percentage of adults in need of services and that, while many adults benefit from participation in the program, many leave before they achieve any literacy gains. Overall, the current configuration of adult education and family literacy programs is too diffuse and diverts human and financial resources from what should be the focus of all Federal literacy efforts: the provision of high-quality, results-oriented services.

The Administration recognizes that adults who need to improve their educational skills will be hindered in the workplace, and in promoting their children's progress in school, if they do not have access to adult education and family literacy programs that meet their needs. In response, the enclosed bill creates a performance partnership designed around give broad principles—streamlining, flexibility, quality, targeting, and consumer choice—described in detail below.

First, our strategy would streamline a dozen existing adult education and family literacy programs into a single State grant that has a clear purpose and is aimed at high standards. In addition, the enclosed bill would cut in half the number of State planning requirements. These changes would save States time and money and allow them to focus more attention on improving the quality of their programs.

Our second principle is flexibility. To place decision-making in the hands of the States, the bill would eliminate several restrictions on the use of funds, such as the current mandatory set-aside for services to institutionalized individuals, the requirement that States make ''Gateway Grants'' to public housing authorities, and the cap on State expenditures for adult secondary education. States could use Federal funds to support a range of services in the mix that they—not the Federal Government—determine would best meet the needs of adults in their States. These services would include parenting education, basic skills education, high school equivalency instruction, early childhood education, and English classes for adults who speak other languages.

Because the Even Start Family Literacy Program has shown exceptional promise as a family literacy model, the bill would set aside 25 percent of the funds available for subgrants for Even Start Family Literacy Programs. However, if a State is already meeting the family literacy needs of its residents through a program of comparable quality, the Secretary could modify or waive this requirement.

We have also built in other flexibility provisions. For example, a new waiver authority would permit States to request, for themselves or for the local service providers, waivers of statutory or regulatory provisions of related Federal programs, such as Part A of Title I of the Elementary and Secondary Education Act of 1965, the School-to-Work Opportunities Act of 1994, the Job Training Partnership Act, and the proposed Carl D. Perkins Career Preparation Education Act, in order to facilitate more effective implementation of adult education and family literacy programs.

Third, the Administration believes that strong accountability provisions must go hand-in-hand with increased flexibility and that, combined, these elements improve the overall quality of education programs. To this end, the bill would build on current accountability provisions in Adult Education and Even Start by requiring States to develop or modify their own performances goals and indicators and describe them in their State plans. States would use these goals and indicators to evaluate the effectiveness of local programs. The Department would assist States in developing their performance goals and indicators by providing technical assistance. If, after a reasonable period of time, and the opportunity for a hearing, the Secretary determines that a State is not making sufficient progress toward its performance goals, the bill would authorize the Secretary to withhold Federal funds.

Solid evaluation requirements are also key to building better programs. While the Adult Education Act requires States to evaluate annually 20 percent of their grant recipients, it neither requires nor encourages subgrantees to evaluate themselves. Our bill would require a biennial local evaluation, whose results local providers would describe in their applications for subgrants. States would then consider those results in awarding funds to applicants seeking to provide services in various localities.

The bill also includes incentives for exceptional State and local performance. The new Act would authorize the Secretary to use up to five percent of the appropriation to make National Excellence Awards to States with exemplary adult education and family literacy programs. States could also reward exemplary local programs by using up to five percent of their allotments for financial incentive awards.

The bill includes additional quality-enhancing provisions. A reservation of up to ten percent of State funds for leadership activities, including professional development and training, and the development, acquisition, and promotion of advanced technologies, would encourage program improvement. Research and development, evaluation, and demonstration of model and innovative programs would take place at the Federal level through the National Leadership authority. Such activities would expand our understanding of what works in adult education programs, thereby helping States to improve the effectiveness of their programs. The bill would also authorize the National Institute for Literacy to continue in its current role as a national resource on literacy issues.

Fourth, our bill would target funds to States and local areas with the greatest need

for adult education and family literacy services. A new funding formula would distribute 50 percent of the funds based on the adult education population (excluding in-school students) and 50 percent based on adults living in poverty. In making determinations regarding local applications, States would be required to give preference for funding to those applicants that serve local areas with the highest concentrations of individuals in poverty or with low levels of literacy, or both.

Our final principle is consumer choice. In addition to allowing States flexibility to choose the services they offer, the enclosed bill would also expand adult learners' choices. By encouraging States to establish strong links with one-stop career centers, job-training programs, and social service agencies, the Administration's bill would facilitate the dissemination of information about the availability, services, and student outcomes of adult education and literacy programs. As learners make more informed choices about the programs they enter, the likelihood of their success in adult education and family literacy programs should improve.

I encourage Congress to act swiftly on our bill. By creating a single funding stream to States, the bill responds to concerns regarding the potential duplication of adult education and literacy programs. In doing so, the bill consolidates separate discretionary programs for library literacy, workplace literacy, and literacy programs for prisoners and the homeless. Although the Administration's bill would eliminate many narrow, categorical programs, we have taken steps to ensure that needy populations and promising practices are emphasized in our proposal. The bill permits States to continue to use libraries and the workplace as sites for the provision of services. It also requires States to assess the adult education and family literacy needs of hard-to-serve and most-in-need individuals, such as the homeless and the incarcerated, and describe programs' capacity to meet those needs. Targeting provisions of the bill also would ensure that local areas with high concentrations of individuals in poverty or low levels of literacy, or both, receive priority for Federal funds.

The Office of Management and Budget advises that there is no objection to the submission of this proposal to Congress and that its adoption would be in accord with the program of the President.

Yours sincerely,

RICHARD W. RILEY,
The Secretary.

ADULT EDUCATION AND FAMILY LITERACY REFORM ACT OF 1995—SECTION-BY-SECTION ANALYSIS

TITLE I OF THE BILL—AMENDMENTS TO THE ADULT EDUCATION ACT

Section 101. Amendment. Section 101 of the bill would amend the Adult Education Act (''current law'') in its entirety, as described below.

In general, this amendment would consolidate the current Adult Education programs, eliminating the many separate and prescriptive categorical programs, and the Even Start program under Title I, Part B of the Elementary and Secondary Education Act of 1965 into a simplified, flexible, comprehensive, performance partnership between Federal and State and local providers of adult education and family literacy services. States would build on their accomplishments under current law and establish their own performance goals and indicators. The Federal Government would support State and local efforts with national leadership and evaluation activities, national performance awards to States, and waivers from specific statutory and regulatory rules.

Adult Education and Family Literacy Act (the ''Act'')

Section 1. Short title; table of contents. Section 1 of the Act would propose that the amended Adult Education Act be cited as the ''Adult Education and Family Literacy Act'' (''the Act''). This section would also set forth a table of contents for the Act.

Section 2. Declaration of policy, findings, and purpose. Section 2 of the Act would set forth the findings and purpose of the Act.

Subsection (a) would set forth congressional findings.

Subsection (b) would state that the purpose of the Act is to create a performance partnership with States and localities for the provision of adult education and family literacy services so that, as called for in the National Education Goals, all adults who need such services will, as appropriate, be able to: (1) become literate and obtain the knowledge and skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship; (2) complete a high school education; (3) become and remain actively involved in their children's education in order to ensure their children's readiness for, and success in, school. This purpose would be pursued through: (1) building on State and and local education reforms supported by Goals 2000: Educate America Act and other Federal and State legislation; (2) consolidating numerous Federal adult education and literacy programs into a single, flexible grant; (3) tying local programs to challenging State-developed performance goals that are consistent with the purpose of this Act; (4) holding States and localities accountable for achieving such goals; (5) building program quality though such measures as encouraging greater use of technologies in adult education and family literacy programs and better professional development of educators working in those programs; (6) integrating adult education and family literacy programs with States' school-to-work opportunities systems, career preparation education services and activities, job training programs, early childhood and elementary school programs, and other related activities; and (7) supporting the improvement of State and local activities through nationally significant efforts in research, development, demonstration, dissemination, evaluation, capacity-building, data collection, professional development, and technical assistance.

Section 3. Authorization of appropriations. Section 3 of the Act would establish a ten-year authorization of appropriations for State and national programs. A ten-year authorization would facilitate stable growth and reform of the program.

Subsection (a) would authorize $490,487,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 through 20005 to carry out the Act. Subsection (b) would, from the amount appropriated in any fiscal year, authorize the Secretary to reserve not more than 3 percent to carry out sections 201 (national leadership activities) and 203 (National Institute for Literacy) of the Act, and not more than $5,000,000 for Even Start family literacy programs for migratory and Indian families under section 104(c) of the Act. Beginning in fiscal year 1998, the Secretary would also be authorized to reserve not more than 5 percent of section 202 (national performance awards).

TITLE I OF THE ACT—ADULT EDUCATION AND FAMILY LITERACY

Section 101. Priorities. Section 101 of the Act would require that, in order to prepare adults for family, work, citizenship, and job training, and adults and their children for success in future learning, funds under this title must be used to support the development, implementation, and improvement of adult education and family literacy programs at the State and local levels.

In using funds under the title, States and local recipients would be required to give priority to: (1) services and activities designed to ensure that all adults have the opportunity to achieve to challenging State performance standards for literacy proficiency, including basic literacy, English language proficiency, and completion of high school or its equivalent; (2) services and activities designed to enable parents to prepare their children for school, enhance their children's language and cognitive abilities, and promote their own career advancement; and (3) adult education and family literacy programs that are built on a strong foundation of research and effective educational practices; effectively employ advances in technology, as well as learning in the context of family, work, and the community; are staffed by well-trained instructors, counselors and administrators; are of sufficient intensity and duration for participants to achieve substantial learning gains; establish strong links with elementary and secondary schools, postsecondary institutions, one-stop career centers, job-training programs, and social service agencies; and offer flexible schedules and, when necessary, support services to enable people to attend and complete programs.

Section 102. State grants for adult education and family literacy. Section 102(a) of the Act would require the Secretary, from funds available for State grants under section 3 for each fiscal year and in accordance with section 111 of the Act, to make a grant to each State that has an approved State plan under section 106 of the Act, to assist that State in developing, implementing, and improving adult education and family literacy programs within the State.

Section 102(b) of the Act would authorize a State, from the amount awarded to it for any fiscal year under subsection (a), to use: (1) up to 5 percent, or $80,000, whichever is greater, for the cost of administering its program under this title; (2) up to 10 percent for leadership activities under section 103 of the Act; and (3) beginning in fiscal year 1998, 5 percent for financial incentives or awards to one or more eligible recipients in recognition of exemplary quality or innovation in adult education or family literacy services and activities, or exemplary services and activities for individuals who are most in need of such services and activities, or are hardest to serve, or both. Such incentives or awards would be determined by the State through a peer review process, using the performance goals and indicators described in section 108 and, if appropriate, other criteria.

Section 102(b) would also require that the remainder of the State's funds be used for subgrants to eligible applicants under section 107, except that at least 25 percent of such remainder would be required to be used for Even Start family literacy programs under section 104 of the Act, unless the State demonstrates in its State plan under section 106 of the Act, to the satisfaction of the Secretary, that it will otherwise meet the needs of individuals in the State for family literacy programs in a manner that is consistent with the purpose of this Act.

Section 102(c) of the Act would require that the Federal share of expenditures to carry out a State plan under section 106 of the Act be paid from the State's grant under subsection (a). However, such Federal share could be no greater than 75 percent of the cost of carrying out the State plan for each fiscal year, except that with respect to

Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands, the Federal share could be 100 percent. Section 102(c) of the Act would permit the State's share of expenditures in carrying out its State plan to be in cash or in kind, fairly evaluated, including only non-Federal funds that are used for adult education and family literacy activities in a manner that is consistent with the purpose of this Act.

Section 102(d) of the Act would require State-level maintenance of effort. Under subsection (d)(1), a State would be permitted to receive funds under the title for any fiscal year only if the Secretary finds that the aggregate expenditures of the State for adult education and family literacy by such State for the preceding fiscal year were not less than 90 percent of such aggregate expenditures for the second preceding fiscal year. The Secretary would be required to reduce the amount of the allocation of funds to a State, under section 102(a), for any fiscal year in the exact proportion to which a State falls below 90 percent of the aggregate expenditures for the second preceding fiscal year. Subsection (d)(3) would permit the Secretary to waive the maintenance-of-effort requirements if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous decline in the financial resource of the State. Subsection (d)(4) would state that no lesser amount of State expenditures under paragraphs (2) and (3) could be used for computing the effort required under subsection (d)(1) for subsequent years.

Section 103. State leaderships activities. Section 103 of the Act would require States to use their State leadership funds to conduct activities of Statewide significance that develop, implement, or improve programs of adult education and family literacy, consistent with the State plan under section 106. Such activities would include one or more of the following: (1) professional development and training; (2) disseminating curricula for adult education and family literacy programs; (3) monitoring and evaluating the quality of, and improvement in, services and activities conducted with assistance under this title, including establishing performance goals and indicators under section 109(a) of the Act, in order to assess program quality and improvement; (4) establishing State content standards for adult education and family literacy programs; (5) establishing challenging State performance standards for literacy proficiency; (6) promoting the integration of literacy instruction and occupational skill training, and linkages with employers; (7) promoting the use of and acquiring instructional and management software and technology; (8) establishing or operating State or regional adult literacy resource centers; (9) developing and participating in networks and consortia of States that seek to establish and implement adult education and family literacy programs that have significance to the State or region, and may have national significance; and (10) other activities of Statewide significance that promote the purposes of the Act.

Section 104. Even Start Family Literacy Programs. Section 104 of the Act would require each State that receives a grant under section 102(a) of the Act for any fiscal year to use the funds reserved under section 102(b)(4) of the Act (unless the State demonstrates to the Secretary that it will otherwise meet the needs of individuals in the State for family literacy programs) to award Even Start family literacy subgrants to partnerships composed of one or more local educational agencies and one or more community-based organizations, institutions of higher education, private non-profit organizations, or public agencies (other than local educational agencies). Such Even Start family literacy programs must: (1) provide opportunities (including home-based instructional services) for joint participation by parents or guardians (including parents or guardians who are within the State's compulsory school attendance age range, so long as a local educational agency provides, or ensures the availability of, their basic education), other family members, and children; (2) provide developmentally appropriate childhood education for children from birth through age seven; (3) identify and recruit families that are most in need of family literacy services, as indicated by low levels of income and adult literacy (including limited English proficiency), and such other need-related indicators as may be appropriate; and (4) enable participants to succeed through services and activities designed to meet their needs, such as support services and flexible class schedules.

From funds reserved under section 3(b)(1)(C) of the Act for any fiscal year, the Secretary would be required, under such terms and conditions as he or she establishes, to support Even Start family literacy programs through grants to, or cooperative agreements with, eligible applicants under section 107(b) of the Act for migratory families and with Indian tribes and tribal organizations for Indian families. Assistance to Indian tribes and tribal organizations for Indian families under this Act could be integrated with other programs under the Indian Employment Training and Related Services Demonstration Act of 1992.

Section 105. State Administration. Section 105 of the Act would require a State desiring to receive a grant under section 102(a) of the Act to designate, consistent with State law, an education agency or agencies that shall be responsible for the administration of services and activities under this title, including the development, submission, and implementation of the State plan; consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of programs assisted under this title; and coordination with other State and Federal education and training programs.

Section 105(b) of the Act would require that whenever a State imposes any rule or policy relating to the administration and operation of programs funded by this title, it must identify the rule or policy as a State-imposed requirement.

Section 106. State Plan. Section 106(a) of the Act would require, except as provided in subsection (f), each State desiring to receive a grant under this title for any fiscal year to submit to, or have on file with, the Secretary a five-year State plan that is approved by the designated State agency or agencies under section 105(a) of the Act. A State may submit its State plan as part of a comprehensive plan that includes State plan provisions under one or more of the following statutes: section 14302 of the Elementary and Secondary Education Act of 1965; the Carl D. Perkins Career Preparation Education Act of 1995; the Goals 2000: Educate America Act; the Job Training Partnership Act; and the School-to-Work Opportunities Act of 1994.

Section 106(b) of the Act would require the State, in developing its State plan, and any revisions to the plan, to base its plan or revisions on a recent, objective assessment of: (1) the needs of individuals in the State for adult education and family literacy programs, including individuals most in need or hardest to serve; and (2) the capacity of programs and providers to meet those needs, taking into account the priorities under section 101 of the Act and the State's performance goals under section 109(a) of the Act.

Section 106(c) of the Act would require the State, in developing its State plan, and any revisions to the plan, to consult widely with individuals, agencies, organizations, and institutions in the State that have an interest in the provision and quality of adult education and family literacy.

Section 106(d) of the Act would require the State plan to be in such form and contain such information and assurances as the Secretary may require, and include: (1) a summary of the methods used to conduct the assessment under subsection (b) and the findings of that assessment; (2) a description of how, in addressing the needs identified in the State's assessment, funds under this title will be used to establish adult education and family literacy programs, or improve or expand current programs, that will lead to high-quality learning outcomes, including measurable learning gains, for individuals in such programs; (3) a statement of the State's performance goals and indicators established under section 109, or in the first such plan a description of how the State will establish such performance goals and indicators; (4) a description of the criteria the State will use to award funds under this title to eligible applicants under section 107, including a description of how the State will ensure that its selection of applicants to operate programs assisted under this title will reflect the findings of program evaluations carried out under section 110(a); (5) a description of how the State will integrate services and activities under this Act, including planning and coordination of programs, with those of other agencies, institutions, and organizations involved in adult education and family literacy in order to ensure effective use of funds and to avoid duplication of services; (6) a description of the leadership activities the State will carry out under section 103; and (7) any comments the Governor may have on the State plan. Section 106(d) of the Act would also require the State plan to provide assurances that: (1) the State will comply with the requirements of this Act and the provisions of the State plan; (2) the State will use such fiscal control and accounting procedures as are necessary for the proper and efficient administration of this title; and (3) programs funded under this title will be of such size, scope, and quality as to give realistic promise of furthering the purpose of this Act.

Section 106(e) of the Act would require the designated State agency or agencies, when changes in conditions or other factors require substantial modifications to an approved State plan, to submit a revision to the plan to the Secretary. Such a revision would have to be approved by the designated State agency or agencies.

Section 106(f) of the Act would authorize a State, for fiscal year 1996 only, to submit a one year State plan to the Secretary that either satisfies the specific requirements of this section or describes how the State will complete the development of its State plan with respect to those specific requirements within the following year. A State may use funds reserved under section 102(b)(2) to complete the development of its State plan. A one year State plan under this subsection would have to be developed in accordance with subsection (c); and contain the assurances described in subsection (d)(8). In order to receive a grant under section 102(a) for fiscal year 1997, a State that submits a one year State plan under this subsection would have to submit a four year State plan that covers fiscal year 1997 and the three succeeding fiscal years.

Section 106(g) of the Act would require the designated State agency or agencies to submit the State plan, and any revisions to the State plan, to the Governor for review and comment; and ensure that any comments the Governor may have are included with the State plan, or revision, when the State plan, or revision, is submitted to the Secretary.

Section 106(h) of the Act would require the Secretary to approve a State plan, or a revision to an approved State plan, if it meets the requirements of this section and is of sufficient quality to meet the purpose of this Act. The subsection would also prohibit the Secretary from finally disapproving a State plan, or a revision to an approved State plan, except after giving the State reasonable notice and an opportunity for a hearing. The Secretary would be required to establish a peer review process to make recommendations regarding approval of State plans and revisions to the State plans.

Section 107. Subgrants to eligible applicants. Section 107(a) of the Act would require States, from funds available under section 102(b)(4) of the Act, to make subgrants to eligible applicants to develop, implement, and improve adult education and family literacy programs within the State. To the extent practicable, States would make multi-year subgrants.

Under section 107(b), except for subgrants for Even Start family literacy programs under section 104, entities eligible to apply to the State for a subgrant would be: (1) local educational agencies; (2) community-based organizations; (3) institutions of higher education; (4) public and private nonprofit agencies (including State and local welfare agencies, corrections agencies, public libraries, and public housing authorities); and (5) consortia of such agencies, organizations, institutions, or partnerships, including consortia that include one or more for-profit agencies, organizations, or institutions, if such agencies, organizations, or institutions can make a significant contribution to attaining the objectives of the Act. Each State receiving funds under title I would be required to ensure that all the above-mentioned eligible applicants receive equitable consideration for subgrants under this section.

Section 108. Applications from eligible applicants. Section 108 of the Act would require any eligible applicant under sections 104(a) (Even Start partnerships) or 107(b)(1) (other eligible applicants) that desires a subgrant under title I to submit an application to the State containing such information and assurances as the State may reasonably require. Such information must include: (1) a description of the applicant's current adult education and family literacy programs, if any; (2) a description of how funds awarded under this title will be spent; (3) a description of how the applicant's program will help the State address the needs identified in the State's assessment under section 106(b)(1); (4) the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement, and how the applicant will measure and report to the State regarding the information required in section 110(a); and (5) any cooperative arrangements the applicant has with others (including arrangements with social service agencies, one-stop career centers, business, industry, and volunteer literacy organizations) that have been made to deliver adult education and family literacy programs.

In determining which applicants receive funds under this title, section 108(b) of the Act would require the State to give preference to those applicants that serve local areas with the high concentrations of individuals in poverty, or with low levels of literacy (including English language proficiency), or both, and to consider the results of the evaluations required under section 110(a), if any, and the degree to which the applicant will coordinate with and utilize other literacy and social services available in the community.

Section 109. State performance goals and indicators. Section 109(a) of the Act would require any State desiring to receive a grant under section 102(a) of the Act, in consultation with individuals, agencies, organizations, and institutions described in section 106(c), to: (1) identify performance goals that define the level of student achievement to be attained in adult education and family literacy programs funded under title I, and express such goals in an objective, quantifiable, and measurable form; and (2) identify performance indicators that State and local recipients will use in measuring or assessing progress toward achieving such goals. By July 1, 1997, such performance indicators must include, at least: (1) achievement in linguistic skills, including English language skills; (2) receipt of a high school diploma or its equivalent; (3) entry into a postsecondary school, job training program, employment, or career advancement; and (4) successful transition of children to school.

Section 109(b) of the Act would authorize a State, except as provided in subsection (a)(3), to continue to use the indicators of program quality that it developed under section 331(a)(2) of current law, to the extent they are consistent with the State's performance goals.

Section 109(c) of the Act would require the Secretary to provide technical assistance to States regarding the development of such performance goals and indicators and authorize the Secretary to use funds reserved under section 3(b)(1)(B) of the Act to provide such technical assistance.

Section 110. Evaluation, improvement, and accountability. Section 110(a) of the Act would require each recipient of a subgrant under title I of the Act to evaluate biennially, using the performance goals and indicators established under section 109(a) of the Act, the programs supported under title I and report to the State regarding the effectiveness of its programs in addressing the priorities under section 101 and the needs identified in the State assessment under section 106(b)(1).

Section 110(b) of the Act would provide that if a State determines, based on the applicable performance goals and indicators and the evaluations under subsection (a), that a subgrant recipient is not making substantial progress in achieving the purpose of this Act, the State may, but is not required to, work jointly with the local recipient to develop an improvement plan. If, after not more than two years of implementation of the improvement plan, the State determines that the recipient is not making substantial progress, the State must take whatever corrective action it deems necessary, which may include termination of funding or the implementation of alternative service arrangements, consistent with the State law. The State could take such corrective action only after it provided technical assistance to the recipient and ensured that corrective action allowed for continued services and activities to the recipient's students. The State would have to report biennially to the Secretary on the quality and effectiveness of the adult education and family literacy programs funded through its subgrants under title I, based on the performance goals and indicators under section 109(a) and the needs identified in the State assessment under section 106(b)(1).

Section 110(d) of the Act would require that if the Secretary determines that the State is not properly implementing its responsibilities under subsection (b), or is not making substantial progress in meeting the purpose of this Act based on its goals and indicators under section 109, he or she must work with the State to implement improvement activities. If, after a reasonable time, but not earlier than one year after the State implements such activities, the Secretary determines that the State is not making sufficient progress, based on its performance goals and indicators, the Secretary would be required, after notice and opportunity for a hearing, to withhold from the State all, or a portion, of the State's allotment under this title. The Secretary would be given the authority to use funds withheld to provide, through alternative arrangements, services and activities within the State that meet the purposes of this Act.

Section 111. Allotments; reallocation. Section 111(a) of the Act would, subject to the hold-harmless provisions in subsection (b), from the funds available under section 102(a) for each fiscal year, require the Secretary to allot to each State: (1) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 16 years of age or older and not enrolled, or required to be enrolled, in secondary school and who do not possess a high school diploma or its equivalent bears to the number of such individuals in all the States; and (2) a sum that bears the same ratio to one-half that amount as the number of individuals in the State who are 18 years of age or older and who are living at or below poverty bears to the number of such individuals in all the States. The Secretary would be required to allot to the Commonwealth of Puerto Rico an amount equal to 2.95 percent of the funds available under section 102(a) for each fiscal year. For the purpose of subsection (a), the term 'State' would be deemed to exclude the Puerto Rico. The numbers of individuals specified in paragraph (1) would be determined by the Secretary on the basis of the latest estimates available to the Department that are satisfactory to the Secretary.

Section 111(b)(1) of the Act would provide that, notwithstanding any other provision of law and subject to paragraph (2): (1) for fiscal year 1996, no State shall receive under title I of this Act less than 90 percent of the sum of the payments made to the State for the fiscal year 1995 for programs authorized by the section 313 of the Adult Education Act, section 1202 (Even Start) of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as those statutes were in effect prior to the enactment of this bill; and (2) for fiscal year 1997, no State shall receive under Title I of this Act less than 90 percent of the amount it received under Title I for fiscal year 1996. Section 111(b)(2) of the Act would provide that, if for any fiscal year the amount available for allotment under this section is insufficient to satisfy the provisions of subsection (b)(1), the Secretary is to ratably reduce the payments to all States for such services and activities as necessary.

Section 111(c) of the Act would provide for reallotment of any unneeded portion of a State's allotment under subsection (a) for any fiscal year.

Section 111(d) of the Act would require the Secretary, by September 30, 2000, to conduct a study to determine the availability and reliability of statistical data on the number of immigrant and limited English proficient individuals in each State, and report to the Congress on the feasibility and advisability of including such population as a factor in the formula under subsection (a)(1).

TITLE II OF THE ACT—NATIONAL LEADERSHIP

Section 201. National Leadership Activities. Section 201 of the Act would authorize

the Secretary, from the amount reserved under section 3(b)(1)(B) of the Act for any fiscal year, to establish a program of national leadership and evaluation activities to enhance the quality of adult education and family literacy nationwide. The Secretary would be authorized to carry out such activities directly or through grants, contracts, and cooperative agreements. Funds under this section could be used for: (1) research and development; (2) demonstration of model and innovative programs; (3) dissemination; (4) evaluations and assessments, including independent assessments of services and activities assisted under this Act and of the condition and progress of literacy of the United States; (5) capacity building at the State and local levels; (6) data collection; (7) professional development; (8) technical assistance; and (9) other activities designed to enhance the quality of adult education and family literacy nationwide.

Section 202. Awards for National Excellence, Section 202 of the Act would authorize the Secretary, from the amount reserved under section 3(b)(1)(A) of the Act for any fiscal year after fiscal year 1997, and through a peer review process, to make performance awards to one or more States that have: (1) exceeded in an out-standing manner their performance goals established under section 109(a) the Act; (2) made exemplary progress in developing, implementing, or improving their adult education and family literacy programs in accordance with the priorities described in section 101 of the Act; or (3) provided exemplary services and activities for those individuals within the State who are most in need of adult education and family literacy services, or are hardest to serve.

Section 203. National Institute for Literacy. Section 203 of the Act would reauthorize the National Institute for Literacy (the ''Institute'').

Subsection (a) would clarify the purpose of the Institute by requiring it to: (1) provide national leadership; (2) coordinate literacy services; and (3) be a national resource for adult education and family literacy, by providing the best and most current information available and supporting the creation of new ways to offer improved services.

Subsection (b) would establish the Institute, to be administered by the terms of an interagency agreement entered into by the Secretaries of Education, Labor, and Health and Human Services (the ''Interagency Group''). The Secretary could include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education whose purpose is determined by the Secretary to be related to the purpose of the Institute.

Under subsection (b), the Interagency Group would consider the recommendations of the National Institute for Literacy Advisory Board in planning the goals of the Institute and in implementing any programs to achieve such goals. The daily operations of the Institute would be carried out by the Director.

Subsection (c) would authorize the Institute to: (1) establish a national electronic data base that disseminates information to the broadest possible audience within the literacy and basic skills field; (2) coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels; (3) coordinate the support of research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement, and carry out basic and applied research and development on topics that are not being investigated by other organizations investigated by other organizations or agencies; (4) collect and disseminate information on methods of advancing literacy that show great promise; (5) work with the National Education Goals Panel in making and measuring progress towards the National Education Goals, as established by P.L. 103–227; (6) coordinate and share information with national organizations and associations that are interested in literacy and workforce development; and (7) inform the development of policy with respect to literacy and basic skills;

Subsection (c) would also authorize the Institute to enter into contracts or cooperative agreements with, or make grants to, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements would be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

Subsection (d) would authorize the Institute, in consultation with the Board, to award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation. Such fellowships would have to be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level. Subsection (d) would also authorize the Institute, in consultation with the Board, to award paid and unpaid internships to individuals seeking to assist in carrying out the Institute's mission and to accept assistance from volunteers.

Subsection (e) would establish the National Institute for Literacy Advisory Board (the 'Board'), consisting of 10 individuals appointed by the President who are not otherwise officers or employees of the Federal Government and who are representative of such entities as: (1) literacy organizations and providers of literacy services; (2) businesses that have demonstrated interest in literacy programs; (3) literacy students, including those with disabilities; (4) experts in the area of literacy research; (5) State and local governments; and (6) organized labor.

Subsection (e) would require the Board to: (1) make recommendations concerning the appointment of the Director and staff of the Institute; and (2) provide independent advice on the operation of the Institute. Subsection (e) would also provide for staggering the terms of appointment for Board members, filling vacancies on the Board, electing a Chairperson and Vice Chairperson of the Board by the members, and calling Board meetings.

Subsection (f) would authorize the Institute to accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible. Subsection (f) would also require the responsible official to establish written rules setting forth the criteria to be used in determining whether the acceptance of such gifts or donations reflect unfavorably upon the ability of the Institute or any employee to carry out its responsibilities or official duties in a fair and objective manner, or compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

Subsection (g) would authorize the Board and the Institute to use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

Subsection (h) requires the Interagency Group, after considering recommendations made by the Board, to appoint and fix the pay of a Director.

Subsection (i) would permit the Director and staff of the Institute to be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

Subsection (j) would allow the Institute to procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

Subsection (k) would require the Institute to submit a biennial report to the Interagency Group and the Congress.

Subsection (l) would permit any amounts appropriated to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section, to be provided to the Institute for such purposes.

TITLE III OF THE ACT—GENERAL PROVISIONS

Section 301. Waivers. Section 301 of the Act sets forth waiver provisions, in order to provide the flexibility States need to carry out adult education and family literacy programs.

Subsection (a)(1) provides that any State may request a waiver by the Secretary of Education, the Secretary of the Interior, or the Secretary of Labor, as appropriate, of one or more statutory or regulatory provisions in order to carry out adult education and family literacy programs under title I more effectively. Subsection (a) (2) provides that an Indian tribe or tribal organization may request a waiver by a Secretary described in subsection (a) (1), as appropriate, of one or more statutory or regulatory provisions described in subsection (c) in order to carry out an Even Start family literacy program under section 104(c) more effectively.

Subsection (b) would, with some exceptions, authorize a Secretary described in subsection (a) (1) to waive any requirement of any statute listed in subsection (c), or of the regulations issued under that statute. In both cases, the Secretary would be authorized to grant a waiver to a State that requests one: (1) if, and only to the extent that, the Secretary determines that the requirement impedes the State's or subgrant recipient's ability to carry out adult education and family literacy programs or activities in an effective manner; (2) if the State waives, or agrees to waive, any similar requirements of State law; (3) if, in the case of a statewide waiver, the State has provided all subgrant recipients of assistance under title I in the State with notice of, and an opportunity to comment on, the State's proposal to request a waiver and has submitted these comments to the Secretary; and (4) if the State provides such information as the Secretary reasonably requires in order to make such determinations.

Subsection (b) would require a Secretary to act promptly on any waiver request. This subsection would also provide that each waiver shall be for no longer than five years. However, a Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State to carry out the purpose of the Act.

Subsection (c)(1) would list the following statutes as subject to waiver by the Secretary of Education: (1) this Act; (2) part A of title I of the Elementary and Secondary Education Act of 1965 (authorizing programs

and activities to help disadvantaged children meet high standards); (3) part B of title II of the Elementary and Secondary Education Act of 1965 (Dwight D. Eisenhower Professional Development program); (4) title VI of the Elementary and Secondary Education Act of 1965 (Innovative Education Program Strategies); (5) part C of title VII of the Elementary and Secondary Education Act of 1965 (Emergency Immigrant Education program); (6) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Labor; and (7) the Carl D. Perkins Career Preparation Education Act of 1995.

Subsection (c) (2) would authorize the Secretary of the Interior to waive the provisions of part B of the Education Amendments of 1978.

Subsection (c) (3) would list the following statutes as subject to waiver by the Secretary of Labor: (1) the Job Training Partnership Act; and (2) the School-to-Work Opportunities Act of 1994, but only with the concurrence of the Secretary of Education.

It is not necessary to include Head Start programs in the waiver authority section of this bill, because there already exists sufficient authority in Head Start legislation for a wide range of collaborative and coordination efforts with adult education and family literacy programs.

Subsection (d) would prohibit the Secretary from waiving any statutory or regulatory requirement of the programs listed in subsection (c) that relate to: (1) the basic purposes or goals of the affected programs; (2) maintenance of effort; (3) comparability of services; (4) the equitable participation of students attending private schools; (5) parental participation and involvement; (6) the distribution of funds to States or to local recipients; (7) the eligibility of an individual for participation in the affected programs; (8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or (9) prohibitions or restrictions relating to the construction of buildings or facilities.

Subsection (e) would require a Secretary to review periodically the performance of any State or local recipient for which the Secretary has granted a waiver and to terminate the waiver, if the Secretary determines that the performance of the State affected by the waiver or the State fails to waive similar requirements of State law.

Section 302. Definitions. Section 302 would define the terms ''adult,'' ''adult education,'' ''community-based organization,'' ''family literacy,'' ''Indian tribes'' and ''tribal organizations,'' ''individual of limited English proficiency,'' ''institution of higher education,'' ''literacy,'' ''local educational agency,'' ''migratory family,'' ''public housing authority,'' ''Secretary,'' and ''State'' for the purpose of the Act.

TITLE II OF THE BILL—EFFECTIVE DATES; TRANSITION

Section 201. Effective date. Section 201 of the bill would provide that the Adult Education and Family Literacy Reform Act of 1995 would take effect on July 1, 1996.

Section 202. Transition. Section 202 of the bill would provide that, notwithstanding any other provisions of law, upon enactment of this bill, a State or local recipient of funds under the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of this bill, could use any unexpended funds to carry out services and activities that were authorized in by those statutes or by the Adult Education and Family Literacy Act. A State or local recipient of funds under this Act for fiscal year 1996 could use those funds to carry out services and activities that are authorized by either this Act or the Adult Education Act, the Even Start Family Literacy Programs of the Elementary and Secondary Education Act of 1965, and sections 202(c)(1)(C) and 262(c)(1)(C) of the Job Training Partnership Act, as they were in effect prior to the enactment of this bill.

TITLE III OF THE BILL—REPEAL OF OTHER ACTS

Section 301. Repeals. Section 301 of the bill would repeal Part B (Even Start) of title I of the Elementary and Secondary Education Act of 1965, the National Literacy Act of 1991, and Part E (Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders) of title X of the Higher Education Act.

By Mr. CONRAD (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. BRADLEY, and Mr. ROCKEFELLER):

S. 798. A bill to amend title XVI of the Social Security Act to improve the provisions of supplemental security income benefits, and for the purposes; to the Committee on Finance.

THE CHILDREN'S SSI ELIGIBILITY REFORM ACT

Mr. CONRAD. Mr. President, I rise today to introduce the Children's SSI Eligibility Reform Act.

As my colleagues know, the welfare reform bill passed by the House of Representatives attempted to address criticisms that have been leveled against the SSI program. But the House went too far.

SSI is the program of last resort for 850,000 children with severe disabilities who live in low income families. The cash assistance provided to these children's families enables them to meet the added costs the disability imposes on the family—whether those costs result from necessary modifications to the home; day care for siblings while the child in question receives therapy; basic necessities like food, shelter, clothing and utilities; transportation expenses in making frequent trips to a therapist or hospital; or the cost of foregoing one parent's income in order to care for a child with a disability. SSI also provides for the basic necessities of low income families, in order to maximize the likelihood that a child with a disability can remain at home.

But the SSI program is not without its faults. SSI as it relates to children has been poorly defined since its inception. There is concern that children who are not sufficiently disabled to merit assistance are making their way onto the SSI rolls. There have been allegations that some parents have coached their children to feign a disability in order to obtain benefits. And there is concern that SSI does nothing to promote the improvement of those children with disabilities who could improve with proper assistance.

Because of these issues and my concern that the House enacted an ill-conceived, sweeping proposal with insufficient data on its impact, I convened a series of psychiatric and disability experts to help me develop the Children's SSI Eligibility Reform Act. And I am extremely pleased that Senators CHAFEE, JEFFORDS and BRADLEY have joined me in this effort.

This is a bipartisan issue. Republicans and Democrats alike want to do the right thing when it comes to severely disabled children. That's why we should make every effort to repair the defects in the SSI program, but do so in a way that protects children with severe disabilities.

The House of Representatives, out of frustration with repeated reports of abuse under the program, went too far. The House wiped out the Individualized Functional Assessment that was developed to protect children with disabilities after the Supreme Court's Zebley decision. And as a result, the vast majority of the 250,000 children who currently receive SSI by virtue of the assessment would lose all benefits—both SSI cash benefits and Medicaid.

The proposal Senator CHAFEE, Senator JEFFORDS, Senator BRADLEY and I are introducing, on the other hand, takes a surgical approach to improving SSI. It targets the problems, not the kids.

But none of us can pretend that SSI reform will not eliminate some children from the rolls. Obviously, it will. Given that fact, our goal should be to remove those who should not be on the program in the first place.

In order to accomplish this, our proposal takes several approaches. First, it clarifies the purpose of the program, which critics argue was never sufficiently defined. It ensures that the purpose of SSI is not only covering the additional costs of caring for children with disabilities and maintaining them at home, but also providing basic necessities and enhancing the opportunity for these children to develop into independent adults.

Second, our proposal modifies SSI's medical listings and Individualized Functional Assessment to ensure that only children with severe disabilities are drawing SSI benefits.

This is not a modification I take lightly. Members of Congress, for the most part, must acknowledge our ignorance in making clinical diagnoses relating to mental illness and other disabilities. Any modifications we make to the diagnostic tools of clinicians should respect both what we know and do not know, so we do not harm innocent children.

Therefore, while our proposal modifies the medical listings and increases the level of severity required under the Individualized Functional Assessment, it also requires an evaluation of these changes by the Social Security Administration.

Mr. Chairman, much attention has been paid in this debate to children with mental disorders, and the degree to which they should be eligible for SSI.

I think we need to be very careful to avoid denying eligibility to someone who doesn't look disabled. And as much as we must reform this program

to insure its integrity, we must also avoid making decisions based only on anecdotal evidence. A child who may not ''look'' disabled to the average person may suffer from a severe disability that is just as costly for the family as a physically disabled child.

Let me give you an example from North Dakota. The mother of a 6-year-old child named Garrett recently visited my office.

When Garrett was 4, he was diagnosed with attention deficit hyperactivity disorder—ADHD. A medication was prescribed for him after he experienced a series of seizures. But the medication caused brain damage which has deprived Garrett of the ability to control his negative emotions.

Because Garrett has no neurological control, he is incapable of exercising choice in his actions and requires constant supervision. Garrett's aggressive disorders have resulted in harm to himself, the members of his family, and their home.

SSI not only has enabled the family to make household repairs when Garrett has damaged the house, but also to pay for day care for their younger daughter when Garrett's mother has had to take him to therapy. There is no day care for a youngster like Garrett.

Garrett is just one example of the kind of child who should not be removed from SSI. I am hopeful that this Congress will see fit to take a balanced approach to this issue to ensure that we clean up this program in a way that is tough, honest and fair.

Mr. President, in addition to making the changes to SSI that I have already mentioned, our proposal also:

Increases the use of standardized tests to make it virtually impossible for anyone to feign a disability;

Expands and better targets SSI continuing disability reviews;

Expands civil penalties for those who coach children to act inappropriately in order to receive benefits;

Graduates the level of benefits that families receive when they have more than one child on SSI;

Changes the SSI policy regarding retroactive lump sum benefits;

Requires parents to demonstrate that they have sought appropriate treatment to alleviate their child's disability; and several other important provisions.

Mr. President, while a great deal of time and effort has gone into developing this legislation, I would be the first to acknowledge that there may be room for improvement. For example, the Slattery Commission on Childhood Disability appears ready to recommend that Medicaid coverage continue for children who leave SSI because their condition improves, but need continued medical assistance to ensure their condition does not worsen. Although this provision is not in our bill, I believe it is one the Congress should consider.

I also want to call to my colleagues' attention a new report by the National Academy of Social Insurance entitled ''Restructuring the SSI Disability Program for Children and Adolescents.'' The Academy's study, conducted by a nonpartisan group of national experts, is an extremely thoughtful and comprehensive analysis of the approach Congress should take to reform SSI. And it contains many parallels to the legislation we are introducing today. The report recommends strengthening eligibility criteria, preserving the cash benefit, graduating the amount of benefits families receive when they have more than one child on SSI, encouraging measures to foster independence among those youngsters who can become independent, and several other items.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From National Academy of Social Insurance, May 8, 1995]

EXPERT GROUP RECOMMENDS STEPS TO RESTRUCTURE SUPPLEMENTAL SECURITY DISABILITY PROGRAM FOR CHILDREN, ADOLESCENTS

WASHINGTON, DC.—A nonpartisan group of national experts, responding to a study request from the House Ways and Means Committee in the 102nd Congress, said today that ''there is a strong rationale for the payment of cash benefits to families with disabled children, while suggesting specific steps to restructure the Supplemental Security Income (SSI) disability program whose future is currently being debated in the Congress.

The Committee on Childhood Disability of the National Academy of Social Insurance released its findings in a study entitled ''Restructuring the SSI Disability Program for Children and Adolescents.'' The study, one year in the making, also considered the views of 12 additional experts in government, academia, and the private sector who contribute to the Academy's Disability Policy Panel.

The population of children with disabilities is small, but significant, and varies depending on the definition of ''disability.'' The National Health Interview Survey estimates in 1991 that children who had a ''limitation in their major activity''—which means attending school for children age 5–17, or playing for younger children—numbered 2.7 million or 4.2 percent of children under 18. In December of 1994, there were 837,000 low-income children under 18 receiving SSI due to their disabilities.

Jerry Mashaw, the Panel chair and Sterling Professor of Law at Yale University, explained that ''cash payments must be seen in the context of needs for family support. There are myriad special burdens placed on families of children with severe disabilities. Cash support can ease those burdens, even if it cannot remove them. Low-income families, already at the margin, face particular difficulties meeting the added costs associated with their child's disability.''

The Committee, though clearly in support of cash benefits for disabled children, said that these benefits should be made ''only in appropriate cases'' and that they should not be excessive in the modest number of cases where families have more than one disabled child. Most importantly, they argued, ''the approach to the support of disabled children through the SSI program should be reoriented toward an emphasis on the medical recovery, physical and mental development and job readiness of children with disabilities.''

The rapid growth in SSI childhood disability awards between 1989 and 1993 has leveled off and actually declined in 1994. According to Mashaw, the growth appears to be a ''wave'' rather than a long term trend. The ''wave'' was attributed to four factors: updates of the listing of disabling childhood mental impairments in late 1990; implementation of a 1990 Supreme Court decision that expanded SSI eligibility criteria for children; legislatively mandated outreach activities by the Social Security Administration as well as efforts by States and private organizations to enroll eligible children in the SSI program; and an economic recession in 1990–91 that caused more families with disabled children to meet the program's low-income criteria.

The report also makes clear that allegations of widespread abuse have not been substantiated in any of the studies that have been done. The data show that children who receive SSI have very significant disabilities, and that those who are suspected of ''gaming the system'' are denied benefits. Further, the Social Security Administration has put in place rigorous new systems to investigate all such allegations and assure that benefits are not improperly paid.

The Academy's expert group identified five themes that define sound disability policy for children and adolescents:

Family preservation. ''The basic purpose of cash benefits is to support and preserve the capacity of families to care for their disabled children in their own homes.'' This can be done by providing for some of the additional, non-medical, but disability-related, costs of raising a disabled child; by compensating for some of the income lost because of the everyday necessities of caring for a disabled child; and by meeting the child's basic needs for food, clothing, and shelter.

''Without these supports,'' they argue, ''disabled children would be at a much greater risk of losing both a secure home environment and the opportunity for integration into community life, including the world of work.''

Strengthened eligibility criteria. The Committee urged that ''maladaptive behavior'' be eliminated as a separate ''functional domain'' for evaluating childhood mental disorders that qualify one for SSI. Further, they called for increased use of standardized tests to assess functioning for children with mental disorders. And, they called for revamping the ''individualized functional assessment'' required by the Supreme Court to make it a more accurate barometer of both physical and mental disabilities, that is not so closely tied to mental disorders.

The Committee said that ''new regulations should be developed expeditiously to strengthen the childhood eligibility criteria. At the same time, care should be taken not to repeat the tumult of the early 1980s, when radical retrenchment in Federal disability policy brought widespread individual hardship and judicial challenges. States were at first reluctant, and then refused, to implement the harsh policies because it left them with the burden of care for vulnerable populations whose Federal benefits were denied or terminated.

Limiting family benefits when there is more than one eligible child in the household. With appropriate exceptions for children who need round-the-clock nursing care or foster care, and for adopted special-needs children, SSI benefits for families with more than one disabled child should be limited to 1.5 times the individual benefit for two children and two times the benefit for three or more children, according to the Committee's recommendations. No disabled child should

lose Medicaid eligibility because of this limit on cash benefits.

Encourage a work track for teens with disabilities. At age 14, teenagers on SSI, together with their parents and special education advisors, should begin setting career goals and developing transition plans out of SSI and into financial independence whenever possible, according to the study group. While these children are pursuing their goals for work or further education after high school, they would have assurance of SSI benefits until they reached age 18, even if they began to demonstrate work skills.

Encourage energetic measures by States, localities, and the private sector to limit the period when cash support is needed for infants and young children with disabilities. Children's progress should be tracked and periodically reviewed to ensure that those who recover do not remain on the SSI disability rolls, and that those whose disabilities persist are linked to services appropriate to their changing needs as they grow older.

The Disability Policy Panel will issue a report providing a fundamental review of the Social Security Disability programs for adults later this fall. Today's report on children and the SSI disability program is available from the National Academy of Social Insurance. The Academy is a nonprofit, nonpartisan organization devoted to furthering knowledge and understanding of Social Security and related public and private social programs. The Disability Project is supported by The Pew Charitable Trusts, The Robert Wood Johnson Foundation, and corporate members of the Health Insurance Association of America that offer long-term disability insurance.

MAY 11, 1995.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: The undersigned national organizations are writing to express our full support for the bill you, Senator Chafee, Senator Jeffords and Senator Bradley are sponsoring, to make sensible reforms to the Supplemental Security Income (SSI) program for children with disabilities.

The SSI program is a lifeline for families who have children with disabilities. Over 900,000 children with severe impairments living in low-income families now receive cash benefits to meet their basic needs (which often cost more for children with disabilities), compensate for their extraordinary expenses, and offset loss of income because a parent must remain unemployed or underemployed to care for their child.

The SSI program for children has been maligned by allegations that parents are ''coaching'' their children to appear disabled and that SSA is qualifying children with mild impairments. The program has been intensively examined by the Social Security Administration, the HHS Office of Inspector General and the General Accounting Office. While they criticized some aspects of the program, they could not substantiate the allegations of widespread fraud or maladministration. Nevertheless, the House enacted legislation, H.R. 4, which throws 170,000 children off the program immediately, denies benefits to 400,000 others over the next five years, and replaces cash benefits to future eligible children with a vague set of services administered by the states. The House bill cuts by 35% estimated SSI spending for the children over the next five years.

Your bill represents sensible reform. It addresses the issues raised by the program's critics without decimating the program. It clarifies and raises the SSI eligibility standards, expands the definition of fraud to include ''coaching'' children to pass disability tests, requires periodic reviews to assure that children who are no longer disabled are removed from the program and improves incentives to encourage children to move toward independence.

We are happy to support your legislation and look forward to working with you to assure its passage in the Senate and ultimate enactment into law.

Sincerely,

Joseph Manes; Rhoda Schulzinger, Bazelon Center Mental Health Law; Martha Ford, The Arc; Al Guida, National Mental Health Association; on behalf of: American Academy of Child and Adolescent Psychiatry; American Association of Children's Residential Centers; American Association on Mental Retardation; American Association for Partial Hospitalization; American Association of Pastoral Counselors; American Association of Private Practice Psychiatrists; American Association of Psychiatric Services for Children; American Board of Examiners in Clinical Social Work; American Counseling Association; American Counseling Association; American Family Foundation; American Occupational Therapy Association; Orthopsychiatric Association; American Psychoanalytic Association; American Psychological Association; American Rehabilitation Association; Anxiety Disorders Association of America, Association of Mental Health Administrators; Bazelon Center for Mental Health Law; Corporation for the Advancement of Psychiatry; Cult Awareness Network; Epilepsy Foundation of America; Family Service America; Federation of Families for Children's Mental Health; International Association of Psychosocial Rehabilitation Services; Legal Action Center; National Association of Protection and Advisory Systems; National Association of Psychiatric Health Systems; National Association of Psychiatric Treatment for Children; National Association of School Psychologists; National Association of Social Workers; National Association of State Directors of Development Disabilities Services, Inc.; National Association of State Mental Health Program Directors; National Community Mental Healthcare Council; National Depressive and Manic Depressive Association; National Easter Seal Society; National Federation of Societies for Clinical Social Work; National Head Injury Foundation; National Mental Health Association; National Organization of State Associations for Children; National Organization for Rare Disorders; The Arc; United Cerebral Palsy Association; World Association of Psychosocial Rehabilitation.

Mr. CHAFEE. Mr. President, I am pleased today to join Senator CONRAD in introducing the Childhood SSI Eligibility Act. This legislation makes important reforms to the children's SSI program without completely dismantling this critical cash assistance program for low- income families with disabled children.

It is important to point out from the outset that, contrary to the many sensational stories we have seen in the press, 80 percent of children receiving SSI payments are severely disabled. They suffer from severe physical disabilities such as cystic fibrosis and cerebral palsy, or from significant developmental retardation. The other 20 percent have other mental impairments such as childhood autism or schizophrenia.

The families of such children need cash assistance in addition to medical services. In many of these cases, one parent must remain home with the child; in this case, the program serves as income replacement for a parent who must quit working. If these families were to lose their SSI cash benefits, many would not have the resources to care for their children at home resulting in a significant increase in institutionalization. Mr. President, if there is one thing we can all agree on it is that, whenever possible, children should remain at home with their families and in the community instead of in institutions. This legislation continues to make that possible.

The cash is also used for other critical supports, such as specially trained child care providers, specially equipped vehicles to transport children who use wheelchairs, home modifications and adaptations, special telecommunication services, and family support services.

Having said that, I also recognize that there are some problems with the children's SSI program, and that is why we are introducing legislation today. There has been rapid growth in the SSI program for children over the last 5 years. In 1989 the program was providing cash assistance to 300,000 children; by 1994 it was serving 890,000 children. During this same period the cost of the children's SSI program grew from $1.2 billion to $4.5 billion.

The growth in the program has now leveled out, but clearly, we need to ask ourselves why the program suddenly exploded and how we can prevent this from happening in the future. There are a couple of reasons for the sudden growth. First, the recession in the early 1990's resulted in many people falling into poverty, precipitating an increased need for government assistance. Second, in 1989 the Congress directed the Social Security Administration [SSA] to conduct outreach for the first time to potentially eligible families with children who have severe disabilities. Third, there was a change made to the mental impairment listings. And, finally, the 1990 Supreme Court decision, the so-called Zebley decision required SSA to change its childhood disability determination process to evaluate the child's level of functioning in addition to his or her medical condition. It was estimated at that time that 1 million additional children will meet the new criteria under Zebley.

We have all heard and read about the stories of parents gaming the system and coaching their children to act disabled in some fashion to qualify for SSI. And I do not question that some of this occurs. But is it rampant? The GAO finds no solid evidence of parents coaching their children, although it

does recommend that we take a serious look at certain aspects of the eligibility determination process. And that is what our legislation does.

First, the legislation tightens eligibility to ensure that only children with severe and persistent impairments, which substantially limit their ability to function, receive benefits. Second, it increases and better targets continuing disability reviews to ensure that only those who remain eligible actually continue to receive benefits. Third, it expands penalties for coaching children to act inappropriately in order to receive benefits. Finally, it imposes graduated payments for additional children, like other cash assistance programs such as AFDC.

Mr. President, I think this legislation is a fair and balanced approach. It acknowledges and corrects abuses in the system while reinforcing the purpose of the program: to enable children with disabilities to remain at home or in another appropriate and cost-effective setting and to cover the additional costs of caring for and raising such a child.

Who is this money serving? Children like Juan, a 9-year-old youngster in my home State of Rhode Island. Juan has been on SSI since birth, confined to a wheelchair and dependent on medical technology to survive. Without the cash assistance he receives under SSI, Juan's mother would be forced to put him into a residential facility at a cost of almost $200,000 per year. Compare this to the maximum SSI benefit of $438 a month. It seems to me that we are getting a pretty good deal, and that families like Juan's deserve every nickel they get.

The Finance Committee will be taking up this issue in the coming weeks as part of welfare reform. Many of my colleagues are familiar with the provision in the House-passed welfare reform bill which would eliminate cash assistance for all children unless they would be otherwise institutionalized. In my view, this should be rejected. I sincerely hope that my colleagues on the Finance Committee will consider the legislation we are introducing today as an alternative which provides effective reforms without removing disabled children from the rolls who are truly in need.

Mr. JEFFORDS. Mr. President, I rise today in support of Senator CONRAD'S Childhood Supplemental Security Income [SSI] Eligibility Reform Act. I am pleased to be an original cosponsor of this bill. I would like to begin by acknowledging and thanking my colleague Senator CONRAD for his hard work and dedication on drafting this bill to cure the problems in the children's SSI program. I am hopeful for this bill's quick consideration and adoption.

In the welfare reform bill passed earlier this year by our colleagues in the House, substantial changes were made in the children's SSI program. However, I believe that the House version of this bill fails to address the criticisms leveled towards this program while at the same time ensuring that the children and families that rely on and need these benefits receive them.

For example, a family I know of in Vermont has two young children with cystic fibrosis. They live in a very rural area of Vermont about 2 hours away from the specialty clinic and hospital they go to. This distance creates a constant expense of travel to this clinic and hospital. In addition, the medication costs for the two children are very high. The infant had growth problems related to malabsorption which required special formula. The older child had severe malabsorption that required surgery and requires subsequent close follow-up of his nutritional status.

The father of these children works full time, but has to take time off to attend the clinics with the children and to transport and visit them in the hospital. Some of the time off is unpaid because he has limited vacation time.

The children's mother had intended to return to work after they were born but cannot find a day care provider who is comfortable with the children's medical care needs. She undoubtedly would also have difficulty finding an employer who would allow her the necessary time off for appointments, hospitalizations, and so forth.

Mr. President, this family has a clear need for the Medicaid coverage and extra income that SSI provides. It is difficult to imagine how they could continue to provide the medical care that their children need without these benefits. They are a hard-working and tax-paying couple who struggle to do the best that they can for their children. The effect of the House bill on this family would be devastating, while our bill would ensure that this family that needs to receive these benefits would still receive them.

I believe that the bill being introduced today will meet both of these goals: preserve the essential parts of the children's SSI program, while, at the same time, addressing the concerns raised by its critics. I would now like to address the valid criticisms of the SSI program, and our specific solutions in the bill to these criticisms.

First, our bill will address the issue that SSI's purpose for children with disabilities was never sufficiently defined. By defining the program as maintaining children with disabilities in the most appropriate and cost effective setting, and enhancing such children's opportunities to develop into independent adults, our bill will combat the old once-disabled-always-disabled way of thinking.

This bill will also combat the current problem that children who are not severely disabled are drawing benefits. By tightening the SSI eligiibility requirements, our bill will ensure that children and families that truly need these benefits will be receiving them.

In addition, by increasing penalties to parents and guardians that knowingly and willfully coach children to act in ways that render them eligible for SSI, and requiring greater use of standardized testing, our bill will stem the practice of children who should be ineligible for benefits being found to be eligible for SSI.

Further, our bill will graduate payments to families for each additional child in the family receiving SSI benefits. This provision will ensure that families with multiple kids receiving SSI benefits will not be receiving the maximum benefit for each child.

Finally, our bill will help children receiving SSI benefits move toward self-sufficiency. I, for one, find this to be one of the most important provisions of the bill. By ensuring that we move people toward self-sufficiency, we are helping reduce the number of children receiving SSI benefits, while increasing the possibility that these individuals will not require future governmental support.

Mr. President, I believe that our bill changes what is wrong with the SSI program while maintaining legitimate benefits that children and their families rely on. We don't want to go back to a much more costly system that institutionalizes children rather than affording them an opportunity for productive and self-sufficient lives. Thus, I feel confident in stating that this bill will ensure that continued support of SSI benefits to families, like the one from Vermont I described earlier, while solving some of the problems currently plaguing the children's SSI system.

ADDITIONAL COSPONSORS

S. 234

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 256

At the request of Mr. DOLE, the names of the Senator from Utah [Mr. HATCH] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the

status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 302

At the request of Mrs. HUTCHISON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 302, a bill to make a technical correction to section 11501(h)(2) of title 49, United States Code.

S. 383

At the request of Mr. WARNER, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 383, a bill to provide for the establishment of policy on the deployment by the United States of an antiballistic missile system and of advanced theater missile defense systems.

S. 440

At the request of Mr. WARNER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 440, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 768

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 768, a bill to amend the Endangered Species Act of 1973 to reauthorize the Act, and for other purposes.

S. 770

At the request of Mr. GORTON, his name was added as a cosponsor of S. 770, a bill to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

At the request of Mr. DOLE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 770, supra.

AMENDMENTS SUBMITTED

THE INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1995

THOMPSON AMENDMENT NO. 756

(Ordered to lie on the table.)

Mr. THOMPSON submitted an amendment intended to be proposed by him to the bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; as follows:

On page 56, line 18, strike after ''delivered,'' through ''provision'' on line 21.

BAUCUS AMENDMENT NO. 757

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill, S. 534, supra; as follows:

On page 50, strike line 18 and insert the following: ''in which the generator of the waste has an ownership interest.''.

DODD (AND LIEBERMAN) AMENDMENT NO. 758

Mr. CHAFEE (for Mr. DODD, for himself and Mr. LIEBERMAN) proposed an amendment to the bill, S. 534, supra; as follows:

On page 62, line 4, after the words public service authority, add ''or its operator''.

ROTH (AND BIDEN) AMENDMENT NO. 759

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill, S. 534, supra; as follows:

On page 53, line 3, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, line 4, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, lines 7 and 8, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, line 10, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 56, lines 1 and 2 strike ''and each political subdivision of a State'' and insert '', political subdivision of a State, and public service authority''.

On page 56, line 12, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 56, line 22, strike ''operation'' and insert ''existence''.

On page 57, line 4, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 7, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 21, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

CAMPBELL (AND OTHERS) AMENDMENT NO. 760

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself, Mr. BROWN, and Mr. KEMPTHORNE) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 69, strike the quotation mark and period at the end of line 22.

On page 69, between lines 22 and 23, insert the following:

''(5) NO-MIGRATION EXEMPTIONS.—

''(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

''(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

''(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

''(C) GUIDANCE.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate and streamline small community use of the no migration exemption under this paragraph.

''(ii) CLARITY.—The guidance document described in clause (i) shall be written in clear terms designed to be understandable by officials of small communities without expert assistance.''.

BINGAMAN AMENDMENT NO. 761

Mr. BINGAMAN proposed an amendment to the bill, S. 534, supra; as follows:

At the appropriate place insert the following:

SEC. . BORDER STUDIES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term ''maquiladora'' means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term ''solid waste'' has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—

(1) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(2) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—A study conducted under this section shall provide for the following:

(1) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) In the case of the study described in subsection (b)(1), research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) In the case of the study described in subsection (b)(1), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for

1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In conducting a study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subsection (b)(1), census data prepared by the Government of Mexico.

(2) In the case of the study described in subsection (b)(1), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(3) In the case of the study described in subsection (b)(1), information concerning the type and volume of materials used in maquiladoras.

(4)(A) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(B) In the case of the study described in subsection (b)(1), immigration data prepared by the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(7) In the case of the study described in subsection (b)(1), a profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) With respect to reviewing the study described in subsection (b)(1), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportion, and the Secretary of Commerce) and with respect to reviewing the study described in subsection (b)(1), equivalent officials of the Government of Mexico.

(f) REPORTS TO CONGRESS.—On completion of the studies under this section, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—The conduct of the study described in subsection (b)(2) shall not delay or otherwise affect completion of the study described in subsection (b)(1).

(h) FUNDING.—If any funding needed to conduct the studies required by this section is not otherwise available, the President may transfer to the Administrator, for use in conducting the studies, any funds that have been appropriated to the President under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.''.

COATS AMENDMENTS NOS. 762–765

(Ordered to lie on the table.)

Mr. COATS submitted four amendments intended to be proposed by him to the bill, S. 534, supra; as follows:

AMENDMENT NO. 762

On page 52, line 6, after ''State.'' insert ''A general reference to the receipt of waste outside the jurisdiction of the affected local government does not meet the requirement of the preceding sentence.''

AMENDMENT NO. 763

On page 34, line 4, after ''1993'' insert ''or calendar year 1994, whichever is less''.

AMENDMENT NO. 764

On page 48, strike lines 15 through 24 and insert the following:

''(2) HOST COMMUNITY AGREEMENT.—

''(A) ON OR AFTER DATE THAT IS 90 DAYS AFTER DATE OF ENACTMENT.—The term 'host community agreement', with respect to an agreement entered into on or after the date that is 90 days after the date of enactment of this section, means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive specified amounts of municipal solid waste generated out of State.

''(B) BEFORE DATE THAT IS 90 DAYS AFTER DATE OF ENACTMENT.—

''(i) IN GENERAL.—The term 'host community agreement', with respect to an agreement entered into before the date that is 90 days after the date of enactment of this section—

''(I) means a written, legally binding document or documents executed by duly authorized officials of the affected local government specifically authorizing a landfill or incinerator to receive municipal solid waste generated out of State; but

''(II) does not include an agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included.

''(ii) TERMINOLOGY.—An agreement under clause (i) may use a term other than 'out-of-State', provided that any alternative term or terms evidence the approval or consent of the affected local government for receipt of municipal solid waste from sources or locations outside the State in which the landfill or incinerator is located or is proposed to be located.

AMENDMENT NO. 765

On page 35, strike line 3 and all that follows through page 36, line 12, and insert the following:

''(B) ADDITIONAL LIMIT FOR MUNICIPAL WASTE.—

''(i) IN GENERAL.—A State (referred to in this subparagraph as an 'importing State') may impose a limit under (in addition to or in lieu of any other limit imposed under this paragraph) on the amount of out-of-State municipal solid waste received at landfills and incinerators in the importing State.

''(ii) REQUIREMENTS.—A limit under clause (i) may be imposed only if each of the following requirements is met:

''(I) The limit does not conflict (within the meaning of clause (iii)) with any permit or host community agreement authorizing the receipt of out-of-State municipal solid waste.

''(II) The importing State has notified the Governor of the exporting State or States of the proposed limit at least 12 months before imposition of the limit.

''(III) The importing State has notified the Governor of the exporting State or States of the proposed limit at least 90 days before enforcement of the limit.

''(IV) The percentage reduction in the amount of out-of-State municipal solid waste that is received at each facility in the importing State at which a limit is established under clause (i) is uniform for all such facilities.

''(iii) CONFLICT.—A limit referred to in clause (ii)(I) shall be treated as conflicting with a permit or host community agreement if—

''(I) the permit or host community agreement establishes a higher limit; or

''(II) the permit or host community agreement does not establish any limit,

on the amount of out-of-State municipal solid waste that may be received annually at a landfill or incinerator that is the subject of the permit or host community agreement.

''(iv) LIMIT STATED AS PERCENTAGE.—

''(I) IN GENERAL.—A limit under clause (i) shall be stated as a percentage of the amount of out-of-State municipal solid waste generated in the exporting State and received at landfills and facilities in the importing State during calendar year 1993.

''(II) AMOUNT.—For any calendar year, the percentage amount of a limit under clause (i) shall be as specified in the following table:

"Calendar year:	Applicable Percentage:
1996	85
1997	75
1998	65
1999	55
after 1999	50.

HUTCHISON AMENDMENT NO. 766

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 534, supra, as follows:

On page 64, line 6, strike the word ''may'' and insert the word ''shall.''

ROTH (AND BIDEN) AMENDMENTS NOS. 767–768

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. BIDEN) submitted two amendments intended to be proposed by them to the bill, S. 534, supra; as follows:

AMENDMENT NO. 767

On page 66, between lines 17 and 18 insert the following:

''(j) PUBLIC SERVICE AUTHORITIES.—For all purposes of this title, a reference to a political subdivision shall include reference to a public service authority.

AMENDMENT NO. 768

On page 56, line 22, strike ''operation'' and insert ''existence''.

KYL AMENDMENT NO. 769

Mr. KYL proposed an amendment to the bill, S. 534, supra; as follows:

On page 57, strike line 16 and all that follows through page 58, line 22, and insert the following:

''(4) CONTINUED EFFECTIVENESS OF AUTHORITY DURING AMORTIZATION OF FINANCING.—

''(A) IN GENERAL.—With respect to each designated waste management facility or facilities, or Public Service Authority, authority may be exercised under this section only—

''(i) until the date on which payments under the schedule for payment of the capital costs of the facility concerned, as in effect on May 15, 1994, are completed; and

''(ii) so long as all revenues (except for revenues used for operation and maintenance of the designated waste management facility or facilities, or Public Service Authority) derived from tipping fees and other fees charged for the disposal of waste at the facility concerned are used to make such payments.

''(B) REFINANCING.—Subparagraph (A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the schedule for payment of capital costs will occur after the date on which completion would have occurred in accordance with the schedule for payment in effect on May 15, 1994, the authority under this section shall expire on the earlier of—

''(i) the date specified in subparagraph (A)(i); or

''(ii) the date on which payments under the schedule for payment, as in effect after the refinancing, are completed.

''(C) Any political subdivision of a State exercising flow control authority pursuant to subsection (c) may exercise such authority under this section only until completion of the original schedule for payment of the capital costs of the facility for which permits and contracts were in effect, obtained or submitted prior to May 15, 1994.''

SNOWE (AND COHEN) AMENDMENT NO. 770

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. COHEN) submitted an amendment intended to be proposed by them to the bill, S. 534, supra; as follows:

On page 58, line 5, strike ''original facility'' and insert ''facility (as in existence on the date of enactment of this section)''.

SNOWE (AND COHEN) AMENDMENT NO. 771

(Ordered to lie on the table.)

Ms. SNOWE (for herself and Mr. COHEN) submitted an amendment intended to be proposed by them to the bill, S. 534, supra; as follows:

On page 56, lines 18 through 21, strike ''the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and''.

SPECTER AMENDMENT NO. 772

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 534, supra; as follows:

On line 23 on page 56, after ''1994'' insert the following: ''; or

''(C) is imposed to direct the flow of municipal solid waste to existing publicly-financed resource recovery facilities (as defined in section 1004(24) of this Act) which were constructed prior to January 1, 1975 and were in operation as of May 15, 1994''.

FAIRCLOTH AMENDMENT NO. 773

Mr. CHAFEE (for Mr. FAIRCLOTH) proposed an amendment to the bill, S. 534, supra; as follows:

On page 59, after line 20, insert the following:

''(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (j), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

JEFFORDS AMENDMENT NO. 774

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill, S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

''(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

''(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) prior to May 15, 1994, the solid waste district—

''(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

''(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

''(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

LAUTENBERG AMENDMENT NO. 775

Mr. LAUTENBERG proposed an amendment to the bill S. 534, supra; as follows:

On page 58, strike line 23 and all that follows through page 59, line 20, and insert the following:

''(5) ADDITIONAL AUTHORITY.—

''(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

''(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

''(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

''(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

''(ii) as of January 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

''(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (j)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

DORGAN AMENDMENT NO. 776

(Ordered to lie on the table.)

Dr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 50, strike line 22 and all that follows through page 51, line 2.

WARNER AMENDMENTS NOS. 777–779

(Ordered to lie on the table.)

Mr. WARNER submitted three amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 777

On page 53, line 10, insert ''or operated'' after ''identified''.

AMENDMENT NO. 778

On page 58, line 20, strike ''and'' and insert ''or''.

AMENDMENT NO. 779

On page 65, line 6, insert ''or related landfill restoration'' after ''services''.

McCONNELL AMENDMENT NO. 780

(Ordered to lie on the table.)

Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

At the end of the amendment add the following:

TITLE III—STATE OR REGIONAL SOLID WASTE PLANS

SEC. 301. FINDING.

Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(1) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(2) by adding at the end the following:

''(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.''.

SEC. 302. OBJECTIVE OF SOLID WASTE DISPOSAL ACT

Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(1) by striking the period at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting ''; and''; and

(3) by adding at the end the following:

''(12) promoting local and regional planning for—

''(A) effective solid waste collection and disposal; and

''(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.''.

SEC. 303. NATIONAL POLICY.

Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting ''solid waste and'' after ''generation of''.

SEC. 304. OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.

Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting ''promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and'' after ''objectives of this subtitle are to''.

SEC. 305. GUIDELINES FOR STATE PLANS.

Section 4002(b) of the Solid Waste Disposal Act (42 U.S.C. 6942(b)) is amended by striking ''eighteen months after the date of enactment of this section'' and inserting ''18 months after the date of enactment of the Interstate Transportation of Municipal Solid Waste Act of 1995''.

SEC. 306. DISCRETIONARY STATE PLAN PROVISIONS.

Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

''(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—A State plan submitted under this subtitle may include, at the option of the State, provisions for—

''(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle, under which the State may disapprove a local or regional plan or deny a solid waste management permit that is inconsistent with those goals and objectives; and

''(2) establishment of a program relating solid waste management permits issued by the State in accordance with sections 4004 and 4005 to local and regional plans developed in accordance with section 4006 and approved by the State, under which the State may—

''(A) deny a permit for the reason that the permit is inconsistent with a local or regional plan;

''(B) issue a permit despite inconsistency with a local plan if—

''(i) the plan does not adequately provide for the current and projected solid waste management needs of the persons within the planning area; or

''(ii) issuance of the permit is necessary to meet the solid waste management needs of persons outside the planning area but within the State's jurisdiction;

''(C) deny a permit despite consistency with a local plan if the plan is inconsistent with a State per capita solid waste reduction goal established under paragraph (1); and

''(D) allow local and regional plans to ban or restrict the importation of solid waste (except hazardous waste, and except solid waste imported in accordance with a host community agreement for which the State issued a permit prior to January 1, 1994) from outside the planning area if the current and projected solid waste management needs of the persons within the planning area have been met by solid waste management facilities identified in the plan, whether within or outside the planning area.''.

SEC. 307. PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.

Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended ''and discretionary plan provisions'' after ''minimum requirements''.

COATS AMENDMENT NO. 781

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 43, between lines 14 and 15 insert the following:

''(d) DENIAL OF PERMIT BASED ON A NEEDS DETERMINATON.—The Governor of a State may deny a permit for a solid waste management facility on the basis of a needs determination in the permitting process if State law enacted or regulation adopted prior to May 15, 1994, specifically authorizes a denial on that basis.

MOYNIHAN AMENDMENT NO. 782

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 60 strike lines 6 through 12 and insert the following:

''(B) prior to May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

COHEN (AND SNOWE) AMENDMENTS NOS. 783–84

(Ordered to lie on the table.)

Mr. COHEN (for himself and Ms. SNOWE) submitted two amendments intended to be proposed by them to the bill S. 534, supra; as follows:

AMENDMENT NO. 783

On page 55, between lines 10 and 11 insert the following:

''(5) PUT OR PAY AGREEMENT.—(1) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

''(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988.

''(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

AMENDMENT NO. 784

On page 55, between lines 10 and 11, insert the following:

''(5) PUT OR PAY AGREEMENT.—(1) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

''(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

''(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

ROTH (AND BIDEN) AMENDMENT NO. 785

(Ordered to lie on the table.)

Mr. ROTH (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 56, line 23, strike ''1994.'' and insert ''1994, or were in operation prior to May 15, 1994, and were temporarily inoperative on May 15, 1994.''

MURRAY AMENDMENT NO. 786

(Ordered to lie on the table.)

Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

''(f) STATE-MANDATED SOLID WASTE MANAGEMENT PLANNING.—A political subdivision of a State may exercise flow control authority for municipal solid waste, construction and demolition debris, and for voluntarily relinquished recyclable material that is generated within its jurisdiction if State legislation enacted prior to January 1, 1990 mandated the political subdivision to plan for the management of solid waste generated within its jurisdiction, and if prior to January 1, 1990 the State delegated to its political subdivisions the authority to establish a system of solid waste handling, and if prior to May 15, 1994:

(1) the political subdivision has, in accordance with the plan adopted pursuant to such State mandate, obligated itself through contract (including a contract to repay a debt) to utilize existing solid waste facilities or an existing system of solid waste facilities; and

(2) the political subdivision has undertaken a recycling program in accordance with its adopted waste management plan to meet the State's solid waste reduction goal of fifty percent; and

(3) significant financial commitments have been made to implement the plan cited above.

DEWINE AMENDMENT NO. 787

(Ordered to lie on the table.)

Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

At the appropriate place insert the following:

''( ) AUTHORITY TO RESTRICT OUT-OF-STATE CONSTRUCTION AND DEMOLITION DEBRIS.—

''(1) LIST.—On or before June 1, 1997, the Administrator shall publish a list disclosing

the amount of construction and demolition debris exported by each State in calendar year 1996.

''(2) AUTHORITY.—A State (referred to in this subsection as an 'importing State') may impose a limit on the amount of out-of-State construction and demolition debris received at landfills and incinerators in the importing State.

''(3) LIMIT STATED AS PERCENTAGE.—

''(A) IN GENERAL.—A limit under paragraph (1) shall be stated as a percentage of the amount of out-of-State construction and demolition debris generated in the exporting State and received at landfills and facilities in the importing State during calendar year 1996.

''(B) AMOUNT.—For any calendar year, the percentage amount of a limit under subparagraph (A) shall be as specified in the following table:

"Calendar year:	Applicable Percentage:
1998	100
1999	100
2000	100
2001	95
2002	90
2003	85
2004	80
2005	75
2006	70
2007	65
2008	60
2009	55
after 2009	50.

''(4) CONSTRUCTION AND DEMOLITION DEBRIS.—In this subsection, the term 'construction and demolition debris' means debris resulting from construction, remodeling, repair, or demolition of structures, other than such debris that—

''(A) is commingled with municipal solid waste (which such commingled debris is included within the meaning of 'municipal solid waste'); or

''(B) the generator of the debris has determined to be contained in accordance with paragraph (6).

''(54) OUT-OF-STATE CONSTRUCTION AND DEMOLITION DEBRIS.—In this subsection, the term 'out-of-State construction and demolition debris' means, with respect to any State, construction and demolition debris generated outside the State. Nothing in this paragraph shall be construed to interfere with a treaty to which the United States is a party.

''(6) CONTAMINATED DEBRIS.—

''(A) DETERMINATION.—For the purpose of determining whether debris is contaminated for the purpose of paragraph (4), the generator of the waste shall conduct representative sampling and analysis of the debris, the result of which shall be submitted to the affected local government for recordkeeping purposes only, unless not required by the affected local government.

''(B) DISPOSAL.—Debris that has been determined to be contaminated under paragraph (1) shall be disposed of in a landfill that meets, at a minimum, the requirements of this subtitle.''

''(7) ANNUAL REPORTS.—Submissions and annual reports under subsection (a)(6) shall include the amount of construction and demolition debris received.

HATFIELD AMENDMENT NO. 788

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

At the end of the amendment, insert the following new title:

TITLE ____—

SEC. ___01. SHORT TITLE.

This title may be cited as the ''National Beverage Container Reuse and Recycling Act of 1995''.

SEC. ___02. FINDINGS.

Congress finds the following:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and aesthetic blight and imposes upon public agencies, private businesses, farmers, and landowners unnecessary costs for the collection and removal of the containers.

(3) Solid waste resulting from the empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of the waste.

(4) It is difficult for local communities to raise the necessary capital to initiate comprehensive recycling programs.

(5) The reuse and recycling of empty beverage containers would help eliminate unnecessary burdens on individuals, local governments, and the environment.

(6) Several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources, and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers.

(7) The laws referred to in paragraph (6) have proven inexpensive to administer and effective at reducing financial burdens on communities by internalizing the cost of recycling and litter control to the producers and consumers of beverages.

(8) A national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would—

(A) result in a high level of reuse and recycling of the containers; and

(B) help reduce the costs associated with solid waste management.

(9) A national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery.

(10) The reuse and recycling of empty beverage containers would eliminate unnecessary burdens on the Federal Government, local and State governments, and the environment.

(11) The collection of unclaimed refunds from a national system of beverage container recycling would provide the resources necessary to assist comprehensive reuse and recycling programs throughout the United States.

(12) A national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(13) The provisions of this title are consistent with the goals established by the Administrator of the Environmental Protection Agency in January 1988. The goals include a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000.

SEC. ___03. AMENDMENT OF SOLID WASTE DISPOSAL ACT.

(a) IN GENERAL.—The Solid Waste Disposal Act is amended by adding at the end thereof the following new subtitle:

"Subtitle K—Beverage Container Recycling

"SEC. 12001. DEFINITIONS.

As used in this subtitle:

''(1) BEVERAGE.—The term 'beverage' means beer or other malt beverage, mineral water, soda water, wine cooler, or a carbonated soft drink of any variety in liquid form intended for human consumption.

''(2) BEVERAGE CONTAINER.—The term 'beverage container' means a container—

''(A) constructed of metal, glass, or plastic (or a combination of the materials);

''(B) having a capacity of up to one gallon of liquid; and

''(C) that is or has been sealed and used to contain a beverage for sale in interstate commerce.

''(3) BEVERAGE DISTRIBUTOR.—The term 'beverage distributor' means a person who sells or offers for sale in interstate commerce to beverage retailers beverages in beverage containers for resale.

''(4) BEVERAGE RETAILER.—The term 'beverage retailer' means a person who purchases from a beverage distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers to a consumer.

''(5) CONSUMER.—The term 'consumer' means a person who purchases a beverage container for any use other than resale.

''(6) REFUND VALUE.—The term 'refund value' means the amount specified as the refund value of a beverage container under section 12002.

''(7) UNBROKEN BEVERAGE CONTAINER.—The term 'unbroken beverage container' shall include a beverage container opened in a manner in which the container was designed to be opened. A beverage container made of metal or plastic that is compressed shall constitute an unbroken beverage container if the statement of the amount of the refund value of the container is still readable.

''(8) WINE COOLER.—The term 'wine cooler' means a drink containing less than 7 percent alcohol (by volume)—

''(A) consisting of wine and plain, sparkling, or carbonated water; and

''(B) containing a non-alcoholic beverage, flavoring, coloring material, fruit juice, fruit adjunct, sugar, carbon dioxide, or preservatives (or any combination thereof).

"SEC. 12002. REQUIRED BEVERAGE CONTAINER LABELING.

''Except as otherwise provided in section 12007, no beverage distributor or beverage retailer may sell or offer for sale in interstate commerce a beverage in a beverage container unless there is clearly, prominently, and securely affixed to, or printed on, the container a statement of the refund value of the container in the amount of 10 cents. The Administrator shall promulgate regulations establishing uniform standards for the size and location of the refund value statement on beverage containers. The 10 cent amount specified in this section shall be subject to adjustment by the Administrator, as provided in section 12008.

"SEC. 12003. ORIGINATION OF REFUND VALUE.

''For each beverage in a beverage container sold in interstate commerce to a beverage retailer by a beverage distributor, the distributor shall collect from the retailer the amount of the refund value shown on the container. With respect to each beverage in a beverage container sold in interstate commerce to a consumer by a beverage retailer, the retailer shall collect from the consumer the amount of the refund value shown on the container. No person other than a person described in this section may collect a deposit on a beverage container.

"SEC. 12004. RETURN OF REFUND VALUE.

''(a) PAYMENT BY RETAILER.—If a person tenders for refund an empty and unbroken beverage container to a beverage retailer who sells (or has sold at any time during the 3-month period ending on the date of tender)

the same brand of beverage in the same kind and size of container, the retailer shall promptly pay the person the amount of the refund value stated on the container.

''(b) PAYMENT BY DISTRIBUTOR.—

''(1) IN GENERAL.—If a person tenders for refund an empty and unbroken beverage container to a beverage distributor who sells (or has sold at any time during the 3-month period ending on the date of tender) the same brand of beverage in the same kind and size of container, the distributor shall promptly pay the person—

''(A) the amount of the refund value stated on the container, plus

''(B) an amount equal to at least 2 cents per container to help defray the cost of handling.

''(2) TENDERING BEVERAGE CONTAINERS TO OTHER PERSONS.—This subsection shall not preclude any person from tendering beverage containers to persons other than beverage distributors.

''(c) AGREEMENTS.—

''(1) IN GENERAL.—Nothing in this subtitle shall preclude agreements between distributors, retailers, or other persons to establish centralized beverage collection centers, including centers that act as agents of the retailers.

''(2) AGREEMENT FOR CRUSHING OR BUNDLING.—Nothing in this subtitle shall preclude agreements between beverage retailers, beverage distributors, or other persons for the crushing or bundling (or both) of beverage containers.

''SEC. 12005. ACCOUNTING FOR UNCLAIMED REFUNDS AND PROVISIONS FOR STATE RECYCLING FUNDS.

''(a) UNCLAIMED REFUNDS.—At the end of each calendar year, each beverage distributor shall pay to each State an amount equal to the sum by which the total refund value of all containers sold by the distributor for resale in that State during the year exceeds the total sum paid during that year by the distributor under section 12004(b) to persons in the State. The total amount of unclaimed refunds received by any State under this section shall be available to carry out pollution prevention and recycling programs in the State.

''(b) REFUNDS IN EXCESS OF COLLECTIONS.—If the total amount of payments made by a beverage distributor in any calendar year under section 12004(b) for any State exceeds the total amount of the refund values of all containers sold by the distributor for resale in the State, the excess shall be credited against the amount otherwise required to be paid by the distributor to that State under subsection (a) for a subsequent calendar year, designated by the beverage distributor.

''SEC. 12006. PROHIBITIONS ON DETACHABLE OPENINGS AND POST-REDEMPTION DISPOSAL.

''(a) DETACHABLE OPENINGS.—No beverage distributor or beverage retailer may sell, or offer for sale, in interstate commerce a beverage in a metal beverage container a part of which is designed to be detached in order to open the container.

''(b) POST-REDEMPTION DISPOSAL.—No retailer or distributor or agent of a retailer or distributor may dispose of any beverage container labeled pursuant to section 12002 or any metal, glass, or plastic from the beverage container (other than the top or other seal thereof) in any landfill or other solid waste disposal facility.

''SEC. 12007. EXEMPTED STATES.

''(a) IN GENERAL.—

''(1) EXEMPTION.—Sections 12002 through 12005 and sections 12008 and 12009 shall not apply in any State that—

''(A) has adopted and implemented requirements applicable to all beverage containers sold in the State if the Administrator determines the requirements to be substantially similar to the provisions of sections 12002 through 12005 and sections 12008 and 12009 of this subtitle; or

''(B) demonstrates to the Administrator that, for any period of 12 consecutive months following the date of enactment of this subtitle, the State achieved a recycling or reuse rate for beverage containers of at least 70 percent.

''(2) TERMINATION OF EXEMPTION.—If at anytime following a determination by the Administrator under paragraph (1)(B) that a State has achieved a 70 percent recycling or reuse rate, the Administrator determines that the State has failed, for any 12-consecutive month period, to maintain at least a 70 percent recycling or reuse rate of beverage containers, the Administrator shall notify the State that, on the expiration of the 90-day period following the notification, sections 12002 through 12005 and sections 12008 and 12009 shall apply with respect to the State until a subsequent determination is made under paragraph (1)(A) or a demonstration is made under paragraph (1)(B).

''(b) DETERMINATION OF TAX.—No State or political subdivision thereof that imposes a tax on the sale of any beverage container may impose a tax on any amount attributable to the refund value of the container.

''(c) EFFECT ON OTHER LAWS.—Nothing in this subtitle is intended to affect the authority of any State or political subdivision thereof—

''(1) to enact or enforce (or continue in effect) any law concerning a refund value on containers other than beverage containers; or

''(2) to regulate redemption and other centers that purchase empty beverage containers from beverage retailers, consumers, or other persons.

''SEC. 12008. REGULATIONS.

''(a) IN GENERAL.—Not later than 12 months after the date of enactment of this subtitle, the Administrator shall prescribe regulations to carry out this subtitle.

''(b) BEVERAGE RETAILER.—The regulations shall include a definition of the term 'beverage retailer' for any case in which beverages in beverage containers are sold to consumers through beverage vending machines.

''(c) ADJUSTMENT FOR INFLATION.—The regulations shall adjust the 10 cent amount specified in section 12002 to account for inflation. The initial adjustment shall become effective on the date that is 10 years after the date of enactment of this subtitle, and additional adjustments shall become effective every 10 years thereafter.

''SEC. 12009. PENALTIES.

''Any person who violates any provision of section 12002, 12003, 12004, or 12006 shall be subject to a civil penalty of not more than $1,000 for each violation. Any person who violates any provision of section 12005 shall be subject to a civil penalty of not more than $10,000 for each violation.

''SEC. 12010. EFFECTIVE DATE.

''Except as provided in section 12008, this subtitle shall take effect on the date that is 2 years after the date of enactment of this subtitle.''.

(b) TABLE OF CONTENTS.—The table of contents for the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end thereof the following new items:

''SUBTITLE K—BEVERAGE CONTAINER RECYCLING

''Sec. 12001. Definitions.
''Sec. 12002. Required beverage container labeling.
''Sec. 12003. Origination of refund value.
''Sec. 12004. Return of refund value.
''Sec. 12005. Accounting for unclaimed refunds and provisions for State recycling funds.
''Sec. 12006. Prohibitions on detachable openings and post-redemption disposal.
''Sec. 12007. Exempted States.
''Sec. 12008. Regulations.
''Sec. 12009. Penalties.
''Sec. 12010. Effective date.''.

SMITH (AND OTHERS) AMENDMENT NO. 789

Mr. SMITH (for himself, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill S. 534, supra; as follows:

On page 38, line 18, strike the phrase ''the Administrator has determined''.

On page 39, after line 8, insert the following: ''For purposes of developing the list required in this Section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this Section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this Section, nor to verify data provided by the States pursuant to this Section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this Section shall be final and not subject to judicial review.''

On page 38, after the ''.'' on line 16 insert the following: ''States making submissions referred to in this Section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.''

On page 33, line 20, strike ''(6)(D)'' and insert ''(6)(C)''.

On page 34, line 13, strike ''determined'' and insert ''listed''.

On page 34, line 13, strike ''(6)(E)'' and insert ''(6)(C)''.

On page 36, line 16, strike ''(6)(E)'' and insert ''(6)(C)''.

On page 50, strike line 18 and insert the following: ''in which the generator of the waste has an ownership interest.''.

D'AMATO AMENDMENTS NOS. 790–814

(Ordered to lie on the table.)

Mr. D'AMATO submitted 25 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 790

At the appropriate place insert the following:

( ) SEVERABILITY.—

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

AMENDMENT NO. 791

On page 35, line 5, insert the phrase ''or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''agreements''.

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the world ''shall''.

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''.

On page 38, line 19, insert the phrase ''to landfills or incinerators not covered by host-community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''in''.

AMENDMENT NO. 792

On page 64, at line 3, insert the following and reletter all subsequent paragraphs:

(f) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the other or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) has been authorized by State statute to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute; and

(3) had incurred significant financial expenditures for the planning, site selection, design, permitting, construction or acquisition of the facilities proposed in its local solid waste management plan.

AMENDMENT NO. 793

On page 60, delete from line 23 to page 61, line 2, and replace with the following:

(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the site selection, permitting or acquisition for construction of the facility.

On page 61, after line 8, add the following:

(E) FINANCIAL EXPENDITURES.—Prior to May 15, 1994, the State or political subdivision had executed revenue or general obligation bonds or other financial instruments (such as lines of credit and bond anticipation notes) to provide for the site selection, permitting, or acquisition for construction of the facility.

AMENDMENT NO. 794

On page 64, after line (2), add a new subdivision (4) as follows and reletter the remaining subdivisions accordingly:

(f) STATE-AUTHORIZED FLOW CONTROL.—A political subdivision of a State may exercise flow control for municipal solid waste and recyclable material that is generated within its jurisdiction if, prior to May 15, 1994 the political subdivision had been authorized by State statute to exercise flow control authority.

AMENDMENT NO. 795

Page 64, line 3, insert the following as letter (f) and reletter subsequent paragraphs accordingly:

(f) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties where potable water supplies are derived from sole source aquifers.

AMENDMENT NO. 796

On page 61, after line 8, insert the following:

(E) SIGNIFICANT EXPENDITURE.—The political subdivision had, prior to May 15, 1994, expended or committed to expending at least 50 percent of the cost of a comprehensive solid waste management system, and had relied on flow control authority for the completion of the system and payment of obligations incurred for the establishment of the system.

AMENDMENT NO. 797

On page 61, after line 8, insert the following:

(E) SIGNIFICANT EXPENDITURE.—The political subdivision had, prior to May 15, 1994, expended or committed to expending at least 75 percent of the cost of a comprehensive solid waste management system, and had relied on flow control authority for the completion of the system and payment of obligations incurred for the establishment of the system.

AMENDMENT NO. 798

On page 35, line 9, replace ''1993'' with ''1994''.

AMENDMENT NO. 799

On page 46, line 19, before ''or'' add '', to authorize, require, or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section,''

AMENDMENT NO. 800

On page 39, line 8, replace ''June 1'' with ''September 1''.

AMENDMENT NO. 801

On page 38, lines 14 and 15, delete ''the identity of the generator''.

AMENDMENT NO. 802

On page 36, line 21, after ''waste'', add ''A limit or prohibition shall be treated as violating and inconsistent with a host community agreement or permit if the agreement or permit establishes a higher limit or does not establish any limit.''

AMENDMENT NO. 803

On page 33, line 1, delete immediately upon date of enactment of this section'' and insert ''beginning January 1, 1996''.

AMENDMENT NO. 804

Starting on page 34, delete line 5 through page 35, line 2, and renumber the remainder of the paragraphs accordingly.

AMENDMENT NO. 805

Delete from page 34, line 5 through page 35, line 22 and replace with the following:

''(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste:

''(I) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

''(II) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

''(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.''

On page 36, line 14, delete ''and (B)''.

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''shall''.

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''.

Delete page 38, line 17 through page 39, line 6 and replace with the following:

''(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.''

AMENDMENT NO. 806

Delete from page 34, line 5 through page 35, line 22 and replace with the following:

''(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste:

''(I) In calendar year 1996, 92 percent of the amount exported to the State in calendar year 1993.

''(II) In calendar years 1997 through 2002, 92 percent of the amount exported to the State in the previous year.

''(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.''

On page 36, line 14, delete ''and (B)''.

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''shall''.

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''.

Delete page 38, line 17 through page 39, line 6 and replace with the following:

''(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.''

AMENDMENT NO. 807

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

''(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 91 percent of the amount exported to the State in calendar year 1993;

(II) In calendar years 1997 through 2002, 91 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete ''and (B)''

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''shall''.

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''.

Delete page 38, line 17, through page 39, line 6 and replace with the following:

''(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.''

AMENDMENT NO. 808

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

''(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 93 percent of the amount exported to the State in calendar year 1993;

(II) In calendar years 1997 through 2002, 93 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete ''and (B)''.

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''shall''.

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''.

Delete page 38, line 17 through page 39, line 6 and replace with the following:

''(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.''

AMENDMENT NO. 809

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

''(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 94 percent of the amount exported to the State in calendar year 1993,

(II) In calendar years 1997 through 2002, 94 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete ''and (B)''

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''shall''

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''

Delete page 38, line 17, through page 39, line 6 and replace with the following:

''(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.''

AMENDMENT NO. 810

Delete from page 34, line 5, through page 35, line 22 and replace with the following:

''(3)(i) Except as provided in paragraph (4), no State may export to landfills or incinerators in any 1 State, more than the following amounts of municipal solid waste.

(I) In calendar year 1996, 94 percent of the amount exported to the State in calendar year 1993;

(II) In calendar years 1997 through 2002, 90 percent of the amount exported to the state in the previous year;

(III) In calendar year 2003, and each succeeding year, the limit shall be 50% of the amount exported in 1993.

On page 36, line 14, delete ''and (B)''

On page 37, line 22, insert the phrase ''not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' before the word ''shall''

On page 38, line 3, delete ''July 1'' and insert ''May 1''.

On page 38, line 8, insert the phrase ''at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste'' after the word ''State''

Delete page 38, line 17, through page 39, line 6 and replace with the following:

''(C) LIST.—The Administrator shall publish a list of importing states and the out-of-state municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.''

AMENDMENT NO. 811

Replace from page 34, line 18, through page 35, line 2, with the following:

(i) 3,500,000 tons of municipal solid waste in each of calendar years 1996 and 1997

(ii) 3,000,000 tons of municipal solid waste in each of calendar years 1998 and 1999

(iii) 2,500,000 tons of municipal solid waste in each of calendar years 2000 and 2001

(iv) 2,000,000 tons of municipal solid waste in each of calendar years 2002 and each year thereafter.

On page 38, delete from line 22 to page 39, line 6, and replace with the following:

(i) 3,500,000 tons in 1996;

(ii) 3,500,000 tons in 1997;

(iii) 3,000,000 tons in 1998;

(iv) 3,000,000 tons in 1999;

(v) 2,500,000 tons in 2000;

(vi) 2,500,000 tons in 2001;

(vii) 2,000,000 tons in 2002 and each year thereafter.

AMENDMENT NO. 812

On page 34, line 9, delete ''prohibit or''.

AMENDMENT NO. 813

On page 34, lines 9 and 10, delete ''prohibit or limit the amount'' and insert ''restrict levels of imports to reflect the appropriate level as specified in (i) through (v)''.

AMENDMENT NO. 814

Insert the following at the appropriate place:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Iran Sanctions Act of 1995''.

SEC. 2. CONGRESSIONAL FINDINGS.

(a) IRAN'S VIOLATIONS OF HUMAN RIGHTS.—The Congress makes the following findings with respect to Iran's violations of human rights:

(1) As cited by the 1991 United Nations Special Representative on Human Rights, Amnesty International, and the United States Department of State, the Government of Iran has conducted assassinations outside of Iran, such as that of former Prime Minister Shahpour Bakhtiar for which the Government of France issued arrest warrants for several Iranian governmental officials.

(2) As cited by the 1991 United Nations Special Representative on Human Rights and by Amnesty International, the Government of Iran has conducted revolutionary trials which do not meet internationally recognized standards of fairness or justice. These trials have included such violations as a lack of procedural safeguards, trial times of 5 minutes or less, limited access to defense counsel, forced confessions, and summary executions.

(3) As cited by the 1991 United Nations Special Representative on Human Rights, the Government of Iran systematically represses its Baha'i population. Persecutions of this small religious community include assassinations, arbitrary arrests, electoral prohibitions, and denial of applications for documents such as passports.

(4) As cited by the 1991 United Nations Special Representative on Human Rights, the Government of Iran suppresses opposition to its government. Political organizations such as the Freedom Movement are banned from parliamentary elections, have their telephones tapped and their mail opened, and are systematically harassed and intimidated.

(5) As cited by the 1991 United Nations Special Representative on Human Rights and Amnesty International, the Government of Iran has failed to recognize the importance of international human rights. This includes suppression of Iranian human rights movements such as the Freedom Movement, lack of cooperation with international human rights organizations such as the International Red Cross, and an overall apathy toward human rights in general. This lack of concern prompted the Special Representative to state in his report that Iran had made ''no appreciable progress towards improved compliance with human rights in accordance with the current international instruments''.

(6) As cited by Amnesty International, the Government of Iran continues to torture its political prisoners. Torture methods include burns, arbitrary blows, severe beatings, and positions inducing pain.

(b) IRAN'S ACTS OF INTERNATIONAL TERRORISM.—The Congress makes the following findings, based on the records of the Department of State, with respect to Iran's acts of international terrorism:

(1) As cited by the Department of State, the Government of Iran was the greatest supporter of state terrorism in 1992, supporting over 20 terrorist acts, including the bombing of the Israeli Embassy in Buenos Aires that killed 29 people.

(2) As cited by the Department of State, the Government of Iran is a sponsor of radical religious groups that have used terrorism as a tool. These include such groups as Hezballah, HAMAS, the Turkish Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP–GC).

(3) As cited by the Department of State, the Government of Iran has resorted to international terrorism as a means of obtaining political gain. These actions have included not only the assassination of former Prime Minister Bakhitiar, but the death sentence imposed on Salman Rushdie, and the assassination of the leader of the Kurdish Democratic Party of Iran.

(4) As cited by the Department of State and the Vice President's Task Force on Combatting Terrorism, the Government of Iran has long been a proponent of terrorist actions against the United States, beginning with the takeover of the United States Embassy in Tehran in 1979. Iranian support of extremist groups have led to the following attacks upon the United States as well:

(A) The car bomb attack on the United States Embassy in Beirut killing 49 in 1983 by the Hezballah.

(B) The car bomb attack on the United States Marine Barracks in Beirut killing 241 in 1983 by the Hezballah.

(C) The assassination of the president of American University in 1984 by the Hezballah.

(D) The kidnapping of all American hostages in Lebanon from 1984–1986 by the Hezballah.

SEC. 3. TRADE EMBARGO.

(a) IN GENERAL.—Except as provided in subsection (d), effective on the date of enactment of this Act, a total embargo shall be in force on trade between the United States and Iran.

(b) COVERED TRANSACTIONS.—As part of such embargo the following transactions are prohibited:

(1) CURRENCY TRANSACTIONS.—Any transaction in the currency exchange of Iran.

(2) CREDIT TRANSACTIONS.—The transfer of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of Iran or a national thereof.

(3) IMPORTATION OF CURRENCY OR SECURITIES.—The importing from, or exporting to, Iran of currency or securities.

(4) TRANSACTIONS IN PROPERTY.—Any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or any transaction involving, any property in which Iran or any national thereof has any interest; by any person, or with respect to any property, subject to the jurisdiction of the United States.

(5) EXPORTS.—The licensing for export to Iran, or for export to any other country for reexport to Iran, by any person subject to the jurisdiction of the United States of any item or technology controlled under the Export Administration Act of 1979, the Arms Export Control Act, or the Atomic Energy Act of 1954.

(c) EXTRATERRITORIAL APPLICATION.—In addition to the transactions described in subsection (b), the trade embargo imposed by this Act prohibits any transaction described in paragraphs (1) through (4) of that subsection when engaged in by a United States national abroad.

(d) EXCEPTIONS.—The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the following:

(1) COMMUNICATIONS.—Any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value.

(2) HUMANITARIAN ASSISTANCE.—Donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, medicine, medical supplies, instruments, or equipment intended to be used to relieve human suffering, except to the extent that the President determines that such donations are in response to coercion against the proposed recipient or donor.

(3) INFORMATION AND INFORMATIONAL MATERIALS.—The importation from Iran, or the exportation to Iran, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact discs, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

(e) PENALTIES.—Any person who violates this section or any license, order, or regulation issued under this section shall be subject to the same penalties as are applicable under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to violations of licenses, orders, or regulations under that Act.

(f) APPLICATION TO EXISTING LAW.—This section shall apply notwithstanding any other provision of law or international agreement.

SEC. 4. IMPOSITION OF SANCTIONS ON PERSONS ENGAGING IN TRADE WITH IRAN.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—The President shall impose the sanctions described in subsection (b) if the President determines in writing that, on or after the date of enactment of this Act, a foreign person has, with requisite knowledge, engaged in trade with Iran in any goods or technology (as defined in section 16 of the Export Administration Act of 1979).

(2) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that person if that parent or subsidiary with requisite knowledge engaged in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that person if that affiliate with requisite knowledge engaged in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(b) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, as follows:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(B) EXPORT SANCTION.—The United States Government shall not issue any license for any export by or to any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(c) SUPERSEDES EXISTING LAW.—The provisions of this section supersede the provisions of section 1604 of the Iran-Iraq Arms Non-Proliferation Act of 1992 (as contained in Public Law 102-484) as such section applies to Iran.

SEC. 5. OPPOSITION TO MULTILATERAL ASSISTANCE.

(a) INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) The Secretary of the Treasury shall instruct the United States executive director of each international financial institution described in paragraph (2) to oppose and vote against any extension of credit or other financial assistance by that institution to Iran.

(2) The international financial institutions referred to in paragraph (1) are the International Bank for Reconstruction and Development, the International Development Association, the Asian Development Bank, and the International Monetary Fund.

(b) UNITED NATIONS.—It is the sense of the Congress that the United States Permanent Representative to the United Nations should oppose and vote against the provision of any assistance by the United Nations or any of its specialized agencies to Iran.

SEC. 6. WAIVER AUTHORITY.

The provisions of sections 3, 4, and 5 shall not apply if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has substantially improved its adherence to internationally recognized standards of human rights;

(2) has ceased its efforts to acquire a nuclear explosive device; and

(3) has ceased support for acts of international terrorism.

SEC. 7. REPORT REQUIRED.

Beginning 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall transmit to the appropriate congressional committees a report describing—

(1) the nuclear and other military capabilities of Iran; and

(2) the support, if any, provided by Iran for acts of international terrorism.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) ACT OF INTERNATIONAL TERRORISM.—The term ''act of international terrorism'' means an act—

(A) which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any State or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) which appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committees on Banking, Housing and Urban Affairs and Foreign Relations of the Senate and the Committees on Banking and Financial Services and International Relations of the House of Representatives.

(3) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is not a United States national or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a United States national.

(4) IRAN.—The term ''Iran'' includes any agency or instrumentality of Iran.

(5) NUCLEAR EXPLOSIVE DEVICE.—The term ''nuclear explosive device'' means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(6) DEFINITION.—For purposes of this subsection, the term ''requisite knowledge'' means situations in which a person ''knows'', as ''knowing'' is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2).

(7) UNITED STATES.—The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(8) UNITED STATES NATIONAL.—The term ''United States national'' means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States;

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

(C) any foreign subsidiary of a corporation or other legal entity described in subparagraph (B).

BREAUX AMENDMENTS NOS. 815–818

(Ordered to lie on the table.)

Mr. BREAUX submitted five amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 815

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE WASTE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) HAZARDOUS WASTE.—The term ''hazardous waste'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(2) SEWAGE SLUDGE.—The term ''sewage sludge''—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screening generated during preliminary treatment of domestic sewage in a treatment works.

(3) SLUDGE.—The term ''sludge'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) and hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge and waste.

AMENDMENT NO. 816

Beginning on page 49, strike line 14 and all that follows through page 51, line 17, and insert the following:

tics, leather, rubber, hazardous waste, sewage sludge, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

''(A) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

''(B) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

''(C) any solid waste that is—

''(i) generated by an industrial facility; and

''(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

''(D) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

''(E) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

''(F) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

''(G) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

''(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

''(6) SEWAGE SLUDGE.—The term 'sewage sludge'—

''(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

''(B) includes—

''(i) domestic septage;

''(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

''(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

''(C) does not include—

''(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

''(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.''

AMENDMENT NO. 817

On page 49, line 14, after ''rubber,'' insert ''hazardous waste,''.

AMENDMENT NO. 818

Beginning on page 49, strike line 14 and all that follows through page 51, line 17, and insert the following: tics, leather, rubber, sewage sledge, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal old waste' does not include—

''(A) any solid waste identified or listed as a hazardous waste under section 3001;

''(B) any solid waste, including contaminated solid and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response. Compensation, and Liability Act of 1980 (42 U.S.C. 9604 OR 9606) or a corrective action taken under this Act;

''(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

''(D) any solid waste that is—

''(i) generated by an industrial facility; and

''(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

''(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

''(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

''(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

''(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

''(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

''(6) SEWAGE SLUDGE.—The term 'sewage sludge'—

''(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

''(B) includes—

''(i) domestic septage;

''(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

''(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

''(C) does not include—

''(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

''(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

LIEBERMAN AMENDMENT NO. 819

(Ordered to lie on the table).

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On pages 62–63, strike lines 24–25, and lines 1–3.

BIDEN AMENDMENT NO. 820

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 56, line 23, strike ''1994.'' and insert ''1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994,''.

BAUCUS AMENDMENT NO. 821

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

Beginning on page 33, line 9, strike all through page 46, line 19, and insert the following:

''(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—(1) IN GENERAL.—(A) Except as provided in subsections (b) and (e), effective January 1, 1996, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator has entered into a host community agreement or obtained a permit authorizing receipt of out-of-State municipal solid waste prior to enactment of this section, or obtains a host community agreement pursuant to this subsection.

''(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(D) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

''(3)(A) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(E), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may prohibit or limit the amount of out-of-State municipal solid waste disposed of at any landfill or incinerator covered by the exceptions in subsection (b) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under paragraph (6)(E) as having exported, to landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste, more than—

''(i) 3,500,000 tons of municipal solid waste in calendar year 1996;

''(ii) 3,000,000 tons of municipal solid waste in each of calendar years 1997 and 1998;

''(iii) 2,500,000 tons of municipal solid waste in each of calendar years 1999 and 2000;

''(iv) 1,500,000 tons of municipal solid waste in each of calendar years 2001 and 2002; and

''(v) 1,000,000 tons of municipal solid waste in calendar year 2003 and each year thereafter.

''(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements more than the following amounts of municipal solid waste:

''(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

''(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

''(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

''(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

''(V) In calendar year 2000, 1,000,000 tons.

''(VI) In calendar year 2001, 800,000 tons.

''(VII) In calendar year 2002 or any calendar year thereafter, 600,000 tons.

''(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

''(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

''(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

''(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities.

''(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(E).

''(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

''(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

''(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

''(A) shall be applicable throughout the State;

''(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

''(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

''(6) ANNUAL STATE REPORT.—

''(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year. Within 120 days after enactment of this section and on July 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

''(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste.

''(C) LIST.—The Administrator shall publish a list of States that the Administrator has determined have exported out-of-State in any of the following calendar years an amount of municipal solid waste in excess of—

''(i) 3,500,000 tons in 1996;

''(ii) 3,000,000 tons in 1997;

''(iii) 3,000,000 tons in 1998;

''(iv) 2,500,000 tons in 1999;

''(v) 2,500,000 tons in 2000;

''(vi) 1,500,000 tons in 2001;

''(vii) 1,500,000 tons in 2002;

''(viii) 1,000,000 tons in 2003; and

''(ix) 1,000,000 tons in each calendar year after 2003.

The list for any calendar year shall be published by June 1 of the following calendar year.

''(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

''(7) Any affected local government that intends to enter into a host community agreement after the date of enactment of this section, shall prior to taking such action—

''(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

''(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

''(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing; and

''(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

''(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

''(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

''(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

''(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

''(D) A description of environmental controls to be utilized at the facility.

''(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

''(F) A list of all required Federal, State, and local permits.

''(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

''(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

''(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-SATE MUNICIPAL SOLID WASTE.—(1) The prohibition on the disposal of out-of-State municipal solid waste in subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

''(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

''(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

''(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

''(C) before the date of enactment of this section, the owner or operator entered into a host community agreement or received a permit specifically authorizing the owner or operator to accept at the landfill or incinerator municipal solid waste generated outside the State in which it is or will be located.''

''(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

''(3) The owner or operator of a landfill or incinerator that is exempt under this subsection from the prohibition in subsection (a)(1) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or permit referenced in subparagraph (C). The owner or operator may omit from such copy or other documentation any proprietary information, but shall ensure that at least the following information is apparent; the volume of out-of-State municipal solid waste received; the place of origin of the waste, and the duration of any relevant contract.

''(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

''(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

''(A) that is permitted under Federal or State law;

''(B) that is identified under the State plan; and

''(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

''(d) COST RECOVERY SURCHARGE.—

''(1) AUTHORITY.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

''(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

''(3) LIMITATION.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

''(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

''(5) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

''(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

''(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

''(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

''(iii) the surcharge is compensatory and is not discriminatory.

''(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax assessed against or voluntarily paid to the State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

''(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

''(7) DEFINITIONS.—As used in this subsection:

''(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

''(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

''(e) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

''(1) to have any effect on State law relating to contracts to authorize, require, or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section during the life of the contract as determined under State law; or

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DODD AMENDMENT NO. 822

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

In the committee substitute on page 62, line 14, strike ''and'', and all that follows through line 3 on page 63, and insert the following:

''or

''(iii) entered into contracts with the operator of a solid waste facility selected by an operating committee composed of local political subdivisions created pursuant to State law to deliver or cause to be delivered to the facility substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued on behalf of the operating committee for waste management facilities;

''(B) prior to May 15, 1994, the public service authority or operating committee composed of local political subdivisions created pursuant to State law—

''(i) issued or had issued on its behalf, the revenue bonds for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

''(ii) commenced operation of the facilities.''

SMITH AMENDMENTS NOS. 823–824

(Ordered to lie on the table.)

Mr. SMITH submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 823

On page 56, lines 18 through 21, strike ''the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and''.

AMENDMENT NO. 824

On page 56, strike lines 10 through 13 and insert the following:

''(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

''(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provi-''.

WELLSTONE AMENDMENTS NOS. 825–826

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 825

On page 56, strike lines 18 through 21 and insert in lieu thereof the following: ''material is to be delivered, or the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision, and

(c)''.

AMENDMENT NO. 826

On page 59, between lines 20 and 21, insert the following:

''(6) For the purposes of (1), ''was being implemented on May 15, 1994'' includes provisions that would have been in implementation on such date but for any court decision finding that such provisions unconstitutionally interfere with interstate commerce or but for the voluntary decision of a State or its political subdivision to suspend implementation because of the existence of such court decision or decisions.''.

SMITH AMENDMENTS NOS. 827–828

(Ordered to lie on the table.)

Mr. SMITH submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 827

On page 67, strike the period and quotation mark at the end of line 2.

On page 67, between lines 2 and 3, insert the following:

''(k) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

''(1) on the date of enactment of this Act, is listed on the National Priorities List under the comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

''(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.''.

AMENDMENT NO. 828

On page 60, strike lines 1 through 5 and insert the following:

''(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

''(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.''.

DOMENICI AMENDMENT NO. 829

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

On page 69, line 22, strike ''.''

On page 69, between lines 22 and 23, insert the following new provision:

''(5) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this title to allow states to promulgate alternate design, operating, landfill gas and groundwater monitoring, financial assurance, and closure requirements for landfills which receive 20 tons or less of solid waste per day based on an annual average and are located in areas receiving 20 inches or less of annual precipitation, provided that such alternate requirements are sufficient to protect human health and the environment.''.

DEWINE AMENDMENTS NOS. 830–834

(Ordered to lie on the table.)

Mr. DEWINE submitted five amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 830

On page 43, between lines 14 and 15, insert the following:

''(d) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE BY IMPOSING A PERCENTAGE LIMITATION.—

''(1) STATE LAW.—A State may by law provide that a State permit for a new landfill or incinerator shall include a percentage limitation on the total quantity of out-of-State municipal solid water that may be received at the landfill or incinerator.

''(2) REQUIREMENTS.—A percentage limitation imposed under paragraph (1)—

''(A) shall be uniform for all landfills or incinerators for which a permit is required under State law; and

''(B) shall not discriminate against out-of-State municipal solid waste based on the State of origin unless the waste is received under an agreement entered into under section 1005(b) pursuant to which the State and 1 or more other States (referred to in this subsection as an 'exporting State') have agreed on a different percentage limitation for specific facilities for municipal solid waste from any such exporting State.

''(3) MAJOR MODIFICATIONS.—This subsection shall apply to a permit (or permit amendment) for a major modification of a landfill or incinerator in the same manner as it applies to a permit for a new landfill or incinerator if the landfill or incinerator was not authorized to receive out-of-State municipal waste pursuant to a host community agreement prior to the date of enactment of this section.

AMENDMENT NO. 831

On page 42, line 19, after ''Waste,'' insert the following: ''by requiring use of municipal solid waste management capacity under a host community agreement''.

AMENDMENT NO. 832

On page 43, line 15, strike ''(d)'' and insert ''(e)''.

AMENDMENT NO. 833

On page 46, line 16, strike ''(e)'' and insert ''(f)''.

AMENDMENT NO. 834

On page 47, line 5, strike ''(f)'' and insert ''(g)''.

KEMPTHORNE AMENDMENTS NOS. 835–848

(Ordered to lie on the table.)

Mr. KEMPTHORNE submitted 14 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 835

On page 40, lines 19 and 20, after the word, ''site'', strike the following: ''and any violations of applicable laws or regulations''.

AMENDMENT NO. 836

On page 39, line 8, strike the word, ''June'', and in lieu thereof insert the word, ''September''.

AMENDMENT NO. 837

On page 38, line 14, after the word, ''received,'' strike everything through the end of the sentence and in lieu thereof insert the following: ''the State of origin and the date of shipment.''.

AMENDMENT NO. 838

On page 33, line 11, strike the words, ''immediately upon the date of enactment of this section,'' and in lieu thereof insert the words, ''beginning January 1, 1996.''

AMENDMENT NO. 839

On page 52, line 6, add the following new subsection:

( ) APPLICATION.—The provisions of this section shall not apply to prohibit or limit receipt of out-of-State municipal solid waste at any landfill or incinerator that meets both of the following conditions:

(A) The facility has been granted a permit under State law to receive municipal solid waste for combustion or disposal; and

(B) The State or its political subdivision within which the facility is located has exercised any flow control authority provided under other provisions of this subtitle to prohibit or limit the receipt by the facility of municipal solid waste that is generated within the State or its political subdivision.

AMENDMENT NO. 840

On page 45, lines 15 and 16, after the word, ''tax'', strike the words, ''assessed against or voluntarily''; on lines 16 and 17, after the word, ''subdivision'', insert the following: '', or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision''.

AMENDMENT NO. 841

On page 52, line 3, after the word, ''it'', strike the words, ''clearly and affirmatively states'', and in lieu thereof insert the words, ''reasonably evidences''.

AMENDMENT NO. 842

On page 45, line 19, after the number, ''3001'', add the following words, ''or waste regulated under the Toxic Substances and Control Act (15 U.S.C. 2601 et seq.)''.

AMENDMENT NO. 843

On page 48, lines 22 and 23, after the word, ''additional'', strike the word, ''express'' and in lieu thereof insert the word, ''specific''.

AMENDMENT NO. 844

On page 46, line 19, after the word, ''contracts'', insert the following: '', or to authorize, require, or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section''.

AMENDMENT NO. 845

On page 44, line 44, line 8, strike the words, ''enactment of this section'' and in lieu thereof insert the words, ''adoption of a State law authorized by this subsection''.

AMENDMENT NO. 846

On page 43, line 23, after the word, ''on'', strike the words, ''or before''.

AMENDMENT NO. 847

On page 36, line 21, add the following new sentence: ''A limit or prohibition shall be treated as a violation of and inconsistent with a host community agreement or permit if the agreement or permit establishes a higher limit or does not establish any limit.''.

AMENDMENT NO. 848

On page 35, line 5, after the word ''agreements'', insert the words, ''or permits authorizing receipt of out-of-State municipal solid waste''.

LEVIN AMENDMENTS NOS. 849–858

(Ordered to lie on the table.)

Mr. LEVIN submitted 10 amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 849

On page 49, line 3, after ''of the State.'' strike all that follows through line 8.

AMENDMENT NO. 850

On page 56, line 23, after ''1994'' insert '', or, (C) was used by the political subdivision to finance resource recovery or waste reduction programs.''

AMENDMENT NO. 851

On page 60, lines 7 and 8, strike ''a waste management facility'' and insert ''1 or more waste management facilities''.

AMENDMENT NO. 852

On page 53, lines 17 and 18 and insert ''to 1 or more designated waste management facilities or facilities for recyclable material''.

AMENDMENT NO. 853

On page 63, line 24, strike ''and'' and insert ''or''.

AMENDMENT NO. 854

On page 63, line 22, strike ''significant''.

AMENDMENT NO. 855

On page 63, line 11, strike ''operation of solid waste facilities to serve the''.

AMENDMENT NO. 856

On page 63, line 16, strike ''30'' and insert ''25''.

AMENDMENT NO. 857

On page 56, line 18, after ''delivered,'' insert ''or''.

AMENDMENT NO. 858

On page 59, line 1, strike ''1984'' and insert ''1989''.

FEINSTEIN AMENDMENT NO. 859

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 534, supra; as follows:

On page 64, line 3, insert the following as subsection (f) and reletter subsequent subsections accordingly:

(f) Notwithstanding the provisions of this section, a political subdivision which, upon date of enactment of this section, is mandated by state law to divert 25 percent, by January 1, 1995, and 50 percent, by January 1, 2000, of all solid waste generated within its jurisdiction from landfill and resource recovery facilities through source reduction, recycling, and composting activities, may enter into a contract, franchise or agreement with, or issue a license or permit to, a public or private entity by which the public or private entity is exclusively or nonexclusively authorized to provide a solid waste management activity. Such state or political subdivision may as a condition in such contract, agreement, license or permit, require the public or private entity to deliver the solid waste or voluntarily relinquished recyclable material to a waste management facility identified by the state or political subdivision in such contract, agreement, license or permit. Any such contract, franchise or agreement, regardless of its effective date, and any such license or permit, regardless of when issued, shall be considered to be a reasonable regulation of commerce and shall not be considered to be an undue burden on or to otherwise impair, restrain, or discriminate against interstate commerce. For purposes of this subsection, the term ''solid waste'' shall mean solid waste as defined under the law, in existence on the date of enactment of this subsection, of the state.

DODD AMENDMENT NO. 860

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 534, supra; as follows:

In the Committee substitute, on page 62, line 14, strike ''and'', and all that follows through line 3 on page 63, and insert the following:

''or

''(iii) entered into contracts with the operator of a solid waste facility selected by an operating committee composed of local political subdivisions created pursuant to state law to deliver or cause to be delivered to the facility substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued on behalf of the operating committee for waste management facilities;

''(B) prior to May 15, 1994, the public service authority or operating committee composed of local political subdivisions created pursuant to state law—

''(i) issued or had issued on its behalf, the revenue bonds for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

''(ii) commenced operation of the facilities.

''(2) DURATION OF AUTHORITY.—Authority under this subsection may be exercised by a political subdivision qualifying under paragraph (1)(A)(ii) or paragraph (1)(A)(iii) only until the expiration of the contract or the life of the bond, whichever is earlier.

MURKOWSKI AMENDMENTS NO. 861 AND 862

Mr. CHAFEE (for Mr. MURKOWSKI) proposed two amendments to the bill S. 534, supra; as follows:

AMENDMENT NO. 861

On page 19, line 19, before ''would be infeasible'' insert ''or unit that is located in or near a small, remote Alaska village''.

AMENDMENT NO. 862

On page , line , before ''would be infeasible'' insert ''or unit that is located in or near a small, remote Alaska village''.

PRYOR AMENDMENT NO. 863

(Order to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to an amendment intended to be proposed by Mr. KEMPTHORNE to bill S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

''(f) INCLUSION OF CERTAIN ADDITIONAL STATES AND POLITICAL SUBDIVISIONS.—Notwithstanding any other provision of this title, flow control authority granted under this title may be exercised by a State or political subdivision that, prior to May 15, 1994, adopted a flow control measure or measures, individually or collectively, that required the delivery of flow-controllable solid waste to a proposed or existing waste management facility.

LEVIN (AND ABRAHAM) AMENDMENT NO. 864

(Ordered to lie on the table.)

Mr. LEVIN (for himself and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill S. 534, supra; as follows:

On page 33, strike line 9 and all that follows through line 17, and insert the following:

''(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—Effective 90 days after enactment, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of the landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

''(B) REQUIREMENTS FOR AUTHORIZATION.—An authorization under subparagraph (A) shall—

''(i) be granted by formal action at a meeting;

''(ii) be recorded in writing in the official record of the meeting; and

''(iii) remain in effect according to its terms.

''(C) DISCRETIONARY TERMS AND CONDITIONS.—An authorization under subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

''(D) NOTIFICATION.—Promptly, but not later than 90 days after an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization under subparagraph (A).

''(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste under paragraph (1), the owner or operator of the facility seeking the authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

''(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities of (expressed in terms of volume) waste to be handled.

''(B) A map of the facility site disclosing—

''(i) the location of the site in relation to the local road system and topography and hydrogeological features; and

''(ii) any buffer zones or facility units to be acquired by the owner or operator.

''(C)(i) A description of the then-current environmental characteristics of the site and of ground water use in the area (including identification of private wells and public drinking water sources).

''(ii) A discussion of alterations that may be necessitated by, or occur as a result of, the facility.

''(D) A description of—

''(i) environmental controls typically required to be used on the site (pursuant to permit requirements), including run-on and runoff management, air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs; and

''(ii) any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

''(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

''(F) A list of all required Federal, State, and local permits.

''(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility, which, to the extent practicable, distinguishes between employment statistics for preoperational levels and those for postoperational levels.

''(H) Any information that is required by Federal or State law to be provided with respect to—

''(i) any violations of environmental laws (including regulations) by the owner, the operator, or any subsidiary of the owner or operator;

''(ii) the disposition of enforcement proceedings taken with respect to the violations; and

''(iii) corrective action and rehabilitation measures taken as a result of the proceedings.

''(I) Any information that is required by Federal or State law to be provided with respect to gifts and contributions made by the owner or operator.

''(J) Any information that is required by Federal or State law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

''(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

''(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

''(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, unless State law provides for an alternate form of public notification; and

''(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

BREAUX AMENDMENTS NOS. 865–866

(Ordered to lie on the table.)

Mr. BREAUX submitted two amendments intended to be proposed by him to the bill S. 534, supra; as follows:

AMENDMENT NO. 865

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE SLUDGE TRANSPORT.

(a) DEFINITIONS.—In this section:

(1) SEWAGE SLUDGE.—The term ''sewage sludge''—

(A) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(B) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this paragraph); but

(C) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this paragraph) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(2) SLUDGE.—The term ''sludge'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of sludge (including sewage sludge) that is being transported across State lines; and

(2) the ultimate disposition of the transported sludge.

AMENDMENT NO. 866

At the appropriate place, insert the following:

SEC. . STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.

(a) DEFINITION OF HAZARDOUS WASTE.—In this section, the term ''hazardous waste'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) STUDY.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall conduct a study, and report to Congress on the results of the study, to determine—

(1) the quantity of hazardous waste that is being transported across State lines; and

(2) the ultimate disposition of the transported waste.

JEFFORDS (AND LEAHY) AMENDMENT NO. 867

Mr. JEFFORDS proposed an amendment to the bill S. 534, supra; as follows:

On page 64, between lines 2 and 3, insert the following:

''(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

''(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) prior to May 15, 1994, the solid waste district—

''(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

''(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

''(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

MOYNIHAN AMENDMENT NO. 868

Mr. CHAFEE (for Mr. MOYNIHAN) proposed an amendment to the bill S. 534, supra; as follows:

On page 60, line 7, strike the word ''a'' and insert ''the particular''.

On page 60, line 8, strike the word ''facility'' and insert in its place ''facilities or public service authority''.

On page 60, line 15, strike the word ''facility'' and insert in its place ''facilities or public service authority''.

CAMPBELL (AND OTHERS) AMENDMENT NO. 869

Mr. CHAFEE (for Mr. CAMPBELL for himself, Mr. BROWN, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 534, supra; as follows:

On page 69, strike the quotation mark and period at the end of line 22.

On page 69, between lines 22 and 23, insert the following:

''(5) NO-MIGRATION EXEMPTION.—

''(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost acquifer during the active life of the unit and the post-closure care period.

''(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

''(i) be certified by a qualified groundwater scientists and approved by the Director of an approved State.

''(C) GUIDANCE.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

DODD (AND LIEBERMAN) AMENDMENT NO. 870

Mr. CHAFEE (for Mr. DODD, for himself and Mr. LIEBERMAN) proposed an

amendment to the bill S. 534, supra; as follows:

On page 55, line 8, add

''(B) other body created pursuant to State law or'',

Redesignate ''(B)'' as ''(C)''.

On page 62 line 1 insert after ''authority'', ''or on its behalf by a State entity''.

On page 62 line 17 insert after ''bonds'', ''or had issued on its behalf by a State entity''.

On page 62 line 24 strike all through page 63 line 3, and insert the following, ''the authority under this subsection shall be exercised in accordance with section 4012(b)(4).''.

ROTH (AND BIDEN) AMENDMENT NO. 871

Mr. CHAFEE (for Mr. ROTH, for himself and Mr. BIDEN) proposed an amendment to the bill S. 534, supra; as follows:

On page 53, line 3, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, line 4, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, lines 7 and 8, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, line 10, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 56, lines 1 and 2, strike ''and each political subdivision of a State'' and insert '', political subdivision of a State, and public Service authority''.

On page 56, line 12, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 4, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 7, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 21, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

BIDEN (AND ROTH) AMENDMENT NO. 872

Mr. CHAFEE (for Mr. BIDEN for himself and Mr. ROTH) proposed an amendment to the bill S. 534, supra; as follows:

On page 56, line 23, strike ''1994.'' and insert ''1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994,''.

SMITH (AND OTHERS) AMENDMENT NO. 873

Mr. CHAFEE (for Mr. SMITH for himself, Mr. THOMAS, Mr. COHEN, Mrs. HUTCHISON, and Ms. SNOWE) proposed an amendment to the bill S. 534, supra; as follows:

On page 56, lines 18 through 21, strike ''the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and''.

On page 67, strike the period and quotation mark at the end of line 2.

On page 67, between lines 2 and 3, insert the following:

''(k) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

''(1) on the date of enactment of this Act, is listed on the National Priorities List under the comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.): or

''(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.''.

SMITH (AND WELLSTONE) AMENDMENT NO. 874

Mr. CHAFEE (for Mr. SMITH for himself and Mr. WELLSTONE) proposed an amendment to the bill S. 534, supra; as follows:

On page 56, strike lines 10 through 13 and insert the following:

''(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

''(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action.

On page 60, strike lines 1 through 5 and insert the following:

''(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

''(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

SNOWE (AND COHEN) AMENDMENT NO. 875

Mr. CHAFEE (for Ms. SNOWE for herself and Mr. COHEN) proposed an amendment to the bill S. 534, supra; as follows:

On page 58, line 5, strike ''original facility'' and insert ''facility (as in existence on the date of enactment of this section)''.

PRYOR AMENDMENT NO. 876

Mr. CHAFEE for (Mr. PRYOR) proposed an amendment to the bill S. 534, supra; as follows:

On page 61, between lines 7 and 8, insert the following:

''(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1) (A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

''(1) the facility was fully licensed and in operation prior to May 15, 1994;

''(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

''(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

''(3) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

COHEN (AND SNOWE) AMENDMENT NO. 877

Mr. CHAFEE (for Mr. COHEN for himself and Ms. SNOWE) proposed an amendment to the bill S. 534, supra; as follows:

On page 55, between lines 10 and 11 insert the following:

''(5) PUT OR PAY AGREEMENT.—(1) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

''(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

''(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, May 11, 1995, at 9:30 a.m. in open session to receive testimony on the national security implications of lowered export controls on dual-use technologies and U.S. defense capabilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, May 11, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on Medicare solvency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 9:30 a.m., to hold a hearing to receive testimony on the Smithsonian Institution: Management Guidelines for the Future.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CHAFEE. Mr. President, the Committee on Veterans' Affairs would

like to request unanimous consent to hold a hearing on the reorganization of the Veterans Health Administration, and the requirement of 38 U.S.C. 510(b) for the Department of Veterans Affairs to provide 90 days' notice to the Congress before an administrative reorganization may take effect. The hearing will be held on May 11, 1995, at 10 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, May 11, at 9:30 a.m. to hold a hearing on the topic of long-term care financing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISABILITY POLICY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy of the Committee on Labor and Human Resources be authorized to meet for a hearing on the Individuals with Disabilities Education Act, during the session of the Senate on Thursday, May 11, 1995, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Immigration of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 2:30 p.m. to hold a hearing on Immigration and Naturalization Service oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the International Operations Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 3 p.m. to hear testimony on the reorganization and revitalization of America's foreign affairs institutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 10 a.m. to hear testimony on U.S. assistance programs in the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Thursday, May 11, 1995, in open session, to receive testimony on Environmental, Military Construction and BRAC Programs in review of S. 727, the National Defense Authorization Act for 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, WASTE CONTROL, AND RISK ASSESSMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Waste Control, and Risk Assessment be granted permission to conduct an oversight hearing Thursday, May 11, at 1:30 p.m., regarding the Comprehensive Environmental Response, Compensation, and Liability Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND GOVERNMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Technology, and Government Information for the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 11, 1995, at 9:30 a.m. to hold a hearing on mayhem manuals and the internet.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO LEE TODD

● Mr. McCONNELL. Mr. President, I rise today to recognize the career of Mr. Lee Todd, who is working hard to make Lexington, KY, a major stop on the information highway. Lee is president and CEO of DataBeam, one of the State's few high-technology companies.

Lee grew up in Earlington, KY, where at age 14 he became the best pool shooter in town. Lee credits his early years in the western Kentucky town with helping make him who he is today. In a recent article in Blugrass magazine, Lee says ''I think every kid needs something to feel good about, to develop self esteem. For some kids it was athletics. For me, it was pool.''

After graduating from high school, Lee attended Murray State University, but after 2 years he transferred to the University of Kentucky. After receiving his diploma, Lee moved to Boston and attended M.I.T., where he earned his M.S. and Ph.D in electrical engineering. It was also in Boston that he met his wife, Patsy.

The Todds returned home to the Bluegrass State after graduation. They settled in Lexington, and Lee got a job in the Electrical Engineering Department at the University of Kentucky. He taught at U.K. for 9 years, and during that time he was honored with several teaching awards, including the coveted U.K. Alumni Association Great Teacher Award.

Lee caught ''entrepreneur fever'' at M.I.T, where he was awarded with six patents for advancements in picture tube technology. These patents helped lead to the development of DataBeam. In 1993, DataBeam introduced FarSite, the first software-driven computer conference room system. This high-technology allows a document to be viewed at the same time on different computer screens at different locations throughout the country.

DataBeam, which was given the Outstanding Small Business Award in 1988, is currently focusing on partnerships. The company recently added software giant Microsoft to its list of partners, which already includes AT&T, MCI, and Motorola.

Lee believes that by improving education and by helping to create a high-technology industry, Kentucky will have a brighter future. He founded and chairs the Kentucky Science, and Technology Counsel, which developed a hands-on learning package for elementary schoolchildren. This program is now used in about 60 percent of the elementary schools across the State.

Mr. President, I ask my colleagues to join me in recognizing this outstanding Kentuckian for his many accomplishments. I am confident that Mr. Todd will continue to invest in the future of Kentucky, as he has done so graciously in the past.●

POLITICAL TRANSITION IN CHINA

● Mr. BAUCUS. Mr. President, on March 23, the Congressional Economic Leadership Institute, in conjunction with the Congressional Competitiveness Caucus, held a discussion of China as that nation begins a political transition.

The meeting was led by three China experts: former United States Ambassador to China, Jim Lilley; Nigel Holloway, Washington correspondent of the Far Eastern Economic Review; and Drew Liu, executive director of the China Institute.

Called ''China After Deng,'' this vigorous discussion highlighted some of the outstanding issues in Chinese internal affairs and the United States-China relationship. I commend it to my colleagues who wish to gain a deeper understanding of these issues.

The panelists agreed, in the words of Drew Liu, that ''China is perhaps entering the most crucial period of transition.''

Mr. Holloway expressed another theme by urging ''constructive engagement,'' since the United States and the West generally ''need to keep drawing China out, into the wider world, and help to prevent its becoming a merchantilist military state.''

Ambassador Lilley put these points in context by noting that basic long-term economic and political trends within China are positive and leading toward a more economically and militarily powerful nation, and that the range of United States interests in the relationship with China is very broad.

I want to compliment the institute for organizing this useful discussion, and I ask that the transcript be printed in the RECORD.

The transcript follows:

CHINA AFTER DENG

PANELISTS

Ambassador James R. Lilley, Director of Asian Studies, American Enterprise Institute.

Nigel Holloway, Washington Correspondent, Far Eastern Economic Review.

Drew Liu, Executive Director, China Institute.

MODERATORS

U.S. Senator Max Baucus.

Congressman Jim Kolbe.

Rep. JIM KOLBE. We're here to look at a very timely topic and one in which there is a great deal of interest in the United States—the subject of China in the era after Deng Xiaoping.

It's my pleasure this morning to introduce my Senate colleague and good friend, Max Baucus. Senator Baucus has been involved with the Competitiveness Forum for a long time—in fact, since it was begun in 1987. He is a member of the Trade Subcommittee of the Senate Finance Committee; he's also ranking member of the Senate Environment Committee. As I think many of you know, he has taken a very strong and personal interest in the subject of China over the years. Please join me in welcoming, to introduce our panel this morning, the senior Senator from Montana, Max Baucus. Max:

Sen. MAX BAUCUS. Thank you, Jim. Thank you all for coming out this morning. We have three very distinguished guests this morning to help us discuss the future of China as that nation enters an era of political transition. In politics and security, China is critical to every major Asian security issue—from the conflict between India and Pakistan, to the Spratly Islands, to the Korean peninsula and on up north to the Russian Far East. It holds a permanent seat with a veto in the United Nations Security Council and, of course, China is a nation of 1.2 billion people with one of the world's largest armies.

In commerce, China is already one of the world's largest economies and international traders. Its trading power will increase even more after 1997. While China is our fastest growing export market, its issues—copyrights and patents; market-access for Montana wheat-producers; World Trade Organization membership; and trade deficits—show that China is also one of our most difficult trade policy challenges.

In environmental policy, China will very soon become the largest contributor to global warming. Its rapid coastal development, growing fishing fleet, and reliance on coal for power generation, all pose immensely difficult questions. And, of course, since Tiananmen Square in 1989, almost no foreign-policy issue has been as controversial or as divisive here in the United States as has human rights in China.

Internally, China faces high inflation, widespread corruption, and a declining standard-of-living in rural and inland regions relative to urban and coastal areas. At the National People's Congress last week, people as diverse as Prime Minister Li Peng and dissident petitioners identified these as problems threatening the stability of the country.

And what should we, the United States, expect in the next few years? What policies are likely to get results? Conversely, what actions will create a backlash? Difficult questions—and we have had heated debates over them since 1989. But I think everyone will agree the U.S. would benefit from a deeper understanding of trends and possible future developments in China. The CELI has brought together a panel of three long-time observers who can help us arrive at that understanding. They are:

The Honorable Jim Lilley. Jim is one of our country's most accomplished diplomats and Chinese scholars. He, of course, was the Ambassador of China during the Bush Administration and previously served as Ambassador to Korea. An internationally respected commentator on Chinese Affairs and U.S. China policy, he is now a Scholar-in-residence at the American Enterprise Institute.

Nigel Holloway, a long time observer of Chinese and Asian affairs. Mr. Holloway is the Washington correspondent for the Far Eastern Economic Review, which for decades has been the most respected Journal of East Asian business and politics.

And Drew Liu, Executive Director of the China Institute. The China Institute, established here in Washington by Wong Jung Tao on his release from prison last year, links China's most respectable intellectual dissidents on research on political and economic trends in China.

Each panelist will speak for a few minutes on what he sees as a major trend in China's economic and political development as we enter this transition era. Then we'll take questions. Thank you all for coming. Let's give a big warm welcome to our guest. [Applause.] Jim, I think you're first.

Ambassador JIM LILLEY. Well, that's quite a challenge. Let me just anecdote the first. I asked three people about the future of China—not romantics or visionaries, but people that basically do business there. One was a Korean fat cat who has invested probably three-quarters of a billion dollars in China and is investing more. And I said Chairman, how do you see China? He looked at me and he went like this [gesturing]—he said headaches, terrible headaches. But also, he said, long-term good.

Secondly, I talked to a Hong Kong businessman, just last night. And I said, where do you see it? He said, ''I have just bought one-quarter of a billion dollars of property in Hong Kong and I see a long-term rise because I am in the business of making money. The one thing I avoid is having anything to do with princely, high-cadre kids, economically. Socially they're fine—but don't touch them any other way.'' But he said, ''I'm putting my money where my mouth is—investing in the future of Hong Kong.''

The third person was a Department of Commerce representative who speaks beautiful Chinese. He said Commerce is quadrupling its staff in Shanghai, hiring 22 new locals; it's going to become the base of operations, almost paralleling our operation in Beijing. In other words, the United States Government is putting its people where it's mouth is, and they are going to build a center in Shanghai. This on a bet on the future of China's economy. I'm not saying the U.S. Government is always right. But I'm saying this is where they are going to make their action.

Let's move into the situation of China. Just briefly, I'll touch on three zones which are the obvious ones—political, military, economic.

First, militarily: Senator Baucus has touched on the places in Asia where China is an indispensable player. On the Korean peninsula, the stakes are very high; we are in a game of chicken and brinkmanship this very weekend. Strategically, the Chinese are basically with us. But they play a different game, one with Chinese characteristics. They don't want to see Kim Joy Il with nuclear weapons and long-range missiles. Nor do they want to see instability on the peninsula. Probably better than anybody, the Chinese know what a really weird, strange regime Kim Joy Il runs. They're done good work in the past; they've also been ambiguous in certain areas. But, to get a solution, the Chinese have to be a player, and we have to play with them. Because when we work with China, North Korea tends to give; when we split with China, they take advantage of it.

Second, the South China Sea. Perhaps you saw the piece in the Outlook section of the Washington Post this weekend? China is playing a long-term game of taking over the South China Sea—no question about that. It's going to happen, not in this century perhaps, but in the next century. It is not going to be necessarily large or violent, but more of a creeping takeover. This is spelled out in their internal documents. They are modernizing their military with this objective in mind. Jiang Zemin mentioned this in effect at the National People's Congress. So you shouldn't be confused.

What you have a genuine argument over is: Can they do it? Are they able to do it? With economic growth, will China spend its money on unproductive military activity that puts them in confrontation with the rest of Asia and possibly with the world's most powerful instrument, the United States Seventh Fleet? They've got to calculate very carefully and intelligently—which is precisely what they are doing. But they have ambitions, there's little question.

The third area, of course, is the Taiwan Straits. There's a great deal of gong-banging, stage-acting and posturing: Both sides trying to use the Americans against the other side—a very old game. Please don't get sucked in. The Chinese and Taiwanese are working very, very closely to straighten things out—when they really put their mind to it. But it's much more fun for each one to use the Americans to bash the other side. So be careful here. We hope it isn't next year's issue. This year, the issue is intellectual-property rights; last year, it was MFN and human rights. Next year, is it going to be Taiwan? Let's not make it Taiwan. Let's work ourselves out of this one—and we can if we don't let the Chinese use us.

Finally, the economic situation—obviously a mixed bag. China has an excellent growth record. Reserves are up a hundred percent. The trade balance has gone from 12 billion negative last year to five billion plus this year. But China also has 150 million surplus laborers, along with real problems in getting some sort of a financial code—a taxation code that functions. You see progress, but it's shaky. So apply the same business judgment you would in any such country: Know your partner, know the local market situation, get a good contract, deal with the people in power to get things done. This all applies to China. There is no quick fix.

The good news I see coming out of the National People's Congress that just finished is—don't get me wrong on this one, don't caricature my position, but—a slow movement towards the rule of law. There are differences in the Chinese system about how this should be done, and how fast. But the arguments they are having are arguments we, as Americans, can comprehend: Subsidies to state-owned enterprises. Subsidies to agriculture. How you manage the distribution of money internally—how much you put into the state sector and how much you keep out in the free-market sector. Arguments about the rules governing property, bankruptcy, and central banking. And I see progress on most of these fronts.

But the most encouraging sign is a degree of autonomy coming out of the Chinese themselves. You find one-third of the people voting against a candidate for Vice-Premier.

You certainly have people showing their displeasure at Li Peng's work report—very few, but they show it. You, see across-the-board, the Chinese representative bodies, usually overstaffed, beginning to move in the direction of some kind of an independent posture—where they can exercise a function over the party people. What I think it boils down to, over the long haul, is the rule of law versus the rule of man. A very deep issue in Chinese history, it is not easily solved—but the issue emerged in this National People's Congress. And I think that probably is the most promising sign in China today. Thank you. [Applause.]

NIGEL HOLLOWAY. Thank you very much. I'd like to thank the Institute very much for inviting me to this pulpit. First of all, I want to say that this is the first time that I've actually spoken about China's future in this way. I'm a journalist, probably as many of you are—so, we have something in common. But I maybe can see things in a slightly different way from the specialist. I have obviously traveled in China several times. I lived in Hong Kong for three-and-a-half years. And I've written about Asia as a whole since 1982.

I want to start by emphasizing the magnitude of what's happening in China today. Living standards have been doubling every five years or so—something that has never happened in a country larger than 100 million people. What an extraordinary change taking place with one-fifth of the world's population. (Of course, India is starting to go through the same transition—but it's different in India.)

Second point: In China, we have a Marxist superstructure, superimposed on a capitalist substructure. This is a recipe for tension, dislocation and conflict in the long term. You tend to compare it with Russia, where political opening preceded economic reform—and we can see where Russia is today. The Chinese transition, running the opposite way, is almost as difficult. China's leadership is ''riding the capitalist tiger'' like the capitalist governments in eastern Europe after the second world war were riding the communist tiger—and they were swallowed up. (The only country that succeeded in pulling it off was Singapore, in the late 1950s, where Lee Kuan Yew managed to stifle the communist tiger.)

In China's case today the tiger, of course, is the capitalist system. Deng and his cohorts know they have to delivery the goods. But the goods contain the seeds of their own destruction, namely the destruction of the communist system. The stock market, its shareholders, these are people with stakes in an economic system antagonistic to the political superstructure. This could be resolved gradually without major conflicts. It could also, of course, lead to another revolution.

The third factor is the leadership transition itself. We are going through another unprecedented situation for China, with nobody of a similar stature or credentials to replace Deng—so we are heading into an open country with no real road map. The first stages of the transition has already taken place: Deng has fully retired. I don't think he has been a factor for about a year now since the military appointments, made about a year ago. He is not playing a role like Lee Kuan Yew, still a major factor in Singapore politics.

What precedents do we have for the situation in China under a collective leadership? We have the inauspicious one, of course, of Yugoslavia after Tito—obviously there are major differences between the situation of Yugoslavia and that in China. Perhaps a better precedent is Vietnam: Since the death of Ho Chi Minh, there has been a fairly stable collective leadership. But Vietnam, of course, faces the same structural problems that China does long-term.

Nobody knows of course, what will happen in China, just as nobody knows who's going to win next year's presidential election here. But it's even harder to predict where China will be next year because it's so opaque. Talking to specialists, which is basically what I do, I get most of this second-hand. But the consensus is that China will move to a sort of authoritarian-capitalist model. That I think is what it's aiming for—rather like Singapore, a prospect the United States and the west can perhaps deal with. Singapore is a free-trading nation firmly in the Western camp but also with significant political differences. But Singapore is a very small island nation and China is a completely different kettle of fish. Could we live with a Singapore-style China?

Another question: Will China break up after the demise of Deng Xiaoping. Again, the consensus among specialists is that this is very unlikely. But one of the points they make is how the interest groups—the interest-group politics really running China now—is like the woven weft of a textile. Pull out one strand, and the textile will not fragment—because there are so many overlapping interests. For example, the military regions China is divided into do not exactly match the economic territory—they overlap. Another example is how the regional military command is rotated on a regular basis so they can't build local systems. At any rate, the consensus is China is unlikely to break up in the next 10 years.

What should American policy be towards China? Constructive engagement is certainly the right objective. The United States and the west need to keep drawing China out, into the wider world, and help to prevent its becoming a mercantilist military state. This is absolutely the right objective. Also, because the United States has such a wide array of interests in dealing with China, it should lay those out, and take a very hard look at where its priorities lie, rather than veering in one direction or another.

So I think the changes that are obviously taking place in U.S.-China policy over the last year have been in the right direction. This is absolutely the right way to go. The U.S. cannot bottle up China, nor should it. If it can help integrate China fully into world affairs, this will be one of the greatest achievements of the 21st Century. This requires an extremely deft handling to avoid the confusion we had a month ago when, in short order, we had conflict over intellectual-property rights, a dramatic reduction in MFN tariffs to China, and questions over the U.S. stance on China's application to the WTO. In the midst of all of this, we also had Hazel O'Leary in Beijing touting the contracts. It was confusing for China—and confusing for Americans too. I mean, what is American policy towards China? So it requires a very careful explanation: ''We have this array of differing interests—but these are the ones that are important.''

The shift in the U.S. stance towards China's WTO membership application is right—the U.S. is right to call for the toughest possible terms on China's application. China will probably become a member of the WTO by the end of the year, and that's the very best development. But I think it will be largely on the west terms rather than on China's.

If you look at all different aspects of China's relationships with the world and what Jim Lilley was saying about the rule of law, I sense a subtheme: China has to play by western rules if it wants to be a global player—whether it's arm sales, trade, and so on. And I think that the U.S. is right to stress that in all international forums.

I'd also like to make a plea that the U.S. should at every appropriate opportunity stress its strongest possible commitment to Hong Kong's long-term autonomy. As we've seen over the last few years, there's been a significant erosion in both the Chinese and, I must confess, the British attitude towards what was agreed on paper in the joint declaration. This is a source of serious concern. And the United States should stress during said meetings with Lu Ping, the senior representative of Beijing on Hong Kong affairs, that the U.S. has a strong interest in Hong Kong's economic and political autonomy.

I'd also like to agree with Jim Lilley that the U.S. must avoid pushing the Taiwan card too far. This has obviously been the major danger, I think, since the Republican victories in the election last year, and needs to be watched very carefully. That's my final point. Thank you.

DREW LIU. Thank you, Senator Baucus. Thank you, Congressman Kolbe. And I would like to thank also the Institute for this opportunity.

China is perhaps entering the most crucial period of transition, and many of the changes have taken place over last dozen years or so. Those changes are fundamental and from bottom-up. And so China has entered the threshold of fundamental change. What is the background, the nature of the forces, behind this change?

First, I would like to emphasize the crisis China is facing. In the political area, as everybody is aware, China is facing a crisis of transition, with a crack on the top echelon. And it's reflected especially in this People's Congress Session: Complaints and grievances from the lower echelon, and from local officials, are aimed against the center. And, in both political and economic areas—a linking point—you have this corruption issue. It is economical as well as political. The Chinese system is unable to contain corruption, which is very much hated by the Chinese populace.

In economics, the problem of the system is more fundamental than at first glance. The whole structure of communist state ownership has been very much undermined. But the new system has not been established during this transition. The transition is from the one kind of a planning system to the market system—and you have this plundering of the public funds, and public property, by officials. There is no law—it's a jungle. You [in America] talk about Ivan Boesky; in China today, everybody is Ivan Boesky. The Chinese people perceive this as very unfair, [a profound] injustice. Certainly in the social arena, you have hundreds of millions of people migrating from the rural area, from the inner provinces, to the southeast provinces. And these are the sign posts, in the Chinese history of big trouble, confirming a dynasty's end. The Ching dynasty was very much ended in that way—migration was part of the reason.

So there are three major scenarios. First is the continuation of dictatorship, the single-party model, maybe. Second is the opening of a political system and gradual transformation into democracy. The third one we could see is social unrest. The [inaudible word] of the Chinese society and maybe the breaking-up of China.

I would think the first scenario is growing less likely because of the lack of a strong man to hold China together—a Deng Xiaoping, a figure like that. With the power base in both military and party, and the state's bureaucratic system and in the Chinese political culture, the demand is for some kind of strong man to hold it together. It's like a reverse pyramid: One man at the bottom, everything is on top. The bottom goes away, and then you have the collapse. The current leadership of Jiang Zemin is less

capable of playing the same kind of integrating role as Deng Xiaoping. And [Chinese society lacks] the tradition of politics. Once in transition, divisions multiply. So continuation of the dictatorship is also unlikely. In all systems, the social forces formed during the reform process have been unable to be controlled.

The second scenario is the deep social unrest. But we think the biggest opportunity [occurring with this scenario would be] the gradual transition to a constitutional democracy. And let me say how I envision this could happen. At the China Institute, we do studies, mainly in the integrated area of theory in the practice. And we try to combine the vision blueprinting with actual process of change. What we find is that China's change in progress, towards political openness and the signs towards democratization, is always the result of a muddling through. It's not designed. it's not planned. It's not in anybody's mind.

As a result, many consequences are unintended. The different interest groups need to reposition themselves—but they don't have commonly accepted rules of the game. The process of democracy could be introduced into this situation—even though people may not be aware of the consequences. For instance, the mechanism of free elections, the mechanism of checks and balances, and the mechanism of [an impartial] monitoring device—all could be gradually introduced into the process.

Now secondly, it's not a moral process, like [in America]. Here, it's the ideal—you know the Founding Fathers, you know about universal rights. In China, it's not like that; it's really a process of people. ''See, this is we have to do. This [set of democratic mechanisms] is a way we can compromise without going total chaos [and risking] civil war.''

So, in this [potential] process, what is the position and role of the western world? How is this important process linked to the western world in general and the U.S. in particular? Shift the angle a little bit to say the importance of the U.S./China relation in the immediate future. It's very paradoxical and, I mean—there's no China policy. Perhaps it shouldn't be a ''China policy''—because of the two fundamental paradoxes in dealing with China. One is to deal with China on an international level—where you treat China as a society, as a state, as a collective. The other is the China of individuals.

Let me offer an example: On intellectual-property rights, we have monitored events, the process, very closely. Then we receive responses from different sectors among the Chinese—and I was surprised. Because, from our point of view, it is fair for China to abide by international standards. But I draw your attention to the internal Chinese response to this whole issue—to demonstrate why U.S. policy has to deal not only with China as a state and a collective, but also reach beyond that level, to the more individual level.

The Chinese look at intellectual-property rights, as the government crack down, and many Chinese businessmen think it's unfair—even though, from outside, we look at it as fair. Why is it unfair? Because in China there are more pressing issues—like fake medicine. Hundreds of people die as a result of fake medicine. One report in the Chinese media about hundreds dying—from fake wine made from industrial alcohol. People drink it and go blind. Things like that are more pressing issues than intellectual property. [America wants the Chinese] government to, you know, select intellectual-property rights and push them very hard. What the Chinese populace see is the government caving in to the interest of the foreigners—without taking care of the serious domestic issues.

One more thing about pressing China. When we look at an event, the nationalism is always in the back of mind. Some of the same complaints of national because of this disparity between the two systems. So what do you perceive the fair—''justice'' in the global and international perspective, we perceive as injustice and defeat into some other forces that may not be productive. I'm trying to add perspective; I'm not saying specifically do this or do that. I offer an angle on China's present position in the system—incompatible with the democratic and market system on one hand; and, on the other hand, wanting to enter into the world community.

So the political transformation, the liberalization, democratization are really the key to the future of the U.S./China relations in the long-term may not, you know like a very pressing issue, tomorrow in the media. But it's like the under current that we will carry the problems or your [inaudible word] into a specific problem into U.S./China relations. If China is not going democratic, and that is very unlikely I would say. THe Chinese will observe the law of the, observe the general international accepted standards only by the doing system to be compatible, and then you can have a more better and more productive relationship. Thank you very much.

Sen. BAUCUS. I'll take the liberty of asking the first questions. A lot of discussion so far has been about the United States relationship to China. I would just like to turn the tables and ask our panelists: How the Chinese see us? I mean, do they see us as being fair or unfair? You mentioned that we're pushing intellectual property protection, for example, to the local people. Say, gee that's not according to our priorities in China. But do the businessmen in China or the Chinese leadership recognize or don't know the United States has a legitimate beef after all. And perhaps they should follow the United States in trying to protect intellectual property. Or, on the other hand, are they just using local conditions as a cover to not do what they know they should do? My basic point is: What's the Chinese leadership perception of the United States? For example, is this nation seen as relevant around the world these days? And, if we're relevant, where are we relevant to how they see their future? Jim, I'll give you that one.

JIM LILLEY. I think the main fear in China with regard to U.S. attitude is that the U.S. looking for a boogie man or looking for an enemy, after Russia, to settle on China and will adopt the sort of containment policy which ever way you would like to put it that was adopted towards the Soviet Union. And so that's, I think, one of the major reason why the constructive-engagement policy is the right one to draw China out to avoid the impression that United States is trying to encircle China and contain it.

JIM KOLBE. Well I listened last night at a dinner to the Minister for, Director of, Administrator for Hong Kong affairs in China described the commitment that China has to maintaining the rules of law as he puts it and the agreement that was reached with Britain over the transition of Hong Kong to China. And I'm wondering if any of our speakers, this morning's panelist would comment on the issue of how important is the transition to Chinese rule in Hong Kong. What will the rest of the world be watching in this transition and what do you think we can expect as this transition takes place?

DREW LIU. Hong Kong issue is a very touchy issue in the sentiment of the Chinese mentality because it would cause the Chinese a humiliating defeat. But Hong Kong is also a very hot—like what we say in Chinese, a hot potato: You hold it, you want to eat it, but it's hot. And there is paradox, of course: Hong Kong is resources for the foreign currency and, on the other hand, Hong Kong is the stronghold of liberal ideas, and may help to spread political instability. In reacting to that, how will the Chinese government deal with Hong Kong?

I see several possibilities. I think the most likely response is to contain Hong Kong. Right now, there's easier traffic form Hong Kong to China and then, if Chinese government step in, it most probably would maintain Hong Kong's current system: Let Hong Kong still play the role it has been playing. On the other hand, in order to prevent Hong Kong's penetration, especially in the media, China would make it more difficult for people to travel from Hong Kong to China and from China to Hong Kong. And I think that seeing this as one possible solution shows the mentality of the Chinese leadership.

So what we are suggesting is, Hong Kong is really constructing, of course, opening wider China's market, marketization and giving China the stimulus to go further in marketing reform, abolishing the kind of state-controlled ownership structure. And on the other hand, it can gradually bring, you know alternatives, some models, examples of how to live and operate in a more democratic, more efficient society.

So we propose that the following institutions, especially cultural institutions, may go into Hong Kong right now and then enlarge their activities—especially with regard to the linkages inside China. For instance, educational projects. You know, many cultural things may not be political—nonpolitical, I would say. You know, purely educational, but by doing this, by joint venture, joint project, then Hong Kong and China can be linked. If they try to cut off Hong Kong from China after 1997 in administrative ways, then China's internal education would also suffer loss and damage. This is a very crucial time in Hong Kong, definitely, it is very, very important for the future of China. Thank you.

JIM LILLEY [inaudible words] is basically allow free market forces to go and strangle the political process in the cradle. And they have a lot of sympathy from Chinese in Hong Kong who think this western bourgeois democracy is really not applicable. So I think you've got somewhat of an economy there in terms. Bob, you know the formula very well: Let the free-market process work in Hong Kong. Keep it the goose laying the golden eggs. Have commercial rule of law in Hong Kong. Persist it for 50 years—but do not allow the political process to work and to contaminate China. That is the formula they have—yes, their formula. I'm talking about how the Chinese view Hong Kong.

The question came up last night, as the Congressman knows. Somebody asked our distinguished visitor why he didn't deal with the democratic party in Hong Kong, the dissenters. And what he said in his very cogent and very frank way is this: The basic law of Hong Kong calls for freedom of press, freedom of assembly, freedom of da-da, da-da, da-da—he sounded like Jefferson. Of course, everybody knows that isn't what happens. And if, the basic law says very clearly, we're going to have a fully elected, [inaudible word] in Hong Kong. So what are you worried about?

The fact is, course, that most people say the Hong Kong process works just fine, but scattered angry people keep pushing a ''bourgeois democracy'' that doesn't really make much sense. ''They are all trained in England. They talk English better than we do. They don't really represent the grassroots.'' Fact is, these people keep getting most of the votes. There is a feeling out in Hong Kong that they really do deserve democracy. And there are people voting for Martin Lee

and Company. [Inaudible words.] They're voting for them. It's a rather positive sign.

MODERATOR: Okay.

Sen. BINGAMAN. I wanted to ask about our trade, growing trade imbalance with China. As I see it, the first year of the Bush administration, we had about a $3 million trade deficit with China. This year, this last year, we had about a $28 billion trade deficit with China. And China has only began to export: As a share of their gross national product, China is not near, doesn't devote near as much of their economy to export manufacture as do other industrial countries. So the potential for increased manufacture for export is great. I see this growing geometrically over the next five to 10 years and, in the next century, a greater U.S. trade deficit with China than we have with Japan today—with no way to turn that around. This will hamper our ability to produce or maintain manufacturing jobs in this country. I would be interested as to whether I am right or wrong in that prediction, and if there is some solution other than continued handwringing and teeth-gnashing.

JIM LILLEY. I'll take a crack at it. That is what Mickey Kantor's trips were all about. I don't think Mickey is sitting in a corner gnashing his teeth—he's going to the Chinese and saying: Open your market. I think this is all about China getting into GATT and WTO. This is why they want to come in as a developing nation. Fifteen percent, 22 percent tariffs, developed nation, fifteen percent. Three thousand items are put on the block. They've got to protect inefficient dinosaurs in the state-owned enterprise sector. They are frightened of what GATT and WTO will do to them. So we can face up to this problem the way we faced it in other areas where it has worked—Taiwan and Korea. It hasn't worked in Japan, unfortunately, because of their closed system. But we have been able to close some of these trade gaps by persistently demanding they pay royalties on intellectual properties—our strong suit, where we can export a great deal.

As Jack Valenti said, our exports in the entertainment industry are one of our largest exports. In some sectors of China we are comparatively effective. So you go after those. I'm talking about power. I'm talking about aircraft. I'm talking about automobiles. I'm talking about electronics. The Americans have to get in there and compete as strong as any nation in the world. We aren't going to win the China market by getting quotas or trying to force them into some sort of managed-trade arrangement. You get the Chinese to come across and change their trade surplus with us by opening their market. I think this is what Kantor is trying to do, and we should support it 100 percent. We are beginning to make some progress on this. But it's going to be a long hard road.

MALE VOICE. The question that has come to my mind is the degree to which the other countries—let's say Europe, Japan and others—are using our MFN position really [inaudible words], and are saying to China: No WTO membership until you open up and so forth. I agree that Japan and the others are taking advantage of us by working with the Chinese leadership.

JIM LILLEY. I think, Senator, you make a very good point. The Europeans and Japanese love to hold our coats while we go in and slug it out with the Chinese. We finally get the agreement, then they all follow to take advantage of it. Let me make a contrast. On human rights, it was totally bilateral. Nobody else had anything to do with our position. And this is what undercut us, or it's one big reason. The business community did not support us. No nation in the world supported us. They said, ''What a bunch of goofballs. We're going to pick up the pieces of the American effort.'' But, on GATT and WTO, we got a lot of support; on IPR, we got a lot of support. They aren't as aggressive as we are, the don't have their Mickey Kantors—but they did come in. And they are going to support us to a degree on this. Of course, most of them are intellectual-property right violators too! So, there's all sort of hypocrisy mixed into this arrangement.

But it seems to me that in WTO and IPR, we are on solid ground with our friends, but as usual, Senator, the Americans have to take the lead.

MALE VOICE. [Inaudible words.]

MALE VOICE. Pardon.

MALE VOICE. [Inaudible word.]

JIM LILLEY. Well, I supposed what we try to do, at least we tried to do this when I was in GATT, is arrange tougher conditions on the Chinese. We would working with EC. And one of the, rather, I suppose I'm talking too much again. Through the EC and directly, we used to say to the Chinese: ''You know, Taiwan's an applicant too. And they are meeting all of the standards of GATT, WTO. If you drag your feet, it could be possible that Taiwan would get it first.'' This was a very sobering influence, I think. It works about once or twice—that's all. And then you've got to get better tactics to work on it.

But the more usual argument, and you get European support on this, is if you don't shape up, you aren't going to get the technology you want. An the do lust for technology, they want the best—that's all you hear from the Chinese. So this is where you put the brakes on. We don't have COCOM anymore, but some sort of an arrangement with our allies. The Chinese are very dependent upon Europe and Japan to get some sort of common policy for when they violate too much by ''going their own way,'' as people say, you can bring to bear collective pressure.

This approach worked very well in 1990 when I was in China. We worked very closely with Japan, the Europeans, Canadians, Australians, New Zealanders—to exert leverage. Because in the international bank, let me just make one point, China is very dependent on higher [inaudible word] loans. They are the biggest recipients in the world. It's two to three billion dollars a year. It may not sound like much. But it is crucial when matched with a third yen loan package from Japan, and most every nation from the United States. Don't use it as a club publicly, but quietly and effectively, through diplomatic channels.

NIGEL HOLLOWAY. I just want to say that the trade imbalance within the U.S. and China is really quite extraordinary. U.S. exports to China are less than $10 billion and China's exports here approach $40 billion. A lot of it has to do with the restructuring that is going on. The question then is, is Chin going to become another Japan, the capitalist but closed market. My hunch is it will not—because the corporate structure in China is evolving very different from that in Japan. Japan has these [inaudible word] networks of companies that basically collude through long-term equity arrangements. But the Chinese don't do business that way. I think that's something to bear in mind.

What we really have, as Jim says, is a market-access question. China is starting to open its market. If you look at the market within China, there are enormous barriers for one province trying to trade with another. They basically compete with each other, and stumble over each other, and try and prevent goods from one province going into another. And this is the area where the World Bank is especially keen to see major changes. And I think it's also one the U.S. should focus increasingly on: If it can pry open China's market, this will be the biggest factor in increasing democratization in China.

Sen. BAUCUS. Stand up please. Thank you.

QUESTION. [Inaudible.]

JIM LILLEY. I'm glad you asked for clarification, because there may be some misunderstanding. I'm not saying the United States will stay out of this thing. We are involved up to here. We have something called the Taiwan Relations Act, which is the law of the land. We also have an increasingly strong relationship with China. What I resent very much is lobbying groups and foreign ministry tantrums towards the United States to try to get us to become their point man on beating up on the other side. That's what I don't like. We've got a lot of leverage in this deal and I think we should use it—because both of them really need us in this one.

But don't get trapped into a Chinese ''tong war'' on it. Keep you powder dry. Keep managing it carefully. Don't make a great big announcement of a Taiwan policy review and beat the gong saying this some sort of a big deal, when it turns out to be a big fat zero and everybody knows it—the Chinese become furious at the policy review and the Taiwanese are disappointed. Much better to keep your mouth shut and work a little bit quietly on this thing as it is run by all of the other administrations.

By the same token, you have to be careful in terms of Chinese sensitivities on this. You also have to be careful in the Taiwan process, but as I was saying to Bob Kupp earlier, we have been pushing democracy in China for about 35 years. I used to beat upon the Taiwan government regularly about getting the dissidents out and letting the Taiwanese back in, letting the political process work. We succeeded. And now you've got a flourishing democracy, a chaotic democracy, and even fist-fighting in the legislative halls.

JIM LILLEY. On the other hand, for the United States to begin stumbling around in the thicket of Taiwan domestic policies, watch your step. The responsible businessmen and politicians in Taiwan know the limits of what they can do. And they know that breaking with China is not in their interest. But this doesn't stop demagogues and others from raising hell on the basis of political strategy. On the other side, on China's side, if I hear ''sacred sovereignty'' one more time, I think I'll vomit. I've gotten into a lot of trouble by noting how it sounds like Gunboat Diplomacy from the 19th century. ''It's what you Chinese hate the worst. Don't talk about [engaging in] it yourself; don't start practicing it. Don't start flexing your muscles and saying if we don't get what we want, we're going to use force. This doesn't make any sense.''

The irony is that China and Taiwan are getting along extremely well—solving problem after problem. Taiwan just hosted the highest-ranking Chinese delegation in history and many, many leading figures in the political, economic and cultural realms deal with their Chinese friends. You have Taiwan businessmen going over there to spend four hours with Jiang Zemin giving him advice on how to make a new central bank. You've got people from Taiwan going over there and reorganizing all of their deep ports—a major priority in China. You got them keeping the whole economy bustling. Of course, there's speculation, a few nasty little elements of it, but it increases the growth rate.

So all I can say to America is: Be careful you don't, somehow or another in the next year or so, get trapped into this ugly little war or this ugly little fracas they are trying to create. It's not in our interest to do so.

Sen. BAUCUS. Any questions?

VOICE. [Inaudible words.]

NIGEL HOLLOWAY. Yeah. Let me just give you three principles of what's happening in China right now. You have three things. You have what we call persistent feudalism, which is Confucianism—no, chaos collectively. This feudalism is part of the Chinese structure. This mixes in with decaying socialism. And this is socialism's ingrown privilege, a party privilege. Third, you have rapid capitalism. You have corruption, nepotism and growth. They all jam together in today's China.

If you have this growth and if you have feudalism, and if you have this decaying socialism, what results is great disparties of wealth between provinces, et cetera. And the millions of people begin to move towards the productive areas. It's very hard to control because these people live in camps. They have three and four children. They pay no attention to birth control or the national policy. It drives the Chinese wild—who, of course, have some rather draconian methods to keep things down. Basically, I think they have been very successful in keeping control of the population—but it's not very pretty to look at. They think it's crucial to the control of the situation.

What they are trying to do now in a very, very concerted effort is beginning to move investment capitalism into the hinterlands, but they've got to make it competitively attractive, and that's hard to do. They recognize the problem; they recognize it's very serious. It's right at the heart of how you reform state-owned enterprises. Because the conservatives are saying, keep the money flowing. Others say let them go bankrupt and take care of this thing through other means. And it ends up as gridlock in many cases. But, at least, I think they are acutely aware of the problem and are trying to deal with it.

Sen. BAUCUS. You have time for one more question.

QUESTION. [Inaudible words.]

DREW LIU. We touch on the topic of the trade imbalance as China opens up its market. And I would like to say something more about the fundamental problem, the system problem, the structural problem. One of the things is transparency of the legal system. And if you don't have transparency—when the local government, you know, the sector cannot break their own laws—this instantly creates barriers. For instance, on the WTO: The center wants to enter the WTO. The local, some of the local wants to enter the center also, but not without some incentive. But there's some problem in it. That is how to guarantee the Chinese abide by these laws and the standards. And, there are loopholes, you know, that are unpredictable. Our future in China comes without a well established legal system, without transparency and due process.

And the second thing is the political system. For instance, entering the WTO, whether China can do it or not politically, is a question. If, in entering the WTO, the center enforces the regulations—you know, opening its market—then maybe thirty percent of the state-owned workers will be unemployed. A great political problem and a great risk to the Chinese leadership. But are you going to take the risk or not take the risk? And what if the risk becomes threatening and then it [the new policy] reverses in some way. Much uncertainty links to the internal process of the Chinese system.

JIM LILLEY. Okay. I just want to make one comment on agriculture. A terrible problem for China is that agricultural land is shrinking; the harvest is not good. They are going to import more and more grain. It's going to be a big problem and so I would say your agriculture-export possibilities are considerable. Some estimates have China importing as much as 100 million tons of grain by the next century; they have made some bad converting mistakes in terms of agricultural land, industrial land. The solution, people say, is what they call village- and township-enterprises: Basically capitalistic, they are put into the countryside, are use surplus agriculture labor to create small consumer items. But they've gone about increasing agriculture production by importing chemical fertilizers, by developing their own plants. It's really very, very difficult for them. And I see a big market for agricultural products.

Sen. BAUCUS. Okay. We have no more time! Let's give a great round of applause to our panelists: Drew Liu, Nigel Holloway and Jim Lilley. Bob mentioned a packet of information which I think will be very interesting for everyone. I encourage you to go pick up a copy as you leave. I want to thank CELI very much for hosting this event—I want another soon. Thank you.●

DECISION TO EXTEND NPT INDEFINITELY

● Mr. PELL. Mr. President, international efforts to curb the spread of nuclear weapons were given a tremendous boost today with the decision by more than 170 nations to extend indefinitely the Nuclear Non-Proliferation Treaty. The U.S. Arms Control Agency and Ambassadors Ralph Earle II and Thomas Graham, Jr., deserve our deep appreciation.

The decision by the participants in the NPT extension conference demonstrates their willingness to trust us and the other nuclear powers to continue with the effort in SALT and START to reduce our strategic nuclear arsenals, to strive eagerly and effectively to bring about an end to nuclear testing, and to be unflagging in efforts to spare the world from nuclear war and the threat of nuclear war. We have today incurred a renewed obligation to prove to those who trust us that their trust is not misplaced.●

TRIBUTE TO INTERNATIONAL HERITAGE HALL OF FAME INDUCTEES

● Mr. LEVIN. Mr. President, I would like to recognize the accomplishments of four distinguished community leaders from the Detroit area. These four individuals will be inducted tonight, Thursday, May 11, 1995, into the International Heritage Hall of Fame housed at Cobo Center. The inductees have been selected for outstanding service to their respective ethnic groups and the community at large.

The International Institute of Metropolitan Detroit has been working since 1919 to assist immigrants who have arrived in the Detroit metropolitan area. The inductions of the four 1995 honorees will bring the membership in the Hall of Fame, which began in 1984, to 56. The inductees are U.S. Circuit Court Judge Damon J. Keith, the late Daniel F. Stella, Dr. Helen T. Suchara, and Mrs. Barbara C. VanDusen.

U.S. Circuit Judge Damon Keith is a former president of the Detroit Housing Commission and former chairman of the Michigan Civil Rights Commission. An African-American, Keith has served as a Federal judge since 1967 and was chief judge of the U.S. District Court for Eastern Michigan from 1975 to 1977. He is a graduate of West Virginia State College, the Howard University Law School, and Wayne State University School of Law. He also holds honorary doctorates from those 3 institutions and 24 other colleges and universities. He has held numerous civic positions including national chairman of the Judicial Conference Committee on the Bicentennial of the U.S. Constitution, chairman of the Citizens Council for Michigan Public Universities, and general cochair of the United Negro College Fund.

Daniel Stella was president for 10 years of Friends of the International Institute. An Italian-American who died last July, Stella was instrumental in the establishment of the Hall of Fame and an active promoter of relations between Detroit and its sister city, Toyota, Japan. Mr. Stella was also a partner in the Detroit law firm of Dykema Gossett. He was a graduate of the Harvard Law School, the College of Holy Cross, and the London School of Economics and Political Science, and a member of the Michigan and California bars, among others. He was a director of the Detroit and Windsor Japan-American Society and a member of the Association for Asian Studies, American Citizens for Justice, the Michigan Oriental Arts Society, and the Founders Society and Friends of Asian Art of the Detroit Institute of Arts. Mr. Stella also served in Vietnam with the U.S. Navy Judge Advocate General's Corps.

Helen Suchara, a retired educator, last served as director of the Office of Student Teaching at Wayne State University. A Polish-American, she was a Peace Corps volunteer in Poland from 1990 to 1992 and has begun a new career in public service since her retirement. She holds positions on the Madonna College Social Work Advisory Board and the board of regents of Saginaw Valley State University. She received bachelor's and master's degrees from Wayne State University and a doctorate from Columbia University. She taught at WSU, Columbia, the University of Delaware, the University of Virginia, and Wheelock College in Boston, and earlier in public schools in Detroit and Howell, MI. She has worked on the boards of the International Institute and Friends of the International Institute. She has also worked in affiliation with the Polish-American Congress of Michigan Scholarship Committee, the Catholic Social Services of Wayne County, the Michigan Elementary School Curriculum Committee, and the Dominican Sisters of Oxford Formation Committee.

Barbara VanDusen is a member of the executive committee of Detroit

Symphony Orchestra Hall and cochair of the Greater Detroit Inter-faith Roundtable of the National Conference of Christians and Jews. An English-American who also has Cornish, Irish, Dutch, and Scottish heritage, she is the widow of Richard VanDusen, former chairman of the Greater Detroit Chamber of Commerce. Holder of a 1949 bachelor's degree from Smith College, she has also been involved in numerous community organizations as a trustee of the Community Foundation for Southeastern Michigan and as a member of the governing boards of the Michigan Nature Conservancy and the World Wildlife Fund.

I know my Senate colleagues and the people of Michigan join me in congratulating these distinguished members of the metropolitan Detroit community. Their commitment to their communities and to public service is an example to us all. We thank them for their extraordinary efforts.●

TRIBUTE TO THE VOLUNTEERS OF HOSPICE CARE, INC.

● Mr. LIEBERMAN. Mr. President, I rise today to acknowledge the volunteers of Hospice Care and their longtime commitment to care for people with life-threatening illnesses. Founded in 1981, Hospice Care, Inc., of Connecticut has been providing patients and their families with medical care and other support services that are crucial during difficult times. For over a decade these highly trained volunteers, along with the organization's professionals, have provided more than 2,000 patients and their loved ones with home care, inpatient care, and assistance whenever needed. Volunteers are also involved in administrative work, public awareness, fundraising, and act on the board of directors.

Many of the volunteers have been dedicated to the organization since its founding and will continue to give their time and energy to help their fellow residents of Connecticut. With their hard work and dedication they have provided important medical and moral support to those who are ill or suffer from the loss of a loved one. Through their selfless behavior the volunteers of Hospice Care Inc. have positively influenced the lives of many members of their communities.

I am proud to acknowledge the success and commitment of Hospice Care's volunteers. They have shown what can be achieved with private initiative and have thereby contributed to the welfare of Connecticut.●

COMMENDING REBECCA S. FINLEY

● Ms. MIKULSKI. Mr. President, I am delighted today to bring to the attention of my colleagues the installation next month of Rebecca S. Finley, Pharm.D, M.S., as the president of the American Society of Health-System Pharmacists at the society's 52d annual meeting in Philadelphia.

ASHP is the 30,000-member national professional association that represents pharmacists who practice in hospitals, health maintenance organizations, long-term facilities, home care agencies, and other components of health care systems.

Early in her career, Dr. Finley made the professional commitment to practice, research, write, and teach pharmacy in the challenging field of clinical oncology. She currently directs the section of pharmacy services and is associate professor of oncology at the University of Maryland Cancer Center in Baltimore. She holds an appointment as associate professor in the department of clinical pharmacy at the university's school of pharmacy.

Dr. Finley received her bachelor of science and doctor of pharmacy degrees from the University of Cincinnati and a master of science in institutional pharmacy from the University of Maryland.

On behalf of my colleagues, Mr. President, I want to extend my best wishes to Dr. Finlay in her tenure as president of ASHP. I look forward to working with her and the society on health care issues in the years to come.●

NOMINATION OF JOHN M. DEUTCH, OF MASSACHUSETTS, TO BE DIRECTOR OF CENTRAL INTELLIGENCE

● Mr. MOYNIHAN. Mr. President, I thank my gallant friend from Nebraska. I rise in support of the position he has taken and also that of the distinguished chairman of the committee, the Senator from Pennsylvania.

In the 103d Congress and then the 104th, I offered legislation that would basically break up the existing Central Intelligence Agency and return its component parts to the Department of Defense and the Department of State. This in the manner that the Office of Strategic Services was divided and parceled out at the end of World War II.

I had hoped to encourage a debate on the role of intelligence and of secrecy in American society. That debate has taken place. Some of the results, I think, can be seen in the nomination of a distinguished scientist and public servant, John Deutch, to this position.

This could not have been more clear in his testimony. He made a point, self-evident we would suppose, but not frequently to be encountered in a pronouncement of a potential DCI. He said:

> Espionage does not rest comfortably in a democracy. Secrecy, which is essential to protect sources and methods, is not welcome in an open society. If our democracy is to support intelligence activities, the people must be confident that our law and rules will be respected.

It may have come as a surprise—although it ought not to have—in recent months and weeks, to find how many persons there are in this country who do not have confidence that our laws and rules will be respected; who see the Government in conspiratorial modes, directed against the people in ways that could be of huge consequence to Americans.

Richard Hofstadter referred to this disposition when he spoke of ''The Paranoid Style in American Politics.'' Thus, for example, the widespread belief that the CIA was somehow involved in the assassination of President Kennedy.

It is important to understand how deep this disposition is in our society. In 1956, even before Hofstadter spoke of it, Edward A. Shils of the University of Chicago—a great, great, social scientist, who has just passed away—published his book, ''The Torment of Secrecy,'' in which he wrote:

> The exfoliation and intertwinement of the various patterns of belief that the world is dominated by unseen circles of conspirators, operating behind our backs, is one of the characteristic features of modern society.

Such a belief was very much a feature of the Bolshevik regime that took shape in Russia in 1917 and 1918. Hence the decision to help found and fund in the United States a Communist Party, part of which would be clandestine. The recent discovery in the archives in Moscow that John Reed received a payment of 1,008,000 rubles in 1920. As soft money, that would be a very considerable sum today.

It is said that organizations in conflict become like one other. There is a degree to which we have emulated the Soviet model in our own intelligence services. A very powerful essay on this matter has just been written by Jefferson Morley in the Washington Post under the headline ''Understanding Oklahoma'' in an article entitled ''Department of Secrecy: The Invisible Bureaucracy That Unites Alienated America in Suspicion.''

I would refer also to Douglas Turner this weekend in the Buffalo News. I spoke of these concerns in an earlier statement on the Senate floor entitled ''The Paranoid Style in American Politics,'' which I ask unanimous consent be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Mr. President, what we have today is so much at variance with what was thought we would get. Allen Dulles was very much part of the foundation of postwar intelligence, having been in the OSS, serving with great distinction in Switzerland during World War II. Peter Grose, in his new biography, ''Gentleman Spy: The Life of Allen Dulles,'' recounts the testimony Dulles gave before the Senate Armed Services Committee on April 25, 1947, as we were about to enact the National Security Act of 1947 which created a small coordinating body, the Central Intelligence Agency.

> Personnel for a central intelligence agency, he argued, ''need not be very numerous * * *. The operation of the service must be neither flamboyant nor overshrouded with

the mystery and abracadabra which the amateur detective likes to assume.'' In a lecturing tone, he tried to tell the Senators how intelligence is actually assembled.

''Because of its glamour and mystery, overemphasis is generally placed on what is called secret intelligence, namely the intelligence that is obtained by secret means and by secret agents. * * * In time of peace the bulk of intelligence can be obtained through overt channels, through our diplomatic and consular missions, and our military, naval and air attaches in the normal and proper course of their work. It can also be obtained through the world press, the radio, and through the many thousands of Americans, business and professional men and American residents of foreign countries, who are naturally and normally brought in touch with what is going on in those countries.

''A proper analysis of the intelligence obtainable by these overt, normal, and aboveboard means would supply us with over 80 percent, I should estimate, of the information required for the guidance of our national policy.''

Mr. President, that did not happen. Instead, we entered upon a five-decade mode of secret analysis, analysis withheld from public scrutiny, which is the only way we can verify the truth of a hypothesis in natural science or in the social sciences.

The result was massive miscalculation. Nicholas Eberstadt in his wonderful new book, ''The Tyranny of Numbers,'' writes ''It is probably safe to say that the U.S. Government's attempt to describe the Soviet economy has been the largest single project in social science research ever undertaken.'' He said this in 1990, in testimony before the Committee on Foreign Relations. ''The largest single project in social science research ever undertaken,'' It was a calamity.

No one has been more forthright in this regard than Adm. Stansfield Turner in an article in Foreign Affairs at about that time. He said when it came to predicting the collapse of the Soviet Union, the corporate view of the intelligence community missed by a mile.

I can remember in the first years of the Kennedy administration meeting with Walt Rostow, chairman of the policy planning staff in the Department of State. As regards the Soviet Union, he said he was not one of those ''6 percent forever people.'' But there it was, locked into our analysis. That is what the President knew.

In Richard Reeves' remarkable biography of John F. Kennedy, he records that the Agency told the President that by the year 2000 the GNP of the Soviet Union would be three times that of the United States. Again, that is what the President knew. Any number of economists might have disagreed. The great conservative theorists, Friedman, Hayek, Stigler, would never have thought any such thing. Important work done by Frank Holzman, at Tufts, and the Russian Research Center at Harvard disputed what little was public. But to no avail. The President knew otherwise, and others did not know what it was he knew.

The consequence was an extraordinary failure to foresee the central geo political event of our time. A vast overdependence on military and similar outlays that leave us perilously close to economic instability ourselves.

I would like to close with a letter written me in 1991 by Dale W. Jorgenson, professor of economics at the Kennedy School of Government, in which he said:

I believe that the importance of economic intelligence is increasing greatly with the much-discussed globalization of the U.S. economy. However, the cloak-and-dagger model is even more inappropriate to our new economic situation than it was to the successful prosecution of the Cold War that has just concluded. The lessons for the future seem to me to be rather transparent. The U.S. Government needs to invest a lot more in international economic assessments. * * * (I)t should reject the CIA monopoly model and try to create the kind of intellectual competition that now prevails between CBO and OMB on domestic policy, aided by Brookings, AEI [American Enterprise Institute], the Urban Institute, the Kennedy School, and many others.

That is wise counsel. I have the confidence that John Deutch, as a scientist, will understand it. I am concerned, however, that the administration will not.

Mancur Olson, in his great book, ''The Rise and Decline of Nations'', asked: Why has it come about that the two nations whose institutions were destroyed in World War II, Germany and Japan, have had the most economic success since? Whereas Britain, not really much success at all; the United States—yes, but. He came up with a simple answer. Defeat wiped out all those choke points, all those rents, all those sharing agreements, all those veto structures that enable institutions to prevent things from happening. And we are seeing it in this our own Government today, 5 years after the Berlin wall came down. Nothing changes, or little changes.

Recall that 3 years before the wall came down the CIA reported that per capita GDP was higher in East Germany than in West Germany. I hope I take no liberty that I mentioned this once to Dr. Deutch and added, ''Any taxi driver in Berlin could have told you that was not so.'' Dr. Deutch replied, ''Any taxi driver in Washington.'' A most reassuring response.

Mr. President, I thank the Senator from Texas for her graciousness for allowing me to speak when in fact in alternation it would have been her turn.

EXHIBIT 1

[From the Congressional Record, Apr. 25, 1995]

THE PARANOID STYLE IN AMERICAN POLITICS

Mr. MOYNIHAN. Mr. President, as we think and, indeed, pray our way through the aftermath of the Oklahoma City bombing, asking how such a horror might have come about, and how others might be prevented, Senators could do well to step outside the chamber and look down the mall at the Washington Monument. It honors the Revolutionary general who once victorious, turned his army over to the Continental Congress and retired to his estates. Later, recalled to the highest office in the land, he served dutifully one term, then a second but then on principle not a day longer. Thus was founded the first republic, the first democracy since the age of Greece and Rome.

There is not a more serene, confident, untroubled symbol of the nation in all the capital. Yet a brief glance will show that the color of the marble blocks of which the monument is constructed changes about a quarter of the way up. Thereby hangs a tale of another troubled time; not our first, just as, surely, this will not be our last.

As befitted a republic, the monument was started by a private charitable group, as we would now say, the Washington National Monument Society. Contributions came in cash, but also in blocks of marble, many with interior inscriptions which visitors willing to climb the steps can see to this day. A quarter of the way up, that is. For in 1852, Pope Pius IX donated a block of marble from the temple of Concord in Rome. Instantly, the American Party, or the Know-Nothings (''I know nothing,'' was their standard reply to queries about their platform) divined a Papist Plot. An installation of the Pope's block of marble would signal the Catholic Uprising. A fevered agitation began. As recorded by Ray Allen Billington in The Protest Crusade, 1800–1860:

''One pamphlet, The Pope's Strategem: ''Rome to America!'' An Address to the Protestants of the United States, against placing the Pope's block of Marble in the Washington Monument (1852), urged Protestants to hold indignation meetings and contribute another block to be placed next to the Pope's 'bearing an inscription by which all men may see that we are awake to the hypocrisy and schemes of that designing, crafty, subtle, far seeing and far reaching Power, which is ever grasping after the whole World, to sway its iron scepter, with bloodstained hands, over the millions of its inhabitants.' ''

One night early in March, 1854, a group of Know-Nothings broke into the storage sheds on the monument grounds and dragged the Pope's marble off towards the Potomac. Save for the occasional ''sighting'', as we have come to call such phenomena, it has never to be located since.

Work on the monument stopped. Years later, in 1876, Congress appropriated funds to complete the job, which the Corps of Engineers, under the leadership of Lieutenant Colonel Thomas I. Casey did with great flourish in time for the centennial observances of 1888.

Dread of Catholicism ran its course, if slowly. (Edward M. Stanton, then Secretary of War was convinced the assassination of President Lincoln was the result of a Catholic plot.) Other manias followed, all brilliantly describe in Richard Hofstadter's revelatory lecture ''the Paranoid Style in American Politics'' which he delivered as the Herbert Spencer Lecture at Oxford University within days of the assassination of John F. Kennedy. Which to this day remains a fertile source of conspiracy mongering. George Will cited Hofstadter's essay this past weekend on the television program ''This Week with David Brinkley.'' He deals with the same subject matter in a superb column in this morning's Washington Post which has this bracing conclusion.

''It is reassuring to remember that paranoiacs have always been with us, but have never defined us.''

I hope, Mr. President, as we proceed to consider legislation, if that is necessary, in response to the bombing, we would be mindful of a history in which we have often overreached, to our cost, and try to avoid such an overreaction.

We have seen superb performance of the FBI. What more any nation could ask of an

internal security group I cannot conceive. We have seen the effectiveness of our State troopers, of our local police forces, fire departments, instant nationwide cooperation which should reassure us rather than frighten us.

I would note in closing, Mr. President, that Pope John Paul II will be visiting the United States this coming October.

NATIVE AMERICAN PROGRAMS AUTHORIZATION ACT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 51, S. 510.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 510) to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill Committee on Indian Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) SECTION 816.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking ''for fiscal years 1992, 1993, 1994, and 1995.'' and inserting ''for each of fiscal years 1996, 1997, 1998, and 1999.'';

(2) in subsection (c), by striking ''for each of the fiscal years 1992, 1993, 1994, 1995, and 1996,'' and inserting ''for each of fiscal years 1996, 1997, 1998, and 1999,''; and

(3) in subsection (e) by striking ''$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.'' and inserting ''such sums as may be necessary for each of fiscal years 1996, 1997, 1998, and 1999.''.

(b) SECTION 803A(f)(1).—Section 803A(f)(1) of such Act (42 U.S.C. 2991b–1(f)(1)) is amended by striking ''for each of the fiscal years 1992, 1993, and 1994, $1,000,000'' and inserting ''such sums as may be necessary for each of fiscal years 1996 through 1999,''.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, that the bill be deemed read a third time, passed, and that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 510), as amended, was deemed read for the third time, and passed as follows:

S. 510

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

SECTION 1. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) SECTION 816.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking ''for fiscal years 1992, 1993, 1994, and 1995.'' and inserting ''for each of fiscal years 1996, 1997, 1998, and 1999.'';

(2) in subsection (c), by striking ''for each of the fiscal years 1992, 1993, 1994, 1995, and 1996,'' and inserting ''for each of fiscal years 1996, 1997, 1998, and 1999,''; and

(3) in subsection (e), by striking ''$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.'' and inserting ''such sums as may be necessary for each of fiscal years 1996, 1997, 1998, and 1999.''.

(b) SECTION 803A(f)(1).—Section 803A(f)(1) of such Act (42 U.S.C. 2991b–1(f)(1)) is amended by striking ''for each of the fiscal years 1992, 1993, and 1994, $1,000,000'' and inserting ''such sums as may be necessary for each of fiscal years 1996 through 1999,''.

MEASURE INDEFINITELY POSTPONED—SENATE CONCURRENT RESOLUTION 9

Mr. CHAFEE. Mr. President, I ask unanimous consent that calendar No. 37, Senate Concurrent Resolution 9, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 790

Mr. CHAFEE. Mr. President, I understand that S. 790 introduced earlier today by Senators MCCAIN and LEVIN is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 790) to provide for the modification or elimination of the Federal Reporting Requirements.

Mr. CHAFEE. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

EXECUTIVE SESSION

Mr. CHAFEE. Mr. President, I request that the Senate go into executive session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—CONVENTION ON NUCLEAR SAFETY (TREATY DOCUMENT NO. 104–6)

Mr. CHAFEE. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the Convention of Nuclear Safety, Treaty Document Number 104–6, transmitted to the Senate by the President today; and the treaty considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention on Nuclear Safety done at Vienna on September 20, 1994. This Convention was adopted by a Diplomatic Conference convened by the International Atomic Energy Agency (IAEA) in June 1994 and was opened for signature in Vienna on September 20, 1994, during the IAEA General Conference. Secretary of Energy O'Leary signed the Convention for the United States on that date. Also transmitted for the information of the Senate is the report of the Department of State concerning the Convention.

At the September 1991 General Conference of the IAEA, a resolution was adopted, with U.S. support, calling for the IAEA secretariat to develop elements for a possible International Convention on Nuclear Safety. From 1992 to 1994, the IAEA convened seven expert working group meetings, in which the United States participated. The IAEA Board of Governors approved a draft text at its meeting in February 1994, after which the IAEA convened a Diplomatic Conference attended by representatives of more than 80 countries in June 1994. The final text of the Convention resulted from that Conference.

The Convention establishes a legal obligation on the part of Parties to apply certain general safety principles to the construction, operation, and regulation of land-based civilian nuclear power plants under their jurisdiction. Parties to the Convention also agree to submit periodic reports on the steps they are taking to implement the obligations of the Convention. These reports will be reviewed and discussed at review meetings of the Parties, at which each Party will have an opportunity to discuss and seek clarification of reports submitted by other Parties.

The United States has initiated many steps to deal with nuclear safety, and has supported the effort to develop this Convention. With its obligatory reporting and review procedures, requiring Parties to demonstrate in

international meetings how they are complying with safety principles, the Convention should encourage countries to improve nuclear safety domestically and thus result in an increase in nuclear safety worldwide. I urge the Senate to act expeditiously in giving its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 11, 1995.*

ORDERS FOR FRIDAY, MAY 12, 1995

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on Friday, May 12, 1995; that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 534 the Solid Waste Disposal Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I ask unanimous consent that Members have until 10 a.m. to file second-degree amendments to S. 534.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I ask unanimous consent that the cloture vote on the committee substitute occur at 10 a.m. on Friday, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. For the information of all Senators, the Senate will resume consideration of the Solid Waste Disposal Act tomorrow. A cloture vote will occur on the committee substitute at 10 a.m. Senators should be on notice that it is the hope of the leader to complete action on this bill on Friday. Also the leader may want to consider Calendar No. 92, H.R. 483, the Medicare select bill. Therefore, votes will occur throughout Friday's session of the Senate.

Mr. FORD. Mr. President, will the distinguished acting floor leader yield for a question?

Mr. CHAFEE. I certainly will.

Mr. FORD. Since he is the floor manager of the bill, regardless of whether cloture is voted tomorrow or not, what amendments and how many would he think we might have? Does he have a ballpark figure? There are a good many amendments that have been filed. I wonder. Most of them are germane.

Mr. CHAFEE. I think the bidding has changed since this last vote. I would expect tomorrow we would have several votes in the morning rather rapidly, I hope. Just call them up.

Mr. FORD. That might be a little hard to do, call them up and vote on them or move to table.

Mr. CHAFEE. I hope that they will be brought up.

As I say, the situation has changed since this last vote. If we had prevailed on this last vote, I would have thought we would be able to finish tomorrow by 2 o'clock, something like that. Now, the situation has changed, so it is a little difficult to say. All I can say is we will move these amendments along as fast as we can.

Mr. FORD. I understand there might be some Senators leaving at an early hour tomorrow and it might not be appropriate to have these votes when they would miss so many.

I wonder if, after cloture, we may have one or two and that might end it for the day, but I see the heads are shaking, so you do not want me to know that tonight.

Mr. CHAFEE. It is not a question of not wanting the Senator to know. If we told him something, it would be from ignorance, I am afraid.

In any event, it would be my hope that we could finish tomorrow at a decent hour, but I am not so sure based on that last vote we had.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate resume the pending business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 534) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would like to seek the chairman's clarification of the relationship between the flow-control provisions of S. 534 and existing State law. Section 4012(i)(2) of the bill before the Senate states that ''[n]othing in the section shall be construed to authorize a political subdivision of a State to exercise flow control authority granted by this section in a manner that is inconsistent with State law.''

Am I correct that this language would restrict a local government from exercising flow control if an existing State statute does not grant such authority to a local government, such as section 15.1–28.01 of the Code of Virginia (1950), as amended?

Mr. ROBB. I share the concerns of my senior colleague. In Virginia, local governments and private industry have worked over the years to develop a fair compromise to provide for an effective integrated waste management system. It is not our intention to have this legislation interfere with that balance.

Mr. SMITH. The Senators from Virginia are correct. This legislation is not intended to expand a local government's flow-control authority beyond that permitted under existing State law.

Mr. CHAFEE. Mr. President, I have a series of amendments that have been agreed to. I will send them to the desk successively.

AMENDMENT NO. 861

(Purpose: To allow exemption from certain requirements of units in small, remote Alaska villages)

Mr. CHAFEE. The first is an amendment by Senator MURKOWSKI. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MURKOWSKI, proposes an amendment numbered 861.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 69, line 19, before ''would be infeasible'' insert ''or unit that is located in or near a small, remote Alaska village''.

Mr. BAUCUS. Mr. President, we have examined this amendment and we have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 861) was agreed to.

AMENDMENT NO. 868

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment is proposed by Senator MOYNIHAN.

The amendment has the agreement of both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MOYNIHAN, proposes an amendment numbered 868.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, line 7, strike the word ''a'' and insert ''the particular''.

On page 60, line 8, strike the word ''facility'' and insert in its place ''facilities or public service authority''.

On page 60, line 15, strike the word ''facility'' and insert in its place ''facilities or public service authority''.

Mr. BAUCUS. Mr. President, this amendment has been examined on this side and we are in agreement with it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 868.

The amendment (No. 868) was agreed to.

AMENDMENT NO. 869

(Purpose: To authorize the administrator to exempt a landfill operator from ground water monitoring requirements in circumstances in which there is no chance of ground water contamination)

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator CAMPBELL, cosponsored by Senators BROWN, and KEMPTHORNE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. CAMPBELL, for himself, Mr. BROWN, and Mr. KEMPTHORNE, proposes an amendment numbered 869.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 69, strike the quotation mark and period at the end of line 22.

On page 69, between lines 22 and 23, insert the following:

''(5) NO-MIGRATION EXEMPTION.—

''(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

''(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

''(i) be certified by a qualified groundwater scientist and approved by the Director of an approved State.

''(C) GUIDANCE.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

Mr. BAUCUS. Mr. President, I have examined the amendment and it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 869.

The amendment (No. 869) was agreed to.

AMENDMENT NO. 870

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. DODD, for himself, and Mr. LIEBERMAN, proposes an amendment numbered 870.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, line 8, add:

''(B) other body created pursuant to State law, or'',

Redesignate ''(B)'' as ''(C)''.

On page 62, line 1, insert after ''authority'' ''or on its behalf by a State entity''.

On page 62, line 17, insert after ''bonds'' ''or had issued on its behalf by a State entity''.

On page 62, line 24, strike all through page 63, line 3, and insert the following: ''The authority under this subsection shall be exercised in accordance with section 4012(b)(4).''.

Mr. BAUCUS. Mr. President, I ask the clerk, is this the amendment that begins ''On page 55, line 8 add''?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. I have examined the amendment and find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 870) was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LIEBERMAN be added as an original cosponsor to the Dodd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 871

(Purpose: To make clear that flow control authority is provided to public service authorities and modify the condition for exercise of flow control authority)

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senators ROTH and BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. ROTH, for himself and Mr. BIDEN, proposes an amendment numbered 871.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 53, line 3, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, line 4, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, lines 7 and 8, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 53, line 10, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 56, lines 1 and 2, ''and each political subdivision of a State'' and insert '', political subdivision of a State, and public service authority''.

On page 56, line 12, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 4, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 7, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

On page 57, line 21, strike ''or political subdivision'' and insert '', political subdivision, or public service authority''.

Mr. BAUCUS. Mr. President, I also have examined this amendment and find it acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 871) was agreed to.

AMENDMENT NO. 872

(Purpose: To modify the condition for exercise of flow control authority)

Mr. CHAFEE. Mr. President, I send to the desk an amendment on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. BIDEN, for himself and Mr. ROTH, proposes an amendment numbered 872.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 23, strike ''1994.'' and insert ''1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994,''.

Mr. BAUCUS. Mr. President, we find this amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 872.

The amendment (No. 872) was agreed to.

AMENDMENT NO. 873

(Purpose: To protect communities that enacted flow control ordinances after substantial construction of facilities but before May 15, 1994)

Mr. CHAFEE. Mr. President, on behalf of Senators SMITH, THOMPSON and COHEN, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself, Mr. THOMPSON and Mr. COHEN, proposes an amendment numbered 873.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, lines 18 through 21, strike ''the substantial construction of which facilities was performed after the effective date of that law, ordinance, regulation, or other legally binding provision and''.

On page 67, strike the period and quotation mark at the end of line 2.

One page 67, between lines 2 and 3, insert the following:

''(k) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

''(1) on the date of enactment of this Act, is listed on the National Priorities List under the comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.): or

''(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.''.

Mr. BAUCUS. We find this amendment acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 873) was agreed to.

AMENDMENT NO. 874

(Purpose: To modify the conditions on exercise of flow control authority)

Mr. CHAFEE. Mr. President, on behalf of Senators SMITH and WELLSTONE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself and Mr. WELLSTONE, proposes an amendment numbered 874.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, strike lines 10 through 13 and insert the following:

''(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

''(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action.

On page 60, strike lines 1 through 5 and insert the following:

''(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

''(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

Mr. BAUCUS. Mr. President, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 874) was agreed to.

AMENDMENT NO. 875

(Purpose: To clarify the intent of the provision relating to the duration of flow control authority)

Mr. CHAFEE. Mr. President, on behalf of Senator SNOWE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Ms. SNOWE, for herself and Mr. COHEN, proposes an amendment numbered 875.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, line 5, strike ''original facility'' and insert ''facility (as in existence on the date of enactment of this section)''.

Mr. BAUCUS. Mr. President, is this the amendment which begins ''On page 58, line 5, strike 'original facility' '' ?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAUCUS. I thank the Chair. We accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 875) was agreed to.

AMENDMENT NO. 876

(Purpose: To provide for the case of a formation of a solid waste management district for the purchase and operation of an existing facility)

Mr. CHAFEE. Mr. President, on behalf of Senator PRYOR, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. PRYOR, proposes an amendment numbered 876.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 61, between lines 7 and 8, insert the following:

''(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1)(A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

''(1) the facility was fully licensed and in operation prior to May 15, 1994;

''(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

''(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date;and

''(4) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

Mr. BAUCUS. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 876) was agreed to.

AMENDMENT NO. 877

(Purpose: To make clear that entering into a put or pay agreement satisfies the requirement of a legally binding provision and a designation of a facility)

Mr. CHAFEE. Mr. President, on behalf of Senators COHEN and SNOWE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. COHEN, for himself and Ms. SNOWE, proposes an amendment numbered 877.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 55, between lines 10 and 11 insert the following:

''(5) PUT OR PAY AGREEMENT.—The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

''(A) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(B) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(2) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

''(3) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.''

Mr. BAUCUS. Mr. President, I have examined it and agreed with it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 877) was agreed to.

ADDITIONAL COSPONSORS

Mr. CHAFEE. Mr. President, I ask that Senators HUTCHISON and SNOWE be added as cosponsors to amendment No. 873, which was previously adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I want to compliment the chairman of the committee, as well as the Presiding Officer, the chairman of a relevant subcommittee, for being very active on this bill. We have made a lot of progress today and particularly this evening. I think it is a good omen, and I hope we can wrap up this bill expeditiously tomorrow. So, once again, I compliment the chairman of the committee and the chairman of the subcommittee.

Mr. CHAFEE. Mr. President, let me just say that without the forceful drive of the ranking member, we would not be this far. So on behalf of myself and of the occupant of the chair, the distinguished chairman of the subcommittee, I thank the ranking member for all of his support in making this possible.

I, too, hope that tomorrow we can finish what we have here. It may be that we can. Certainly, we are going to try.

We are going to come in at 9:30, and there is a vote on cloture at 10. Regardless of the outcome of that vote, I hope we can continue working to see if we cannot finish all of this. If we cannot finish, at least maybe we can get agreements so there will be voting at a set time on whatever date the leader chooses. But it is my goal, and I know it is the goal of the chairman of the subcommittee and the ranking member, to finish this bill quickly. There is always the threat that if we do not get it through, the leader will pull it down, as he has other business we have to attend to.

So I thank the ranking member for all of his support.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. CHAFEE. If there is no further business to come before the Senate, I ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:13 p.m., recessed until Friday, May 12, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 1995:

DEPARTMENT OF AGRICULTURE

KARL N. STAUBER, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE DANIEL A. SUMNER, RESIGNED.

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF SECTIONS 3371, 3384 AND 12203(A), TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. JOHN T. CROWE, 000–00–0000.
BRIG. GEN. CHARLES A. INGRAM, 000–00–0000.
BRIG. GEN. HERBERT KOGER, JR., 000–00–0000.
BRIG. GEN. CALVIN LAU, 000–00–0000.
BRIG. GEN. BRUCE G. MACDONALD, 000–00–0000.

To be brigadier general

COL. LLOYD D. BURTCH, 000–00–0000.
COL. ROBERT L. LENNON, 000–00–0000.
COL. RAYMOND E. GANDY, JR., 000–00–0000.
COL. ROBERT W. SMITH III, 000–00–0000.
COL. HARRY E. BIVENS, 000–00–0000.
COL. KENNETH P. BERGQUIST, 000–00–0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY, WITHOUT SPECIFICATION OF BRANCH COMPONENT, AND IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES, AS DEAN OF THE ACADEMIC BOARD, UNITED STATES MILITARY ACADEMY, A POSITION ESTABLISHED UNDER TITLE 10, UNITED STATES CODE, SECTION 4335:

DEAN OF THE ACADEMIC BOARD

To be permanent brigadier general

COL. FLETCHER M. LAMKIN, JR., 000–00–0000, U.S. ARMY.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. BRENT M. BENNITT, U.S. NAVY, 000–00–0000.

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

IN THE ARMY

To be lieutenant colonel

ABBOTT, SCOTT L., 000–00–0000
ACOSTA, JESSE T., 000–00–0000
ADAMAKOS, GEORGE L., 000–00–0000
ADKINS, DONALD M., 000–00–0000
ADLER, PETER J., 000–00–0000
AGEE, COLLIN A., 000–00–0000
AIELLO, JAMES P., 000–00–0000
AKLEY, SUSAN E., 000–00–0000
ALDERETE, GREGORY L., 000–00–0000
ALDERMAN, MARC I., 000–00–0000
ALFORD, KENNETH L., 000–00–0000
*ALICEA, FRANCISCO J., 000–00–0000
ALLMENDINGER, PERRY, 000–00–0000
ALLMON, THOMAS A., 000–00–0000
ALLOR, PETER G., 000–00–0000
ALLYN, DANIEL B., 000–00–0000
ALSPACH, WILLIAM A., 000–00–0000
ALVAREZ, CHARLES, 000–00–0000
ALVAREZ, ROBERT, 000–00–0000
ANDERSON, DAVID L., 000–00–0000
ANDERSON, DONNIE P., 000–00–0000
ANDERSON, JOSEPH, 000–00–0000
ANDERSON, NICHOLAS, 000–00–0000
ANDERSON, SARA F., 000–00–0000
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TUNSTALL, STANLEY Q., 000–00–0000
TURBAN, DAVID M., 000–00–0000
TURCK, PETER H., 000–00–0000
TURNER, JOHN N., 000–00–0000
TURNER, LARRY D., 000–00–0000
TUTTLE, ROBERT C., 000–00–0000
TYACKE, EMERY L., 000–00–0000
TYACKE, LORRAINE E., 000–00–0000
UBBELOHDE, KURT F., 000–00–0000
UNDERWOOD, RICHARD, 000–00–0000
VALENTINE, FRANCO L., 000–00–0000
VANDYKE, LEWIS L., 000–00–0000
VANDYKE, NORVEL M., 000–00–0000
VANHORN, THURSTON, 000–00–0000
VAUGHN, MARK M., 000–00–0000
VAZQUEZ, JOSE L., 000–00–0000
VENEY, DAVID W., 000–00–0000
VILLAHERMOSA, GILBE, 000–00–0000
VILLARREAL, ABEL H., 000–00–0000
VISBAL, ROBERT M., 000–00–0000
VOGT, WILLIAM C., 000–00–0000
VONPLINSKY, ALEXAND, 000–00–0000
VORDERMARK, JEFFREY, 000–00–0000
VOSBURGH, ALLAN R., 000–00–0000
VOSTI, PAUL H., 000–00–0000
WAGNER, SUSAN K., 000–00–0000
WALDEN, JOSEPH L., 000–00–0000
WALDROP, JAMES R., 000–00–0000
WALLACE, CHRISTOPHE, 000–00–0000
WALLACE, ROBERT M., 000–00–0000
WALSH, PETER K., 000–00–0000
WAMPLER, DOUGLAS L., 000–00–0000
WARD, GEORGE A., 000–00–0000
WARD, RONALD C., 000–00–0000
WARRICK, LARRY P., 000–00–0000
WASHINGTON, LEE E., 000–00–0000
WATERS, HENRY J., 000–00–0000
WATTS, VICKY C., 000–00–0000
WAYBRIGHT, HAROLD B., 000–00–0000
WEBBER, KURT E., 000–00–0000
WEIDERHOLD, MICHAEL, 000–00–0000
WEILAND, PETER L., 000–00–0000
WEINER, BEN W., 000–00–0000
WEINTRAUB, JASON S., 000–00–0000
WELCH, DAVIS S., 000–00–0000
WELCH, RONALD W., 000–00–0000
*WELLS, DEMETRA A., 000–00–0000
WEST, STEPHEN K., 000–00–0000
WEST, TERRY A., 000–00–0000
WESTFIELD, ALAN D., 000–00–0000
WETTIG, KEITH S., 000–00–0000
WHEAT, JANIS A., 000–00–0000
WHITE, JOHN S., 000–00–0000
WHITEHEAD, GARY W., 000–00–0000
WHITEHEAD, RAY A., 000–00–0000
WHITEFIELD, CHARLES, 000–00–0000
WHITTAKER, DAVID F., 000–00–0000
WILCOX, PAUL A., 000–00–0000
WILEY, ANTHONY G., 000–00–0000
WILHELM, GERD P., 000–00–0000
WILKERSON, KEVIN V., 000–00–0000
WILKINSON, JEFFERY, 000–00–0000
WILLETT, JAMES A., 000–00–0000
WILLIAMS, CHARLES K., 000–00–0000
WILLIAMS, JAMES R., 000–00–0000
WILLIAMS, KEWYN L., 000–00–0000
WILLIAMS, MARVIN W., 000–00–0000
WILLIAMS, PETER G., 000–00–0000
WILLIAMS, RICHARD A., 000–00–0000
WILSON, BERNARD E., 000–00–0000
WILSON, DANIEL M., 000–00–0000
WILSON, MARILEE D., 000–00–0000
WININGER, WALTER E., 000–00–0000
WISEMAN, JOHN W., 000–00–0000
WITHERS, GEORGE K., 000–00–0000
WITHERS, JAMES M., 000–00–0000
*WONSIDLER, CRAIG, 000–00–0000
YOUNG, DANIEL D., 000–00–0000
YOUNG, GARY R., 000–00–0000
YOUNG, THOMAS W., 000–00–0000
ZACCARDI, ROBERT W., 000–00–0000
ZACOVIC, WILLIAM R., 000–00–0000
ZAJ, EDWARD A., 000–00–0000
ZARGAN, CURT S., 000–00–0000
ZELLER, WALTER G., 000–00–0000
ZIELINSKI, PETER J., 000–00–0000
ZIMMERMAN, JANET A., 000–00–0000
ZIMMERMAN, RALF W., 000–00–0000
ZOLIK, DAMIAN J., 000–00–0000
ZUVICH, ANTHONY J., 000–00–0000
0426X
0092X
0732X

IN THE NAVY

THE FOLLOWING–NAMED LIEUTENANT COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be commander

MILTON D. ABNER, 000–00–0000
MICHAEL W. ACKERMAN, 000–00–0000
RONALD C. ADAMO, 000–00–0000
MARK H. ADAMSHICK, 000–00–0000
MICHAEL H. ALBRIGHT, 000–00–0000
DAVID M. ANDERSON, 000–00–0000
DOUGLAS M. ANDRE, 000–00–0000
GREGORY E. ANTOLAK, 000–00–0000
BARON W. ASHER, 000–00–0000
LARRY D. AYERS, 000–00–0000
CARLOS E. AYUSO, 000–00–0000
STUART D. BAILEY, 000–00–0000
MARK J. BAKER, 000–00–0000
MICHAEL J. BAREA, 000–00–0000
EDWARD BARFIELD, 000–00–0000
THOMAS H. BARGE II, 000–00–0000
JOHN W. BARNHILL, 000–00–0000
RICHARD R. BARTIS, 000–00–0000
ANDREW J. BARTON, 000–00–0000
JEFFREY B. BATES, 000–00–0000
MARK A. BAULCH, 000–00–0000
PETER D. BAUMANN, 000–00–0000
ROBERT W. BECK, 000–00–0000
WALTER S. BEDNARSKI, JR., 000–00–0000
STEPHEN J. BENSON, 000–00–0000
DAVID M. BENTZ, 000–00–0000
THOMAS A. BERG, 000–00–0000
FRED V. BERLEY, 000–00–0000
ELLIOTT M. BERMAN, 000–00–0000
SCOTT A. BERNARD, 000–00–0000
RUSSELL E. BIRD, 000–00–0000
CHARLES R. BLAKE, 000–00–0000
WILLIAM J. BLEVINS, 000–00–0000
MARK W. BOCK, 000–00–0000
MARK R. BOETTCHER, 000–00–0000
JOHN W. BOLIN III, 000–00–0000
ALLEN R. BOUGARD, 000–00–0000
KEITH P. BOWMAN, 000–00–0000
JAMES W. BOYD, JR., 000–00–0000
PATRICK H. BRADY, 000–00–0000
SCOTT M. BREEDING, 000–00–0000
ROBERT C. BROWN, JR., 000–00–0000
EDWARD L. BROWNLEE, 000–00–0000
GLENN M. BRUNNER, 000–00–0000
DAVID L. BUCKEY, 000–00–0000
KENNETH P. BUELL, 000–00–0000
JOHN M. BURDON, 000–00–0000
ROBERT J. BURRELL, 000–00–0000
EDWARD C. BURTON, 000–00–0000
JOHN E. BUTALA, 000–00–0000
RANDALL S. BUTLER, 000–00–0000
JAMES F. CALDWELL, JR., 000–00–0000
JAY D. CALER, 000–00–0000
CHARLES B. CAMERON, 000–00–0000
JOHN M. CAMERON, 000–00–0000
DIANA T. CANGELOSI, 000–00–0000
THOMAS W. CARPENTER, JR., 000–00–0000
CLARENCE E. CARTER, 000–00–0000
GILBERT A. CARTER, 000–00–0000
WALTER E. CARTER, JR., 000–00–0000
ODILON V. CAVAZOS, JR., 000–00–0000
CARLOS M. CHAVEZ, 000–00–0000
PATRICK D. CLARK, 000–00–0000
RANDY W. CLARK, 000–00–0000
RAY L. CLARK, JR., 000–00–0000
WILLIAM J. CLARK, JR., 000–00–0000
MARTIN S. COHEN, 000–00–0000
MICHAEL A. COLLINS, 000–00–0000
DAVID J. CONAWAY, 000–00–0000
JAMES K. COOK, 000–00–0000
MICHAEL J. COOMES, 000–00–0000
GARY T. COOPER, 000–00–0000
ERIC A. COPELAND III, 000–00–0000
THOMAS F. COSGROVE, JR., 000–00–0000
JOHN W. COTTON, 000–00–0000
CHARLES E. COUGHLIN, 000–00–0000
THOMAS A. CROPPER, 000–00–0000
SCOTT E. CROSSLEY, 000–00–0000
ROY W. CROWE, 000–00–0000
PAUL A. G. CRUZ, 000–00–0000
WILLIAM P. CULLEN, 000–00–0000
THOMAS J. CULORA, 000–00–0000
ALBERT CURRY, JR., 000–00–0000
BRUCE H. CURRY, 000–00–0000
BARRY F. DAGNALL, 000–00–0000
DAVID A. DAHL, 000–00–0000
DENNIS P. DANKO, 000–00–0000
JOHN R. DAUGHERTY, 000–00–0000
SUSAN A. DAVIES, 000–00–0000
WILLIAM C. DAVIS, 000–00–0000
RICHARD L. DAWE, 000–00–0000
SUZANNE M. DEE, 000–00–0000
THOMAS P. DEE, 000–00–0000
KEVIN P. DENHAM, 000–00–0000
DANA S. DERVAY, 000–00–0000
JEFFREY W. DESPAIN, 000–00–0000
RANDOLPH L. DEWAR, 000–00–0000
CURTIS R. DICKERSON, 000–00–0000
DAVID J. DICKSHINSKI, 000–00–0000
JOHN W. DIMOCK, 000–00–0000
ERNEST W. DOBSON, JR., 000–00–0000
LARRY W. DODSON, 000–00–0000
ROBERT E. DOLAN, 000–00–0000
FREDERICK G. DORAN, JR., 000–00–0000
JAMES P. DOWNEY, 000–00–0000
ROBERT G. DRAKE, 000–00–0000

WILLIAM M. DRAKE, 000–00–0000
WILLIAM G. DUBYAK, 000–00–0000
PAUL A. DUNNE II, 000–00–0000
JOHN B. EGGLESTON, 000–00–0000
RICHARD K. ELEY, 000–00–0000
MARK A. ERIKSON, 000–00–0000
ALAN E. ESCHBACH, 000–00–0000
MANUEL E. FALCON, 000–00–0000
PHILIP G. FARRELL, 000–00–0000
CRAIG C. FELKER, 000–00–0000
MARK A. FILIPIC, 000–00–0000
JOSEPH J. FITZGERALD, 000–00–0000
GEORGE E. FLAX, 000–00–0000
ROBERT L. FORWOOD, JR., 000–00–0000
DAVID J. FROST, 000–00–0000
DONALD E. GADDIS, 000–00–0000
JAMES W. GALANIE, 000–00–0000
DANIEL I. GALLAGHER, 000–00–0000
GARY D. GALLOWAY, 000–00–0000
JOHN H. GARNER, JR., 000–00–0000
JOHN P. GATELY, 000–00–0000
BRIAN J. GERLING, 000–00–0000
LLOYD E. GILHAM, 000–00–0000
DAVID W. GLAZIER, 000–00–0000
MICHAEL D. GNOZZIO, 000–00–0000
LEONARD G. GOFF, 000–00–0000
DEVON G. GOLDSMITH, 000–00–0000
BENJAMIN J. GOSLIN, JR., 000–00–0000
STEPHEN N. GRAHAM, 000–00–0000
JON A. GREENE, 000–00–0000
THOMAS R. GRIMM, 000–00–0000
RUSSELL J. GROCKI, 000–00–0000
DAVID W. GRUBER, 000–00–0000
MICHAEL J. GURLEY, 000–00–0000
JOHN R. HAFEY, 000–00–0000
RICHARD E. HAGY II, 000–00–0000
KENNETH E. HALLOWAY III, 000–00–0000
MICHAEL S. HANLEY, 000–00–0000
WILLIAM J. HARDEN, 000–00–0000
DAVID C. HARDESTY, 000–00–0000
RUSSELL E. HARRIS, 000–00–0000
WILLIAM R. HARTSFIELD, 000–00–0000
STEPHEN J. HAUSSMANN, 000–00–0000
CHRISTOPHER C. HAYES, 000–00–0000
RICHARD HEIMERLE, 000–00–0000
CARL R. HELDRETH, 000–00–0000
MARK T. HELMKAMP, 000–00–0000
XERXES Z. HERRINGTON, JR., 000–00–0000
THOMAS W. HILLS, 000–00–0000
WILLIAM P. HOGAN, 000–00–0000
ALBIN L. HOVDE, 000–00–0000
JEFFRY L. HUBER, 000–00–0000
JOHN S. HUSAIM, 000–00–0000
PAUL D. IMS, JR., 000–00–0000
GLENN M. IRVINE, 000–00–0000
DAVID W. JACKSON, 000–00–0000
L. P. JAMES III, 000–00–0000
BRENT W. JETT, JR., 000–00–0000
JORGE I. JIMENEZROJO, 000–00–0000
RANDALL L. JOHNSON, 000–00–0000
WILLIAM H. JOHNSON, 000–00–0000
MARK C. JONES, 000–00–0000
RICHARD L. JORDAN, 000–00–0000
BRADLEY F. JUBLOU, 000–00–0000
HOWARD C. KEESE, 000–00–0000
WILLIAM L. KERVAHN, 000–00–0000
MICHAEL E. KILEY, 000–00–0000
JEFFREY A. KING, 000–00–0000
TIMOTHY J. KISLEY, 000–00–0000
PATRICK N. KLUCKMAN, 000–00–0000
WINFORD W. KNOWLES, 000–00–0000
TERRY B. KRAFT, 000–00–0000
ANTHONY M. KURTA, 000–00–0000
NEAL J. KUSUMOTO, 000–00–0000
DAVID A. LABARBERA, 000–00–0000
ROBERT J. LABELLE, JR., 000–00–0000
THOMAS LANG, 000–00–0000
RUSSELL G. LANKER, 000–00–0000
MARK S. LAUGHTON, 000–00–0000
DAVID L. LEACH, 000–00–0000
SCOTT F. LEFTWICH, 000–00–0000
MATTHEW A. LEIDEN, 000–00–0000
ANTHONY M. LEIGH, JR., 000–00–0000
MARK R. LICHTENSTEIN, 000–00–0000
HOWARD R. LIND, 000–00–0000
CHRISTOPHER J. LINDBERG, 000–00–0000
ERIC J. LINDENBAUM, 000–00–0000
LEE H. C. LITTLE, 000–00–0000
JEFFREY S. LOCKE, 000–00–0000
JOSEPH C. LODMELL, 000–00–0000
MICHAEL LOIZOS, JR., 000–00–0000
ROBERT L. LONG, 000–00–0000
RANDALL LOVDAHL, 000–00–0000
WILLIE T. LOVETT III, 000–00–0000
PETER LYDDON, 000–00–0000
TIMOTHY S. MAC GREGOR, 000–00–0000
JOHN MAITNER II, 000–00–0000
TODD W. MALLOY, 000–00–0000
THOMAS J. MALONE, 000–00–0000
MICHAEL R. MARA, 000–00–0000
GERARD M. MARKARIAN, 000–00–0000
LOUIS D. MARQUET, 000–00–0000
WILLIAM R. MASSEY, JR., 000–00–0000
JOHN R. MATHIS, 000–00–0000
JAMES E. MC ALOON, 000–00–0000
JOSEPH A. MC BREARTY, 000–00–0000
JEFFREY C. MC CAMPBELL, 000–00–0000
TIMOTHY A. MC CANDLESS, 000–00–0000
MARK A. MC CORMICK, 000–00–0000
PHILIP C. MC DANIEL, 000–00–0000
KIM MC ELIGOT, 000–00–0000
BRIAN G. MC KEEVER, 000–00–0000
FREDERICK P. MC KENNA, JR., 000–00–0000
THOMAS D. MC KENNA, 000–00–0000
STEVEN A. MC LAUGHLIN, 000–00–0000
JAMES R. MC MILLAN, JR., 000–00–0000
LANCE W. MC MILLAN, 000–00–0000
ARTHUR A. MC MINN, 000–00–0000
THOMAS A. MC MURRY, 000–00–0000
ROBERT P. MEAGHER, 000–00–0000
WALTER A. MEEKS, 000–00–0000
THOMAS R. MEHRINGER, 000–00–0000
TIMOTHY W. MEIER, 000–00–0000
ANDRE R. MERRILL, 000–00–0000
CHARLES L. MEYERS, JR., 000–00–0000
DEWOLFE H. MILLER, 000–00–0000
NEAL R. MILLER, 000–00–0000
TODD R. MILLER, 000–00–0000
MARK E. MILLS, 000–00–0000
PATRICK M. MILLS, 000–00–0000
VERNON B. MILLSAP, JR., 000–00–0000
MARTIN D. MOKE, 000–00–0000
MARK A. MONTI, 000–00–0000
JONATHAN D. MOORE, 000–00–0000
MICHAEL L. MORAN, 000–00–0000
MARK T. MULLIGAN, 000–00–0000
THOMAS H. MYERS, 000–00–0000
KEVIN B. NEARY, 000–00–0000
THOMAS F. NEDERVOLD, 000–00–0000
BRUCE E. NELSON, 000–00–0000
MARK R. NICHOLS, 000–00–0000
JOHN W. NICHOLSON, 000–00–0000
CHRISTOPHER D. NOBLE, 000–00–0000
MARK L. NOLD, 000–00–0000
GREGORY R. NOWAK, 000–00–0000
ROBERT W. NOWAK, 000–00–0000
KEVIN OFLAHERTY, 000–00–0000
PATRICK W. OKANE, 000–00–0000
ELIZABETH D. OLMO, 000–00–0000
WILLIAM C. OMSPACH, 000–00–0000
JOHN F. ORTOLF, 000–00–0000
GEOFFREY T. PACK, 000–00–0000
RICHARD K. PACKER, 000–00–0000
TIGHE S. PARMENTER, 000–00–0000
JEFFREY M. PAULS, 000–00–0000
ROBERT H. PERRY, 000–00–0000
CHRIS F. PIERSON, 000–00–0000
DAVID T. PITTELKOW, 000–00–0000
PAUL M. PLESCOW, 000–00–0000
MARK R. POLNASZEK, 000–00–0000
KENNETH R. PORTER, 000–00–0000
DAVID A. PORTNER, 000–00–0000
KEVIN J. PRINDLE, 000–00–0000
BRIAN D. QUERRY, 000–00–0000
EDWARD J. QUINN, 000–00–0000
STEVEN A. RABOGLIATTI, 000–00–0000
ROD D. RAYMOR, 000–00–0000
JOHN B. READ III, 000–00–0000
CHRISTOPHER S. REAL, 000–00–0000
BRADLEY T. RENNER, 000–00–0000
JOHN M. RICHARDSON, 000–00–0000
MICHAEL H. RIDDLE, 000–00–0000
DAVID W. ROBEY, 000–00–0000
MICHAEL D. ROBINSON, 000–00–0000
RAUL D. J. RODRIGUEZ, 000–00–0000
FREDERICK J. ROEGGE, 000–00–0000
KENNETH C. ROSE, 000–00–0000
THOMAS S. ROWDEN, 000–00–0000
KEVIN G. SAIGHMAN, 000–00–0000
CARL V. SCHLOEMANN, 000–00–0000
BARBARA L. SCHOLLEY, 000–00–0000
DENNIS A. SCHULZ, 000–00–0000
DAVID E. SCHWARTZENBURG, 000–00–0000
BRUCE E. SERVICE, 000–00–0000
THOMAS K. SHANNON, 000–00–0000
HERMAN A. SHELANSKI, 000–00–0000
STEPHEN T. SHEPHERD, 000–00–0000
MARK R. SICKERT, 000–00–0000
RONALD L. SINGER, 000–00–0000
JAY M. SMITH, 000–00–0000
MARTIN P. SMITH, 000–00–0000
STEPHEN S. SMITH, 000–00–0000
KENNETH V. SMOLANA, 000–00–0000
PATRICK W. SNELLINGS, 000–00–0000
JAMES D. SOUTHWARD, 000–00–0000
JOSEPH A. SPATA, 000–00–0000
DAVID B. STANSBURY, 000–00–0000
JIMMIE C. STEELMAN, 000–00–0000
MARK R. STEERS, 000–00–0000
JAMES A. STEWART, 000–00–0000
JAMES T. STEWART, 000–00–0000
TIMOTHY R. STITH, 000–00–0000
EAMON M. STORRS, 000–00–0000
JEFFREY P. STRATTON, 000–00–0000
MATTHEW D. STURGES, 000–00–0000
JOSEPH STUYVESANT, 000–00–0000
DAVID G. SUMMER, 000–00–0000
MARK L. SUYCOTT, 000–00–0000
MITCHELL T. SWECKER, 000–00–0000
KENNETH W. TAYLOR, 000–00–0000
THOMAS F. TAYLOR, 000–00–0000
THOMAS R. TAYLOR, JR., 000–00–0000
JAMES J. THADEN, 000–00–0000
JAMES E. THIRKILL, 000–00–0000
HOWARD W. THORP, JR., 000–00–0000
ROBERT D. THRELKELD, 000–00–0000
JASON E. TIBBELS, 000–00–0000
TIMOTHY S. TIBBITS, 000–00–0000
JOHN J. TIERNEY, JR., 000–00–0000
BRYAN W. TOLLEFSON, 000–00–0000
JULIAN E. TONNING, 000–00–0000
BRUCE J. TOTH, 000–00–0000
JEFFREY TRUMBORE, 000–00–0000
EDWARD TUCHOLSKI, 000–00–0000
WAYNE A. TUNICK, 000–00–0000
MAX W. UNDERWOOD, 000–00–0000
RONALD J. UNTERREINER, 000–00–0000
WILLIAM H. VALENTINE, 000–00–0000
WILLIAM J. VANDERLIP, JR., 000–00–0000
JAMES T. VAZQUEZ, 000–00–0000
RONALD J. VELIZ, 000–00–0000
JACK E. VESS, 000–00–0000
KENNETH VOORHEES, 000–00–0000
JOHN M. WACHTER, 000–00–0000
HARRY E. WAIDELICH, 000–00–0000
ROBERT M. WALL, 000–00–0000
WILLIAM E. WARD, 000–00–0000
JAMES L. WATERS, JR., 000–00–0000
MARION E. WATSON, JR., 000–00–0000
THOMAS H. WEBBER, 000–00–0000
CHRISTOPHER G. WENZ, 000–00–0000
JAMES R. WHITE, JR., 000–00–0000
WARREN M. WIGGINS, 000–00–0000
CLAYTON S. WILCOX, 000–00–0000
KARL C. WILLIAMS, 000–00–0000
R. D. WILSON, JR., 000–00–0000
WARD A. WILSON III, 000–00–0000
ROBERT W. WINSOR, 000–00–0000
EDWARD G. WINTERS III, 000–00–0000
JONATHAN D. WINTERS, 000–00–0000
WILLIAM S. WOLFNER, 000–00–0000
MICHAEL P. WOOD, 000–00–0000
DAVID B. WOODS, 000–00–0000
STEVEN W. WRIGHT, 000–00–0000
MICHAEL L. YARNOFF, 000–00–0000
TODD A. ZECCHIN, 000–00–0000
NEIL G. ZERBE, 000–00–0000
RONALD E. ZIEMBKO, 000–00–0000

ENGINEERING DUTY OFFICERS

To be commander

DWIGHT R. ALEXANDER, 000–00–0000
CARL S. BARBOUR, 000–00–0000
JOHN M. BARENTINE, 000–00–0000
LAWRENCE R. BAUN, 000–00–0000
JOHN K. BERGERSEN, 000–00–0000
JAMES P. BROWN, 000–00–0000
PETER S. BUCZYNSKI, 000–00–0000
GLENN E. CANN, 000–00–0000
DAVID C. CHAPPELL, 000–00–0000
ROBERT D. CHILDS, 000–00–0000
STEVEN R. CHISM, 000–00–0000
FRANCIS R. COLBERG, 000–00–0000
EDWARD M. CONNOLLY, 000–00–0000
CHARLES V. DOTY, 000–00–0000
GARY G. DURANTE, 000–00–0000
MARGARET S. FARRELL, 000–00–0000
PEGGY A. FELDMANN, 000–00–0000
JONATHAN C. IVERSON, 000–00–0000
GIBSON B. KERR, 000–00–0000
RICHARD D. LANTZ, 000–00–0000
CHARLOTTE V. LEIGH, 000–00–0000
ALAN D. LEWIS, 000–00–0000
DAVID H. LEWIS, 000–00–0000
CRAIG W. LITTLE, 000–00–0000
RONALD W. LUBATTI, 000–00–0000
RICHARD D. MARVIN, JR., 000–00–0000
MICHAEL E. MC MAHON, 000–00–0000
THOMAS J. MOORE, 000–00–0000
KURT A. MULLER, 000–00–0000
RANDAL D. NIVER, 000–00–0000
DEAN M. PEDERSEN, 000–00–0000
MARK PHILLIPS, 000–00–0000
RONALD G. RAHALL, 000–00–0000
JEFFREY S. REED, 000–00–0000
FREDERICK F. SCHULZ, 000–00–0000
EUGENE B. SEDY, 000–00–0000
DALE E. SIGMAN, 000–00–0000
SCOTT J. SMITH, 000–00–0000
JOHN P. SPENCER, 000–00–0000
STEPHEN W. STANKO, 000–00–0000
CAROL A. THOMPSON, 000–00–0000
MANNING M. TOWNSEND, 000–00–0000
CLARK E. WHITMAN, 000–00–0000
ROY L. WOOD, JR., 000–00–0000
STEVEN W. WOODSON, 000–00–0000
HENRI W. ZAJIC, 000–00–0000

AEROSPACE ENGINEERING DUTY OFFICERS
(ENGINEERING)

To be commander

STEVEN R. EASTBURG, 000–00–0000
RICHARD H. FANNEY, 000–00–0000
ELI E. HERTZ, 000–00–0000
KIM A. JOHNSON, 000–00–0000
WILLIAM F. LONCHAS, JR., 000–00–0000
DENNIS A. LOTT, 000–00–0000
JOHN M. MULCAHY, 000–00–0000
R. J. NIEWOEHNER, 000–00–0000
ROBERT P. PATY, 000–00–0000
PETER J. RIESTER, 000–00–0000
JAMES W. ROBERTS, 000–00–0000
JOHN W. SCANLAN II, 000–00–0000
ALAN D. SCOTT, 000–00–0000
RUSSELL W. SCOTT, 000–00–0000
RANDALL G. SHORT, 000–00–0000
DAVID E. STEVENS, 000–00–0000
JAMES W. TRUEBLOOD, 000–00–0000
DAVID R. WAGNER, 000–00–0000
DOUGLAS L. WHITENER, 000–00–0000
JOHN A. ZAWIS, 000–00–0000

AEROSPACE ENGINEERING DUTY OFFICERS
(MAINTENANCE)

To be commander

ROBERT L. ALLEN, 000–00–0000
ERICH S. BLUNT, JR., 000–00–0000
WAYNE P. BORCHERS, 000–00–0000
JOHN D. BURPO, 000–00–0000
FRED E. CLEVELAND, 000–00–0000
JEFFREY S. COOK, 000–00–0000
MARK W. CZARZASTY, 000–00–0000
LEONARD B. GORDON, 000–00–0000
THOMAS R. HAMMAN, 000–00–0000
MARTHA E. KANTOR, 000–00–0000
DANIEL J. LAFOND, 000–00–0000
HARRY LEHMAN, JR., 000–00–0000

WILLIAM R. MC SWAIN, 000–00–0000
MARK H. STONE, JR., 000–00–0000
STEVEN R. VOYLES, 000–00–0000

AVIATION DUTY OFFICERS

To be commander

JOHN K. BRADY, 000–00–0000
CHRISTOPHER M. STEINNECKER, 000–00–0000
BRUCE A. VANDENBOS, 000–00–0000

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

MICHAEL A. BROWN, 000–00–0000
JOHN W. GORDON, 000–00–0000
CLINTON G. LYONS IV, 000–00–0000
JOHN B. MAYS III, 000–00–0000
JAMES R. MC GOVERN, JR., 000–00–0000
STEPHEN S. MC KENZIE, 000–00–0000
RICHARD D. PAUPARD, JR., 000–00–0000
HELENA E. REEDER, 000–00–0000
SCOTT L. ROME, 000–00–0000
JEREMIE P. SARE, 000–00–0000
PAUL W. SCHUH, 000–00–0000
PAUL W. THRASHER, 000–00–0000
CHRISTINE J. WESTONLYONS, 000–00–0000
ROBERT A. ZELLMANN, 000–00–0000

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

WILLIAM W. ARRAS, 000–00–0000
LAWRENCE N. ASH, 000–00–0000
LINDA J. BAHRANI, 000–00–0000
CHRISTOPHER D. BOTT, 000–00–0000
DAVID B. CAMPBELL, 000–00–0000
CHRISTOPHER A. COOK, 000–00–0000
ANNE M. DONOVAN, 000–00–0000
TIMOTHY J. DOOREY, 000–00–0000
ROBERT D. ESTVANIK, 000–00–0000
KEVIN K. FRANK, 000–00–0000
CHRISTOPHER O. GEVING, 000–00–0000
WILLIAM E. GORHAM, JR., 000–00–0000
CHARLES G. HART, 000–00–0000
DONNA S. W. HOLLY, 000–00–0000
DEBRA J. JUSTIN, 000–00–0000
SARA A. KING, 000–00–0000
WILLIAM M. LUOMA, 000–00–0000
EILEEN F. MACKRELL, 000–00–0000
ROBERT M. NAVARRO, 000–00–0000
JOHN P. RUBEL, 000–00–0000
WILLIAM D. SAS, 000–00–0000
RICHARD L. SAUNDERS, 000–00–0000
VINCENT A. SHAHAYDA, 000–00–0000
WAYNE F. SWEITZER, 000–00–0000
DAVID B. WAUGH, 000–00–0000
STEVEN K. WESTRA, 000–00–0000
JAMES J. WHITUS, 000–00–0000

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be commander

BRUCE A. COLE, 000–00–0000
BRIAN P. CULLIN, 000–00–0000
GORDON J. HUME, 000–00–0000
TIMOTHY S. OLEARY, 000–00–0000
FRANK THORP IV, 000–00–0000
PAUL J. WEISHAUPT, 000–00–0000

SPECIAL DUTY OFFICERS (FLEET SUPPORT)

To be commander

JUDITH L. C. ACKERSON, 000–00–0000
MARY L. ANDERSON, 000–00–0000
NORMA M. ANDERTON, 000–00–0000
CELESTE A. BILICKI, 000–00–0000
LEANNE J. BRADDOCK, 000–00–0000
VICTORIA L. BURCHETT, 000–00–0000
BONITA I. CAMPBELL, 000–00–0000
KIMBERLY A. CAMPBELL, 000–00–0000
ELIZABETH F. CAREY, 000–00–0000
PATRICIA A. CERCHIO, 000–00–0000
KATHLENE CONTRES, 000–00–0000
CYNTHIA A. COVELL, 000–00–0000
BERNITA D. DODD, 000–00–0000
CATHERINE T. EADS, 000–00–0000
ROBIN R. GANDOLFO, 000–00–0000
KRISTINE H. GEDDINGS, 000–00–0000
WENDY A. GEE, 000–00–0000
AMALIE R. GLUF, 000–00–0000
ROBERTA A. GOLDENBERG, 000–00–0000
GAIL A. GRIFFIN, 000–00–0000
ANNE W. HEMINGWAY, 000–00–0000
SUSAN L. HIGGINS, 000–00–0000
MARY E. HILL, 000–00–0000
AMY L. HUGHES, 000–00–0000
SHANNON M.L. HURLEY, 000–00–0000
CAROLYN D. JACKSON, 000–00–0000
CYNTHIA K. JACKSON, 000–00–0000
PATRICIA A. JACKSON, 000–00–0000
LEAH D. JOHNSON, 000–00–0000
BONNIE L. JOHNSTON, 000–00–0000
SUSAN S. JORDAN, 000–00–0000
ANNE E. KELLEY, 000–00–0000
DEBORAH R. KERN, 000–00–0000
BARBARA A. KLESK, 000–00–0000
ELIZABETH A. KNUTSON, 000–00–0000
MARY M. KOLAR, 000–00–0000
TARA L. LACAVERA, 000–00–0000
PEGGY L. LAU, 000–00–0000
SANDRA L. LAWRENCE, 000–00–0000
DEBORAH R. LEIGHTON, 000–00–0000
MARY A. MARGOSIAN, 000–00–0000
JILL L. MATHEWS, 000–00–0000
JEANNE M. MC DONNELL, 000–00–0000
ANNE E.S. MC KINNEY, 000–00–0000
KATHRYN MC NAMARA, 000–00–0000
DIANE C. MIELCARZ, 000–00–0000
CAROLYN J. MILLER, 000–00–0000
RUTH A. MILLER, 000–00–0000
GLORIA D. MOBERY, 000–00–0000
LINDA L. MUTH, 000–00–0000
GALE V. NAPOLIELLO, 000–00–0000
MARY B. NEWTON, 000–00–0000
NANETTE M. OGARA, 000–00–0000
LYSA L. OLSEN, 000–00–0000
VIRGINIA OVERSTREET, 000–00–0000
CAROL S. PETREA, 000–00–0000
MARGARET E. PINKERTON, 000–00–0000
SUSAN F. PLOWMAN, 000–00–0000
JOYCE C. POWELL, 000–00–0000
KAREN M. RASMUSSEN, 000–00–0000
KAREN A. RAYBURN, 000–00–0000
MARGARET R.W. REED, 000–00–0000
PAULA M.P. RICKETTS, 000–00–0000
JULIE A. ROWELL, 000–00–0000
LOIS J.H. SCHOONOVER, 000–00–0000
EOLA L. SCOTT, 000–00–0000
LINDA K. SHULTZ, 000–00–0000
MILAGROS M. SIMONS, 000–00–0000
KRISTINE K. SIMS, 000–00–0000
PATRICIA J. SOTTILE, 000–00–0000
LINDA S. SPEED, 000–00–0000
DOROTHY L. TATE, 000–00–0000
LAUREN TAULMAN, 000–00–0000
CATHY A. THOMAS, 000–00–0000
VICTORIA S. TURNER, 000–00–0000
ELLEN C. VADNEY, 000–00–0000
DORIS V. VANSAUN, 000–00–0000
MARCIA VANWYE, 000–00–0000
AMY L. WARRICK, 000–00–0000
LISA R. WERKHAVEN, 000–00–0000
MARILYN S. WESSEL, 000–00–0000
ANNE L. WESTERFIELD, 000–00–0000
LAURA J. ZIEGLER, 000–00–0000

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be commander

ROBERT L. BEARD, 000–00–0000
JEFFREY S. BEST, 000–00–0000
STEVEN R. CAMERON, 000–00–0000
ROLAND E. DEJESUS, 000–00–0000
EDMOND M. FROST, 000–00–0000
KATHARINE S. GARCIA, 000–00–0000
MARK J. GUNZELMAN, 000–00–0000
JAMES A. HILL, 000–00–0000
HENRY JONES, 000–00–0000
ERIK C. LONG, 000–00–0000
RUTLEDGE P. LUMPKIN, 000–00–0000
GARY M. MINEART, 000–00–0000
JOHN F. OHARA, 000–00–0000
DANIEL H. STREED, 000–00–0000
DAVID W. TITLEY, 000–00–0000

LIMITED DUTY OFFICERS (LINE)

To be commander

JOSEPH W. ALIGOOD, 000–00–0000
JERRY L. BIRDSONG, 000–00–0000
MARVIN P. BRUMBAUGH, 000–00–0000
MICHAEL P. BRYCE, 000–00–0000
DAVID R. CARLSON, 000–00–0000
ANTHONY V. DEBELLO, 000–00–0000
CIPRIANO M. DELUNA, 000–00–0000
HERBERT R. DUFF, 000–00–0000
JOHN G. FAHLING, 000–00–0000
MICHAEL L. FAIR, 000–00–0000
HAROLD A. FISCHER, 000–00–0000
BRUCE J. HERMAN, 000–00–0000
JOHN W. HIBBARD, 000–00–0000
ROBERT A. KEENAN, 000–00–0000
CHARLES N. KIRTLEY, 000–00–0000
JOHN H. MC CRINK, 000–00–0000
KERRY P. MURRAY, 000–00–0000
FRANK W. NICHOLS, 000–00–0000
JACK H. NORRIS, 000–00–0000
JOHN J. ORDEMANN, 000–00–0000
ALBERT C. L. I. PAQUIN, 000–00–0000
NORMAN B. PETERS, 000–00–0000
ROY C. PETERSON, 000–00–0000
DEL L. RENKEN, 000–00–0000
GARY L. RICHARD, 000–00–0000
RICHARD A. SPON, 000–00–0000
RONALD E. SWART, 000–00–0000
THOMAS G. WARNER, 000–00–0000

IN THE MARINE CORPS

THE FOLLOWING NAMED CAPTAINS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF MAJOR, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be captain

DAVID V. ADAMIAK, 000–00–0000
SCOTT D. AIKEN, 000–00–0000
ROBERT C. ALEXANDER, 000–00–0000
ROBERT D. ALLEN, 000–00–0000
SCOTT A. ALLEN, 000–00–0000
SCOTT T. ALLEN, 000–00–0000
BERN J. ALTMAN, 000–00–0000
JERALDO T. ALVAREZ, 000–00–0000
VINCENT AMATO, JR., 000–00–0000
BRIAN J. ANDERSON, 000–00–0000
DAVID A. ANDERSON, 000–00–0000
RICHARD A. ANDERSON, 000–00–0000
ROARKE L. ANDERSON, 000–00–0000
JOSEPH A. ANDY, 000–00–0000
HAL M. ANGUS, 000–00–0000
EUGENE N. APICELLA, 000–00–0000
JOHN R. ARMOUR, 000–00–0000
ROBERT K. ARMSTRONG, JR., 000–00–0000
VAUGHN A. ARY, 000–00–0000
JOHN D. AUGSBURGER, 000–00–0000
DAVID F. AUMULLER, 000–00–0000
THOMAS G. AVEY, 000–00–0000
MARK T. AYCOCK, 000–00–0000
JEFFREY T. BAILEY, 000–00–0000
GREGGORY L. BAKER, 000–00–0000
ROBERT S. BAKER, 000–00–0000
ROSSER O. BAKER, JR., 000–00–0000
THOMAS W. BAKER, 000–00–0000
MARY H. BALDWIN, 000–00–0000
CHRISTOPHER P. BALESTERI, 000–00–0000
JEFFREY B. BARBER, 000–00–0000
RICHARD L. BARFIELD, 000–00–0000
DENNIS J. BARHAM, 000–00–0000
TIMOTHY M. BARROW, 000–00–0000
JOHN D. BARTH, 000–00–0000
KEITH W. BASS, 000–00–0000
TROY R. BATES, 000–00–0000
LUDOVIC M. BAUDOINDAJOUX, 000–00–0000
RICHARD W. BAXTER, 000–00–0000
PATRICK B. BEAGLE, 000–00–0000
MICHAEL K. BEALE, 000–00–0000
JAMES C. BECKER, JR., 000–00–0000
WILLIAM H. BECKETT, 000–00–0000
MICHAEL H. BELDING, 000–00–0000
GREGGORY R. BEMBENEK, 000–00–0000
CALVIN B. BENNETT III, 000–00–0000
EUGENE S. BENVENUTTI, JR., 000–00–0000
STEVEN W. BERGER, 000–00–0000
RONNIE A. BERNAL, 000–00–0000
JOEL H. BERRY III, 000–00–0000
MICHAEL C. BERRYMAN, 000–00–0000
CRAIG W. BEVAN, 000–00–0000
SHERMAN L. BIERLY, 000–00–0000
MONTE G. BIERSCHENK, 000–00–0000
ANDREW D. BIGELOW, 000–00–0000
JAMES H. BISHOP, 000–00–0000
RICHARD K. BLAND, 000–00–0000
BENJAMIN S. BLANKENSHIP, 000–00–0000
KIRK J. BLAU, 000–00–0000
BRIAN D. BOHMAN, 000–00–0000
GREGORY J. BONAM, 000–00–0000
GREGORY F. BOND, 000–00–0000
JAMES C. BONNER, 000–00–0000
DAVID H. BOOTH, 000–00–0000
JOHN R. BORNEMAN III, 000–00–0000
EUGENE N. BOSE, 000–00–0000
FRANCIS P. BOTTORFF, 000–00–0000
PAUL R. BOUGHMAN, 000–00–0000
JOHN M. BOURGAULT, 000–00–0000
JOSEPH G. BOWE, 000–00–0000
MICHAEL R. BOWERSOX, 000–00–0000
PETER L. BOWLING, 000–00–0000
RICHARD D. BOYER, 000–00–0000
JEFFRY S. BRADY, 000–00–0000
MATTHEW P. BRAGG, 000–00–0000
CARTER H. BRANDENBURG, 000–00–0000
TERENCE P. BRENNAN, 000–00–0000
JAMES B. BRIGHT, 000–00–0000
MICHAEL G. BROIHIER, 000–00–0000
JOSEPH R. BROSHEARS, 000–00–0000
JOHN A. BROW, 000–00–0000
CONRAD N. BROWN, JR., 000–00–0000
GARY E. BROWN, JR., 000–00–0000
MARK S. BROWN, 000–00–0000
STEPHEN D. BROWN, 000–00–0000
KIRK E. BRUNO, 000–00–0000
JOHN A. BRUSH, 000–00–0000
DONOVAN E. BRYAN, 000–00–0000
FREDRICK C. BRYAN, 000–00–0000
MARTIN C. BRYANT, 000–00–0000
KEITH D. BUCHANAN, 000–00–0000
JAMES E. BUDWAY, 000–00–0000
ADRIAN W. BURKE, 000–00–0000
GERARD K. BURNS, 000–00–0000
MARTIN J. BURNS, 000–00–0000
SHAWN W. BURNS, 000–00–0000
MICHAEL H. BURT, 000–00–0000
BRETT K. BURTIS, 000–00–0000
JOHN M. BUTTERWORTH, 000–00–0000
KEVIN L. BYWATERS, 000–00–0000
WILLIAM P. CABRERA II, 000–00–0000
GREGORY R. CALDWELL, 000–00–0000
PAUL F. CALLAN, 000–00–0000
DEXTER CAMPBELL, 000–00–0000
PATRICK J. CAMPBELL, 000–00–0000
MICHAEL T. CARIELLO, 000–00–0000
JOHN W. CARL, 000–00–0000
CHARLES K. CARROLL, 000–00–0000
WAYNE D. CARSON, 000–00–0000
JAMES S. CASON, 000–00–0000
ANTONIO J. CERRILLO, 000–00–0000
MARK S. CHANDLER, 000–00–0000
MURRAY W. CHAPMAN, 000–00–0000
JAMES B. CHARTIER, 000–00–0000
BRENT C. CHERRY, 000–00–0000
CAMILO CHINEA, 000–00–0000
CHISHOLM ROY 000–00–0000
PHILLIP C. CHUDOBA, 000–00–0000
MATTHEW R. CICCHINELLI, 000–00–0000
KEITH L. CIERI, 000–00–0000
JAMES W. CLARK, JR., 000–00–0000
KENNETH W. CLARK, 000–00–0000
ROBERT D. CLARK, 000–00–0000
THOMAS S. CLARK III, 000–00–0000
JONATHAN S. CLAUCHERTY, 000–00–0000
JUSTON H. CLEMENT, 000–00–0000
DAVID W. COFFMAN, 000–00–0000
CHRIS A. COLEE, 000–00–0000
WILLIAM T. COLLINS, 000–00–0000
STEPHEN J. CONBOY, 000–00–0000
PATRICK P. CONNELLY, 000–00–0000
MICHAEL R. CONNOLLY, 000–00–0000
ALBERT T. CONORD, 000–00–0000
KEVIN B. CONROY, 000–00–0000
HARRY G. CONSTANT, JR., 000–00–0000

PATRICK M. COOKE, 000–00–0000
WILLIAM R. COPE, 000–00–0000
GEORGE D. COPELAND, 000–00–0000
ADAM J. COPP, 000–00–0000
STEPHEN P. CORCORAN, 000–00–0000
GEOFFREY A. CORSON, 000–00–0000
SCOTT E. CORWIN, 000–00–0000
WILLIAM R. COSTANTINI, 000–00–0000
CHRISTOPHER R. COVER, 000–00–0000
JONATHAN D. COVINGTON, 000–00–0000
JOHN D. COWLEY, 000–00–0000
JOHN J. CRANE, 000–00–0000
JAMES T. CRAVENS, 000–00–0000
CRAIG C. CRENSHAW, 000–00–0000
RAFFAELE CROCE, 000–00–0000
JEFFREY B. CROCKETT, 000–00–0000
DOUGLAS F. CROMWELL, 000–00–0000
MADISON H. CRUM, JR., 000–00–0000
GARY W. CUBBAGE, 000–00–0000
RONALD S. CULP, 000–00–0000
JOSEPH W. CURATOLA, 000–00–0000
WILLIAM D. CURRY, 000–00–0000
PAUL J. CYR, 000–00–0000
RONALD R. DALTON, 000–00–0000
ERIC M. DAMM, 000–00–0000
MATTHEW F. DANIEL, 000–00–0000
CHRISTOPHER J. DAVIS, 000–00–0000
RICHARD D. DAVIS, JR., 000–00–0000
NEWELL B. DAY II, 000–00–0000
DANIEL C. DEAMON, 000–00–0000
DAVID D. DEAN, 000–00–0000
RICHARD A. DEFOREST, 000–00–0000
DAVID W. DEIST, 000–00–0000
PATRICK M. DELATTE, 000–00–0000
GARY R. DELIBERTO, 000–00–0000
PETER L. DELORIER, 000–00–0000
FRANCIS A. DELZOMPO, 000–00–0000
JAMES R. DENNEY, 000–00–0000
JAMES G. DERDALL, 000–00–0000
MARK J. DESENS, 000–00–0000
JAMES E. DEVERS, 000–00–0000
STUART L. DICKEY, 000–00–0000
KURT E. DIEHL, 000–00–0000
MARK V. DILLARD, 000–00–0000
JOHN E. DIXISON, 000–00–0000
JEFFREY S. DODD, 000–00–0000
JON G. DOERING, 000–00–0000
DENNIS A. DOGS, 000–00–0000
THOMAS E. DOLAN, JR., 000–00–0000
TIMOTHY J. DOLAN, 000–00–0000
WILLIAM L. DOLLEY, 000–00–0000
JAMES V. DOMINICK III, 000–00–0000
GREGORY M. DOUQUET, 000–00–0000
JEROME E. DRISCOLL, 000–00–0000
BARRY T. DUNCAN, 000–00–0000
ROBERT T. DURKIN, 000–00–0000
CHARLES E. DYE, 000–00–0000
BRADLEY R. EADS, 000–00–0000
WINSTON I. EARLE, 000–00–0000
STEVEN M. EIDSMOE, 000–00–0000
DAVID A. ELLIS, 000–00–0000
JOSEPH R. ELLIS, 000–00–0000
TAMMY R. ELLIS, 000–00–0000
KEVIN G. EMERY, 000–00–0000
RICHARD C. ERLER, 000–00–0000
LINK P. ERMIS, 000–00–0000
WILLIAM P. ESHELMAN, JR., 000–00–0000
CLAYTON O. EVERS, JR., 000–00–0000
THOMAS A. EWING, 000–00–0000
JOACHIM W. FACK, 000–00–0000
MARK C. FELSKE, 000–00–0000
CARL FELTON, 000–00–0000
NICHOLAS FERENCZ III, 000–00–0000
STEPHEN A. FERRANDO, 000–00–0000
ERIC K. FIPPINGER, 000–00–0000
HENRY G. FISCHER, 000–00–0000
KENNETH S. FISCHLER, 000–00–0000
DANIEL M. FITZGERALD, 000–00–0000
BRIAN P. FITZGIBBONS, 000–00–0000
JACK E. FLANAGAN, 000–00–0000
ROBERT J. FLEMING, 000–00–0000
MATTHEW D. FLETCHER, 000–00–0000
ERIC A. FOLLSTAD, 000–00–0000
SUSAN W. FONTENO, 000–00–0000
PATRICK D. FORD, 000–00–0000
KIM E. FOSS, 000–00–0000
DAVID C. FOSTER, 000–00–0000
TIMOTHY S. FOSTER, 000–00–0000
STEVEN D. FOX, 000–00–0000
DAVID S. FOY, 000–00–0000
MICHAEL M. FRAZIER, 000–00–0000
BENNETT C. FREEMON, 000–00–0000
JAMES B. FRITZ, 000–00–0000
SCOTT B. FROSCH, 000–00–0000
THOMAS J. FUHRER, 000–00–0000
SCOTT J. FULLER, 000–00–0000
JOHN D. GAMBOA, 000–00–0000
JAMES M. GANNON, 000–00–0000
JEFFERY A. GARDNER, 000–00–0000
ROBERT L. GARDNER, 000–00–0000
DAVID P. GARNISH, 000–00–0000
MICHAEL G. GARRETT, 000–00–0000
KENNETH E. GASKILL, JR., 000–00–0000
JAMES D. GASS, 000–00–0000
ROBERT W. GATES, 000–00–0000
SHERYL G. GATEWOOD, 000–00–0000
BRAD R. GERSTBREIN, 000–00–0000
JEFFREY G. GERVICKAS, 000–00–0000
HERMAN H. GILES, JR., 000–00–0000
KENYON M. GILL III, 000–00–0000
DANIEL J. GILLAN, 000–00–0000
THOMAS C. GILLESPIE, 000–00–0000
BRENT P. GODDARD, 000–00–0000
STEWART O. GOLD, 000–00–0000
ROBERT G. GOLDEN III, 000–00–0000
BRIAN S. GOOD, 000–00–0000
HENRY J. GOODRUM, 000–00–0000
DAVID M. GOUDREAU, 000–00–0000
RICKEY L. GRABOWSKI, 000–00–0000
BRIAN J. GRADEN, 000–00–0000
RICHARD E. GRANT, 000–00–0000
ANTHONY J. GRECO, JR., 000–00–0000
EDWARD M. GREEN, 000–00–0000
PETER GRELL, 000–00–0000
KEVIN L. GROSS, 000–00–0000
SAMUEL B. GROVE, 000–00–0000
MICHAEL A. GROVES, 000–00–0000
JOSEPH GUADAGNO, 000–00–0000
BRIAN H. GUDMUNDSSON, 000–00–0000
ROLANDO GUZMAN, 000–00–0000
GREGG T. HABEL, 000–00–0000
JOHN R. HAHN, 000–00–0000
RONALD D. HAHN, JR., 000–00–0000
CHRISTIAN N. HALIDAY, 000–00–0000
JACK Q. HALL, 000–00–0000
JOHN A. HALL, JR., 000–00–0000
MARK E. HALL, 000–00–0000
TIMOTHY J. HALL, 000–00–0000
DOUGLAS R. HAMILTON, 000–00–0000
THOMAS J. HAMILTON II, 000–00–0000
RICHARD M. HANCOCK, 000–00–0000
EDDIE W. HANNA, 000–00–0000
TERRENCE L. HANNIGAN, 000–00–0000
ROBERT J. HANSBERRY, JR., 000–00–0000
DAVID K. HANSEN, 000–00–0000
MICHAEL B. HANYOK, 000–00–0000
DOUGLAS M. HARDISON, 000–00–0000
RICHARD S. HARPER, 000–00–0000
LONNIE R. HARRELSON, 000–00–0000
WILLIAM M. HARRISON, 000–00–0000
DANA L. HASKELL, 000–00–0000
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EXTENSIONS OF REMARKS

NATIONAL VOLUNTEER WEEK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to recognize efforts in Northwest Ohio to celebrate the beginning of National Volunteer Week in America. It is very hard to imagine our country without its corps of ready, willing and able volunteers. So strong and proud is America's history of volunteerism, that the concept and nature of ''American Volunteerism'' has become an institution by which the world recognizes and understands our national identity of compassion and caring for our fellow humankind.

Has there ever been a time in our history that there were not volunteers ready to lend a hand? Beginning with Paul Revere and extending right through to the response of emergency and medical personnel to last week's tragedy in Oklahoma—Americans have always been ready to help their fellow citizens.

While volunteerism in America does not always manifest itself in terms as dramatic as when every available doctor and nurse within a 100-mile radius and beyond rushes to the scene of a tragedy, it is no more important or devoted than the millions of Americans who respond daily and regularly to the unsatisfied needs of their communities.

Here in our community, volunteers feed the hungry, shelter and minister to the homeless, reach out and touch minds that are eager to learn and spirits that yearn to fly. Even in the lives of those whose needs are not borne from necessity, but whose pursuits are dedicated toward service and improvement, volunteers make the day.

I know my colleagues join me in recognizing National Volunteer Week and in saying to every citizen in our community and country who works for a recompense that no amount of money can satisfy, thank you for answering the call, thank you for helping make our country a better place.

TRIBUTE TO DR. NEAL THOMAS JONES

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. DAVIS. Mr. Speaker, my colleague and I rise today to pay tribute to a fine individual of the Eleventh District of Virginia, who has contributed so much to his community.

Dr. Neal Thomas Jones retired as pastor of Columbia Baptist Church in Falls Church, Virginia April 30, 1995 after twenty-six years of dedicated and faithful service. Under Dr. Jones' leadership, the congregation became one of the largest congregations of any faith in Virginia and a leader among Virginia Baptists. Because of his vision, Columbia Baptist has extended its reach far beyond the traditional religious activities to include an array of intensive community services. Among them are:

World Friends, which provides English As A Second Language Instruction for more than 100 people each week.

Church and Community Ministries, which provides food, clothing, furniture, rent, and transportation to more than 500 people annually.

Columbia Child Development Center which provides Day Care for approximately 200 children on a year-round basis; Care-A-Van which at its peak delivered more than 200 meals weekly and served as a life line for many rescued from homelessness.

Counseling Ministry, which involves crisis prevention and crises prevention measures such as marriage preparation and parenting classes.

Columbia Institute of Fine Arts, which provides instruction to the community in fine arts.

In addition, Columbia Baptist facilities have become a vital resource for various community support groups including Alcoholics Anonymous, Survivors of Incest, Narcotics Anonymous, Alzheimer support groups, Alzheimer Day Care Program, Family Nurturing Training Program, Muscular Dystrophy and other support groups.

Columbia Baptist Church's other activities include working with local Police Departments to provide summer camps for children from disadvantaged areas, working with city and county agencies to provide a myriad of community services to the poor and disadvantaged, and fostering a sister relationship with the Baptists of Moscow before the days of normalized relationship. Furthermore, Columbia Baptist provides facilities for various community events including regional conferences on drug abuse and prevention, and mental health services related to aging, including the White House Conference on Aging in 1995.

Mr. Speaker, we know our colleagues join us in honoring Dr. Jones whose church has attracted the neediest downtrodden elements of our society along with diplomats, members of Congress, professional football coaches, and others who sought spiritual inspiration.

A TRIUMPH OF COMMON SENSE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. BEREUTER. Mr. Speaker, Washington, DC's, Metro deserves high praise for its steadfast resolve which resulted in a common sense agreement on its subway platform edges. Last year, the Department of Transportation insisted that Metro install costly platform edges with bumps in order to warn blind riders and comply with the Americans with Disabilities Act. However, this huge expenditure would have resulted in little, if any, benefit. In fact, there was disagreement among the organizations representing the visually impaired about the merit of the platform edge requirement. This appeared to be yet another case of the Federal Government forcing compliance simply for the sake of compliance rather than making an effort to meet an actual need. On June 13, 1994, this Member wrote to Metro's general manager, Lawrence Reuter, to urge him to stand up to the DOT bureaucracy and fight for a practical solution. A copy of the letter was also sent to Transportation Secretary Federico Peña.

This Member is pleased that a reasonable agreement has now been reached between Metro and the Federal Transit Administration. Under the agreement, Metro will install a system of transmitters that will allow visually impaired riders wearing wrist beepers to be signaled when they are too close to the edge of the subway platform. This system will be much less expensive than the proposed bumpy platforms and should also provide a higher degree of safety. This Member also commends the Federal Transit Administration for finally demonstrating common sense and flexibility in arriving at this agreement. Too bad it took a confrontation to reach a common sense solution but sometimes that is necessary.

Mr. Speaker, this Member commends to his colleagues the following editorial in support of the agreement from the April 27, 1995, edition of the Washington Post.

METRO PLATFORMS: REASON PREVAILS

It had all the earmarks of a classic legal regulatory battle between a regional agency and the federal government: Metro General Manager Lawrence G. Reuter was bucking an order from the federal government under the Americans With Disabilities Act to rip out and replace all of its subway platform edges as a safety measure for blind riders. Comply or risk federal funding, said the Department of Transportation's Federal Transit Administration. It's too expensive and isn't needed on a system with a good safety record already, replied Mr. Reuter.

We'll sue, said DOT. We're not budging, said Metro, noting that there was a division of opinion among organizations representing people whose vision is impaired as to the usefulness, or potential additional hazards, of the federally mandated surfaces with raised bumps.

But now, after nearly a year of wrangling, bumpy edges are giving way to smooth solutions. The Clinton administration has backed away from its demand, settling instead for agreement by Metro to install a system of transmitters that will signal blind riders wearing wrist beepers that they are close to platform edges. Federal mass transit administrator Gordon J. Linton concluded that the regulation is ''so narrow and prescriptive'' that ''there is not room to exercise judgment or discretion'' and agreed to grant Metro's request for a ''determination of equivalent facilitation'' for the edges that are already along the platforms.

Translation: Score one for good sense. Instead of proceeding with expensive, time-

consuming litigation to try to force expensive, revenue-consuming measures to resolve a problem that didn't seem to be one, the federal government though better of it.

TRIBUTE TO THE CIVIC LEAGUE OF GREATER NEW BRUNSWICK, INC.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. PALLONE. Mr. Speaker, on Saturday, May 13, 1995, at the Pines Manor in Edison, NJ, the Civic League of Greater New Brunswick, Inc., will hold its annual dinner. I rise today to pay tribute to this great institution, which has made such a significant difference in the lives of generations of people in Middlesex County.

The Civic League of Greater New Brunswick, formerly the Urban League, was established in 1945 as a civil rights organization. A non-profit, tax-exempt organization, the League's mission is ''to enable African Americans and other minority group members to cultivate and exercise their full human potential on par with all other Americans. To accomplish this mission, the Civic League intervenes at all points in the social and economic structure where the interests of African Americans, other racial minorities and the poor are at stake.'' To accomplish this mission, the League provides community advocacy along with the provision of employment and housing referral services. The League also offers a comprehensive youth development program to help young people become academically successful, emotionally sound and productive contributors to their communities.

The Civic League is governed by a 21-member Board of Directors, volunteers with a diversity of backgrounds and experiences. This policy-making body has set a major agenda for the 1990's which includes more program activities in the health and youth development areas. The Project 2000 Program, supported by corporate volunteers, became one of the first initiatives developed as a result of an increased focus of the organization on early youth development activities. A Middle School Development Program was initiated recently, also with corporate support, to offer classroom support to the public school adolescent population. Since 1970, C. Roy Epps has served as the League's Executive Director. The 25th anniversary of Mr. Epps's leadership of the League was marked 2 months ago with a roast in his honor.

Mr. Speaker, it is an honor and a privilege as the Representative of the Sixth District of New Jersey to pay tribute to this great institution located in my district. The Civic League of Greater New Brunswick is a wonderful example of everything that is good about America—dedicated people working together, often under difficult circumstances, to build a better community and provide our people with a sense of purpose, direction and hope.

TRIBUTE TO THE TOWNSHIP OF MONTCALM, MI

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding township in the State of Michigan. Montcalm Township is like many townships throughout the United States, but it possesses a unique character all its own. On May 20, 1995, the township of Montcalm, MI, will commemorate 150 years of history by celebrating its sesquicentennial anniversary.

Nestled among serene lakes and the surrounding beautiful landscape of mid-Michigan, the township of Montcalm is rich in historical heritage and tradition. Montcalm Township was established on March 19, 1845, and was the pioneer township of what is now Montcalm County. It grew to become an essential township in the region, due primarily to its vast contributions to the rural and logging communities of Michigan.

As the industrial revolution swept the country, the citizens of Montcalm Township succeeded in holding on to much of the area's historical tradition. It maintains its rural connections to this day, while still managing to prosper within the State economy.

The citizens of Montcalm Township are to be commended for providing an impeccable example of a growing community. While exceeding in economic excellence, Montcalm Township also provides its residents with the tight knit community feeling of a small town.

Mr. Speaker, Montcalm Township has a colorful history and bright future. Its commitment to the community and its citizens embody the ideals that make this Nation great. I know you will join me in congratulating the citizens of Montcalm Township on their 150th anniversary and wishing them well during their sesquicentennial celebration. We hope Montcalm Township will continue to provide the same example of strong community spirit for the next 150 years.

HONORING DR. MARIO SALVADORI, DISTINGUISHED EDUCATOR

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. ACKERMAN. Mr. Speaker, I join today with my constituents in the Fifth Congressional District of New York City recognizing Dr. Mario Salvadori.

For more than two decades, Dr. Salvadori has distinguished himself with effective efforts to help his students discover and understand mathematics and science through the wonders of architechure and engineering.

Mr. Speaker, in April 1975, Dr. Salvadori boldly accepted the challenge issued by the New York Academy of Science to ''do something to improve mathematics and science education'' in the public schools of New York City by volunteering to teach an innovative course, ''Why Buildings Stand Up.'' to 30 disadvantaged seventh-grade students.

Throughout the years, Dr. Salvadori has continued to teach and write books of children and instructional manual for teachers. At the same time, he has developed an exciting, innovative, and effective program of hands-on activities base upon the familiar urban built environment. Eight years ago, he founded the Salvadori Education Center on the Built Environment [SECBE] to expand the reach of his innovative pedagogy and instructional materials. SECBE has now grown into a nationally known influence for the improvement of science and mathematics education.

In the 20 years since Dr. Salvadori began this noble cause, more than 600 teachers have incorporated the Salvadori methodology into their classroom practice. More than 100,000 students in New York City alone have benefited from their involvement in SECBE programs, demonstrating significant improvement in their mathematics and science studies, and increased motivation to remain in school.

In addition to the effective impact Dr. Salvadori has made upon our educational system, he has emerged as a major force in the field of architecture and engineer. As a partner and chairman of the board of Weidlinger Associates, Consulting Engineers, he has had a role in developing and constructing buildings all over the world. He was served on the staffs of Columbia, Princeton and the University of Rome. His publications in the fields of applied mathematics and architecture have been distributed world wide in over a dozen languages. Dr. Salvadori's colleagues have long recognized his brilliance, and he has received numerous medals and awards in architecture and engineering.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join with me this day in recognizing Dr. Mario Salvadori, a dedicated educator, a leading architect, and a person who unselfishly gives of his many talents.

CELEBRATING FIFTY YEARS OF COMMUNITY SERVICE BY THE AVON CLUB

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. COYNE. Mr. Speaker, I am pleased to have this opportunity to join with my constituents in saluting the members of the Avon Club who are celebrating over 50 years of community service.

The Avon Club was formed in 1944 as a social and community organization with membership open to women age 18 or over who live and work in the municipalities comprising the Avonworth School District. This area includes Ben Avon, Ben Avon Heights, Emsworth, Kilbuck and Ohio Township. It is an honor to represent these communities in the U.S. House as the Representative for the Fourteenth Congressional District and I want to speak to the Members of the House about the outstanding nature of the community service provided by the Avon Club.

The Avon Club was originally started in 1944 by women whose husbands were serving in World War II. Avon Club members aided the war effort by rolling bandages, knitting sweaters and corresponding with servicemen. When the war ended, Avon Club members refocused their activities on a broader array of

social interests and community projects. the Avon Club also established itself as a service organization willing to raise money to support civic improvements and other charitable community organizations.

Each year the Avon Club hosts two major fundraisers to support its many community service activities. An annual fall festival is sponsored in early October and this event features a celebration of the creative, musical, and culinary talents of local district residents. The annual fashion show and luncheon provides an opportunity to enjoy food and good conversation while viewing the latest from the fashion world. In addition to these fundraisers, the Avon Club has published a community telephone directory since 1952. Members canvass their local neighborhoods and all residents, local businesses, and merchants are invited to be listed in this valuable community resource.

Avon Club member dedicated the proceeds from these fundraising activities to the support of several charitable activities. Since 1990, these charitable activities have been managed by the Avon Club Foundation, a nonprofit organization which manages both fundraising activities and the distribution of funds. In 1994, the Avon Club Foundation gave away $7,671 and brought the total level of philanthropic contributions throughout their 50 years to over $100,000.

The Avon Club Foundation is guided by long-range goals emphasizing service to education, recreation, the environment and social responsibility. The foundation has donated funds to local parks, schools, sports organizations and also provides assistance to charitable organizations serving women and children. Members of the Avon Club have also volunteered with local recycling efforts and community cleanup days.

Mr. Speaker, it is fitting for the Members of the U.S. House of Representatives to join in saluting an organization like the Avon Club. The Members of the Avon Club are to be commended for their energy and neighborhoods together to the benefit of all local residents.

TRIBUTE TO CAPT. MIKE TRACY AND SGT. TOM VANDERPOOL

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Ms. HARMAN. Mr. Speaker, on Monday, May 15, the Grand Lodge of the Fraternal Order of Police will honor over 100 police officers from across the Nation who were slain in the line of duty. Among those officers are two courageous men from the 36th Congressional District of California who gave their lives to protect others. It is with deep sadness that I join in paying tribute to these individuals, Capt. Mike Tracy and Sgt. Tom Vanderpool.

Mike Tracy and Tom Vanderpool were both gunned down by a robber on February 14, 1994, while they attended a management seminar for employees of the city of Palos Verdes Estates, CA. Both men were model police officers who leave behind family, friends, colleagues, and a community made all the better by their service.

Mike, who was raised in Torrance, CA, first joined the PVE Police Department as a reserve officer in 1966. His colleagues described him as a ''cop's cop'': instinctive, professional, and supportive of his fellow officers. Those close to him say he liked to ''live life to the fullest,'' and many were touched by his humor and humanity. In his spare time, Mike counseled teenagers in trouble. He was also a husband, and father of two.

Tom spent his early years in law enforcement with the Los Angeles Police Department before beginning 13 years of service with the PVE Police Department. He was respected by his colleagues and occupied a special place in the hearts of needy children in the community. Every Christmas, he would use his patrol car to deliver toys, blankets, and clothing to these children and their families. A husband and father of three, Tom was preparing to celebrate his 36th wedding anniversary shortly before he was killed.

My heart fills with sadness when I think of the tragic circumstances surrounding the deaths of these two officers. The job of our law enforcement officers has changed dramatically from earlier times in our Nation's history. Not only must these officers protect our citizens against dangers unimaginable, but they must increasingly protect themselves from mindless expressions of rage and frustration. We owe an enormous debt of gratitude to those men and women who do the job of law enforcement every day.

A luncheon to award the South Bay Medal of Valor was recently held in my district to honor those who have performed heroic acts in the line of duty. Capt. Mike Tracy and Sgt. Tom Vanderpool were both awarded the medal posthumously. I only wish the legislative schedule had permitted me to be there, as I was when hundreds of Californians including my Governor attended their funeral.

To their families and friends, and to the families and friends of all officers slain in the line of duty, your loved ones were patriots. They gave their lives for ours.

IN HONOR OF GILBERT HERRERA, OUTSTANDING YOUNG TEXAS-EX

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. HALL of Texas. Mr. Speaker, it is my privilege to rise today to pay tribute to Gilbert A. Herrera, a recipient of the 1995 Outstanding Young Texas-Ex Award. Gilbert was a page in the Texas Senate during the time that I was a Texas State Senator, and we have been great friends ever since. Gilbert's intelligence, enthusiasm, and commitment to excellence have served him well, culminating with this prestigious honor.

The Outstanding Young Texas-Ex Award has been presented annually since 1980 by the Ex-Students' Association to four alumni under the age of 41 who have excelled in their chosen fields of endeavor and have shown loyalty to the University of Texas. The 1995 award will be presented during UT's spring commencement ceremonies on Saturday, May 20.

Gilbert graduated from UT in 1978 with a B.B.A. degree in finance. He is a principal of G.A. Herrera & Co., a private investment banking firm with offices in Houston and Austin, and he is also a consultant on corporate governance. Gilbert previously served in a variety of corporate finance and banking positions. In 1993 he was appointed by the Supreme Court of Texas to the Commission for Lawyer Discipline, where he serves as chair of its budget committee.

Gilbert also has been active in community service. He is a member of the Board of Advisors for the Texas Product Development Commission. In Houston he served on the Houston Parks Board and as trustee of the Harris County Mental Health and Mental Retardation Authority, where he chaired the Legislative and Employee Benefits Committees. Gilbert is a life member of the Ex-Students' Association, a lifetime member of the Century Club, a member of the Littlefield Society, the UT Chancellor's Council, the MBA Investment Fund, L.L.C., and the Longhorn Associates for Women's Athletics.

Gilbert and his wife, Kari, have been personal friends of mine for many years. Today I join their family and many friends in offering my sincere congratulations to this outstanding young Texas Ex on his selection for this prestigious award. His achievements are a source of pride for his family, his friends, and the University of Texas, and I know that he will continue to distinguish himself in his profession as well as in his service to his community, his State, and his country.

IN RECOGNITION OF THE MEXICAN-AMERICAN OPPORTUNITY FOUNDATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. TORRES. Mr. Speaker, I rise today to congratulate and recognize the Mexican-American Opportunity Foundation [MAOF] as they inaugurate their new facilities on Thursday, May 11, 1995.

MAOF was founded in 1962 by Mr. Dionicio Morales in Los Angeles, CA, and for over 33 years it has provided educational and charitable assistance to the general public and the Latino community. MAOF has developed and administered projects, programs, research and related activities on behalf of the socially and economically disadvantaged youth and adults of our community.

One of the special projects began when Mr. Morales and MAOF recognized the plight of Latina women. Eighteen years ago, MAOF created ''Visiones Hispanas'', a Hispanic women's conference that focuses on Hispanic women's needs and provides direction on career and education opportunities.

In furthering their mission to assist economically disadvantaged individuals, MAOF has established child care development programs. MAOF founded these centers to provide a bilingual/bicultural learning environment for children. It is a developmental program where children, whether they speak only English or only Spanish, become an integral component of this educational interaction with the teachers. Additionally, MAOF sponsors child nutrition programs, in conjunction with their child

care development centers, to ensure that the children are receiving a nutritious diet.

In short, MAOF has been at the forefront of helping the people of the community advance and prosper through work and education.

Mr. Speaker, it is with pride that I rise to recognize one of the finest community organizations in the country, the Mexican-American Opportunity Foundation, and its founder, Mr. Dionicio Morales. I ask my colleagues to join me in congratulating them and wishing them continued success in their new facility.

COMMEMORATING THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

SPEECH OF

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. RADANOVICH. Mr. Speaker, this evening I want to enter into the CONGRESSIONAL RECORD statements written by two young Armenian students from my district. These letters were written about the Armenian genocide and were selected as award winning essays by the Central California chapter of the Armenian National Committee.

These essays are statements about the suffering the Armenian people incurred at the hands of the Ottoman Turkish government, and about remembering the victims of the genocide. I am honored to represent thousands of Armenians in my district, and equally honored that I can count essay award winners Taleen Kojayan and Denyse Kachadoorian among them.

MANY REASONS TO REMEMBER

(By Taleen Kojayan)

Everyone knows about the Jews and the Holocaust, about the horrible agony they were put through by the Germans. But who knows about what began on the terrible day, April 24, 1915? To most people this is just an ordinary day from the past. It has no meaning, no significance. But, to every proud Armenian, this date means anguish and grief. It reminds them of the torture their people went through years before. It reminds them of Armenian genocide.

''Armenian genocide? Is that the German thing?'' said someone. When the word ''genocide'' is heard, that's what most people think of. Little do they know that there was another genocide, where two-thirds of a nation was wiped off the face of this Earth. One and one-half million Armenian men, women and children massacred.

Who is responsible for the dreadful butchery of the Armenian people? The answer is clear. There is no doubt that the Turks were the ones who wanted to get rid of the Armenians for good.

This wasn't the first time that the Turks had harmed the Armenians. There is a history of conflict between them. For example in 1896, the Turks managed to kill 300,000 Armenians. There were also other instances during 1894, which is the time they began their campaign to wipe out the Armenians.

Of course it isn't logical that 1.5 million Armenians were killed in one single day. The day April 24 was chosen as the beginning for a special reason. On this day, about 200 Armenian intellectuals were gathered from the Turkish city of Istanbul. They were taken to central Turkey and were never heard from again. People are weaker without their leaders, and the Turks knew that. This marked the start of the Armenian genocide.

The first place they wanted ''Armenian-free'' was Istanbul. Many Armenians lived there who had power and money. They owned businesses and controlled the markets. The Turks were tired of being outnumbered by Armenians in their own city. So, they walked out in the streets beating a big drum. They said they needed Armenian men between the ages of 16 and 60 to fight in the war for them. That was just an excuse.

Some of the richer Armenians paid a fee, called the Bedel, to try to get their sons out of the fighting. Even though the fee was paid, it was ignored and the men still had to go. Others might have known that there was more to the story than what they were being told.

The Turks could have killed the people right there in Istanbul, so why didn't they? Well, the killing couldn't go on in Istanbul because it was close to Europe. The Turks couldn't run the risk of anyone knowing. So, the people were rounded up, taken to central Turkey and then massacred just like the intellectuals.

So began three years of pain and death for the Armenian people. They were tortured in many ways. Most were sent out into the desert with no food or water. It soon became the grave of many helpless Armenians, including a member of my grandfather's family. Some people were hung, and some were shot. The heads of others who were beheaded were displayed on wooden poles. Some little girls who survived this horrible ordeal were found in other homes.

All of this suffering, and who knows about it? No one knows, and no one cares about what happened to us. Why are the Armenians so unimportant to this world? Yes, the massacre happened, and no, we shouldn't live in the past. But something like this should not and cannot be forgotten. When the extermination of a whole race of people is attempted, everyone should remember so that they will learn from our mistakes.

''After all, who remembers today the extermination of the Armenians?''

—Adolf Hitler, Aug. 22, 1939.

We shouldn't forget that the Armenian people made it through. They strived to make sure that the Turks did not succeed. And they accomplished just that, or else I wouldn't be here today. The Armenians survived, and will continue to do so.

''Go ahead, destroy Armenia. See if you can do it. Send them into the desert without bread or water. Burn their homes and churches. Then see if they will not laugh, sing and pray again. For when two of them meet anywhere in the world, see if they will not create a new Armenia.''

—William Saroyan.

[Taleen Kojayan is a 10th-grade student at Clovis West High School.]

HORRID MEANS OF SUFFERING

''We will forget our terrible wound and our grief. We will forget, won't we? If we return to our land.''

—Vahan Tekeyan, 1918.

(By Denyse Kachadoorian)

Genocide can be defined in five acts: killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the groups, or forcibly transferring children of the group to another group. Unfortunately the Armenians living in 1915 experienced these inconceivable acts, but the survivors struggled and overcame many hardships to rebuild their race.

The ''Armenian Experience'' started during the late 1800s. Armenians suffered greatly under Turkish rule from discrimination, heavy taxation and armed attacks. From 1894 to 1896, the Turks and Kurds, under Sultan Abdul-Hamid II, carried out a campaign to erase Armenians. Hundreds of thousands were killed.

During World War I, Armenia became a battleground between Turkey and Russia. The Turks feared the Armenians would aid the Russians. As a result, they deported Armenians living in Turkish Armenia into the desert of present-day Syria. Approximately 1 million Armenians died of starvation or lack of water alone. Several others fled to Russian Armenia and in 1918 formed an independent republic.

The Armenians people endured horrendous types of suffering—physical, emotional and tragic moral choices. Hunger plagued the minds of many Armenians in 1915. Some people were reduced to eating grass, similar to cattle grazing.

Several diseases were contracted during this time; typhus, dysentery, malaria and others. Lice was a familiar problem for these Armenians. Children who entered orphanages were deloused before anything else. Armenians were forced to live as wild animals, exposed to desert heat by day and freezing cold or rain at night.

Beyond the physical pain, the genocide victims had to deal with emotional suffering. Practically every survivor can name a family member who was murdered during this period.

Although the massacre occurred almost 80 years ago, it continues to touch the present generations. My paternal grandmother, born in 1911 in Armenia, was a survivor. She vividly described her family situation as homeless and broke. Her father, grandfather and uncle were all captured and presumably murdered. They were forced to abandon their homes and linger around the town for any sign of assistance. Relief arrived soon when an uncle, who lived in the United States, gave them enough money to emigrate to America.

In 1915, the world became aware of the Armenian genocide by newspapers, books, articles, official investigations and eyewitness accounts. Even following these valid accounts, the U.S. government has denied April 24 as a day of national recognition of the Armenian Genocide, The debates of 1985 and 1990 clearly reveal that the world is still withholding a formal declaration of these terrible events. The reason behind the U.S. government's decision for rejecting the day is that Turkey is an important NATO ally and jeopardizing the national security over an issue so insignificant would not be in the best interests of the American public.

As a result, the American government denied the day of remembrance to Armenians. This decision was hard to swallow for Armenian-Americans. They felt that the government to which they held allegiance to, contributed to and fought for had slighted them as a race. Armenians who began a new life in the United States decided to put aside their troubles and past experiences and work hard in their new homeland. Their determination and work ethic enabled them to blossom into reputable citizens of this country.

These survivors have rebuilt a proud race with strong family unity, despite the disappointing fact that they are disregarded as victims of an international atrocity by their government. Nevertheless, Armenians are proud of themselves, their fellow brothers and their history.

[Denyse Kachadoorian is in the 11th grade at Bullard High School.]

DR. CHARLES A. BRADY, A MULTI-TALENTED MAN

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. LAFALCE. Mr. Speaker, western New Yorkers and the Canisius College community in Buffalo this weekend mourned the passing of Dr. Charles A. Brady, former head of the college's English Department author and literary critic for the Buffalo News for more than half a century.

Dr. Brady was an extremely talented, multifaceted person, as evidenced by the Buffalo News' obituary, which described him as: ''A professor, poet, novelist, critic and caricaturist * * *.''

In addition to his voluminous literary creations, Dr. Brady will also be remembered fondly by the many generations of Canisius' alumni, like me, who were taught and influenced by him.

Following are his obituary which appeared in the Buffalo News, and an insightful article by Jeff Simon, the News' book editor, which appeared in the paper May 9 and headlined: ''A Man of Letters, but Even More, a Man of Life.''

CHARLES A. BRADY DIES; CANISIUS PROF., AUTHOR, LITERARY CRITIC FOR NEWS WAS 83

Charles A. Brady, former head of the English Department at Canisius College, author and literary critic for The Buffalo News for five decades, died Friday (May 5, 1995) in Sisters Hospital, following a long illness.

A professor, poet, novelist, critic and caricaturist, Brady had used both pen and wit to illuminate even the darkest recesses of literature for three generations of Western New Yorkers. He was 83.

Brady, who was born April 15, 1912, often pointed out that he was born ''the day, the hour and the moment that the Titantic sank.''

It was that coincidence, he said, that gave him his ''bent for epic things.''

For more than 50 years, Brady served as an intellectual beacon to students and residents of the Buffalo area and beyond, contributing to and interpreting the literary scene both here and abroad.

A man of enormous enthusiasm and dauntless energy, Brady since childhood defied a serious heart condition and pursued an active life, often from his bedside at home, or in the hospital.

Bardy wrote four novels. One of them, ''Stage of Fools: A Novel of Sir Thomas More,'' outsold any book published by E. P. Dutton in 1953. It was translated into Dutch and Spanish and printed in paperback as well as hard cover.

In 1968, the Poetry Society of America gave first prize to Brady's ''Keeper of the Western Gate'' and, in 1970, its Cecil Hemley Memorial Award for the best poem on a philosophical theme, ''Ecce Homo Ludens.''

C.S. Lewis, the eminent British author, once called Brady's critique of his work the best published in Great Britain and the United States.

Brady's literary output was voluminous—from novels, short stories, poems, children's stories, holiday ''fantasies,'' to critical essays and book reviews. Throughout his work ran the deep vein of history.

Son of Andrew J. Brady Sr., a former lumberman who owned freighters on the Great Lakes, and Belinda Dowd of Black Rock, Brady's commitment to literature began at Canisius College, which he attended after graduating from Canisius High School in 1929. He received his bachelor of arts degree from Canisius in 1933.

During those years, he also played championship tennis and, in the spring of 1987, was named to the Canisius College All Sports Hall of Fame for his undergraduate tennis prowess.

He received a master of arts degree in English from Harvard University and then returned to Canisius at age 23 as an associate professor of English.

A year later, he was promoted to professor and chairman of the English Department, a position he held until 1959, when he continued his professorship until retirement in 1977.

In his more than 40 years at the college, he touched and helped mold the tastes and lives of thousands of students and graduate students, many from other colleges or universities, who also attended his courses or sought his counsel.

The AZUWUR, the Canisius College yearbook, was dedicated to Brady in 1956 and again in 1976.

From 1938 to 1941, Brady directed Canisius College's graduate division, and during World War II, in addition to his English classes, he taught the classics, French, military geography and Renaissance history.

Academically, Brady probably was best known for his lectures and critical studies of Cooper, Marquand, Sigrid Undset, Charles Williams, the Volsunga Saga, John Le Carre and C.S. Lewis. His studies on J.R.R. Tolkien and, more especially, Lewis, have been cited as ''definitive in this country.''

Copies of Lewis' original letters to Brady, embracing a correspondence that the British author initiated and that continued over a number of years, are in the Bodleian Library at Oxford University.

In addition to ''Stage of Fools,'' Brady's works include ''Viking Summer,'' which combined Norse legend with a present-day Niagara Frontier setting; ''This Land Fulfilled'' and ''Crown of Grass,'' both historical novels; ''Wings Over Patmos,'' a book of verse; and ''A Catholic Reader,'' a personalized anthology.

For children, he wrote ''Cat Royal,'' ''The Elephant Who Wanted to Pray,'' ''The Church Mouse of St. Nicholas'' and ''Sir Thomas More of London Town.'' For older children, he wrote ''Sword of Clontart'' and ''The King's Thane.''

A short story, ''The Foot That Went Too Far,'' which he had written as an undergraduate, was the origin of the griffin as the Canisius College mascot.

The capstone of his career at Canisius was writing the college's centenary history, ''Canisius College: The First Hundred Years.'' Written over almost five years, the book, unlike most school histories, was done in an impressionistic style, capturing the spirit of the college as well as that of the Niagara Frontier.

Brady wrote for national and international journals, and reviewed books for other major publications, such as The New York Times, the old Herald Tribune, America, Commonweal and the Catholic World.

A man of many talents, including some musical composition, Brady enjoyed drawing line caricatures of authors, many of which were used to illustrate his critical essays and book reviews for The News. His last book review and drawing for The News was printed March 12.

In September 1986, the Burchfield Center at Buffalo State College exhibited his literary caricatures in a one-man show.

A familiar figure on the lecture platform, Brady held the Candlemas Lectureship at Boston College and gave Notre Dame's Summer Lectures in the humanities.

The News named him ''an outstanding citizen'' in 1970.

He was the recipient of the Canisius College LaSalle Medal, the highest honor awarded to an alumnus. In 1970, the Canisius Alumni Association presented him with its Peter Canisius Medal for his ''scholarly brilliance and teaching excellence that inspired and informed legions of Canisius students.''

A longtime resident of the Town of Tonawanda, he moved to Buffalo's Delaware District in the early 1990s.

Brady is survived by his wife of 57 years, the former Mary Eileen Larson; four daughters, Karen Brady Borland and Moira Brady Roberts, both of Buffalo, Sheila Brady Nair of New Bethlehem, Pa., and Kristin M. of London, Ont.; two sons, Erik L. of Arlington, Va., and Kevin C. of Buffalo and 17 grandchildren.

Prayers at 11 a.m. Monday in the George J. Roberts & Sons Funeral Home, 2400 Main St., will precede a Mass of Christian Burial at 11:30 a.m. in Christ the King Chapel at Canisius College, 2001 Main St. Burial will be in Mount Olivet Cemetery in the Town of Tonawanda.

A MAN OF LETTERS, BUT EVEN MORE, A MAN OF LIFE

Charles Brady died on Friday afternoon at age 83. His loss to The News' book pages is virtually incalculable. If it isn't precisely accurate to say that Charles A. Brady invented literary reviewing at The Buffalo News, it's certainly close enough to the truth to pass. He was a treasured literary voice here in five separate decades.

I've been The News' book editor for six years and was the book assignment editor for six years before that. Editing Dr. Brady and finding books that I knew would stimulate him provided the job's greatest pleasures.

His latest work would appear in my mail every Friday or Monday morning. Inside the envelope—impeccably typed on soft, old-fashioned, khaki-colored copy paper—would be three pages of crystalline prose. Accompanying it, on white paper, would be one of his pen-and-ink caricatures. Even on busy Mondays, I would try to save editing Dr. Brady for the last work of the day—an Edwardian reward of wit, wisdom and uncommon grace for dealing with all the coarse, witless drudgery that almost all work requires, journalism included.

At least half the time, there would be a word or spelling in it that I'd never encountered before—some strange semantic hippogriff that Dr. Brady had captured in his library and uncaged for the delight and enchantment of company.

Typically, I'd walk over to our glorious battery of dictionaries in a state of bafflement or skepticism: Surely, this time, it's a misspelling. And then the huge Random House Dictionary, American Heritage Dictionary and Oxford English Dictionary would set me straight—Dr. Brady's was very much a word, even if its usage or spelling were Victorian or Elizabethan.

It's a walk I'll never make again; it's a smile of marvel and appreciation I won't be smiling anymore.

Every day that goes by brings at least one book that I would automatically send to Dr. Brady in total confidence that it would elicit a smile of complicity on the other end of our discourse-by-mail-and-phone.

No discussion was necessary to pick out ''Brady books.'' I have been reading him since my early teens. I knew what he liked or, failing that, what interested him. That was vastly more than the epics or Celtic

myths or Irish literature or work of C.S. Lewis, J.R.R. Tolkien and their fellow Oxford Inklings that people thought of as his special province. It encompassed virtually the whole of English literature, early American literature (James Fenimore Cooper was a Brady specialty; minor Twain was a Brady weakness), all American fictional modernism and, late in life, Yiddish and Jewish literature, for which he developed an entirely unpredictable fondness.

We disagreed strongly on some writers, but he was the sort of man with whom disagreement was one of the friendliest experiences you could have. If he never quite subscribed to all the hoo-ha about Jorge Luis Borges from me and others, he would, with impish geniality, point out how much he liked Anthony Burgess, and what was the name Borges, after all, but the Spanish version of Burgess?

It's also true, I think, that he was doing some of the best journalistic work of his life in his final decade. In the place of earlier reviews that could sometimes be constricted by myth (it's tempting to call such prose ''myth-begotten'' and hope he'd approve), his work in the past decade was informed by marvelous wit, total scholarship and a glorious new clarity. I could delude myself into thinking that our unspoken communication had something to do with it, but I know it's not the case.

I think what his readers read in the past decade was the work of a man who, besides being loved at home, had finally thrown off all the vestiges of professorial presentation. To be as great a teacher as so many generations of Canisius College students say that Charles Brady was requires a certain theatricality—a well-communicated sense of literary passion and identification, an exaggerated self-definition.

You can't just commune with the avid young scholars in the front row. If you have any honor at all, you have to communicate something to the deadheads in the cheap seats. Even if they don't understand a word you're saying, you have to give them some sense of the bardic and of the glory of a life spent in literature.

It made some of this '70s and early '80s journalism operatic in its mythology, I think. In his final decade's work, he had stopped composing operatic arias and started composing magnificent chamber music. It is then, I think, that we heard his truest voice—just as passionate as the Yeatsian visionary his students knew, but wittier, more Edwardian and seemingly effortless.

Wonderfully apropos quotes from the Alexandrian library inside his head would find their way into his work, but so would the damnedest, spot-on references to the society around him.

Anyone who thought that he resided in a 1940s Oxford of his own devising would be disabused of that notion on encountering an up-to-the-minute and unfalsified Brady take on academic gender wars or a perfectly appropriate reference to gangsta rap. (I must confess, the day I first encountered the phrase ''gangsta rap'' in a review by the 82-year-old Brady, I threw my head back and roared with pleasure.)

He was, in that great Henry James phrase, a thoroughly independent and aware man ''on whom nothing was lost.''

I remember seeing Dr. Brady on an old '50s Buffalo television show called ''The University of Buffalo Roundtable.'' The subject of Beat poetry came up. The acceptable cant from the Professoriat of the '50s—and certainly from those on that show—was that the Beats were, to a man, hairy and filthy overhyped pretenders. Brady listened patiently to it all and said, ''I don't know, I haven't read all of them, but I've read some (Lawrence) Ferlinghetti and I think he's pretty good.''

Lest one think that his tower was totally ivory, he was also, without fail, the most journalistically current book reviewer we had—right to the end. It never ceased to amaze me that an old valiant man in failing health was, without question, our greatest sprinter. His reviews of major books would continually precede and presage major treatment in the New York Times and the newsmagazines, often by several weeks. In such matters, his instincts were impeccable.

When longtime readers lose a voice like Charles Brady's it is always a personal loss, even for those who never knew him. But at the end of his life, I think, he was teaching us all some life lessons that were infinitely greater than he ever taught in the classroom—that the life of the mind can not only survive intact to the very hour of our death, but can, until the moment one is visited by what James called ''that distinguished thing,'' actually increase in acuity, understanding and grace.

The world is full of people whom Charles A. Brady taught how to read and write and think.

At the end of his life and bedeviled by illness, he taught us something even richer—how to be.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

SPEECH OF

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes:

Ms. PELOSI. Mr. Chairman, I rise today to offer my support for H.R. 1361, the Coast Guard Authorization Act of 1996.

Since 1915, the Coast Guard has played a critical role in the protection of life and property on the high seas and in the enforcement of all applicable federal laws on, over, and under our oceans. The Coast Guard has maintained coastal navigation aids, engaged in icebreaking activities and has protected our fragile environment. The Coast Guard is also responsible for the safety and security of vessels, ports, waterways, and their related facilities.

Mr. Speaker, in addition to these maritime safety responsibilities, the Coast Guard also performs drug interdiction for the entire U.S. coastline, responds to all coastal oil spills, protects U.S. fisheries, and responds to human migration crises.

H.R. 1361, which reflects a slight increase over this year's funding level, recognizes the enormous responsibilities performed by the men and women of the Coast Guard every day and it deserves our bipartisan support. I urge all of my colleagues to support this legislation.

SUPERIOR PERFORMANCE BY SPRINGFIELD, VIRGINIA'S LEE HIGH SCHOOL CHOIRS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. HYDE. Mr. Speaker, once again a magnificent performance by the Lee High School Madrigal Singers and Ladies' Chamber Choir earned them ''Superior'' marks in the April 22 Boston Festivals of Music Competition.

Schools from the United States and Canada were competing for the honor of being judged ''Superior'' by receiving the highest numerical score in each category of competition within their division.

In addition to capturing the ''Superior'' title within their division, the Madrigal Singers were awarded the ''Grand Champion'' trophy for receiving the highest scores of all choirs competing in the 1995 ''Boston Festival.'' Five scholarships to a choral summer camp were presented to the group.

The Singing Lancers, five separate choirs in all, are a terrific group of teens with many proud accomplishments. The choral program is directed by Mr. Lindsey Florence who has been with Lee since 1978 and directed numerous choirs whose efforts have resulted in award-winning performances in North America.

This special group of young vocalists love to touch the world with their songs, and that is exactly what they did yesterday. The five choirs entertained the young patients at Children's Hospital where they brought some of the children's favorite songs to life in a program they choreographed themselves. Selected choirs have performed at the White House, Drug Enforcement Administration, Virginia Music Educators Conference, and numerous civic organizations. I am very pleased to recognize the Singing Lancers and the positive image they project to their community.

I want to once again offer my personal congratulations to Mr. Florence, an exceptional music teacher, and to the following young men and women who experienced the rewards of their hard work the night they were chosen ''Superior.'' Members of the Madrigal Singers are: Pam Albanese, Gretchen Arndt, Andy Barrett, Steph Daniels, Alisa Ersoz, Craig Goheen, Steph Hawk, Heidi Hisler, Jen Holder, Matt Horner, Cathy Javier-Wong, Robbie Johanson, Emily Mace, Tanya Moore, Scott Niehoff, Ty Oxley, Corey and John Perrine, Joe Steiner, and Becky Whittler. The members of the Ladies' Chamber Choir are: Beth Brown, Alison Cherryholmes, Rebecca Dosch, Randa Eid, Stephanie Evans, Katie Farrell, Kelly Good, Emily Henrich, Nadiyah Howard, Amy Huntington, Mary Kim, Christina Lewis, Jenn Montgomery, Sara Nahrwold, Nicole Orton, Courtney Parish, Jenny Platt, Laura Scheip, Damara Thompson, Nhien To, and Marika Tsanganelias. My very best wishes to this very special group of teens.

COMMENDING LIEUTENANT COLONEL MOSES WHITEHURST FOR SERVICES WELL-RENDERED

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. COOLEY. Mr. Speaker, I rise today to recognize the service and the accomplishments of Lt. Col. Moses Whitehurst, Jr. who commanded Umatilla Depot Activity [UMDA], in Hermiston, OR from July 1993 to July 1995. Although continually challenged with mission changes, personnel reductions, dwindling resources, and short supplies, Moses Whitehurst performed his duties with vigor and professionalism while always meeting or exceeding requirements and expectations.

Lieutenant Colonel Whitehurst performed mission operations effectively as exhibited by successful completion of countless reviews and inspections. While under the command of Lieutenant Colonel Whitehurst, UMDA exceeded fiscal year 1994 conventional ammunition demilitarization forecasts by accomplishing 100 percent of the workload ahead of schedule. In addition, UMDA exceeded all expectations for shipment of ammunition stocks and general commodities by shipping more in fiscal year 1994 than had been shipped in the 4 previous years combined.

During Lieutenant Colonel Whitehurst's service, UMDA met or exceeded all BRAC time requirements. Through effective use of the one team approach, he has ensured a seamless transition for the operational control of the chemical stockpile mission from the Industrial Operations Command to the Chemical and Biological Defense Command.

By all accounts, Lt. Col. Moses Whitehurst has done an outstanding job of fulfilling all UMDA civic responsibilities and ensuring that a very positive public perception was maintained by the communities surrounding the installation. Under his command, UMDA was always well-represented at all meetings regarding CSEPP; in addition to hosting many local professional groups at UMDA, which included tours of the installation.

During his command tour at Umatilla Depot Activity, Lieutenant Colonel Moses Whitehurst set a tone of professionalism and teamwork. His exceptional leadership performance is a credit to himself, the Tooele Army Depot Complex, the Industrial Operations Command, and the U.S. Army. The people of the Second District and I are grateful to have had the benefit of his service.

TWA—NEW YORK TO LONDON

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mr. CLAY. Mr. Speaker, I would like to share with this body an issue which is of great importance to the St. Louis community and vital to the future of one of our major domestic airlines, Trans World Airlines. TWA, which maintains its operating hub at Lambert International Airport in St. Louis, needs to regain its longstanding New York-London route authority.

I have joined my St. Louis area colleagues in urging the Department of Transportation to pursue this issue in behalf of TWA at the ongoing bilateral negotiations with United Kingdom representatives. I would like to take this opportunity to share the text of a letter which St. Louis Mayor Freeman Bosley recently sent to the Transportation Secretary Fredrico Peña. This communication clearly articulates the vital importance of TWA's request for New York to London route authority.

DEAR SECRETARY PEÑA: I am submitting this letter as Mayor of St. Louis in strong support of Trans World Airlines regaining its long-standing New York-London route authority in the current bilateral negotiations with the United Kingdom. It is essential that TWA—one of the nation's great pioneers of international service—not be left out of these negotiations.

TWA maintains its major hub operation at St. Louis and employs over 12,000 Missourians. This proposed New York-London (Gatwick) service would not directly affect Missouri (TWA already flies between St. Louis and Long-Gatwick), but it would go far toward rebuilding an airline attempting to escape the financial damage and job loss caused by less than satisfactory management for over six years.

TWA had served London since 1950 from several large U.S. gateways and all but the St. Louis authority was sold in 1991 and 1992. St. Louis opposed such sales and unsuccessfully appealed the Department's approval. Under new energetic management. TWA is now seeking to return to the New York-London market which was wrongfully given up by prior management and whose transfer was wrongfully approved by the prior Administration. The present Administration should be fairness to TWA and its new employee ownership move to redress that error and find a means to return to TWA its New York-London authority which was the backbone of its transatlantic route system. The current negotiations offer an ideal opportunity to accomplish this objective.

I also want to urge that TWA be granted St. Louis-Toronto authority as early as possible under the new U.S.-Canada agreement. St. Louis has been attempting for fifteen years to obtain nonstop St. Louis-Toronto service. The St. Louis area and the entire state of Missouri have an exceptionally strong community of interest with Toronto and Canada as a whole. Through all this period Toronto has continued to represent one of the major deficiencies in St. Louis air service. St. Louis clearly ranks very high on the nation's list of deprived cities as far as Canada is concerned. It is long past time to remedy this situation.

TWA's proposed St. Louis-Toronto service involves first nonstop operations to one of the largest U.S. service areas, would offer beyond traffic support unequaled by any other carrier and would provide the only effective means through one service proposal of meeting the Canada needs of both the Midwest and Western parts of the United States. TWA should definitely be one of the carriers selected for Toronto service in the second year of interim operation.

Further, St. Louis—in addition to its tremendous beyond area support—has a very strong traffic base in its own area. St. Louis is the nation's fifth ranking Fortune 500 company headquarters city and was ranked by World Trade magazine as one of the ten best U.S. cities for international companies. Substantial numbers of St. Louis area companies have major business ties to Canada. The Canadian business investment in the St. Louis area is similarly substantial and long standing in nature. According to Canadian data (Canadian Consulate, Chicago) total Missouri exports to Canada were $1.934 billion in 1993 and Canadian exports to Missouri were $1.435 billion in that year. Trade between Canada and Missouri is about the same as that between Canada and Mexico.

In the interest of building a sound airline industry, it is high time that the Department look away from the mega-carriers such as American, Delta, Northwest and United in favor of competition. TWA's London and Toronto requests are fully in accord with the Administration's consistent position that there should be increase competition—not less—in the airline industry.

Moreover, there are unique reasons for finding ways to strengthen TWA. The most important of these is the fact that TWA is under new ownership by its own employees. TWA's employees now own 45 percent of the voting stock of the carrier, an equity interest for which the employees are paying substantial amounts in hard earned wages. These employees have incredible dedication to the success of the carrier. This development—the employee-ownership reorganization of TWA—represented the first successful equity reorganization of this nature in the industry and constitutes a model for subsequent airline restructuring. It should be encouraged by the Department.

Further, TWA has demonstrated great determination to reform itself by completely overthrowing its old management and by developing new service concepts that truly attempt to met public needs. It was able to effect its major ownership and management change and come through a painful reorganization under Chapter 11 in an expeditious and successful fashion. It is now undergoing a further financial restructuring to strengthen its operation. These efforts by TWA's employee owners deserve to be recognized by the Department as a major favorable development in an airline industry that has seen too few favorable developments in recent years.

In achieving its turnaround, TWA has been able to preserve one of the great historic names in the international aviation arena. TWA was a true pioneer of international operations and its name continues to command respect abroad. It is only right that the Department move to strengthen the carrier in the international arena and grant it strong London and Toronto routes which will materially aid its operations while at the same time meeting clear public needs. I appreciate your consideration of these matters which are vital to TWA's future.

Sincerely,

FREEMAN R. BOSLEY, JR.,
Mayor.

WORKING FAMILIES HEALTH ACCESS ACT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, as a step toward creating a national health care policy that assures continuity of coverage for all working Americans, I am introducing the Working Families Health Access Act of 1995 and invite your co-sponsorship.

The text of the bill follows:

H.R. —

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Working Families Health Access Act of 1995''.

SEC. 2. PROMOTING THE CONTINUITY AND PORTABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by inserting after chapter 44 the following new chapter:

''CHAPTER 45—CONTINUITY AND PORTABILITY OF HEALTH COVERAGE

''SEC. 4986. IMPOSITION OF TAX FOR FAILURE TO MEET CONTINUITY AND PORTABILITY STANDARDS.

''(a) INSURED HEALTH PLANS.—

''(1) IN GENERAL.—In the case of any health insurance policy which fails to meet the applicable standards specified in this chapter at any time during a calendar year, there is hereby imposed a tax equal to 25 percent of the premiums received under such policy during the calendar year.

''(2) LIABILITY FOR TAX.—The tax imposed by paragraph (1) shall be paid by the issuer of the policy.

''(3) TREATMENT OF PREPAID HEALTH COVERAGE.—For purposes of this subsection:

''(A) IN GENERAL.—In the case of any prepaid health arrangement—

''(i) such arrangement shall be treated as a health insurance policy,

''(ii) the payments or premiums referred to in subparagraph (B)(i) shall be treated as premiums received for a health insurance policy, and

''(iii) the person referred to in subparagraph (B)(i) shall be treated as the issuer.

''(B) PREPAID HEALTH ARRANGEMENT.—For purposes of subparagraph (A), the term 'prepaid health arrangement' means an arrangement under which—

''(i) fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage regardless of how such coverage is provided or arranged to be provided, and

''(ii) substantially all the risks of the rates of utilization of services is assumed by such person or the provider of such services.

''(4) INSURANCE POLICY.—For purposes of this subsection, the term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

''(5) PREMIUM.—For purposes of this subsection, the term 'premium' means the gross amount of premiums and other consideration (including advance premiums, deposits, fees, and assessments) arising from policies issued by a person acting as the primary insurer, adjusted for any return or additional premiums paid as a result of endorsements, cancellations, audits, or retrospective rating.

''(b) SELF-INSURED HEALTH PLANS.—

''(1) IN GENERAL.—In the case of a self-insured health plan which fails to meet the applicable standards specified in this chapter at any time during a calendar year, there is hereby imposed a tax equal to 25 percent of the health coverage expenditures for such calendar year under such plan.

''(2) LIABILITY FOR TAX.—The tax imposed by paragraph (1) shall be paid by the plan sponsor.

''(3) SELF-INSURED HEALTH PLAN.—For purposes of this subsection, the term 'self-insured health plan' means any plan for providing accident or health coverage if any portion of such coverage is provided other than through an insurance policy.

''(4) HEALTH COVERAGE EXPENDITURES.—For purposes of this subsection, the health coverage expenditures of any self-insured health plan for any calendar year are the aggregate expenditures for such year for health coverage provided under such plan.

''(c) LIMITATIONS ON IMPOSITION.—

''(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed under this section on any failure for which it is established to the satisfaction of the Secretary that none of the persons liable for the tax knew, or exercising reasonable diligence would have known, that such failure existed.

''(2) TAX NOT TO APPLY TO CERTAIN FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) or (b) on any failure if—

''(A) such failure was due to reasonable cause and not to willful neglect, and

''(B) such failure is corrected during the 30-day period beginning on the 1st date any person liable for the tax knew, or exercising reasonable diligence would have known, that such failure existed.

''(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by this section to the extent that the payment of such tax would be excessive relative to the failure involved.

''SEC. 4987. NONDISCRIMINATION BASED ON HEALTH STATUS.

''(a) COVERAGE UNDER GROUP HEALTH PLANS.—A group health plan and a carrier offering health insurance coverage in connection with such a plan may not establish or impose eligibility, continuation, enrollment, or contribution requirements for an individual based on factors directly related to the health status, medical condition, claims experience, receipt of health care, medical history, disability, or evidence of insurability of the individual.

''(b) INDIVIDUAL COVERAGE.—

''(1) IN GENERAL.—A carrier offering health insurance coverage (other than in connection with a group health plan) may not establish or impose eligibility, continuation, or enrollment requirements for a qualifying individual (as defined in paragraph (2)) based on factors directly related to the health status, medical condition, claims experience, receipt of health care, medical history, disability, or evidence of insurability of the individual.

''(2) QUALIFYING INDIVIDUAL DEFINED.—For purposes of paragraphs (1), the term 'qualifying individual' means an individual who meets all of the following requirements:

''(A) The individual is in a period of qualifying previous coverage (as defined in paragraph (3)) which is at least 6 months long.

''(B) The individual is not eligible for coverage under any group health plan (including continuation coverage under section 4980B) and has not lost such coverage but for a failure to make required premium payments or contributions or due to fraud or misrepresentation of material fact.

''(C) If the individual's most recent coverage during the period of qualifying previous coverage under subparagraph (A) was health insurance coverage not in connection with a group health plan, such coverage was discontinued or terminated by the carrier only on the basis of—

''(i) a change in residence of the individual so that the individual no longer resided within a service area of a carrier with respect to such coverage, or

''(ii) a change in the individual's status so that the individual was no longer eligible for dependent coverage, if the individual previously was only eligible for such coverage as a dependent.

Nothing in subparagraph (C) shall be construed as preventing a carrier from waiving the application of such subparagraph during an annual open enrollment period or otherwise.

''(3) PERIOD OF QUALIFYING PREVIOUS COVERAGE DEFINED.—For purposes of this chapter, the term 'period of qualifying previous coverage' means the period—

''(A) beginning on the date an individual is enrolled under a group health plan or is provided health insurance coverage, and

''(B) ending on the date the individual is neither covered under a group health plan or covered under health insurance coverage (including coverage described in section 4991(2)(D)) for a continuous period of more than 2 months.

SEC. 4988. LIMITED USE OF PREEXISTING CONDITION EXCLUSIONS.

''(a) IN GENERAL.—A carrier offering health insurance coverage and a group health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition is a preexisting condition (as defined in subsection (c)) only if the following requirements are met:

''(1) LIMITATIONS TO 3-MONTH LOCK-BACK.—The condition was diagnosed or treated during the period not more than 3 months before the date of enrollment for such coverage or under such plan.

''(2) LIMITATION ON EXCLUSION PERIOD.—

''(A) GENERAL RULE OF MAXIMUM OF 6-MONTH EXCLUSION.—Subject to paragraph (3), the limitation or exclusion extends for a period not more than 6 months (or 12 months in the case of a late enrollee described in subparagraph (B)) after such date of enrollment.

''(B) LATE ENROLLEE DESCRIBED.—

''(i) IN GENERAL.—Except as provided in clause (ii), a late enrollee described in this subparagraph with respect to a group health plan is an individual who becomes covered under the plan but who, at the time the individual first was eligible to elect such coverage, had elected not to be covered under the plan.

''(ii) EXCEPTION FOR INDIVIDUALS WITH CONTINUOUS COVERAGE.—An individual shall not be considered to be a late enrollee with respect to a plan if the individual establishes that, with respect to the period beginning on the date the individual first could have obtained coverage under the plan and until the date the individual was so covered, there was no period of more than 2 months during all of which the individual neither had health insurance coverage (including coverage described in subparagraph (C) or (D) of section 4991(2)) or was covered under any group health plan.

''(3) CREDIT FOR PREVIOUS QUALIFYING COVERAGE.—In the case of an individual who is in a period of qualifying previous coverage (as defined in section 4987(b)(3)) as of the date of enrollment for health insurance coverage or under the group health plan, the limitation or exclusion period under paragraph (2)(A) shall be reduced by the length of such period of qualifying previous coverage.

''(4) EXCEPTION FOR TREATMENT OF PREGNANCY.—The limitation or exclusion does not apply to treatment relating to pregnancy.

''(5) EXCEPTION FOR CERTAIN DEPENDENT COVERAGE.—

(A) NEWBORNS.—The limitation or exclusion does not apply to a child who has health insurance coverage (or is covered under a group health plan) as a dependent within 1 month of the birthdate until such time as the child does not have such coverage (or is not so covered) for a continuous period of more than 2 months.

(B) ADOPTED CHILDREN.—The limitation or exclusion does not apply (beginning on the date of adoption) to an adopted child who has health insurance coverage (or is covered under a group health plan) within 1 month of such date until such time as the child does not have such coverage (or is not so covered) for a continuous period of more than 2 months.

''(b) LIMITATION ON USE OF DELAYED COVERAGE IN LIEU OF PREEXISTING EXCLUSION LIMITATIONS.—

''(1) IN GENERAL.—A carrier offering health insurance coverage and a group health plan providing coverage, with respect to an individual, may delay the effective date of coverage of the individual beyond the first date of the month beginning after the date of election of the coverage only if the following requirements are met:

''(A) LIMITATION ON DELAY PERIOD.—Subject to paragraph (2), such additional delay does not extend over a period of longer than 2 months (or 3 months in the case of a late enrollee described in subsection (a)(2)(B)).

''(B) NO SUBSEQUENT APPLICATION OF ANY PREEXISTING EXCLUSION.—After the period of such additional delay, no limitation or exclusion described in subsection (a) may be applied.

''(C) NO PREMIUMS.—No premium or required contribution may be charged for the period before the effective date of coverage. Nothing in this paragraph shall waive the applicable requirements of subsection (a).

''(2) VOLUNTARY WAIVER.—The additional delay may extend over a period longer than the period specified under paragraph (1)(A) if the individual involved waives the protection provided under such paragraph.

''(c) PREEXISTING CONDITION DEFINED.—For purposes of this section, the term 'preexisting condition' means, with respect to coverage under health insurance coverage or under a group health plan, a condition which was diagnosed or treated for a condition, or for which a reasonably prudent person would have sought medical care diagnosis or treatment, within the 3-month period ending on the day before the date of enrollment (without regard to any delayed coverage period).

''SEC. 4989. GUARANTEED RENEWABILITY OF HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—Except as provided in subsection (b), a carrier offering health insurance coverage shall guarantee that such coverage may be renewed or continued in force at the option of the policyholder or contractholder.

''(b) GROUNDS FOR REFUSAL TO RENEW.—

''(1) IN GENERAL.—Subject to paragraphs (3) and (4), a carrier offering health insurance coverage may cancel or refuse to renew such coverage—

''(A) for nonpayment of premium or contribution in accordance with the terms of the coverage;

''(B) for fraud or misrepresentation of material fact;

''(C) because of a general discontinuation or termination of coverage, but only if the carrier provides prior notice of such discontinuation or termination and if the conditions described in clause (i) or (ii) of paragraph (2)(A) are met;

''(D) in the case of coverage offered in connection with a group health plan, for failure of the plan to maintain participation rules consistent with paragraph (4); or

''(E) in the case of coverage that is continuation coverage under section 4980B, for loss of eligibility to continue such coverage.

''(2) CONDITIONS FOR DISCONTINUATION.—

''(A) IN GENERAL.—

''(i) NONDISCRIMINATORY SUBSTITUTION OF ALTERNATIVE COVERAGE.—The conditions described in this clause are the following:

''(I) The carrier is no longer offering health insurance coverage to new policyholders or contractholders.

''(II) The carrier is offering to the previously covered policyholder or contractholder the option to purchase any other health insurance coverage currently being offered to new policyholders or contractholders.

''(III) The discontinuation or termination of coverage and option to replace with other coverage is made uniformly without regard to the health status or insurability of any person provided health insurance coverage.

''(ii) GENERAL DISCONTINUATION OF COVERAGE IN A STATE.—The conditions described in this clause are that the carrier is discontinuing and not renewing all health insurance coverage within a class of coverage (as defined in subparagraph (B)) in a State.

''(B) CLASSES OF COVERAGE.—For purposes of subparagraph (A)(ii), each of the following is considered a separate class of health insurance coverage:

''(i) INDIVIDUAL COVERAGE.—Health insurance coverage not offered in connection with any group health plan.

''(ii) SMALL EMPLOYER GROUP COVERAGE.—Health insurance coverage offered to small employers (as defined by State law) in connection with any group health plan for covered employees and their dependents.

''(iii) OTHER GROUP COVERAGE.—Health insurance coverage offered in connection with a group health plan and not described in clause (ii).

''(3) APPLICATION OF GEOGRAPHIC LIMITATIONS TO COVERAGE PROVIDED THROUGH A NETWORK ARRANGEMENT.—

''(A) IN GENERAL.—Coverage under health insurance or under a group health plan that consists primarily of coverage through a network arrangement (as defined in subparagraph (B)) may be denied to individuals who neither live nor reside in the service area of the arrangement, but only if such denial is applied uniformly, without regard to the health status or the insurability of particular individuals.

''(B) NETWORK ARRANGEMENTS.—For purposes of subparagraph (A), the term 'network arrangement' means, with respect to a group health plan or under health insurance coverage, an arrangement under such plan or coverage whereby providers agree to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

''(4) MINIMUM PARTICIPATION REQUIREMENTS.—A carrier that offers health insurance coverage in connection with a group health plan that covers the employees of one or more employers may require that a minimum percentage of eligible employees of such an employer obtain such coverage if such percentage is applied uniformly to all such coverage offered to employers of comparable size.

''SEC. 4990. RELATION TO STATE STANDARDS.

''Nothing in this chapter shall prevent a State from establishing, implementing, or continuing in effect standards related to health insurance coverage (including the issuance, renewal, or rating of such coverage) if such standards are at least as stringent as the standards established under this chapter with respect to such coverage.

''SEC. 4991. DEFINITIONS.

''For purposes of this chapter—

''(1) CARRIER.—The term 'carrier' means—

''(A) a licensed insurance company;

''(B) an entity offering prepaid hospital or medical service plan;

''(C) a health maintenance organization; and

''(D) any similar entity which (i) is engaged in the business of providing a plan of health insurance or health benefits or services and (ii) is regulated under State law for solvency.

''(2) HEALTH INSURANCE COVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'health insurance coverage' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by a carrier.

''(B) EXCEPTION.—Such term does not include any of the following (or any combination of the following):

''(i) Coverage only for accident, dental, vision, or disability income, or any combination thereof.

''(ii) Medicare supplemental health insurance.

''(iii) Coverage issued as a supplement to liability insurance.

''(iv) Liability insurance, including general liability insurance and automobile liability insurance.

''(v) Workers' compensation or similar insurance.

''(vi) Automobile medical-payment insurance.

''(vii) Coverage providing wages or payments in lieu of wages for any period during which an employee is absent from work on account of sickness or injury.

''(viii) A long-term care insurance coverage, including a nursing home fixed indemnity policy (unless the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and of the Treasury, determines that such coverage is sufficiently comprehensive so that it should be treated as health insurance coverage.)

''(ix) Any coverage not described in any preceding clause which consists of benefit payments, on a periodic basis, for a specified disease or illness or period of hospitalization without regard to the costs incurred or services rendered during the period to which the payments relate.

''(x) Such other coverage as the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and of the Treasury, determines is not health insurance coverage.

''(C) TREATMENT OF STATE RISK POOLS.—Except for purposes of sections 4987(b)(3), 4988(a)(2)(B)(ii), and 4988(a)(3), such term does not include coverage provided through a State risk pool, uncompensated care pool or similar subsidized program.

''(D) PUBLIC PLANS COUNTED FOR PURPOSES OF QUALIFYING PREVIOUS COVERAGE.—For purposes of sections 4987(b)(3), 4988(a)(2)(B)(ii), and 4988(a)(3), such term also includes coverage under any of the following:

''(i) The medicare program under title XVIII of the Social Security Act.

''(ii) A State plan under title XIX of such Act.

''(iii) A program of the Indian Health Service.

''(iv) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) under title 10, United States Code.

''(v) Any other similar governmental health insurance program (including a program described in subparagraph (C)).

''(3) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 5000(b)(1), but does not include any type of coverage excluded from the definition of health insurance coverage under paragraph (2)(B) or (C) and does not include any plan unless at least one of the following requirements is met:

''(A) Any portion of the premium or benefits under the plan is paid by or on behalf of the employer.

''(B) An eligible employee or dependent is reimbursed, whether through wage adjustments or otherwise, by or on behalf of the employer for any portion of the premium.

''(C) The health benefit plan is treated by the employer, or any of the eligible employees or dependents, as part of a plan or program for the purposes of section 162, section 25, or section 106 of the Internal Revenue Code of 1986.

''(4) STATE.—The term 'State' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to individuals who commence health insurance coverage or coverage under a group health plan after the first day of the first month beginning more than 6 months after the date of the enactment of this Act.

(2) PLAN YEAR EXCEPTION.—Such amendments shall not apply to plan years ending before the first day referred to in paragraph (1).

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 44 the following new item:

''CHAPTER 45. Continuity and portability of health coverage.''

SEC. 3. CHANGES IN COBRA CONTINUATION REQUIREMENTS.

(a) MORE AFFORDABLE COVERAGE THROUGH REQUIREMENT OF LOWER-COST HEALTH PLAN CHOICES.—

(1) IN GENERAL.—Section 4980B(f) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking '', continuation coverage under the plan'' and inserting ''and as selected by the qualified beneficiary under this subsection, continuation coverage of the type described in subparagraph (A), (F)(i), or (F)(ii) of paragraph (2)'';

(B) in paragraph (2)(A), by striking ''The coverage'' and inserting ''Unless the coverage is the type of coverage described in clause (i) or (ii) of subparagraph (F), the coverage'';

(C) in paragraph (2)(C)—

(i) in clause (i), by inserting ''(or in the case of alternative continuation coverage described in clause (i) or (ii) of subparagraph (F), 69 percent or 52 percent, respectively, of such applicable premium)'' after ''for such period'', and

(ii) in the last sentence by inserting '', '69 percent', or '52 percent'' after '' '102 percent'' and by inserting '', '100 percent', or '75 percent', respectively,'';

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

''(F) TYPES OF ALTERNATIVE CONTINUATION COVERAGE REQUIRED.—

''(i) COVERAGE WITH TWO-THIRDS ACTUARIAL VALUE.—The type of coverage described in this clause is coverage which—

''(I) has an actuarial value (determined with respect to the similarly situated beneficiaries referred to in subparagraph (A)) of not less than ⅔ of the actuarial value (determined with respect to such beneficiaries) of the reference coverage, and

''(II) meets the requirements of clause (iii).

''(ii) COVERAGE WITH ONE-HALF ACTUARIAL VALUE.—The type of coverage described in this clause is coverage which—

''(I) has an actuarial value (determined with respect to the similarly situated beneficiaries referred to in subparagraph (A)) of not less than ½ of the actuarial value (determined with respect to such beneficiaries) of the reference coverage, and

''(II) meets the requirements of clause (iii).

''(iii) REQUIREMENTS RELATING TO GENERAL AVAILABILITY AND PREEXISTING CONDITIONS.—Coverage meets the requirements of this clause if the coverage—

''(I) is made available to all qualified beneficiaries who become eligible for coverage under this subsection after the effective date of this subparagraph, and

''(II) does not impose any restriction or limitation on coverage based on a preexisting condition unless such restriction or limitation could be imposed under the coverage described in subparagraph (A).

''(iv) REFERENCE COVERAGE DEFINED.—For purposes of this subparagraph, the term 'reference coverage' means, with respect to a group health plan, the costliest continuation coverage available under subparagraph (A) under the plan, excluding coverage in which an insignificant proportion of the eligible individuals is enrolled.''; and

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

''(D) COMPUTATION BASED ON FULL COVERAGE.—For purposes of this section, the applicable premium shall be computed based on the type of coverage described in paragraph (2)(A).''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after the first day of the first month beginning at least 6 months after the date of the enactment of this Act.

(b) CONTINUATION COVERAGE FOR CERTAIN FORMERLY COVERED DEPENDENT SPOUSES AND CHILDREN.—

(1) IN GENERAL.—Section 4980B(f) of such Code is amended by adding at the end the following new paragraph:

''(9) CAPTURE OF DELAYED DIVORCE OR SEPARATION.—

''(A) IN GENERAL.—For purposes of this section, if a covered employee disenrolls from coverage (or fails to renew coverage of) a qualified beneficiary within the 12-month period preceding the date of the divorce or legal separation of the employee from the employee's spouse, the divorce or separation shall be treated as a qualifying event described in paragraph (3)(C) and the loss of coverage shall be considered to be a result (and by reason) of such event.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a qualified beneficiary if—

''(i) the beneficiary waives the rights under such subparagraph, or

''(ii) the qualified beneficiary at the time of the qualifying event or at the time of the disenrollment or failure to renew coverage has coverage under a group health plan (other than by reason of this paragraph) if the plan does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary.''

(2) TREATMENT OF PERIOD BEFORE DELAYED DIVORCE OR SEPARATION.—Subparagraph (D) of section 4980B(f)(2) of such Act is amended by adding at the end the following new sentence: ''For purposes of applying any preexisting condition limitation or restriction, any period beginning on the date of the disenrollment or failure to renew coverage referred to in paragraph (9)(A) and ending on the date of the divorce or separation referred to in such paragraph shall not be treated as a break in coverage if such paragraph applies to the qualified beneficiary.''.

(3) TREATMENT OF ANNULMENTS.—Section 4980B(g) of such Code is amended by adding at the end the following new paragraph:

''(5) TREATMENT OF ANNULMENT AS DIVORCE.—The term 'divorce' includes an annulment.''.

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to divorces, legal separations, and annulments occurring more than 60 days after the date of the enactment of this Act.

(c) ELIMINATION OF TERMINATION OF CONTINUATION COVERAGE BY REASON OF MEDICARE ELIGIBILITY THROUGH END STAGE RENAL DISEASE.—

(1) IN GENERAL.—Subclause (II) of section 4980B(f)(2)(B)(iv) of such Code is amended by inserting ''other than by reason of section 226A of such Act'' after ''the Social Security Act''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to covered employees and qualified beneficiaries who become entitled to benefits under title XVIII of the Social Security Act pursuant to section 226A of such Act on or after the first day of the first month that begins after the date of the enactment of this Act.

THE MEDIGAP CONSUMER PROTECTION ACT OF 1995

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. DURBIN. Mr. Speaker, today I am introducing the Medigap Consumer Protection Act of 1995, which will help millions of seniors hang on to the private health insurance they purchase to pay for the deductibles and services which are not covered by Medicare.

In recent years, insurance companies have increasingly sold Medigap policies whose premiums are determined using a method known as ''attained age rating''. An attained age policy offers the buyer lower premiums at an early age but its premiums increase as a result of the aging of the policyholder. At various age thresholds the insurer raises premiums to reflect the expected greater use of health care by older policyholders. Due to the high inflation rate in the cost of health care, all Medigap policy premiums increase with time, but the premiums of attained age policies increase much more sharply.

The Medigap Consumer Protection Act would prohibit annual Medigap premium increases from being based on the age or aging of the policyholder. This would prohibit insurance companies from selling any more attained age Medigap policies. Ten States already prohibit attained age rating for Medigap: Arkansas, Connecticut, Florida, Georgia, Idaho, Maine, Massachusetts, Minnesota, New York, and Washington. The bill would allow people who have already purchased attained age policies to keep them if they choose to do so. However, insurance companies would have to offer these policyholders the option of changing their insurance coverage to a policy not based on attained age rating, for example, a community rated or issue age rated policy.

Most Medigap purchasers, and many insurance agents, do not understand how attained age rating works, so prospective policy buyers often have a difficult time in making an informed decision. Senior citizens who purchase attained age policies and later face unexpectedly large premium increases as they age find it difficult to change policies because they usually must face a 6-month waiting period for pre-existing health conditions. When seniors enter the Medicare system—usually at age 65—they have a 6-month window of opportunity during which they can sign up for Medigap insurance without being denied coverage because of pre-existing conditions. At all other times they are subject to such a pre-existing condition waiting period.

The Medigap Consumer Protection Act would direct the National Association of Insurance Commissioners [NAIC] to develop guidelines to eliminate attained age rating which would then be implemented in all States. The NAIC, founded in 1871, is the Nation's oldest association of State public officials. It is composed of the chief insurance regulators of all 50 States, the District of Columbia and the 4 U.S. territories. In the past, Congress has requested similar action from the NAIC, which has successfully completed these requests.

For instance, the Omnibus Budget Reconciliation Act of 1990 instructed NAIC to develop model standardized benefit packages for the Medigap market. After holding public hearings, and consulting with interested parties, the NAIC completed the standards, which were approved by the Secretary of Health and Human Services and became law.

I would like to include in the RECORD the following excerpt from a Consumer Reports article of August 1994 which describes the attained-age pricing problem in the Medigap market:

Many companies have changed the way they price policies so they can bait consumers with low premiums at the outset and trap them with very high increases later on.

In 1989, most carriers used either ''community rates'' or ''issue-age rates'' to price their policies. With community rates, all policyholders, young or old, pay the same premium. With issue-age rates, premiums will vary depending on the age of the buyer. But in either case, the annual premium will go up only to reflect inflation in the cost of benefits; it will not rise because you get older. Both community and issue-age rates protect policyholders from steep annual increases.

Now, however, more and more insurance companies are restoring to a less benign strategy as ''attained-age'' pricing. It allows companies to gain a competitive advantage by selling cheap policies to 65-year-olds when they enter the Medicare-supplement market. With attained-age pricing, the initial premiums, especially for those between 65 and 69, are usually lower than for issue-age or community-rated policies. But there's a catch: Premiums will rise steeply as the policyholder gets older.

In 1990, 31 percent of all Blue Cross-Blue Shield affiliates sold policies with attained-age rates. In 1993, 55 percent did. At the same time, the proportion of Blue Cross-Blue Shield plans offering community rates has dropped from 51 percent to 21 percent. AARP/Prudential still offers community rates but finds its initial premiums have become less competitive for policyholders age 65 to 69.

Attained-age policies are hazardous to policyholders. By age 75, 80, or 85, a policyholder may find that coverage has become unaffordable—just when the onset of poor health could make it impossible to buy a new, less expensive policy. Take, for example, an attained-age Plan F offered by New York Life and an issue-age Plan F offered by United American. For someone age 65, the New York Life policy is about $114 a year cheaper. But by age 80, the New York Life policyholder would have spent a total of $5000 more than the buyer of the United American policy.

Buyers are rarely warned of these consequences. Neither insurers nor agents are required to tell consumers how expensive attained-age policies will become over time. A sales brochure from California Blue Cross, which boasts one of the state's hottest-selling Medicare supplements, says nothing about rate increases; it doesn't even mention that rates are calculated on an attained-age basis. Of the 17 agents our reporter heard, only one discussed the way his company's rates were set—and he thoroughly confused the three methods. ''The vast majority of agents don't understand attained-age pricing, so they can't possibly explain it to their customers,'' says Mark McAndrew, president of United American.

Only 10 states—Arkansas, Connecticut, Florida, Georgia, Idaho, Maine, Massachusetts, Minnesota, New York, and Washington—either require that insurers use community rates or specifically ban attained-age policies. In most other states, insurers are shifting to attained-age policies. United American, a large seller of Medicare-supplement policies, has just notified state insurance regulators that it plans to switch from issue-age to attained-age rates. ''We think attained-age rates are a bad thing, but our agents had to eat,'' explains Joyce Lane, a United American Vice president.

Mr. Speaker, Bonnie Burns, a private contractor for California's Health Insurance Counseling and Advocacy Program delivered the following testimony before the House Health and Environment Subcommittee earlier this year:

The danger [with attained age rating] is that just when people begin to need more and more medical care, they will also be hit with much higher premiums. Alternative methods of calculating premiums mean that older beneficiaries will almost always pay less than with attained age rates. The impact of sharply increased premiums is minimized.

Most seniors are in the middle class or below and are already spending about 23 percent of their income on health care expenses according to the AARP, while those under 65 spend about 8 percent. As people age their income and resources go down over time, particularly for older widowed women, and out of pocket costs for health care consume an increasingly larger part of their income. Their ability to absorb additional costs in premiums, deductibles and coinsurance is limited.

Mr. Speaker, affordable premiums and reliable health care coverage are crucial issues for millions of elderly Americans on fixed incomes. At age 65, virtually all Americans recognize the importance of good health coverage. Seniors face rapidly increasing health costs as they reach their seventies and eighties. It is inappropriate to lure seniors into attained age policies which they will not be able to afford if they live for a decade or two. That is why Consumers' Union and the National Council of Senior Citizens have written letters strongly supporting the Medigap Consumer Protection Act.

I would like to close, Mr. Speaker, by describing a few of the things the Medigap Consumer Protection Act will not do:

The Medigap Consumer Protection Act does not place price controls on the insurance industry. Under this bill each insurance carrier will continue to set its own rates and can charge as much or as little as it feels is prudent as long as it continues to meet the loss ratio requirements which are already in place under current law.

The Medigap Consumer Protection Act does not diminish valuable consumer choice. Attained age rating makes it more difficult and confusing for consumers to make price comparisons and compare different policies. Attained age rating confuses prospective policybuyers and insurance agents. Attained age rating deceives the average Medigap purchaser into purchasing coverage which they may not be able to afford later in life. This bill only prohibits the sale of any more of those policies that Consumer Reports correctly described as bait and trap policies.

The Medigap Consumer Protection Act will not force insurance carriers out of business. Under current law, insurance carriers must meet loss ratio requirements of 65 percent for the individual market and 75 percent for the group market. Loss ratios represent how much an insurance company must spend on benefits for each dollar it collects in premiums. For instance, a carrier selling Medigap policies to individuals must offer an average of at least 65 cents in benefits for each dollar it collects in premiums. This bill will still allow insurance carriers to clear up to 35 cents on each dollar in premiums they collect.

I hope that my colleagues on both sides of the aisle will join me in cosponsoring the Medigap Consumer Protection Act and in working toward its enactment so we can help seniors retain affordable, private Medigap coverage as they grow older. This legislation simply eliminates a type of policy that ropes seniors into policies with deceptively low initial premiums followed by sharp increases when those consumers may no longer have the option of switching to a competing policy.

PASSAIC HIGH SCHOOL INDIANS

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MARTINI. Mr. Speaker, I would like to take this opportunity to commemorate one of the greatest high school basketball teams of all time, the 1919–25 Passaic High School Indians. Over that 6-year stretch, the Indians enjoyed the longest winning streak ever for a high school, college, or professional team. They won an incredible 159 games in a row.

From December 17, 1919, to February 6, 1925, Passaic High was unbeatable. In an era of low-scoring basketball, they outscored their opponents by an average of 39 points, topping 100 points a dozen times. They once crushed an opponent 145 to 5.

While these teams were blessed with great players, such dominance transcends individual stars and usually begins with the coach. It was Prof. Ernest Blood that led the charge for these young men for so many years. Blood began playing basketball just a year after it was invented, and soon after he stopped playing he was coaching. In Potsdam, NY, his high school team did not lose to another high school team from 1906 to 1915.

A move to Passaic. NJ, in 1918 brought him to the job that would make him famous. Although his first season was marred by a defeat in the State championship, the streak began on the first day of the 1919 season. Win after win turned into State championship after State championship. As the streak progressed, the team became the center of attention for this industrial city: A factory whistle would indicate the results of the game, two loud blasts for a win, one long blast for a loss. Blood's foresight and desire kept the team ahead of its time, and he eventually led them

to five consecutive undefeated seasons, 147 games in all.

Blood left after the 1923–24 season, but the streak continued well into the next season, finally coming to an end in a 39 to 35 defeat at the hands of Hackensack High on February 6, 1925. It had been 159 games since the Indians had experienced a defeat, and the magnitude of their accomplishments did not go unnoticed. Coach Blood was the third coach ever elected to the Basketball Hall of Fame, and one of the team's greatest stars, Johnny Roosma, was also accorded that honor.

And to this day, the wonder teams of Passaic High are enjoying much-deserved accolades. On May 18 of this year, they will be inducted into the Sports Hall of Fame of New Jersey. Congratulations to the families and friends of all of those connected with these special athletes. Their accomplishments are rightly being enshrined into the memory of our great State, and memorialized for basketball fans across the country.

STATEMENT HONORING RAY AND BETTY WELLS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to call attention to the Girl Scout spring gala being held by the Girl Scout Council of Bergen County, May 12, in Teaneck, NJ. They will honor Ray and Betty Wells, who will receive the Girl Scouts Outstanding Achievement Award for their many years of service to the Girl Scouts and other community and civic organizations. Proceeds from this event will benefit nearly 10,000 girls and 2,500 Girl Scout volunteers.

Ray and Betty Wells, whom I have known for many years, are community leaders who are an inspiration to us all. Each has a résumé of service, activities, and dedication that is incomparable. Their energy and enthusiasm are endless. It is their brand of volunteerism and personal generosity that has made our county an exceptional place to work and raise a family. Bergen County has been blessed to have good citizens like Betty and Ray.

Betty Wells, a Girl Scout herself for 5 years as a young girl, worked as a volunteer in Girl Scouting for more than 25 years, highlighted by 10 years as the leader of Troops 350 and 276 in Paramus. She was a charter member of the Order of the Evergreen and is a recipient of the ''Thanks'' badge, the Girl Scouts' highest honor for adults. She served as the association chairwoman and service team chairwoman in Paramus.

Ray Wells became involved in the Girl Scouts through Betty's involvement, serving first for several years as the fund drive chairman in Paramus before ultimately taking on the fundraising efforts for all of Bergen County. He also served on the board of directors. An architect, he also wrote a Girl Scout manual on building.

The Wells' Girl Scout activities centered, of course, around their daughter, Holly, who enjoyed Girl Scouting from age 7 to 17 with her mother as troop leader. Holly today continues the tradition of shaping young people as owner and operator of a preschool in Pennsylvania.

Holly, of course, is only one member of Ray and Betty's lovely family, to whom they are immensely dedicated. They have two other daughters, Kerry, a secretary who lives in Fair Lawn, and Julie, a nurse in Seoul, South Korea. Their son, Tom, is an attorney, Peter is director of the Paramus Building Department and Jeff is the principal of Wells Associates, the family architecture firm.

Betty and Ray, who both grew up in Lyndhurst, moved in 1953 and began their involvement in community service almost immediately. Both served as Sunday School teachers at the Old Paramus Reformed Church, where Ray was Sunday School superintendent and Betty was a choir member, deacon, and elder. Betty joined the Stony Lane Elementary School Parent-Teacher Organization after their children began school, eventually becoming its president. She also was a member of or volunteered at the Paramus Junior Women's Club, the Paramus Garden Club, the Paramus Women's Club, the Juvenile Conference Committee, the Hermitage in Ho-Ho-Kus, the Church Guild an Valley Hospital.

Ray was a member of or worked with the Paramus Jaycees, the George Washington Cemetery Board, the Aviation Hall of Fame, the Bergen County Regional Blood Center, the Oradell Planning Board, the Bergen Museum of Arts and Science, the Boy Scouts, March of Dimes, and United Way. He joined the Paramus Rotary Club in 1964 and went on to serve as a director, president, and district governor before becoming an international director of the service organization. He headed up Rotary projects as diverse as Polio Plus—an effort to eradicate polio—Preserve Planet Earth and restoration of the gazebo at Bergen Pines.

The Rotary motto best describes Ray and Betty: ''Service Above Self.'' Their good work and service to their neighbors and fellow men are limitless. Four decades of community service is a record that few can even come close to matching. I give my heartfelt congratulations to the Wells and wish them the best for the future. We are all blessed to have you pass our way. God bless and Godspeed.

CHANGE OF COMMAND OF ADMIRAL SKIP DIRREN

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mrs. FOWLER. Mr. Speaker, I would like to take this opportunity to pay tribute to Rear Adm. Frank M. ''Skip'' Dirren, Jr., who has been the commander of Naval Base Jacksonville since July of 1992, and who will be leaving us tomorrow to accept a new command in Norfolk, VA. Admiral Dirren is a man of character, courage and compassion and an outstanding naval officer. I am proud to call him my friend.

If it is true that ''nothing is really work unless you would rather be doing something else,'' as J.M. Barrie once said, then Skip Dirren has not done a lick of work since he joined the Navy in 1964. He loves his job and is the quintessential Navy man—patriotic, loyal, and devoted to duty. A decorated veteran helicopter pilot, he has made the Navy his life, and he exemplifies the virtues that I associate with the service at its best.

Skip is also a fine leader and good man to have in your corner, as he has consistently demonstrated during his tenure in Jacksonville. His turn at the helm of our Navy complex has helped to steer our facilities and personnel through some very rough waters, and he has strengthened the already good relationship between the community and its Naval facilities in many ways.

His community activism has particularly endeared him to our citizens, and his warmth and eloquence have made him a much sought-after speaker. In short, he has become a respected and beloved member of the community, and his generosity, his kindness, and his many talents will be greatly missed.

Mr. Speaker, although the business of the House prevents me from attending Admiral Dirren's change of command ceremony tomorrow, my thoughts will be with him and his lovely wife, Susan, as they celebrate a job well done and prepare to enter a new chapter in their life together. I hope they know that they take with them the gratitude and affection of our entire city. I wish them both fair winds and following seas.

TRIBUTE TO MORTON GOULD: COMPOSER, CONDUCTOR, AND FRIEND

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GORDON. Mr. Speaker, I rise today to highlight merely a few of the countless accomplishments in my dear friend Morton Gould's distinguished career, recently capped off by his receipt of the Pulitzer Prize for music composition.

A New York native, Gould began this career at the early age of six, when his first composition was published. His tutelage in piano and composition continued, and by age 21, he was conducting and arranging weekly orchestra radio programs for the WOR Mutual Network.

Perhaps Gould's most performed instrumental piece is his ''Pavanne,'' from his ''Second Symphonette.'' Other works familiar to all of us include ''Latin-American Symphonette,'' ''Spirituals for Orchestra,'' ''Tap Dance Concerto,'' ''Jekyll and Hyde Variations,'' and ''American Salute.''

The Library of Congress has commissioned his work, as well as the Chamber Music Society of Lincoln Center, The New York City Ballet, and the American Ballet Theater. He has composed scores for Broadway musicals, films, and both television movies and series.

Conductors worldwide have had the pleasure of directing performances of his compositions, and, as conductor, Gould has appeared with major orchestras in the United States, Japan, Australia, and Israel.

Some of Gould's other awards include a Grammy Award, several Grammy nominations, the 1983 Gold Baton Award, the 1985 Medal of Honor for Music from the National Arts Club, and the Kennedy Center Honors in 1994. He received the Pulitzer Prize this year for ''Stringmusic,'' which was composed at the

request of Director Rostropovich, to commemorate his last season as director of the Washington, DC, National Symphony Orchestra.

Gould served as president of ASCAP [American Society of Composers, Authors and Publishers] from 1986 to 1994. He has been an ASCAP member since 1935 and a board member since 1959.

Certainly we have all benefited over the years from his work and know that future generations will benefit as well. Please join me today in honoring one of America's truest virtuosos.

SALUTE TO MR. ROBERT HEENAN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Mr. Robert T. Heenan, the business manager of the International Union of Operating Engineers, Local 542, who is the 1995 recipient of the Salute to Labor Gold Medal Award.

Mr. Heenan joined the Operating Engineers Local 542 in 1948 after completing his service with the U.S. Army. He has served as the business agent, collection manager for the welfare and pension fund and the business manager for local 542.

In addition to his work with local 542, Mr. Heenan has served with distinction on the Pennsylvania State Housing Authority, the CETA board of Bucks County, PA and the Bucks County Water and Sewer Authority. Mr. Heenan is the current vice president of the Philadelphia Building and Construction Trades Council and the Pennsylvania State AFL–CIO Council.

Mr. Heenan's commitment to community service has led to significant strides in neighborhoods throughout the Philadelphia region. Under Mr. Heenan's leadership, local 542's apprenticeship program has donated a great deal of assistance to local nonprofit groups. For example, Mr. Heenan is responsible for the reconstruction of two ballfields at seventh and Packer Streets in Philadelphia.

Mr. Heenan is also a long-time supporter of UNICO Charities the American Diabetes Association, and the Marine Corps League's toys for tots campaign.

I join the Philadelphia chapter on UNICO, Bob's wonderful wife Mary Heenan, and the Heenan children and grandchildren in recognizing Mr. Robert Heenan for his fine contributions to his country and community. I wish him the best of luck in his future endeavors and am confident that he will continue to be a great contributor to communities throughout the Delaware Valley.

THE MILITARY HOUSING ASSISTANCE ACT OF 1995

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MONTGOMERY. Mr. Speaker, I am today introducing H.R. 1611, the Military Housing Assistance Act of 1995. The purpose of this measure is to enable active duty military personnel to purchase homes for themselves and their families in areas where the supply of suitable military housing is inadequate. As a result, the Department of Defense's on-base housing costs could be significantly reduced. This joint Department of Veterans' Affairs/Department of Defense [VA/DOD] program would be an excellent example of Federal agencies working together to enhance the lives of our armed services personnel while reducing DOD construction expenditures.

Under this program, DOD would be authorized to buy down the interest rate for certain active duty personnel purchasing off-base housing using the VA guaranteed home loan. This buydown would lower the monthly mortgage payment during the first 3 years of the loan. Loans covered by this proposal would, as is currently the case with VA home loans, be made by private lenders. The escrowed funds needed for the buydown would be provided to the lender by the VA. DOD would then reimburse the VA. These loans would be processed in the same way as any other VA loan which includes a buydown except that these loans would be underwritten at the second-year rate rather than at the full note rate, thus enabling more individuals to qualify for the loans. Additionally, DOD would be authorized to indemnify mortgagees against any loss, thereby covering the difference between the VA guaranty and any actual loss on the sale of the property.

Eligibility for these loans would be limited to all enlisted members and officers in the pay grade 0–3 or below who are first-time users of the VA home loan program. Application for participation in this program would be made within 12 months of assignment to a housing shortage area. The service Secretaries would designate those bases that have a housing shortage.

An important component of this bill would require individuals participating in the program to participate in comprehensive prepurchas counseling. It has been demonstrated that counseling of this type results in borrowers who are better prepared to assume the responsibilities of homeownership. Additionally, VA would be authorized to assign qualified VA loan guaranty personnel to the bases designated as having housing shortages. These VA personnel would provide prepurchase counseling and loan servicing assistance and assist GI's with the purchase and subsequent sale of their homes.

After consulting with and obtaining the agreement of the VA, DOD would be authorized to transfer its property management jurisdiction to the VA. Thirty VA FTEE would be authorized to fulfill these responsibilities.

Under this bill, DOD would be authorized $104 million and $6 million would be authorized for the VA. VA estimates these amounts would provide for 32,000 loans per year.

I believe the Military Housing Assistance Act of 1995 would establish an excellent program, and I urge my colleagues who would like to cosponsor this measure to contact Bo Maske at 225–5031 or Beth Kilker at 225–9756.

REMARKS BY MAJ. GEN. VANG PAO AT THE VIETNAM WAR MEMORIAL CEREMONY IN REMEMBRANCE OF THE 20TH ANNIVERSARY OF THE FALL OF SAIGON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. DORNAN. Mr. Speaker, on Sunday, April 30, I was at the Vietnam Memorial here in Washington. I met personally with many Vietnam veterans and their families at the Wall there to remember the sacrifices of our soldiers and the 20th anniversary of the tragic fall of South Vietnam to communism.

One of the important ceremonies that I attended at the Wall was held by the Counterparts organization where thousands of Montagnards, Hmong, Laotians and Vietnamese attended to mark the 20th anniversary of the tragic and bloody Communist takeover of their homelands. Some of those in attendance at this somber and important event were Grant McClure, Commanding Officer of Counterparts and former advisor to the Montagnards in the Central Highlands of South Vietnam, Ambassador Bill Colby former director of the Central Intelligence Agency; Maj. Gen. Homer Smith head of the Defense Attaché Office during the fateful last hours in Saigon; Brig. Gen. Kor Ksor, a Montagnard leader; Maj. Gen. Vang Pao, Commander of Military Region II for the Royal Lao Army and head of Hmong Special Forces; General Thonglit Chokbenbun, Royal Lao Army Commander; Dr. Jane Hamilton-Merritt the distinguished Lao/Hmong scholar, author and photojounalist; and Philip Smith, Senior Legislative Assistant to former U.S. Congressman Don Ritter and current Director of the Center for Public Policy Analysis.

Mr. Speaker, I believe it is crucial for the United States and Thailand not to forget the tremendous sacrifices of our former Vietnamese, Montagnard, Hmong and Laotian allies during the Vietnam War. I call upon all Vietnam veterans and Americans to oppose the current U.S. State Department and Thai policy of forcibly repatriating many of these former Hmong and Vietnamese Special Forces Commandos and combat veterans from refugee camps back to the repressive Communist regimes that they fled.

Mr. Speaker, it is important to make a part of the public record the speech that Maj. Gen. Vang Pao gave at the 20th Anniversary Ceremony which describes so well the major contribution made by many of our former allies and so many American soldiers during the Vietnam war.

STATEMENT OF MAJOR GENERAL VANG PAO

Dear Honorable Guests, Fellow Veterans, Ladies and Gentlemen: We are gathered here today at this ceremony to mark the 20th Anniversary of the tragic fall of South Vietnam, Laos and Cambodia to invading Communist forces. But, we are also gathered here to recognize and honor those men and women who sacrificed and lost their lives in the Vietnam War—the Second Indochina War—fighting for freedom, democracy, and for the peace and security of Southeast Asia and the United States.

Tens of thousands of Lao and Hmong soldiers and their families who fought against the invading Soviet-backed North Vietnamese Army during the war are buried in unmarked graves in Laos and Vietnam. They

fought to defend their country and to help the United States against the expansion of Soviet Communism through its proxy regime in Hanoi. But, their names are not on the Vietnam Memorial Wall here in Washington. So, we must be vigilant to keep alive their memory in our hearts and tell the story of their brave sacrifices to our children and our children's children so that their memory and the important cause that they fought for is not forgotten by future generations.

In Laos, from 1969 to 1970, the Lao and Hmong Special Forces under my command captured and occupied the strategic site of the Plain of Jars (Thong Haihin) which was crucial to the overall course of the war effort. The Plain of Jars is near the border of North Vietnam and was controlled by three North Vietnamese divisions. During heavy fighting the Lao and Hmong Special Forces under my command defeated the North Vietnamese troops and captured many Soviet-supplied tanks, artillery pieces, anti-aircraft guns, trucks and many hundreds of tons of small arms and other equipment which cost Moscow an enormous amount of money. The Superpowers—the Soviet Union and the United States—were surprised that such a small number of Hmong and Lao soldiers could defeat such a large force of the North Vietnamese Army and then occupy and defend the Plain of Jars. This battlefield victory saved many Americans from having to fight against these North Vietnamese troops and their weapons as well as greatly slowing the advance of Communism in Southeast Asia for many additional years.

It is also important to note the major contribution made by the Lao and Hmong soldiers of the Royal Lao Army in locating and destroying many of the North Vietnamese Army's supply lines along the Ho Chi Minh Trail. The Lao/Hmong Special Forces caused heavy losses to the North Vietnamese troops and rescued many hundreds of downed American pilots.

The United States did not lose the Vietnam War on the battlefield. The United States withdrew from the Indochina War in 1975 because of world politics, U.S.-Soviet detente, American-Chinese relations and U.S. domestic opposition to the War. However, the United States eventually won the war in world politics in the struggle between Communism and Capitalism. Communism in the Soviet Union and Eastern Europe collapsed with the help of freedom fighters like the Hmong and Lao combat veterans who assisted the United States in resisting the expansion of international Communism. Many Communist countries changed to become free countries because of the sacrifices of the Laotian and American men and women who defended freedom and democracy during the Cold War. Therefore, we must recognize and honor those men and women-in-arms who fought and died in the Vietnam War and remember that freedom, democracy and peace will once again return to Laos, Vietnam and Cambodia in the near future.

Thank you for joining me here today to mark this important occasion. God bless you all.

CENTRAL NEW YORK: NATION'S FIRST PEE WEE WORLD HOCKEY CHAMPIONS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. WALSH. Mr. Speaker, last year I was as proud as I could be, or thought I could be, of some very special young athletes in my home district, the Syracuse Stars Pee Wee Hockey Team. They had won the USA Nationals and all of our hometown was awash in publicity and congratulations.

Today I am eager to report that the same team has once again prevailed. They are now the holders of the World Cup of Pee Wee Hockey, having won on February 19 this year the 36th Annual Tournoi De Quebec in Quebec City. The tournament hosted 115 teams from 17 countries. The Stars defeated teams from Russia, Ukraine, Detroit, and Toronto on their way to becoming the first U.S. team to ever win the World Cup.

To put this tournament in perspective, more than 550 former or present NHL players have participated, including Wayne Gretzky, Brett Hull, and Mario Lemieux.

The players are: Daniel Bequer, goalie, of North Syracuse; Brian Balash, forward, of Auburn; Gary Baronick, forward, of North Syracuse; Drew Bucktooth, forward, of the Onondaga Indian Nation; Tim Connolly, forward, of Baldwinsville; Jeremy Downs, defense, of Syracuse; Joshua Downs, defense, of Syracuse; J.D. Forrest, defense, of Auburn; Todd Jackson, forward, of Cortland; Josh Jordan, forward, of Marathon; Tom LeRoux, forward, of Syracuse; Doug MacCormack, forward, of Cortland; Matt Magloine, defense, of North Syracuse; Freddy Meyer, defense, of New Hampshire; Anthony Pace, forward, of Cortland; Steve Pakan, defense, of Syracuse; Mike Saraceni, goalie, of North Syracuse; and Ricky Williams, forward, of McGraw. Head Coach Don Kirnan was assisted by coaches Mike Connolly and John Jackson and manager Chris Kirnan.

Freddy Meyer won the Tournament MVP trophy and Drew Bucktooth won the Grand Finale Game MVP. Tim Connolly was top scorer of the tournament and along with Anthony Pace was named a single-game MVP. Dan Bequer gave up only two goals in the last three games, which proved for some exciting hockey, especially in the Stars' 6–2 final game win over the Toronto Young Nationals.

I ask that my colleagues join me in congratulating these young athletes for their performance, and for bringing home to the United States our first World Cup of Pee Wee Hockey.

CONGRATULATIONS TO THE FOOD SERVICE STAFF AT THE MIDDLE COUNTRY SCHOOL DISTRICT

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. FORBES. Mr. Speaker, I rise today to congratulate the excellent food service staff at Middle Country School District in Centereach, Long Island, NY, for their hard work and outstanding service.

Next week, we will begin to celebrate National Child Nutrition Week, and it's an important time for us all to focus on the health and well-being of our children. For the food service staff at Middle Country schools, however, every week is Child Nutrition Week and every day is an opportunity to make sure that children are eating healthy and staying fit.

These individuals at the Middle Country schools continually go above and beyond the call of duty. Their work is not just another job, it is an important vocation. They are entrusted with our society's most precious possessions—our children. In their delicate hands, we place the crucial responsibility that's usually just reserved for mothers and fathers—the responsibility of caring for our children. The food service workers rise to this occasion graciously, and they gently nuture our students.

The food service staff who work at the Middle Country schools know that the little things make all the difference. They go out of their way to make sure that a particular little boy finishes his milk or a certain little girl sticks to her special diet. For this extra effort, we are most grateful, and on behalf of all of the people of eastern Long Island, I would like to thank them for a job well done. They truly are role models. Their example can teach us all.

I would also like to extend a special note of congratulations and gratitude to Audrey Prentice, the coordinator of the Middle Country School District's food service program. Audrey is a tireless champion for the health and welfare of our society's most vulnerable members. Her heart is in her work and that makes all the difference. I am very thankful for all of her wisdom, her counsel, and her service.

WELCOME TO JESSAMINE COUNTY MIDDLE SCHOOL

HON. SCOTTY BAESLER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. BAESLER. Mr. Speaker, I am delighted to welcome Jessamine County Middle School from Nicholasville, KY, to Washington, DC, on their annual trip.

There is a proud history in our Nation's Capital and I am pleased that these fine young men and women are able to take advantage of the educational opportunities available here in Washington.

REMEMBERING THE ARMENIAN GENOCIDE

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. RUSH. Mr. Speaker, I rise today to honor the more than 1.5 million victims of Armenian genocide who perished 79 years ago, and their families who still to this day remember this crime against humanity with the same intensity and pain that was felt during 8 years of murder, plight, and savagery.

For 3,000 years, Armenians and Armenian culture had thrived in the area covered by the Ottoman Empire. The Turkish authorities in power in 1915, however, systematically wiped out nearly two-thirds of its Armenian population. They first executed intellectuals and doctors, then adult males, leaving the elderly, the very young, and women defenseless, as the Turkish Government forced them on death marches through the deserts.

In 8 short years, Turkey managed to slaughter a vibrant, thriving, indigenous population,

whose descendants today are ever vigilante in their reminding the world never to repeat crimes of this magnitude again.

For too long, people have ignored or forgotten this unimaginable atrocity. The time has come for the United States, and people everywhere, to remember and honor the victims of this brutal crime against humanity. It is imperative that we all remember the incredible inhumanity of which people are capable, for to remember is to be vigilant. And vigilance is the only way we can ever keep such atrocities from reoccurring. Through these efforts we can promote peace and goodwill among all nations and cultures. We must, for if not all that we consider humanity will be lost.

CUTS ENDANGER OUR ELDERLY

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. COLEMAN. Mr. Speaker, the Republican party is certainly full of contradictions. Six months after signing a ''Contract With America'' that included a platform promising fairness for senior citizens, they propose a budget that will harm the poorest and the least healthy of our Nation's older population. The House Republican budget outlines cutting Medicare funding by $270 billion over the next 7 years. In the same period of time, they propose that we abdicate responsibility for the Medicaid to the States, while decreasing the funding by $184 billion. In order to justify their cuts, they are insisting that without reform, the Medicare Program will be bankrupt by the year 2002.

Frankly, their new position makes very little sense. After all, nothing is being done to actually reform the system. Capping Medicare spending is not reform. Last year, President Clinton and the Democratic leaders in Congress struggled to reform the whole health care system, and to prevent the very crisis in Medicare that the Republicans decry today. Republicans refused to assist in the health care debate, and preferred partisan sniping. They were hiding their heads in the sand. They were all too eager to criticize the Democratic reform that would have applied small Medicare savings to comprehensive health care reform.

This year, we hear nothing of comprehensive reform. We are moving no closer to universal and affordable coverage. There are no genuine efforts to make our health care system more effective and more affordable. But the Republicans are talking about Medicare and Medicaid cuts. The cuts that they are proposing will not go toward saving Medicare, or ensuring universal coverage, but toward tax breaks to the wealthy.

The Republican party, which proudly authored a bill entitled the ''Senior Citizens Fairness Act'' now proposes to take a hit and the poor and the sick elderly, without putting one penny back into their health care. They are offering us all the pain of cuts, without the benefits of reform. Cuts like these are misguided, and should not be tolerated. Many people who have made tremendous contributions to this Nation, people in the twilight of their life, will suffer as a result of this budget.

SUPERFUND LIABILITY ALLOCATION ACT OF 1995, H.R. 1616

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. UPTON. Mr. Speaker, if ever a Federal program needed reform, it is the Superfund Program. It was first created in 1980 under the Comprehensive Environmental Response, Compensation & Liability Act [CERCLA]. It was changed and reauthorized in 1986 under the Superfund Amendments and Reauthorization Act [SARA]. It was supposed to be reauthorized in the last Congress and committees in the House and in the other body reported comprehensive reform bills, but this effort fell short in the final days of the session.

At the center of the Superfund Program are liability provisions arguably more draconian than found in any other Federal statute. Superfund liability is retroactive, meaning that potentially responsible parties can be held liable for lawful actions taken before enactment of CERCLA or SARA. Superfund liability is also strict, meaning that there is no need to prove negligence to establish liability. It is also joint and several, meaning that a party or parties that contributed small amounts of contamination to a contaminated site can be held liable for all cleanup expenses.

With Superfund site cleanups now averaging $30 million, the incentive to avoid any liability at any cost is strong. Small wonder that Superfund has launched a tidal wave of litigation. At least $1 in $4 spent on Superfund cleanups is spent on lawyers and the consultants needed to support lawyers in litigation to avoid Superfund liability or to transfer liability to other parties via so-called contribution suits.

In my district, one of these contribution suits eventually involved more than 700 firms and organizations. More recently, a firm that had negotiated a cleanup plan costing nearly $20 million with EPA turned around and filed contribution suits against three dozen local firms. More important than the moneys involved, these Superfund-driven suits have divided whole communities and created resentment that will last for years. This can't be what Congress wanted to happen when the program was created.

In response to these unpleasant realities, I am today joining the gentleman from Virginia [Mr. BOUCHER], in introducing the Liability Allocation Act of 1995. Mr. BOUCHER and I first addressed these issues in November 1993 in the Superfund Liability Reform Act (H.R. 3624). After negotiations with the administration and other Superfund stakeholders, we introduced a revised version of H.R. 3624 as H.R. 4351, also entitled the Superfund Liability Allocation Act. This latter measure became section 412 of H.R. 3800, as reported by the then Committee on Energy and Commerce, and section 413 of the same bill as reported by the then Committee on Public Works and Transportation. As I mentioned earlier, H.R. 3800 was not considered by the House prior to adjournment in 1994.

This legislation would create an entirely new system of liability under Superfund, one based upon proportionality and the allocation of liability shares among potentially responsible parties. It places a moratorium on the commencement of cost recovery and contribution suits for cleanup costs until the allocation process is concluded and a stay on all existing cost recovery and contribution litigation. Each party's liability would be calculated in expedited manner; parties will pay only their equitable share of the cleanup costs, those clearly related to their respective roles at the site and to the amount of waste they actually contribute; finally, the expedited process for assigning liability and the limited court review of that process should significantly decrease transaction costs for all parties at Superfund sites.

The new system established under this bill would operate as follows:

First, after a site is listed on Superfund's National Priority List, EPA notifies all parties at the site that they are required to participate in the liability allocation process.

Second, the parties choose from an EPA-approved list of private allocators to conduct the allocation.

Third, EPA and any of the parties may nominate additional parties to be included in the process or may excuse parties from the process.

Fourth, EPA is able to provide expedited settlements to ''de minimis'' and ''de micromis'' parties to enable such parties to avoid having to participate in the 18-month allocation process, satisfying small business' major concern.

Fifth, the allocator is armed with the necessary information-gathering powers, including subpoena power, and is able to enforce such powers with the backing of the Justice Department. Parties who do not cooperate in providing information are subject to stiff civil and criminal penalties.

Sixth, each party is given the opportunity to be heard, including submitting an initial statement and commenting on the draft allocation report before the final report is issued.

Seventh, after considering the ''Gore Factors''—including the party's role at the site and the toxicity and volume of material—the allocator issues a report identifying each party's share of liability for the cleanup costs at the site.

Eighth, each party may settle with the EPA based on its allocated share. As consideration, the party is shielded from joint and several liability and from actions for contribution from other parties. Any party who rejects its allocated share will be exposed to joint and several liability and remains unprotected from contribution suits. Although the allocation is nonbinding as to the parties, the exposure to joint and several liability serves as a disincentive to reject the allocated share.

Ninth, the Government is bound by the allocation unless there is proof of bias, fraud or unlawful conduct on the allocator's part or if ''no rational interpretation of the facts before the allocator, in light of the factors he is required to consider, would form a reasonable basis'' for the allocation. The Government only has 180 days during which such review can occur, after which the right to reject the allocation is waived.

Tenth, the orphan share—for defunct and insolvent parties—is paid out of the Superfund.

Eleventh, the Government reimburses parties who pay for the cleanup for amounts spent beyond their allocated shares. The Government also pursues recalcitrant parties who fail to pay their allocated shares.

Mr. Speaker, many interests worked together in developing this legislation. If the

adage that success has many fathers while failure is an orphan is accurate, than the father of this excellent proposal is my cosponsor and learned friend from Virginia, Mr. BOUCHER. We have cosponsored several bills in the past and each of these bills has done well in the legislative process. It is a pleasure to join him again in offering this legislation.

We urge every member of this House to join us in cosponsoring H.R. 1616, the Superfund Liability Allocation Act of 1995, and ask that they call David Luken of my staff (ext. 53761) or Andrew Wright of Mr. Boucher's staff (ext. 53861) to do so.

RABBI AND REBBETZEN RYBAK HONORED

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MARTINI. Mr. Speaker, on Sunday night, May 14, 1995, Rabbi Dr. Solomon Rybak and Rebbetzen Dr. Shoshana Rybak will observe the completion of 10 years affiliation with the congregation and service to the Passaic and Clifton communities at Congregation Adas Israel in Passaic, New Jersey. I congratulate them and wish them all the best as they celebrate this truly special occasion.

Rabbi and Rebbetzen Rybak have been recognized as exceptional personalities in the Passaic-Clifton area as well as in the larger metropolitan New York-New Jersey educational community. Both have attained significant achievements in furthering Jewish education and values. Upon completing his studies at Yeshiva University and receiving rabbinical ordination from the late, renowned torah giant Rabbi Dr. Joseph Soleveitchik, Rabbi Rybak served as Rabbi Soleveitchik's research assistant in the Rogosin Institute of Ethics. Rabbi Rybak was appointed by Dr. Samuel Belkin, President of Yeshiva University, to the position of Rosh Yeshiva at the Yeshiva University High School and held that position for 27 years. Rabbi Rybak earned his Ph.D. in Semitic languages from the Bernard Revel Graduate School of Yeshiva University and has lectured and published on educational and Halachic topics. In addition to his duties as spiritual leader of Congregation Adas Israel, Rabbi Rybak is a Professor of Jewish Studies at Touro college, serves as the editor of CHAVRUSA, the professional publication of the Yeshiva University Rabbinical Alumni and is a member of the executive board of the Rabbinical Council of America.

Equally accomplished, Rebbetzen Rybak has balanced the dual role of a Rebbetzin and a professional in her daily routine. Rebbetzen Rybak was educated in both Israel and in New York and holds a Jewish Teacher's Diploma from Beth Jacob Seminary and a Doctorate in school and clinical psychology from Pace University. Rebbetzin Rybak has been involved in many of the congregation's programs, concentrating on the youth Yom Tov celebrations and the congregation's Simchat Torah, Purim, and Yom Haatzmaut festivals. As a therapist and licensed psychologist, Dr. Rybak has been involved with several groups of exceptional children including the handicapped, the developmentally disabled and the gifted. She is currently the clinical coordinator at the Hebrew Academy for Special Children [HASC] in Brooklyn and is a member of several professional organizations including the American Psychological Association, the National Association of School Psychologists, and the Council for Exceptional Children.

Upon their arrival in Passaic in 1984, Rabbi and Rebbetzen Rybak found a diversified community representing the full spectrum of modern Jewish society. In a quiet and unassuming manner Rabbi and Rebbetzen Rybak began actively participating in the ongoing revitalization of the Passaic-Clifton community. The contributions of Rabbi and Rebbetzen Rybak over the past 10 years have been instrumental in continuing to make Passaic and Clifton attractive to young Jewish couples looking for a vibrant area in which to establish their home. Their dedication to community service and education serves as a role model and inspiration to all. I salute these two fine individuals, and can only say that I am proud to call them members of the Eighth Congressional District of New Jersey.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR 1996

SPEECH OF

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1361) to authorize appropriations for fiscal year 1996 for the Coast Guard, and for other purposes:

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of H.R. 1361, the Coast Guard Authorization Act.

The men and women of the Coast Guard are life savers, they protect our national security, they fight crime, and they protect our environment.

The people of Florida have a special appreciation for the work of the Coast Guard. As the chairman of the Florida congressional delegation, I in particular pay tribute to the 7th District which serves Florida, the busiest Coast Guard district in our Nation.

It is a privilege for me to represent Pinellas County, FL, which is home to three Coast Guard stations including Group St. Petersburg, which is responsible for protecting Florida's west coast down through the Carribbean, the Clearwater Air Station, the largest Coast Guard Air Station in the United States, and the Sand Key Station, which responds regularly to emergencies at sea and in our inland waters.

Because the Coast Guard has consistently responded to untraditional challenges to our Nation with determination, creativity, and effectiveness, the Congress has seen fit year after year to add to its long list of multifaceted responsibilities. In the early 1980's, when the flow of illegal narcotics through the Carribbean threatened the nationality security of the United States, the U.S. Coast Guard was charged with slamming the door on this drug trade. The vigilance with which the Coast Guard undertook this mission forced drug smugglers to abandon Florida as a primary point of entry into the United States. Those who persist in trying to bring drugs into our Nation through Florida have been met with the firm response, such as last year when the St. Petersburg based Coast Guard Cutter *Point Countess* intercepted the freighter *Inge Frank* near the Sunshine Skyway bridge at the entrance to Tampa Bay, escorted it to its mooring, and joined the DEA and Customs Service in a raid that seized more than 6,000 pounds of cocaine, preventing $272 million in illegal drugs from reaching our streets.

Most recently, when our Nation was faced with an exodus of tens of thousands of Cuban and Haitian refugees, the Coast Guard responded. The 7th District rescued more than 23,000 Haitians at sea in unsafe vessels last Spring, and expanded its operations last Summer, pulling more than 35,000 Cubans from the waters of the Florida Straits. Aircraft from the Clearwater Air Station flew 3,200 flying hours in support of these missions, and delivered over 600 tons of cargo to the U.S. forces implementing our immigration policies on shore.

It is the Coast Guard which is responsible for enforcing all United States laws at sea, whether they be immigration, narcotics, environmental, fishery, or safety-related.

It is the Coast Guard which is responsible for its well known search and rescue missions at sea. This mission not only saves lives just about every day of the year, but also saves significant amount of public and private property. Recently the Florida pilot of a small plane learned this lesson the hard way, when, far from land, he radioed a mayday, saying he had only 15 minutes of fuel left. His plane hit the water 70 miles west of Tampa Bay, and sank within 60 seconds. A nearby Coast Guard Falcon Fanjet used direction-finding equipment to locate the plane, witnessed it hit the water, and dropped a life-raft and emergency locating transmitter which enabled the pilot to be rescued later. Similar air rescues have saved 188 lives off the coasts of Florida alone since last April, and will continue to provide Americans with a level of safety at sea.

It is also the Coast Guard which is responsible for the less glamorous, but vitally important responsibility of maintaining vital aids to navigation that keep ships and boats out of jeopardy. Though some take channel markers, ocean buoys, loran stations, and other necessary navigational aids for granted, they are the critical signposts that allow for the safe passage of boaters on our waterways.

The Coast Guard receives invaluable help in fulfilling many of these diverse responsibilities from the volunteers of the Coast Guard Auxiliary. The 572 active members of Auxiliary Division 8, who provide support to Group St. Petersburg, make up the largest auxiliary unit in the Nation. Auxiliary members are very active in educating the public about boating safety issues, providing free boating safety classes and dockside courtesy marine examinations. Last year alone, in addition to training 1,330 students and conducting 8,104 courtesy marine examinations, Division 8 also conducted 1,364 support missions, logged over 14,607 underway hours, saved five lives, assisted 393 boaters, and saved more than $2.6 million in property.

Mr. Speaker, perhaps the least known and understood of the Coast Guard's mission is one for which I have funding and oversight responsibility: defense readiness. When activated by the President, the Coast Guard assists the U.S. Navy in time of conflict, guarding the foreign and domestic ports we use to

deliver troops and vital supplies in support of operations such as Desert Shield/Desert Storm, Grenada, and most recently in Haiti. In recognition of these readiness and port security missions, the Appropriations Subcommittee on National Security, which I chair, has consistently provided funding support for the Coast Guard. In addition, I have worked to ensure that we better link our military intelligence assets with the Coast Guard to provide greater assistance in its drug-interdiction and security-related efforts. Such intelligence and detection capabilities dramatically improve the Coast Guard's ability to do its job, and I look forward to promoting more effective cooperation between the services in the future.

While the duties and expectations of the Coast Guard continue to grow, the funding necessary to fully meet them has not. Over the years, the Coast Guard has worked to find cost-effective ways to meet the demands placed upon it within an extremely tight budget, and I commend them. It is difficult to find another part of Government that does so much, so well, with so little. The last 2 years serve as the greatest example of this conflict between goals and resources. This administration has recommended sharp reductions in funding for drug interdiction, and as a result reports now indicate Caribbean trafficking may again be rising.

Changing administration policies with regard to Haiti and Cuba have encouraged greater and greater numbers of refugees to take to the water, forcing the Coast Guard to shift assets from other important areas to tackle this overwhelming burden. In each of these instances, the Coast Guard has become our Nation's last line of defense, and the line is being stretched thinner and thinner.

If past performance is any guide, the men and women of the Coast Guard will continue to meet the new threats to America's national and economic security with creativity, perseverance, and professionalism. Mr. Speaker, I salute them and their important mission and rise in support of this legislation to give them the tools to continue to undertake their important work which saves lives and protects our coastline.

RACHEL D. KILLIAN, SCRIPTWRITING CONTEST WINNER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. DUNCAN. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This past year, more then 126,000 secondary school students participated in the contest competing for the 54 national scholarships totaling more than $109,000.

This year's Tennessee winner is Rachel D. Killian, a junior at South-Doyle High School. Miss Killian is an active member of her student council, enjoys reading and drama, and belongs to Knoxville Youth in Government. She plans a career in television and radio journalism-communications. Miss Killian was sponsored by VEW Post 1733 and its ladies auxiliary in Knoxville, TN.

I would ask that Miss Killian's essay, ''My Vision for America'' be entered into the RECORD. I believe we can all benefit from her insightful, patriotic remarks:

MY VISION FOR AMERICA

This country was founded by people of great vision. Although they came from different countries and backgrounds, they had a common dream which brought them together—the dream of a land where they could have better lives. By working together, these strong pioneers made this dream of freedom and opportunity a fantastic reality we call ''America.''

During the past two hundred years, this vision of freedom has appealed to many trapped under oppressive governments. Thousands found their way to America each year, escaping from wars, hunger, political unrest and religious persecution. They found a haven in America. These immigrants are our ancestors. They are our relatives not necessarily by blood, but by a common heritage. They endured many pains and sacrifices to arrive here. Many had noting to hang on to but a dream.

These early Americans were genuinely grateful for every opportunity they were given. They respected the government for all it provided and gladly participated in the duties of citizenship. Unlike the grateful citizens of the past, many Americans today insult the government and blame the system for every problem. They demand benefits, such as military protections, without accepting the burden of paying taxes. They often believe they are entitled to certain rights over others and have forgotten what it means to be tolerant of others' beliefs. Worst of all, they display a loss of confidence in the future of America and the capability of American leaders. These unpatriotic feelings are destroying the optimism, the honor and the pride we should have in America. Because there are people burning with anger instead of burning with pride, we have lost the sense of brotherhood which once flowed from sea to shining sea and united this country.

My vision of America calls for a change in every American heart. We must remember the dreams of our immigrant ancestors and imitate some of their patriotic values such as love for each other, for our community and for our government. The men and women who created our nation did not expect others to rescue them from hardships. They were not complainers, but achievers, and their hard work brought America prosperity.

In my dream we are more like our ancestors. We are people of vision pushing for what we know is right. We display tolerance and patience for other individuals, and we emphasize our similarities rather then our differences. We look at our collective ancestors and say, ''We are one, with one spirit. We are an American Family.''

In my vision, I see a ''new'' America with patriotic citizens who know and appreciate all the lyrics to the ''Star-Spangled Banner.'' I see citizens who talk about what's right with the country instead of what's wrong, where Uncle Sam is welcome at every dinner table and where citizens are proud to show they are Americans at times other than during the Olympics. I see a country that shares dreams and reaches for goals that will benefits everyone, not just a select few. I see Americans with changed attitudes toward each other and a land where every worker has a respected place and purpose—where every single person feels like an important part of one united spirit.

There are ways that my vision for America could be achieved. First, American newpapers need to print more positive articles to improve the public morale. Second, to remind citizens of their many blessings, everyone needs to be informed of the lack of human rights in other countries. It is so easy to forget how lucky we are to be living in the United States. Finally, Americans must stop dividing into so many groups. Instead of being Democrat or Republican, upper class or blue collar, black or white, we should be American. If we are going to be strong as a country, and supportive of each other, then we must be united as a people.

My vision for America in not a new one. Our ancestors held the same hopes for this country, but over the years their visions have been forgotten. If we could remember one thing from their success, then it should be that we must never stop believing in our visions for America. History has taught us that there are dreams that can come true.

VISION FOR AMERICA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. BILIRAKIS. Mr. Speaker, each year the Veterans of Foreign Wars and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 126,000 secondary school students participated in the contest, competing for the 54 national scholarships totaling more than $109,000. The contest theme for this year was ''My Vision For America.''

I am proud to announce that one of my constituents, Stephen Jensen, won fourth place honors and a $6,000 scholarship in the Voice of Democracy contest. Stephen is a junior at Tarpon Springs High School and hopes to pursue a career in entertainment or public relations.

In his speech, Stephen reminds us all of what can be accomplished when people are united by a common objective. I would like to share Stephen's speech with you.

What a vision we must have been. Drenched in sweat, caked with mud, and surrounded by the foul stench of rotting vegetation and debris, over six thousand volunteers toiled in Albany, Georgia this past summer under the blazing July sun to help the people whose lives were devastated by the worst floods in recent history. Side by side we gutted out homes and churches sodden by the floods and stripped the buildings down to their foundations. Sharing in this service gave me a vision of what an American community can accomplish when people are united by a common purpose.

There are those in this country who are overwhelmed by another flood sweeping through the streets of our land. The surge of violence and crime, drug abuse, loss of private and public virtue and the erosion of the family are but some of the storm-waters surging over the banks in our country today. Our first reaction is to view these problems with bitterness and despair, but if we can truly hold on to a positive vision, we will not lose hope. Let us share in the view expressed by American poet, Carl Sandburg when he wrote, ''I see America not in the setting sun of a black night of despair ahead of us. I see America in the crimson light of a rising sun, fresh from the burning, creative hand of God. I see great days ahead, great days possible to men and women of will and vision.''

Experiencing great opposition is not unique to Americans today. Are the challenges we face any more difficult than those faced by previous generations? Early colonists struggled with disease, famine, and the

rigors of an untamed wilderness. Later, our inexperienced forefathers fought the superior military and economic might of Great Britain to claim their freedom from oppression. In the nineteenth century, America was literally torn apart by Civil War yet a people was freed from slavery. Pioneers of that day endured tragic hardships in settling the West, yet prevailed and helped this country grow to its present dimensions. In this century, Americans have faced World War I and the devastation of the Great Depression, followed almost immediately after by the exhausting conflicts of the second World War. America's foundation was created and strengthened through overcoming all of these trials.

My vision for America calls for renewal of the ideals and faith in this country that made our forefathers victorious and America great. It was their commitment to these beliefs that gave them the determination to sacrifice and surmount tremendous obstacles. We as Americans must uphold and heritage of freedom. We must reaffirm respect for the dignity of the individual and respect for our laws and those who work to carry them out. We must acknowledge a higher power and adhere to the principles of honesty, hard work, cooperation with others and loyalty to our country.

As President John F. Kennedy declared, ''No nation can remain free unless its people cherish their freedoms, understand the responsibilities they entail, and nurture the will to preserve them.''

Working side by side with fellow American in Albany, I experienced first hand the vision of mankind which has give us strength and hope and courage in ages past as we have faced adversity and challenges. I felt the spirit of brotherhood of putting aside personal differences and working together for the common good. This is the vision which calls out through the Pledge of Allegiance, for us to be—''. . . one nation, under God, indivisible.'' My vision for America is the one bequeathed to each of us, the legacy of our forbearers who sacrificed their lives in every age for all our freedoms. I see an America at peace through the renewed commitment of her people, an America that is still the hope of the world. To this vision I pledge, in the words of the Declaration of Independence, 'my life, my fortune, and my sacred honor.'

THE ENERGY RESOURCE CENTER OF DOWNEY, CA, LEADING THE WAY FOR AN ENERGY-EFFICIENT NATION

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. HORN. Mr. Speaker, in this day of growing concern over both the economic and the environmental future of our Nation, I rise to spotlight a ''new'' building in my district that sets a national standard in energy efficiency, environmental concern, and the use of recycled materials. It is the Southern California Gas Company's Energy Resource Center [ERC] which is located in Downey, CA. Envisioned as a clearinghouse on energy and energy conservation information, the planners of the ERC sought to house this information center in a building that embodied the environmental goals of recycling and energy and resource conservation. They succeeded magnificently.

The ERC opened its doors in April in its ''new'' recycled building as a one-stop center where customers can find the most efficient, cost-effective, and environmentally sensitive solutions to all their energy needs. At the ERC, people will be able to get answers to energy questions on such diverse subjects as natural day lighting, gas cooling, and low emissivity windows. The ERC will also house an air quality permitting office of the South Coast Air Quality Management District, that will allow businesses to make energy decisions and understand air quality permitting requirements in one stop. The ERC will provide meeting space for up to 700 people.

Designated by the U.S. Environmental Protection Agency [EPA] as an ''Energy Star Building,'' the ERC is one of the Nation's best working models of energy efficiency and cutting-edge environmental products—a living example of how to recycle a building and use energy in the most efficient way. When construction began on the 38-year-old building in April of 1994, there were no wrecking balls. Instead, builders reused many of the materials that were already there. They incorporated those materials with many of the most advanced and environmentally sensitive technologies which are available today.

During the construction process, all of the 550 tons of material removed from the building—asphalt, red clay brick, porcelain plumbing fixtures among others—were sorted and stockpiled. Materials that could not be used again in the building were taken to recycling centers or were given to other builders. About 60 percent of the materials removed—approximately 350 tons—were recycled one way or another.

Contractors were required to use recycled, toxic-free, and environmentally-sensitive materials. As a result, 80 percent of the materials used in the construction of the ERC came from recycled or reused materials. The ERC building now features many unusual recycled materials such as concrete reinforcement bars made of recycled steel from weapons confiscated by the Los Angeles Sheriff's Department; flooring made of wood recovered from a condemned turn-of-the-century building in San Francisco; a wall made from recycled aircraft aluminum; and sections of the movie set used in the recent Warner Bros. film ''Disclosure.''

In addition to the construction materials, other state-of-the art, environmentally-sensitive methods were used such as soil protection, dust minimization, and adherence to noise control regulations. The preservation of existing land resources was not forgotten—whether they were trees, shrubs, vines, and or top soil. Drought-resistant plants were used for exterior landscaping. There are plans for an underground drip irrigation system to be fed by reclaimed water.

The Southern California Gas Company's Energy Resource Center in Downey, CA, is leading the way for sound environmental construction that is economics-friendly. Mr. Speaker, the Energy Resource Center will enable those who use it to have a much better energy-efficiency future and that is good news for our Nation.

TRIBUTE TO COLONEL SCOTT E. MILLS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to recognize Colonel Scott E. Mills, U.S. Air Force, on the occasion of his retirement from the military.

Scott Mills has served as Chief of the U.S. Air Force Academy Activities Group since June, 1993. During the last 2 years, he has worked closely with many of our offices in coordinating Congressional nominations and inquiries for the Academy.

Born in Berkeley, California, Scott Mills received a Bachelor of Science degree as a member of the U.S. Air Force Academy Class of 1973. He received a Master of Science in Logistics from the Air Force Institute of Technology in 1984. His professional military education includes Squadron Officer School, Air Command and Staff College, and the Air War College.

Scott Mills' Air Force career is one marked diverse accomplishments. He is a Master Navigator with over 3,000 flying hours, serving as both C–141 navigator and C–141 navigator instructor. He has served with 4th Military Airlift Squadron, 323d Flying Training Wing, Headquarters Air Training Command, the Joint Cruise Missiles Project, and the 323d Support Group.

Scott Mills has received numerous awards including the Defense Meritorious Service Medal, the Meritorious Service Medal with two oak leaf clusters and the Air Force Commodation Medal with one oak leaf cluster.

Mr. Speaker, Scott Mills' service to his country has touched the lives of countless young men and women either serving in the U.S. Air Force or attending the United States Air Force Academy. His integrity and his commitment to excellence are the trademarks of his career.

I ask my colleagues to joint me in thinking him for his distinguished and selfless service to our nation. As he returns to civilian life, may he and his family enjoy the full blessings of the freedom he has so ably defended during this career as a officer in the U.S. Air Force.

CAREERS BILL INTRODUCTION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GOODLING. Mr. Speaker, I am pleased to join Training Subcommittee Chairman BUCK MCKEON, his Vice Chairman FRANK RIGGS, YOUTH SUBCOMMITTEE CHAIRMAN DUKE CUNNINGHAM, Congressman STEVE GUNDERSON, Majority Whip TOM DELAY, Conference Chairman JOHN BOEHNER, and Budget Committee Chairman JOHN KASICH, to introduce the CAREERS (the Consolidated and Reformed Education, Employment, and Rehabilitation Act) Act to reform the Federal job training system.

This bill is the result of a number of Subcommittee hearings, and is the first complete product of the Opportunities Committee's

Agenda 104 process in which we examined the various programs within our Committee's jurisdiction to determine their effectiveness. Our Committee will be working to mark up this bill throughout the month of May, and will hopefully send a bill to the floor for consideration early this summer.

We drafted this bill starting from the position that the current Federal Work Force Preparation System is fundamentally flawed and in need of reform. There are simply too many programs, too much bureaucracy, too much duplication, and too much waste of taxpayer money.

The CAREERS bill is drafted based on two overarching principles: quality and local control. For many years, I have been talking to anyone who would listen about the need to institute quality into the Federal training system. Briefly, CAREERS focuses on providing quality training services by:

Simplifying the entire system from more than 100 programs into just four that we believe should be the focus of Federal involvement in job training: adult employment and training; adult education; vocational rehabilitation; and, career education and training for youths;

Giving States and communities the maximum amount of responsibility to run their own programs;

Because we believe that education and literacy hold the key to maintaining the long-term economic competitive position of the United States, we require that these issues are a key focus of the Federal work force preparation system; and

Demanding results in the form of high standards for improvement of local training and education systems.

With regard to local control: let me be clear, we are giving States and localities more power to run Federal job training programs than they have ever had in recent history. Governors will have unprecedented power to coordinate all Work Force preparation State level activities. As a State's highest ranking elected official, a Governor is the key to the job training system in every State.

It is at the local level, however, where the most dramatic change takes place. Work force development boards led by businesses will coordinate the entire system in communities around the Nation. They will create one-stop sites to ensure coordinated access to all local work force preparation programs. They will operate programs for adult training and severely disabled adults, as well as work with schools, libraries, literacy providers, and others to ensure the entire training system works together within the community.

As you can see, this is a tremendous undertaking and truly a dramatic reform in the way the Federal Government does business in job training. The CAREERS bill also undertakes enormous reforms in the higher education arena as well by eliminating SPREs (State Postsecondary Review Entities) and privatizing the SALLIE MAE and CONNIE LEE corporations.

Our final note. We have looked carefully at other approaches that would completely turn this program over to States in a modified version of ''revenue sharing.'' As I have said many times, I do not support revenue sharing because we have no revenue to share. What I support is outlined in this bill: four consolidated programs, additional flexibility for States and communities, but we must continue the Federal role in demanding results in the form of broad standards and goals to ensure accountability for this important investment of taxpayer dollars.

Again, I salute the hard work of Committee members to come up with this bill, and I look forward to working with the Administration and Committee Democrats to develop a bill that truly reforms our Nation's job training system.

INTRODUCTION OF THE ''CONSOLIDATED AND REFORMED EDUCATION, EMPLOYMENT, AND REHABILITATION SYSTEMS ACT'' THE ''CAREERS ACT''

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GUNDERSON. Mr. Speaker, at a time when the skills levels of the American workforce are more important than ever before to U.S. competitiveness, this country's programs designed to prepare its workers are seriously fragmented and duplicative. Because education and training programs have been developed independently over many years, there is no national strategy for a coherent workforce preparation and development system.

As we all know by now, the U.S. GAO has identified 163 different Federal programs, totaling $20 billion, which offer some form of job training and/or employment assistance to youth and adults in the United States—yet over the past several years we have continued to add to this number. A major focus of any reform effort must be to eliminate unnecessary duplication and fragmentation in these systems, and at the same time, provide States and localities with the flexibility needed to build on successful existing programs and initiate change where appropriate.

Today we are introducing the Careers Act—a multi-tiered job training reform effort that: Streamlines workforce preparation programs at the Federal level through consolidation of similar programs; and provides flexibility needed by States and local areas to further reform State and local systems—building on existing successful programs, encouraging change where such change is needed, and involving the private sector at all levels in development of the system.

This proposal builds very closely on two bills that Committee Republicans introduced last Congress—H.R. 2943, the National Workforce Preparation and Development Act; and H.R. 4407, the original Careers Act. It also follows through on legislation we introduced earlier this year, H.R. 511, which pledged significant reform in this area. With the Careers Act, we are going much further with reform than anyone dreamed was possible during last Congress.

Specifically, the Careers Act consolidates well over 100 Federal education and training programs (as listed by the GAO) into 4 consolidation grants to States and local communities. The four consolidation grants include: A Youth Workforce Preparation Consolidation Grant—consolidating Vocational Education; School-to-Work; and JTPA's Summer Youth Employment, Year-Round, and Youth Fair Chance Programs with programs would be built on a model integrating academic, vocational, and workbased learning, and enhancing State and local employer input in the design/development/delivery of programs; a Vocational Rehabilitation Consolidation Grant; an Adult Training Consolidation Grant (including programs for Disadvantaged Adults and for Dislocated Workers); and an Adult Education and Literacy Consolidation Grant (including all Adult Education and Literacy programs). The legislation will provide maximum authority to States and localities in the design and operation of their workforce preparation system; drive money to States—and down to local communities to the actual points of service delivery; require the involvement of local employers in the design and implementation of local systems—through employer-led local Workforce Development Boards; require that service delivery be provided through a one-stop delivery structure; and we even allow the Secretary of Labor and States to use a portion of their funding to establish employer loan accounts for the training of incumbent workers.

Further, the legislation privatizes 2 existing government sponsored enterprises, Sallie Mae and Connie Lee—in the spirit of reduced Federal control for programs that no longer need Government support.

There is no doubt that future U.S. competitiveness is dependent on the skill levels of our workers. In addition to global competition, technological advances and corporate realignments highlight the need to focus on worker preparation. The future of U.S. competitiveness really rests on what I describe as a ''3-legged stool.'' We have already accomplished the construction of the 1st leg—tearing down barriers to trade through the enactment of NAFTA and GATT. We are currently working on the 2d leg—providing tax and other incentives for modernization of the workplace. Finally, the 3d leg, and probably the most difficult to strengthen and uphold, but one that is imperative to succeed, is that of investing in and strengthening the education and training of our citizenry.

I think that the Careers Act accomplishes the building and strengthening of this ''3d leg''. It focuses on the workforce preparation and literacy needs of youth, adults, and individuals with disabilities. I hope that we will succeed in seeing its enactment this year.

FRANKING REDUCTION ACT OF 1995

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. GOODLATTE. Mr. Speaker, I rise today to reintroduce the Franking Reduction Act of 1995, legislation that is necessary if we are to truly reform this House. The bloated franking budget has become nothing more than a blatantly abused political advertising slush fund, and it has got to stop. My bill, which has received bipartisan support, would slash the $31 million franking budget in half.

The past 100 days have seen the passage of several substantial in-House reforms, proving to the American people our commitment to real change. The American people are getting the message that real change is finally happening here in Washington, which is precisely

why we can't stop now. We need to continue to pass legislation consistent with our promise of reform to the American people.

To keep the spirit of reform moving, I urge my colleagues to join me in some spring House cleaning. The frank has grown from a tool to inform and educate constituents about legislative issues into a campaign advertisement to promote personal and political agendas. We need to restore credibility to the franking process by making Members accountable for the costs they incur.

Not only will my bill cut franking by 50 percent, but it also requires monthly statements of costs charged to each Member's account to be made available to the public. This bill will apply to sessions of Congress beginning after the date of enactment.

The bloated franking budget can be cut without damaging the ability of Members to communicate with their constituents. In the 103rd Congress, I used less than 50 percent of my franking budget, without impairing my ability to effectively correspond with my constituents. It is a common misnomer that a reduction in franking affects a Member's performance. Rather, it forces Members to use their mail budget solely to inform and educate.

Mr. Speaker, I think we can all agree that bringing an end to franking abuse is long overdue. Cutting the franking budget by 50 percent will restore the original intent of the frank while following through with our promise of continued congressional reform. I urge my colleagues to join me in supporting this bill.

TRIBUTE TO LEONARD H. MACKAIN

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. KIM. Mr. Speaker, I rise before the House floor today to recognize a major civic leader in the 41st District who has recently retired from many years of public service. The City of Brea has greatly benefitted from the contributions of Mr. Leonard H. MacKain who has been a leader in our community for many years.

Mr. MacKain has previously served on the Brea City Council from 1972 to 1976 with two consecutive terms as mayor from 1974 to 1976. During this period, he played an integral part in the building of the Brea Civic Center and Library and forming redevelopment areas which allowed for the construction of the Brea Mall.

In his career in education, Mr. MacKain has held the positions of superintendent, assistant superintendent, teacher principal, project manager and Board Educator member. His commitment and enthusiasm in this area has led to the construction and expansion of five schools in Brea and has created strong bonds between the city and the school district.

I also want to mention that Mr. MacKain has also served on the Harbors, Beaches and Parks Commission in 1976 and held this position for the next 15 years.

As the U.S. Congressman for the 41st District, I salute Mr. MacKain for his outstanding achievements and dedication as a public servant. Washington is beginning to delegate its power to the State and local level. This requires able leaders to use excellent judgment with this new responsibility. Mr. Speaker, I believe that Mr. MacKain is a fine example of a decision maker at the local level who has put in the effort to successfully transform a community by understanding and recognizing how to utilize existing resources given to it. America needs more people like him.

HOME FOR GUIDING HANDS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. HUNTER. Mr. Speaker, mentally and physically disabled people are being helped by computers in two homes for the disabled because of techniques developed by Lloyd Hartvigsen. He credits part of the success for the lab he established at the Home for Guiding Hands at Lakeside, CA, to Lorraine Barrack, now 36 years of age, who has had cerebral palsy since birth.

''It just made sense that people who can't speak might find their voice with the aid of a computer,'' said Mr. Hartvigsen, a retired printer who established a 10-terminal lab for residents of the Home for Guiding Hands. The mother of Lorraine Barrack, Mrs. Elaine Barrack, said ''It's the first time my daughter has been able to write us a note that says 'I love you.' This was the first year she's been able to send out Christmas cards. You just can't know how precious these notes and letters are to me.''

Mr. Hartvigsen, working with Lorraine's family, decided that the wand and touch screen would be perfect, since she had control of her head movements. ''With a touch screen, everything you do with a keyboard can be done just by touching the screen,'' he explained. ''To use the computer, Lorraine puts on a cap with a foot-long wand attached. By leaning forward and tapping the wand on certain parts of the computer screen, she can write a note or play a game.''

Lorraine and 14 classmates at the Home for Guiding Hands use the computer system to do schoolwork, to paint and draw, and also to learn to type and send letters to relatives and friends. Mr. Hartvigsen is also employed part-time as a computer instructor at St. Madeleine Sophie's Center for the Handicapped in El Cajon, CA. He began volunteer work at the Home for Guiding Hands in 1988, but it was in the past 4 years that he realized how helpful computers could be as communication tools for the developmentally handicapped. Originally a volunteer at the Home for Guiding Hands, he was hired several months ago by the Home to operate the computer lab that he had set up. He now instructs residents of the Home in the use of computers, as well as residents of the St. Madeleine Sophie's Center.

Mr. Hartvigsen is the son of Austin Hartvigsen of Santee and the late Mrs. Austin Hartvigsen, both of whom were volunteers for several years at the naturalization ceremonies in San Diego. They welcomed the new citizens, answered any questions they might have, and helped them register to vote. The family is an outstanding example of the best in volunteerism in America.

WHY AMERICA NEEDS A DEPARTMENT OF VETERANS AFFAIRS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MONTGOMERY. Mr. Speaker, I am pleased to share with my colleagues a letter written by the Honorable Jesse Brown, Secretary of the Department of Veterans Affairs, to Mr. Stuart Butler, Vice President of The Heritage Foundation. The letter is in response to The Heritage Foundation's proposal to eliminate the Department of Veterans Affairs and establish it as a bureau within the Department of Defense.

I believe Secretary Brown's remarks point out how important it is to maintain the Department of Veterans Affairs. In the wake of all the ''myths'' being printed in the media about the Department's facilities and the services it provides, the facts laid out in Secretary Brown's letter make for very compelling reading.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, May 10, 1995.

Mr. STUART BUTLER,
Vice President, The Heritage Foundation, Massachusetts Avenue NE., Washington, DC.

DEAR MR. BUTLER: I was rather perplexed when I read your proposal to eliminate the Department of Veterans Affairs and establish it as a bureau in the Department of Defense. Likewise, I was mystified by some of the specific program recommendations in your report on ''Rolling Back Government.'' About the only statement that I agree with is, ''The care of Americans who have served their country in the armed forces is a core function of the federal government.'' At least you are right in that regard.

CABINET STATUS

VA was elevated to Cabinet status in 1989 after years of congressional deliberation. President Reagan agreed with Congress that the agency charged with administering benefits and services to our veterans and their dependents (who now number 26 million and 44 million, respectively) belongs at the Cabinet table when issues are being formulated and acted upon. President Reagan was right. Your report portrays VA as an inefficient bureaucracy while offering no evidence in support of such a statement. I am curious how you arrive at the conclusion that the existing structure for providing veterans benefits and services would become more efficient with another layer over it, that of the Office of the Secretary of Defense, and possibly others. Further, if VA were to be made a bureau within DoD, the Nation's obligations to our veterans would constantly be at risk of being subordinated to National defense and security needs, particularly in time of conflict or great danger. The lack of wisdom of placing veterans programs in such a precarious position has been obvious to Congress and Presidents for many decades. How could you possibly fail to realize—or even address—the fact that a separate VA assures that veterans' needs are addressed on their own merits and not based on whether our Nation needs to spend more or less on defense?

DISABILITY COMPENSATION

Turning to the proposals you make for specific VA programs, I found it extremely ironic that, in the name of ''allowing veterans to enjoy the benefits of privately provided . . . retirement services'' and modernizing the VA disability compensation program, you simply propose taking away compensation from certain veterans. One group who would

''benefit'' from your efforts to bring VA up to the private, modern standards you admire are veterans with service-connected injuries or illnesses rate 10% or 20% disabling who do not meet an economic-need test that you failed to disclose and, thus, would lose their benefits. These veterans could have lost two fingers or four toes, or they might have persistent, moderate swelling of a foot as a residual of frostbite, or any of a wide range of other impairments—for which VA pays about 1.2 million veterans monthly compensation in the amount of $89 (the 10% rate or $170 (the 20% rate). These veterans, the target of your efforts to provide the ''benefits'' of what the private sector provides, will certainly be grateful for your efforts. I am also certain that they will find dismaying, as will all disabled veterans and all other Americans with disabilities, your unfounded conclusion that ''[d]isabity is no longer a major hindrance in finding work.''

You also urge that disability compensation payments be limited to those disabled as a result of ''direct'' active duty experiences. This apparently would mean that compensation would no longer be paid for disabilities incurred during military service unless it can be shown they were caused by the performance of official duties. However, military personnel are considered to be on duty 24 hours a day and are subject to military discipline and the military system of criminal justice around the clock every day of the year. Unlike civilian employees, who can refuse assignments and leave their jobs, service members cannot refuse orders sending them to remote or unfamiliar areas in the United States or overseas. Doing so would subject them to criminal prosecution, as would unauthorized absences. In addition, our people in uniform are often subjected to unusual physical and psychological stress, including the special dangers involved in training for combat and the horrible risks and unique hardships of armed conflict. In a very real sense, whatever happens to them during their period of service is in the line of duty.

Given these unique circumstances of military service, it is only fair and reasonable that the package of pay and benefits for our military personnel includes comprehensive health care during service and, thereafter, a system of disability compensation and medical benefits for any disabilities incurred during service. I see these benefits as essential to the maintenance of our All-Volunteer Force.

Moreover, I believe it would be a disgrace, as well as very harmful to recruitment, if our military were to take a young man who was left paralyzed from an off-base accident, for example in Thailand or on an icy road in New England, and simply send him back to his parents and tell them that the Government was not going to be responsible for his medical bills or pay him compensation to make up for his lost earning power. To me, that would be a tragic reversal of our current, very sound policies.

MEDICAL CARE

Your assertion that the VA health-care system provides poor care to American veterans is totally unsubstantiated—except for a newspaper article by a disgruntled former VA employee (hardly the type of scholarship expected of a prestigious policy institute). Our accreditation scores are consistently substantially higher than those in the private sector. You say that ''most telling is that only 9.6 percent of eligible veterans rely exclusively on the VA system for their health care.'' What this tells is not that VA provides poor service. Rather, it says that VA does not have the resources to treat many veterans who are not service-disabled or poor. Veterans groups tell us that many of their members who are locked out by current constraints would prefer to use VA health-care services.

You cite as evidence of poor medical care successful malpractice suits against VA of $254 million during the decade 1983–1992. That comes to an average of about $25 million per year. Our data indicate a slightly higher number, about $30 million annually. However, in the absence of any comparative data regarding the private sector, these numbers have no significance. In fact, when you consider that VA runs the largest health care system in the country and annually provides care to 2.5 million veterans, including 1 million episodes of inpatient care and 26 million outpatient visits, that figure does not seem out of line. Perhaps, your figures show just the opposite; that VA is providing high quality care.

You advocate a voucher system to provide health care for veterans. You say that this would permit veterans to choose their own insurance plans and that this would help save $7.9 billion over five years. I would really like to see the economic analysis underlying that ridiculous projection. To whom would you provide vouchers: The 2.5 million veterans who receive VA care in any given year; the 5 million who receive care over a five-year span; or the approximately 12 million service-disabled and low-income veterans who have entitlement to VA care? How much would these vouchers be worth? Would they be sufficient for our veterans with a history of heart attacks or cancer to purchase comprehensive health care? Would they enable veterans with chronic mental illness, diabetes, or epilepsy to obtain all the care they need? Would your vouchers cover the complete health-care and rehabilitation needs of veterans with spinal-cord injuries, missing limbs, and blindness? Would you provide vouchers for World War II veterans needing long-term care? Or would your vouchers shift major costs of care to sick and disabled veterans or simply leave many of them out in the cold?

Have you examined the several studies suggesting that VA care is less costly than private care? How did you arrive at your apparent conclusion that private care would be more economical?

I believe you also need to realize that about 1 million of our patients have Medicare eligibility but have chosen VA as their health-care provider.

You want VA to close many of its hospitals, and you claim that the majority of VA buildings are under-used. Our hospitals run at an occupancy rate of 75 percent, compared to the private sector average of 67 percent. Our nursing homes have an occupancy rate of over 90 percent; and our domiciliaries, 83 percent. What kind of survey enabled you to reach the preposterous conclusion that most VA facilities are underused? Again, I would like to see the underlying research and analysis.

You call for a halt to all new VA construction. You obviously haven't seen the things that I have—veterans housed in open wards, communal bathrooms, inadequate facilities for female patients. These deficiencies need to be corrected; and we need to meet the growing need for modern outpatient facilities and fill major gaps in inpatient care in certain areas. We can't just terminate our construction program, unless we wish to close down the VA system. Unfortunately, that appears to be your goal.

You also mistakenly took a swipe at VA construction as ''pork barrel spending.'' Very little pork creeps into VA construction, and your unfamiliarity with veterans' programs is revealed by your silly, mistaken reference to the appropriation of $5 million for bedside phones ''in Virginia medical centers.''

The appropriations conference report item you referred to used the expression ''VA medical centers.'' The money was to assist in VA's national effort to provide bedside phones in all VA hospitals. In the veterans' area, ''VA'' usually means the Department of Veterans Affairs, not Virginia. If you continue to work in this field, this is one of the many, many things with which you'll need to become acquainted. Most are more consequential, such as the extent of the Nation's obligation to those who have served and sacrificed so much and the gratitude that the American people feel for their defenders.

Because of your reputation as a think tank, your report will receive serious consideration in Congress. It's a shame that it is as lacking in concern for our Nation's veterans as it is in rigorous analysis and pertinent data. I wish you had done a better job.

Sincerely,

JESSE BROWN.

SPEAKING OUT ON MEDICARE/ MEDICAID BUDGET CUTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. STOKES. Mr. Speaker, I want to thank my distinguished colleagues, FRANK PALLONE, KAREN MCCARTHY, and CAL DOOLEY, for sponsoring this special order. I am pleased to join them for this candid discussion on proposed budget cuts to the Medicare and Medicaid Programs.

The Republican plan calls for nearly $200 billion in cuts to Medicaid and other health initiatives. In my congressional district, and in communities throughout the United States, millions of Americans are served by the Medicare and Medicaid Programs. In spite of this critical need, in order to fund a tax cut for the wealthy, Republicans in Congress have placed Medicare and Medicaid on the chopping block. By taking this position, they are continuing to exhibit a callous disregard for those most vulnerable in our society—those in the dawn of life, our children; those in the twilight of life, the elderly; and those who are in the shadow of life—the sick, the needy and the handicapped.

Medicaid is America's largest health care program for the poor, covering about 60 percent of all Americans, This year, Medicaid will provide basic health care coverage for over 36 million low-income children, mothers, elderly, and disabled Americans.

Mr. Speaker, approximately 40 million Americans have no health insurance coverage. Without Medicaid, the number of uninsured would nearly double. This would result in needless suffering, and death and disease would increase. Further, we have not considered the drain this would create on the Nation's health care delivery system in treating those who are uninsured.

Between 1988 and 1994, Medicaid was expanded to provide coverage for pregnant women and children. This was done in an effort to decrease the Nation's infant mortality rate, and, at the same time, increase childhood immunizations. The expansion signalled our commitment to guarantee our children a healthy start and thus, a brighter future.

Mr. Speaker, the Republican leadership has promised to balance the budget by cutting $1 trillion from the budget over 7 years. This would finance a proposed $350 billion tax break for America's wealthiest citizens. In addition to its assault on Medicare and Medicaid, the Budget plan represents an assault on programs such as housing, summer jobs for our youth, education, job training, and energy assistance for our elderly.

As Members of Congress, we must take a strong stance in defense of our Nation's seniors. It is estimated that the proposed $282 billion in cuts to Medicare would add more than $3,000 to seniors' health costs. In fact, if the cuts to Medicare become law, the average Medicare beneficiary is expected to pay approximately $3,500 more in health costs over the same 7-year period.

According to the Urban Institute, the typical Medicare beneficiaries already dedicate a staggering 21 percent of their incomes to pay out-of-pocket health care expenditures. While our Republican colleagues say that they aren't cutting Social Security, under their budget proposal for Medicare, seniors would see 40 to 50 percent of their cost-of-living adjustment consumed by increases in Medicare cost sharing and premiums.

Mr. Speaker, I am grateful to my colleagues for allowing this meaningful discussion on a very important issue. I share their concern that we must protect Medicare and Medicaid from the Republican budget ax. We must not allow the Republican Party to balance the budget on the backs of those most in need. By the same token, we will not allow our seniors and the poor to be used as pawns in a tax give-away scheme for the rich.

INTRODUCTION OF THE CONSOLIDATED AND REFORMED EDUCATION, EMPLOYMENT, AND REHABILITATION SYSTEMS ACT, THE CAREERS ACT

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. McKEON. Mr. Speaker, today I am joining the distinguished Chairman of the Committee on Economic and Educational Opportunities, Rep. BILL GOODLING, all Republican Members of our Committee, and Representatives KASICH, DELAY, BOEHNER, and DAVIS, in introduction of the Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act—better known as the Careers Act of 1995. This legislation transforms this Nation's vast array of career-related education, employment, and job training programs into a true system of workforce preparation and development.

As was brought to the attention of the Congress by the U.S. General Accounting Office over the past several years, the United States currently has as many as 163 different Federal programs, totaling $20 billion, which offer some form of job training and/or employment assistance for youth and adults. In addition to the excessive number of Federal programs, the quality of U.S. training programs varies significantly. As a result, earlier this year we introduced H.R. 511, the Workforce Preparation and Development Act, which pledged that the 104th Congress would, thoroughly evaluate our current programs, and subsequently develop and enact legislation that: First, Eliminates duplication and fragmentation in federal workforce development programs; Second, transfers major decision-making to States and local communities; Third, stresses the vital role of the private sector, at all levels, in the design and implementation of the workforce preparation system; Fourth, is market driven, accountable, reinforces individual responsibility, and provides customer choice and easy access to services; and Fifth, establishes a national labor market information system that provides employers, job seekers, students, teachers, training providers, and others with accurate and timely information on the local economy, on occupations in demand and the skill requirements for such occupations, and information on the performance of service providers in the local community.

Today, after a comprehensive set of hearings on this issue, we are following through on our promise. We are introducing legislation that will do what was pledged in H.R. 511. The Careers Act, does all of the above and more. The Careers Act would consolidate and eliminate over 150 existing education, training, and employment assistance programs into 4 consolidation grants to the States. Such grants would include: A Youth Workforce Preparation Grant; and Adult Employment and Training Grant; a Vocational Rehabilitation Grant; and an Adult Education and Literacy Grant. And these 4 programs, working together, will form each State's workforce preparation system.

Our bill provides maximum authority to States and localities in the design and operation of their workforce preparation systems. We significantly reduce administrative requirements, paperwork, duplicative planning, reporting, and data collection requirements across the various programs—in general eliminating vast bureaucracy within the system. However, our legislation does provide some broad parameters for the design of a workforce development system, that we feel are necessary to move the system in the right direction, based on testimony heard in our numerous hearings, and in talking to people around the country.

Specifically, title I of Careers, is designed to build an infrastructure in States and local communities for development and implementation of a comprehensive workforce development system. At the State level, Governors are asked to pull together key State agency heads and leaders from business and education to develop a single State plan and performance measurement system for the entire workforce development system. Governors are also asked to designate workforce development areas throughout the State, for the distribution of funds and service delivery under much of the system.

To ensure the involvement of employers in the design and implementation of local systems, Careers requires the establishment of local, employer-led, workforce development boards. These boards would provide policy guidance and oversight over local systems, and would be responsible for the establishment of local one-stop delivery systems—easily accessible single points of entry into the local workforce preparation system.

The youth workforce development program pulls school systems and postsecondary institutions together with local business leaders to develop a school-to-work system for both in-school, and out-of-school youth in the community. This system is designed to result in challenging academic and occupational competency gains for all youth in the community, as well as completion of high school, or its equivalent, and other positive outcomes such as placement and retention in employment, or continuation into postsecondary education or training. States would also be require to show how special population students meet the performance standards.

Under the adult and the vocational rehabilitation programs, upfront or core services—such as information on jobs, assessment of skills, counseling, job search assistance, information on education, training, and vocational rehabilitation programs in the local community, assessment of eligibility for such programs—including eligibility for student financial aid—and referral to appropriate programs would be available to all individuals through a net work of one-stop career centers and affiliated satellite centers throughout each community. For individuals with severe disabilities and determined to be in need of more intensive services, such services would be available through vouchers and other means to be used with approved providers of vocational rehabilitation services. Under the adult training system, for individuals who are unable to obtain employment through the core services, more intensive service such as specialized assessment and counseling, and development of employability plans, would be available—also through the one-stops. For those unable to obtain employment through these services and determined to be in need of education or training, such services would be provided—through the use of vouchers or other means that offer maximum customer choice in the selection of training providers. States would be required to establish a certification system for the identification of legitimate providers of education and training for receipt of vouchers—taking into account the recommendations of local workforce boards.

Finally, beyond the specific area of job training, the Careers Act includes privatization proposals for 2 existing government sponsored enterprises—again focusing on the streamlining of federal programs. Sallie Mae and Connie Lee were created by the Higher Education Act and are examples of for-profit, stockholder owned GSEs which have successfully fulfilled their intended purposes. Privatization cuts the ties to the Federal Government and establishes a willingness on the part of the Government to take a successful public-private partnership and turn it into a completely private venture when government support is no longer necessary. I want to thank the administration for its thoughtful testimony at our hearing on the issue of privatization and for its assistance in identifying and addressing the important and complex issue involved in privatization proposals. And also, I would like to thank the administration for its testimony and advice on reform of our job training system.

As a Congressman from a district in California that has been hit hard by defense and aerospace cutbacks—I understand that the skills of this Nation's workforce are more important today then ever before to U.S. competitiveness. However, our current patchwork of Federal programs is not the answer. The Careers Act addresses our long term workforce preparation strategy by creating a

seamless system for youth and adults to meet the competitive needs of our workforce. I thank our distinguished Chairman for his insight and leadership on this vital issue and I invite all of my colleagues to join with us in this dramatic effort to overhaul the Federal approach to job training and workforce preparation.

DEDICATION OF THE RICHARD BOLLING FEDERAL BUILDING

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Ms. McCARTHY. Mr. Speaker, I rise today to inform the members of this body that on Sunday, May 13, the people of the Fifth Congressional District of Missouri will pay tribute to the late Dick Bolling, a Member of the House of Representatives from 1949–1983. We come together this weekend to dedicate the Federal Building in downtown Kansas City as the Richard Bolling Federal Building.

Dick Bolling represented my congressional district for 34 years and it is a fitting tribute that this building be named in his honor. This building resulted from his vision—the vision of a man who understood how vitally important it is for the employees of the Federal Government to live and work in local communities like Kansas City throughout the country.

Dick Bolling will long be remembered as a giant of the House, and a voice for his constituents on the national political stage. He is a shining example of the generation we so recently honored on VE Day, a generation that fought economic depression, went overseas to defend our freedom, and returned to build a new society with opportunity for all.

Initially intent on an academic career after college, World War II intervened and Dick Bolling enlisted as a private and emerged 5 years later as a lieutenant colonel with a Bronze Star. Continuing as he began, Dick Bolling battled entrenched forces all of his life—the armies of ignorance, segregation and machine politics. His first post-War job brought him to Kansas City as Director of Student Activities and Veterans Affairs at the University of Kansas City, now known as the University of Missouri-Kansas City.

While at the University Dick Bolling became very active in the American Veterans Committee and the Americans for Democratic Action. His political activities led to his decision to run for Congress in 1948 against the Pendergast machine candidate in the primary and against a one-term Republican who was perceived to have a lock on the district. Mobilizing a core group of activist veterans, Dick Bolling characterized his election on President Truman's coattails as a fluke. He went on to be re-elected, by overwhelming victory margins, to 16 additional terms.

It is difficult to describe in a few short sentences the career of a man who served in this institution for 34 years. He was passionate about the House of Representatives. He was not afraid to be critical of the House as he was in his best known book, ''House Out of Order,'' and he devoted much of his career to reform of its shortcomings. Known for his parliamentary skills, he was particularly proud of his contributions which led to passage of the Civil Rights Act of 1957, the first meaningful civil rights legislation enacted after Reconstruction.

Dick Bolling served as an adviser to many of the great political personalities of his time: Speakers of the House of Representatives, Presidents and presidential contenders, and other national leaders. I have also been moved by the statements of his colleagues made in tributes at the time of his retirement from the House in 1982 and at the time of his death in 1991. He was a mentor to many of those elected to serve in this body and clearly the hero of countless more both inside and outside of the House of Representatives.

Perhaps Dick Bolling's greatest contribution to those who knew him or who know of him was his spirit. He never shied from fighting for a cause in which he believed. He urged his fellow members to work hard, to serve their constituents, to be honest, and to have the courage of their convictions. He is a role model to me and to countless others of my generation who have chosen public service. His leadership is a contribution which will not be forgotten in his congressional district or by the country. On behalf of the people of the Fifth District of Missouri I am proud to join in the dedication of the Richard Bolling Federal Building.

WE NEED TO BAN TOY GUNS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. TOWNS. Mr. Speaker, once again, another child in the city of New York died needlessly at the hands of a police officer who thought the child had a gun. While the child did have a gun, it was a toy gun.

As a result of this ongoing crisis, I am introducing a bill today asking the Consumer Product Safety Commission to ban toys which in size, shape, or overall appearance resemble real handguns. Congress tried to ban toy handguns by passing the Federal Energy Management Improvement Act of 1988 which required that all toy guns manufactured or sold after May 5, 1989, be marked to distinguish them from real weapons.

The act required one of the following markings: a blaze orange plug inside the muzzle; an orange band covering the outside end of the muzzle; construction of transparent or translucent materials; coloration of the entire surface with bright colors; or predominately white coloration in combination with bright colors. The act also required the Director of the National Institute of Justice [NIJ] to conduct a technical evaluation of the marking systems.

The conclusion of the evaluation conducted by NIJ showed that the orange plug marking standard completely failed to enable police officers to identify the weapon as a toy gun. In fact, clearly marked toy guns were most likely to provoke shootings on the first trial, and less likely only after police officers gained some familiarity with the situation and the possible appearance of toy guns.

It is quite clear to me, and should be to all of you, that something drastic needs to be done to stop the needless shooting of innocent children. Markings are not enough—they do not work.

To ensure that there are no mistakes, no failures to recognize plastic from steel, I strongly encourage you to vote for a total ban on the manufacturing of realistic toy handguns.

COMMEMORATING THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

SPEECH OF

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1995

Mr. HORN. Mr. speaker, eighty years ago the world watched in horror as one of the most tragic, savage periods in modern history—the destruction of the Armenian culture by the Ottoman Empire in what later became the Republic of Turkey—unfolded. Between 1915 and 1923, over 1.5 million Armenian men, women, and children were systematically murdered by Ottoman leaders. Millions more were driven from lands that they and their ancestors had occupied for centuries. By 1923, the Armenian culture had been almost completely eradicated within the confines of what is now modern-day Turkey. hat had once been a thriving Armenian populace of more than 2.5 million human beings in 1915, numbers around 80,000 today.

Racial/ethnic hatred was the reason for this brutal genocide—as it was in the Nazi death camps of Auschwitz and Dachau whose 50th liberation anniversary we are honoring this year. And therein lies one of the most important reasons that the world must never forget this shameful event. As we watch in horror at today's racial and ethnic atrocities in Bosnia and Rwanda, and as we remember the all too recent slaughter of one million Cambodians under the evil rule of Pol Pot, and as we listen in disgust to the racial hatred being preached by Americans of various racial and ethnic backgrounds, we must use this tragic anniversary of the Armenian Genocide to renew our efforts to make sure that any and all genocide atrocities never again occur. This is our memorial to those one and a half million human beings who were lost in the Armenian Genocide.

TRIBUTE TO OFFICER JOSEPH GALAPO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. MANTON. Mr. Speaker, as a former New York City police officer and in recognition of National Police Week, I rise today to pay tribute to Officer Joseph Galapo.

Officer Joseph Galapo was killed in the line of duty on August 16, 1988. He made the ultimate sacrifice for those he served. I extend my most heartfelt condolences to Officer Galapo's widow and three children. I hope it is of some comfort to the family to know the people of New York City feel a deep sense of gratitude for the sacrifice you have made.

During the week of May 14, we recognize the tremendous sacrifice officers of the law

make to keep our society free from crime and violence. I hope my colleagues join me in acknowledging the police officers who continue to protect the community in which they live and remember those who have lost their lives in doing so. I encourage you all to visit the National Law Enforcement Officers Memorial located in the heart of Washington, DC at Judiciary Square. This is a fine way to remember those who we could never repay.

A TRIBUTE TO FATHER MICHAEL LAVELLE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. TRAFICANT. Mr. Speaker, it gives me great pleasure to stand here today to honor a remarkable man from the 17th Congressional District of Ohio. Father Michael Lavelle took great pleasure in helping others and this Earth will sorely miss the light his presence brought.

Father Lavelle had a long and illustrious career with John Carroll University, culminating in his appointment as President of the University. He was a scholar of the highest order and a social worker with a giant heart. Father Lavelle is even known in international circles for his successful efforts to bring books and religious items into Communist Eastern Europe. Indeed, Father Lavelle was a scholar, an author, a linguist who spoke most of the major languages of Europe, and a literary man whom more than one Jesuit referred to as the ''last of the Renaissance men.'' But, above all else he was a loyal and faithful priest who cared deeply not only for his fellow countrymen but for all people.

Mr. Speaker, it is rare that I have the opportunity to honor someone like Father Michael Lavelle who gave so much not only to his own community but also to the entire country. My heartfelt appreciation goes out to Father Lavelle for his contributions. He was a great man and will be sorely missed. May he find eternal peace and happiness in his reunion with the Lord.

HONORING DR. MICHAEL GANNON

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mrs. THURMAN. Mr. Speaker, this year, the State of Florida is celebrating its 150th birthday. This important milestone, Florida's Sesquicentennial, will be observed all year as our citizens recognize the varied events and people that have contributed to our State's rich heritage.

Mr. Speaker, I rise today to honor someone who has contributed greatly to the understanding and popularization of Florida's history, Dr. Michael Gannon.

Dr. Michael Gannon is a Distinguished Service Professor of History at the University of Florida. A specialist in the Spanish colonial history of Florida and the Caribbean, he is also Director of the Institute for Early Contact Period Studies, which conducts research into the voyages of Christopher Columbus and the first contacts between Europeans and Native Americans in the New World.

Raised in St. Augustine, FL, Dr. Gannon has had a long interest in the early Spanish missions of Florida about which he has written extensively. Two of his books, ''Rebel Bishop'' (1964) and ''The Cross in the Sand'' (1965) give readers an indepth look at the early history of Florida. He is coauthor of two other books and a contributor to numerous others on the region, including ''Spanish Influence in the Caribbean, Florida and Louisiana, 1500–1800,'' and ''The Hispanic Experience in North America.'' Dr. Gannon also edited the comprehensive ''New History of Florida,'' which will appear in bookstores later this year.

Dr. Gannon served for 19 years as a member and two-time chairman of the Historic St. Augustine Preservation Board; and currently serves under the Secretary of State as chairman of the De Soto Trail Committee and chairman of the Spanish Mission Trail Committee. Under the Secretary of Commerce he served as a member of the State's Columbus Quincentenary Jubilee Commission, and chairman of that body's History and Culture Committee. In 1992 the U.S. Secretary of the Interior appointed Dr. Gannon to a 4-year term on the national De Soto Expedition Trail Commission. He is an Honorary Board Member of the St. Augustine Historical Society, and a member of the Editorial Board of the Florida Historical Quarterly.

In the area of military history, Dr. Gannon published ''Operation Drumbeat,'' a history of Germany's first U-boat operation along the American coast in World War II. The book became a national best seller and the subject of a National Geographic Explorer program. The show won an Emmy award as the Best Historical Program in 1992. Dr. Gannon published ''Florida: A Short History'' in 1993 and in 1994, ''Secret Missions,'' a Florida-based historical novel set in World War II.

Dr. Gannon has published numerous articles on history, religion, military affairs and ethics in national journals and magazines. In the summer of 1968, Dr. Gannon served in Vietnam as a war correspondent for the journal, ''America'' and the National Catholic News Service. He is the author of the historical article on ''The Catholic Church in the United States'' that appears in the 1994 edition of the ''Encyclopedia Americana'' and of another article under the same title that appears in the ''Encyclopedia of Southern History.'' Dr. Gannon has lectured widely in this country, as well as in Spain, Italy, Mexico and the Caribbean.

Mr. Speaker, Dr. Gannon is a distinguished professor who has been honored for his expertise and achievements. In 1979, the University of Florida National Alumni Association awarded him its first Distinguished Alumni Professorship in recognition of the impact that he has had on student's lives and careers. In 1990, King Juan Carlos I of Spain conferred on Dr. Gannon the highest civilian award of that country, Knight Commander of the Order of Isabel la Catolica. Dr. Gannon has also been the recipient of the Arthur W. Thompson Prize in Florida History and in 1978 was named Teacher of the Year for the College of Liberal Arts and Sciences.

Mr. Speaker, Dr. Gannon's work has added a great deal to our knowledge of the varied influences that have shaped the history of Florida. The Sesquicentennial celebrations in Florida will be that much more meaningful because of the careful research of Dr. Gannon. Mr. Speaker, I am very proud to represent the University of Florida and professors like Dr. Gannon, who are dedicated to excellence.

MARTIN UNIVERSITY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1995

Mr. JACOBS. Mr. Speaker, Martin University is the oldest University in Indiana primarily devoted to the education of African-American students.

What follows is a richly deserved editorial about the University which was published in the Indianapolis News in April 1995.

[From the Indianapolis News, April 13, 1995]

A PILLAR IN BRIGHTWOOD

Thanks are due those community leaders who have made the inner-city Brightwood area a little brighter. What has happened there is an example to the nation of how local institutions can make a difference in their communities.

In 1987, Martin University moved its main campus from College Avenue to the Brightwood address of 2171 Avondale Place. The low-budget, nondenominational school came to the neighborhood at a time when families and businesses were moving out.

''The primary reason we moved to Brightwood is because the vacated buildings, including the beautiful St. Francis de Sales Catholic parish, became available to us at a great price. The revitalization in the community is a by-product,'' said Martin's public relations director, Pat Stewart.

Martin University still has four buildings at the original College Avenue campus. And in 1988, the university opened the Lady Elizabeth. Campus at the Indiana Women's Prison for inmates there.

The main campus in Brightwood comprises nine buildings. The university's move has provided a unifying entity for the community, which was divided in the 1970s when I–70 was constructed. The neighborhood also suffered from a loss of residents who moved to the suburbs.

Martin University has offset some of these changes.

Besides making good use of old buildings, the 84 faculty and staff members educate and train people who may not have similar opportunities elsewhere.

The institution serves 520 students from all over Indianapolis, most from minority and low-income back-grounds. Approximately 150 students reside in the Brightwood neighborhood.

The university offers more than traditional academic courses.

Senior citizens and children may attend computer classes and summer school programs, and all residents may attend seminars about economic and political empowerment.

The university also runs a health clinic were university staff, students and Brightwood residents who aren't students can come for counseling and medical services. And it holds clothing and food drives to benefit people with various needs in Brightwood.

The school doesn't stop there, however. Recognizing the need to broaden the experiences of the people it serves, it provides artistic and cultural events for residents. Among those activities, it has hosted the Carmel Symphony Orchestra and holds an annual Martin Luther King Jr. celebration.

''Caring about this community isn't an afterthought of the university. It's in our mission statement.'' Sister Jane Schilling told News reporter Judith Cebula. She teaches and serves as vice president at Martin.

The Rev. Boniface Hardin, founder and president of this university, deserves commendation for the vision he has for his university and community. His goal of serving others and seeking to make them successful is the cause of success in his efforts.

One of the most impressive aspects of Martin University is its financial foundation. The money comes through tuition, private donations and foundation grants.

At a time when welfare plans are being debated to death, it is refreshing to see dedicated individuals responding to urban problems with so little dependence on government remedies.

Daily Digest

HIGHLIGHTS

House Committee ordered reported the Concurrent Resolution on the Budget for fiscal year 1996.

Senate

Chamber Action

Routine Proceedings, pages S6471–S6573

Measures Introduced: Nine bills were introduced, as follows: S. 790–798. **Page S6513**

Measures Passed:

Native American Programs Authorizations: Senate passed S. 510, to extend the authorization for certain programs under the Native American Programs Act of 1974, after agreeing to a committee amendment in the nature of a substitute. **Page S6562**

Solid Waste Disposal Act: Senate continued consideration of S. 534, to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, with a committee amendment in the nature of a substitute, taking action on amendments proposed thereto, as follows: **Pages S6471, S6477–87, S6489–94, S6499–S6505, S6563–66**

Adopted:

(1) Chafee (for Dodd/Lieberman) Amendment No. 758, of a technical nature. **Page S6477**

(2) Bingaman Amendment No. 761, to require a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement. **Pages S6478–79**

(3) Chafee (for Faircloth) Amendment No. 773, of a technical nature. **Page S6482**

(4) Lautenberg Amendment No. 775, to revise the provision providing additional flow control authority. **Pages S6482–83**

(5) Smith/Chafee/Baucus Amendment No. 789, of a technical nature. **Page S6489**

(6) Jeffords/Leahy Modified Amendment No. 867, to provide flow control authority to certain solid waste districts. (By 46 yeas to 51 nays (Vote No. 164), Senate earlier failed to table the amendment.) **Pages S6492–93, S6502–05**

(7) Chafee (for Murkowski) Amendment No. 861, to allow exemption from certain requirements of units in small, remote Alaska villages. **Page S6563**

(8) Chafee (for Moynihan) Amendment No. 868, to make a technical correction. **Pages S6563–64**

(9) Chafee (for Campbell) Amendment No. 869, to authorize the Administrator to exempt a landfill operator from ground water monitoring requirements in circumstances in which there is no chance of ground water contamination. **Page S6564**

(10) Chafee (for Dodd/Lieberman) Amendment No. 870, to define a public service authority. **Page S6564**

(11) Chafee (for Roth/Biden) Amendment No. 871, to make clear that flow control authority is provided to public service authorities and modify the condition for exercise of flow control authority. **Page S6564**

(12) Chafee (for Biden) Amendment No. 872, to modify the condition for exercise of flow control authority. **Page S6564**

(13) Chafee (for Smith/Thompson/Cohen) Amendment No. 873, to protect communities that enacted flow control ordinances after substantial construction of facilities but before May 15, 1994. **Pages S6564–65**

(14) Chafee (for Smith/Wellstone) Amendment No. 874, to modify the conditions on exercise of flow control authority. **Page S6565**

(15) Chafee (for Snowe) Amendment No. 875, to clarify the intent of the provision relating to the duration of flow control authority. **Page S6565**

(16) Chafee (for Pryor) Amendment No. 876, to provide for the case of a formation of a solid waste management district for the purchase and operation of an existing facility. **Page S6565**

(17) Chafee (for Cohen/Snowe) Amendment No. 877, to make clear that entering into a put or pay agreement satisfies the requirement of a legally binding provision and a designation of a facility. **Page S6565**

Rejected:

(1) Kyl Amendment No. 769, to authorize flow control for a limited period of time to ensure that States and political subdivisions are able to service debts incurred for the construction of solid waste management facilities prior to the Carbone decision. (By 79 yeas to 21 nays (Vote No. 162), Senate tabled the amendment.) **Pages S6479–85, S6489–92, S6494**

(2) Specter Modified Amendment No. 754, to express the sense of the Senate on taking all possible steps to combat domestic terrorism in the United States. (By 74 yeas to 23 nays (Vote No. 163), Senate tabled the amendment.) **Pages S6471, S6499–S6500**

(3) Hatch Amendment No. 755 (to Amendment No. 754), to express the sense of the Senate concerning the scheduling of hearings on Waco and Ruby Ridge in the near future. (The amendment fell when Amendment No. 754, listed above, was tabled.) **Pages S6471, S6500**

Senate will continue consideration of the bill on Friday, May 12, 1995, with a cloture vote to occur thereon.

Measure Indefinitely Postponed:

Visit of Lee Teng-hui: Senate indefinitely postponed further consideration of S. Con. Res. 9, expressing the sense of the Congress regarding a private visit by President Lee Teng-hui of the Republic of China on Taiwan to the United States. **Page S6562**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

Convention on Nuclear Safety (Treaty Doc. No. 104–6).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S6562–63**

Nominations Received: Senate received the following nominations:

Karl N. Stauber, of Minnesota, to be a Member of the Board of Directors of the Commodity Credit Corporation.

12 Army nominations in the rank of general.

1 Navy nomination in the rank of admiral.

Routine lists in the Army, Navy, and Marine Corps. **Pages S6566–73**

Messages From the House: **Page S6509**

Measures Referred: **Page S6509**

Communications: **Page S6509**

Petitions: **Pages S6509–13**

Statements on Introduced Bills: **Pages S6513–37**

Additional Cosponsors: **Pages S6537–38**

Amendments Submitted: **Pages S6538–53**

Authority for Committees: **Pages S6553–54**

Additional Statements: **Pages S6554–62**

Record Votes: Three record votes were taken today. (Total—164) **Pages S6494, S6500, S6505**

Recess: Senate convened at 9:30 a.m., and recessed at 9:13 p.m., until 9:30 a.m., on Friday, May 12, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S6563.)

Committee Meetings

(Committees not listed did not meet)

SUPPLEMENTAL DISASTER ASSISTANCE

Committee on Appropriations: Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies held hearings on proposed legislation making supplemental appropriations for disaster assistance for the Oklahoma City bombing for the fiscal year ending September 30, 1995, receiving testimony from Janet Reno, Attorney General, and Louis J. Freeh, Director, Federal Bureau of Investigation, both of the Department of Justice.

Subcommittee will meet again on Wednesday, May 17.

APPROPRIATIONS—AID

Committee on Appropriations: Subcommittee on Foreign Operations held hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on the Agency for International Development, receiving testimony from J. Brian Atwood, Administrator, Agency for International Development.

Subcommittee will meet again on Thursday, May 18.

APPROPRIATIONS—BIA/IHS

Committee on Appropriations: Subcommittee on the Interior and Related Agencies held hearings on proposed budget estimates for fiscal year 1996, receiving testimony in behalf of funds for their respective activities from Ada E. Deer, Assistant Secretary for Indian Affairs, Hilda A. Manuel, Deputy Commissioner of Indian Affairs, and Harold A. Monteau, Chairman, National Indian Gaming Commission, all of the Department of the Interior; and Michael H. Trujillo, Director, Indian Health Service, Department of Health and Human Services.

Subcommittee will meet again on Wednesday, May 17.

VIOLENCE AT WOMEN'S HEALTH CLINICS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education and Related Agencies concluded hearings to examine the incidence of violence at women's health clinics in the United States, after receiving testimony from Jamie S. Gorelick, Deputy Attorney General, Department of Justice; Daniel R. Black, Deputy Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury; Valerie Kosceinik, Consumer Information and Referral Agency, Philadelphia, Pennsylvania; Jill June, Planned parenthood of Greater Iowa, Des Moines; Bernie Smith, Milwaukee Women's Medical Services, Milwaukee, Wisconsin; Judith M. DeSarno, National Family Planning and Reproductive Health Association, Kate Michelman, National Abortion and Reproductive Rights Action League, Pamela Maraldo, Planned Parenthood Federation of America, Inc., all of Washington, D.C.; Katherine Splarr, Feminist Majority, Los Angeles, California; and Christine Kohl, Lancaster, Pennsylvania.

APPROPRIATIONS—FTA

Committee on Appropriations: Subcommittee on Transportation and Related Agencies concluded hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, after receiving testimony from Gordon J. Linton, Administrator, Federal Transit Administration, Department of Transportation.

NATIONAL SECURITY

Committee on Armed Services: Committee held hearings to examine the national security implications of lowered export controls on dual-use technologies and United States defense capabilities, receiving testimony from Mitchel B. Wallerstein, Deputy Assistant Secretary for Counterproliferation Policy, Al Volkman, Director, Armaments Cooperation, and Craig Wilson, Director, Intelligence Policy, Office of the Secretary, all of the Department of Defense; David Cooper, Director, Acquisition Policy Technology and Competitiveness Group, General Accounting Office; and Zachary Davis, Analyst, International Nuclear Policy, Congressional Research Service, Library of Congress.

Committee recessed subject to call.

AUTHORIZATION-DEFENSE

Committee on Armed Services: Subcommittee on Readiness resumed hearings on S. 727, authorizing funds for fiscal year 1996 for military activities of the Department of Defense and the future years defense program, focusing on environmental, military construction and BRAC programs, receiving testimony from Sherri W. Goodman, Deputy Under Secretary for Environmental Security, John Harrison, Executive Director, Strategic Environmental Research and Development Program, Jan B. Reitman, Staff Director, Environmental and Safety Policy Office, Defense Logistics Agency, and Robert E. Bayer, Deputy Assistant Secretary for Economic Reinvestment and Brac, all of the Department of Defense; Thomas W. L. McCall, Jr., Principal Deputy Assistant Secretary of the Air Force for Environmental, Safety, and Occupational Health; Alma B. Moore, Assistant Secretary of the Army for Environment, Safety, and Occupational Health; Cheryl A. Kandaras, Principal Deputy Assistant Secretary of the Navy for Installations and Environment; Robert B. Pirie, Jr., Assistant Secretary of the Navy for Installations and Environment; Paul W. Johnson, Deputy Assistant Secretary of the Army for Installations, Logistics, and Environment; and Jimmy G. Dishner, Deputy Assistant Secretary of the Air Force for Installations.

Subcommittee will meet again on Monday, May 15.

1996 BUDGET

Committee on the Budget: Committee ordered favorably reported an original concurrent resolution setting forth the congressional budget for the United States Government.

SUPERFUND REFORM

Committee on Environment and Public Works: Subcommittee on Superfund, Waste Control, and Risk Assessment concluded oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act, after receiving testimony from Keith O. Fultz, Assistant Comptroller General, Resources, Community, and Economic Development Division, General Accounting Office; Douglas K. Hall, Assistant Secretary of Commerce for Oceans and Atmosphere; Montana Chief Deputy Attorney General Chris D. Tweeten, Helena; New Mexico Assistant Attorney General for Natural Resources Charlie DeSaillan, Santa Fe; C. Keith Meiser, CSX Transportation, Inc., Jacksonville, Florida; Kevin L. McKnight, Aluminum Company of America, Pittsburgh, Pennsylvania; Kenneth D. Jenkins, California State University, Long Beach; and Jerry A. Hausman, Massachusetts Institute of Technology, Cambridge.

MEDICARE

Committee on Finance: Committee resumed hearings to examine the financial status of the Medicare program, receiving testimony from June E. O'Neill, Director, Congressional Budget Office; and Arthur S. Flemming, Save Our Security Coalition, and C. Eugene Steuerle, Urban Institute, both of Washington, D.C.

Hearings continue on Tuesday, May 16.

FOREIGN AFFAIRS REORGANIZATION

Committee on Foreign Relations: Subcommittee on International Operations held hearings on proposals to reorganize and revitalize American foreign affairs institutions, receiving testimony from Senator McConnell; Richard M. Moose, Under Secretary of State for Management; Michael Nacht, Assistant Director, Strategic and Eurasian Affairs Bureau, United States Arms Control and Disarmament Agency; Joseph Duffey, Director, United States Information Agency; and J. Brian Atwood, Administrator, Agency for International Development.

Hearings were recessed subject to call.

MIDDLE EAST ASSISTANCE

Committee on Foreign Relations: Subcommittee on Near Eastern and South Asian Affairs held hearings on proposed legislation authorizing funds for fiscal year 1996 for foreign assistance programs in the Middle East, receiving testimony from Robert Pelletreau, Assistant Secretary of State for Near Eastern Affairs; Margaret Carpenter, Assistant Administrator, Bureau for Asia and the Near East, Agency for International Development; Molly K. Williamson, Deputy Assistant Secretary of Defense for Middle East and African Affairs; Richard L. Armitage, Armitage Associates, former Assistant Secretary of Defense, Arlington, Virginia; Richard W. Murphy, Council on Foreign Relations, former Assistant Secretary of State, New York, New York; and Neal M. Sher, American Israel Public Affairs Committee, and James J. Zogby, Arab American Institute, both of Washington, D.C.

Hearings were recessed subject to call.

IMMIGRATION AND NATURALIZATION SERVICE

Committee on the Judiciary: Subcommittee on Immigration concluded oversight hearings on activities of the Immigration and Naturalization Service, after receiving testimony from Doris Meissner, Commissioner, Immigration and Naturalization Service, Department of Justice.

AVAILABILITY OF BOMB MAKING INFORMATION

Committee on the Judiciary: Subcommittee on Terrorism, Technology, and Government Information concluded hearings to examine the implications of the availability of bomb making information on the Internet, after receiving testimony from Robert S. Litt, Deputy Assistant Attorney General, Criminal Division, Department of Justice; Rabbi Marvin Hier, Simon Wiesenthal Center, Los Angeles, California; William W. Burrington, America Online, Inc., Vienna, Virginia, on behalf of the Interactive Services Association; Jerry Berman, Center for Democracy and Technology, Washington, D.C.; and Frank Tuerkheimer, University of Wisconsin Law School, Madison.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Committee on Labor and Human Resources: Subcommittee on Disability Policy held hearings on proposed legislation authorizing funds for programs of the Individuals with Disabilities Education Act, receiving testimony from Joseph Fisher, Tennessee Department of Education, and Herb Reith, Vanderbilt University, both of Nashville, Tennessee; Donald Deshler, University of Kansas, Lawrence; Nancy Diehl, Project STEP, Greeneville, Tennessee; Mitchell Levitz, Peekskill, New York; Will McCarthy, Chattanooga, Tennessee; Jaimi Lard, Boston, Massachusetts; Taylor Betz, Columbus, Ohio; Stacy Campbell, Westerville, Ohio; Monica Eberle, Knoxville, Tennessee; Danette Crawford, Des Moines, Iowa; Harvey Kimble, Urbandale, Iowa; Joanne Evans and Michael Miller, both of Eau Claire, Wisconsin; Debbie Delp and Phyllis Gorman, both of Mason, Ohio; Sharon Gonder and Ingrid Caldwell, both of Fulton, Missouri; and Christine Hoyo and Matty Rodriguez-Walling, both of Miami, Florida.

Hearings continue on Tuesday, May 16.

SMITHSONIAN INSTITUTION

Committee on Rules and Administration: Committee held hearings to examine future management guidelines for the Smithsonian Institution, receiving testimony from Col. Charles D. Cooper, USAF (Ret.), Retired Officers Association, Alexandria, Virginia; Herman G. Harrington, American Legion, and Bob Manhan, Veterans of Foreign Wars of the United States, both of Washington, D.C.; R. E. Smith, Air Force Association, Arlington, Virginia; and Maj. Gen. Charles W. Sweeney, USAF (Ret.).

Hearings continue on Thursday, May 18.

VETERANS HEALTH ADMINISTRATION

Committee on Veterans' Affairs: Committee concluded oversight hearings on the reorganization of the Veterans Health Administration and the impact of section 510 of Title 38, United States Code which requires VA to provide 90 days notice to the Congress before an administrative reorganization may take effect, after receiving testimony from Kenneth W. Kizer, Under Secretary of Veterans Affairs for Health.

LONG-TERM CARE FINANCING

Special Committee on Aging: Committee concluded hearings to examine future directions in private financing of long-term care, after receiving testimony

from Ellen Friedman, Ameritech, Chicago, Illinois; Stanley Wallack, Brandeis University, Waltham, Massachusetts, on behalf of the Coalition for Long Term Care Financing; Marilyn Moon, Urban Institute, Paul Willging, American Health Care Association, Val J. Halamandaris, National Association for Home Care, and Stephen McConnell, Alzheimer's Association, on behalf of the Long Term Care Campaign, all of Washington, D.C.; Mark E. Battista, UNUM Life Insurance Company of America, Portland, Maine; Gail Holubinka, New York State Partnership for Long Term Care, Albany; John Spear, Champaign, Illinois; and Jean Heintz, Portland, Oregon.

House of Representatives

Chamber Action

Bills Introduced: Thirteen public bills, H.R. 1610–1622; and one resolution, H. Con. Res. 66 were introduced. **Pages H4872–73**

Reports Filed: Reports were filed as followed:

H. Res. 144, providing for consideration of H.R. 535, to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas (H. Rept. 104–116);

H. Res. 145, providing for consideration of H.R. 584, to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa (H. Rept. 104–117); and

H. Res. 146, providing for consideration of H.R. 614, to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility (H. Rept. 104–118). **Page H4872**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Foley to act as Speaker pro tempore for today. **Page H4797**

Clean Water Act Amendments: House continued consideration of amendments on H.R. 961, to amend the Federal Water Pollution Control Act; but came to no resolution thereon. Consideration of amendments will resume on Friday, May 12. **Pages H4802–68**

Agreed To:

The Traficant en bloc amendment that restricts the EPA or a state from extending the deadline for point of source compliance and encourages the development and use of innovative pollution prevention technology; **Page H4803**

The Young of Alaska amendment that grants an application for a modification with respect to the discharge into marine waters of any pollutant from publicly owned treatment works serving Anchorage, Alaska; **Pages H4850–51**

The Riggs amendment that clarifies the anti-backsliding exceptions in the Clean Water Act and allows increased volumes of treated wastewater to be discharged into a river or other body of water so long as water quality is not degraded; and **Pages H4857–58**

The Emerson amendment as amended by the Laughlin substitute that provides that the Federal Water Pollution Control Act does not apply with respect to the licensing of a hydroelectric project and provide a dispute resolution mechanism for the purposes of resolving conflicts or unreasonable consequences resulting from action taken relating to the issuance of a license for a hydroelectric project (agreed to by a recorded vote of 309 ayes to 100 noes, Roll No. 326). **Pages H4859–64**

Rejected:

The Pallone amendment that sought to strike language addressing secondary treatment requirements for sewage treatment plants (rejected by a recorded vote of 154 ayes to 267 noes, Roll No. 315); **Pages H4803–18**

The Mineta amendment that sought to revise language addressing stormwater management provisions; leave the industry under the stormwater discharge permit system; and include a moratorium extending EPA's deadline for compliance by commercial operations (rejected by a recorded vote of 159 ayes to 258 noes, Roll No. 316); **Pages H4818–22**

The Pallone amendment that sought to change the beach water quality monitoring provisions and place new standards for environmental assessment, closure procedures and health standards for beaches (rejected by a recorded vote of 175 ayes to 251 noes, Roll No. 317); **Pages H4822–25**

The Mineta amendment that sought to require the EPA to conduct risk assessments for the proposed regulatory reforms (rejected by a recorded vote of 152 ayes to 271 noes, Roll No. 318); **Pages H4825–27**

The Collins of Michigan en bloc amendment that sought to require the EPA to consider the consumption patterns of diverse segments of the population when setting water quality criteria; to post warning signs, propose and issue regulations establishing

minimum uniform requirements for waters that significantly violate water quality standards or are subject to a fishing or shellfish ban, advisory, or consumption restriction due to contamination; establish within 18 months of enactment, uniform and scientifically sound requirements and procedures for fish and shellfish sampling, monitoring of navigable waters that do not meet applicable water quality standards or are subject to fishing bans advisories, or consumption restrictions; review facility discharge permit applications so as to identify and reduce pollution having a disproportionately high and adverse impact on minority and low-income populations; and collect and analyze data on sources of pollution to which minority and low-income populations are exposed, and on pollutant discharges in waters which are adjacent to and or used by minority and low-income populations (rejected by a recorded vote 153 ayes to 271 noes, Roll No. 319); **Pages H4827–31**

The Mineta amendment that sought to modify provisions relating to risk assessment and cost benefit analysis requirements by establishing an effective date of one year after the date of enactment for all risk assessment cost-benefit analysis (rejected by a recorded vote of 157 ayes to 262 noes, Roll No. 320); **Pages H4831–35**

The DeFazio amendment that sought to exempt certain naval facilities from adhering to the water quality standards language (rejected by a recorded vote 126 ayes to 294 noes, Roll No. 321); **Pages H4835–38**

The Nadler amendment that sought to strike provisions which allow States to downgrade designated uses of bodies of water if the cost of achieving the designated use status exceeds the benefits (rejected by a recorded vote 121 ayes to 294 noes, Roll No. 322); **Pages H4839–42**

The Oberstar amendment that sought to strike provisions which delay compliance deadlines for State non-point source pollution control programs by one year for every year in which the bill is less than fully funded (rejected by a recorded vote of 122 ayes to 290 noes, Roll No. 323); **Pages H4842–45**

The Pallone amendment that sought to establish mandatory minimum penalties for violations to the Clean Water Act; target repeat offenders by increasing penalties and inspection requirements for facilities that repeatedly violate their permits; to authorize citizens to sue for violations and prohibit the use of State administrative settlements as a means of precluding citizen suits and allow courts to use the proceeds of settlements and penalties against polluters to be targeted for use in mitigation projects (rejected by a recorded vote of 106 ayes to 299 noes, Roll No. 324); and **Pages H4845–50**

The Visclosky amendment that sought to establish a National Clean Water Trust Fund (rejected by a recorded vote of 156 ayes to 247 noes, Roll No. 325). **Pages H4851–54**

Committees To Sit: The following committees and their subcommittees received permission to sit on Friday May 12 during the proceedings of the House under the five-minute rule: Committees on Banking and Financial Services, Commerce, Economic and Educational Opportunities, International Relations, and Veterans' Affairs. **Page H4868**

Senate Messages: Messages received from the Senate today appear on page H4797.

Quorum Calls—Votes: Twelve recorded votes developed during the proceedings of the House today and appear on pages H4817–18, H4821–22, H4825, H4827, H4830–31, H4834–35, H4838, H4841–42, H4844–45, H4850, H4853–54, and H4863–64. There were no quorum calls.

Adjournment: Met at 10 a.m., and adjourned at 9:05 p.m.

Committee Meetings

GENERAL FARM BILL ISSUES

Committee on Agriculture: Held a hearing on General Farm Bill issues. Testimony was heard from Dan Glickman, Secretary of Agriculture.

COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and Judiciary held a hearing on EEOC. Testimony was heard from Gilbert Casellas, Chairman, EEOC.

NATIONAL SECURITY APPROPRIATIONS

Committee on Appropriations: Subcommittee on National Security met in executive session to hold a hearing on Intelligence. Testimony was heard from the following officials of the Department of Defense: Keith R. Hall, Deputy Assistant Secretary (Intelligence and Security), Office of the Assistant Secretary (C3I); and Maj. Gen. Kenneth R. Israel, USAF, Assistant Deputy Under Secretary (Acquisition and Technology).

The Subcommittee also held a hearing on Air Force Airlift Programs. Testimony was heard from the following officials of the Department of the Air Force: Darleen A. Druyun, Acting Assistant Secretary (Acquisition); and Gen. Robert L. Rutherford, USAF, Commander, Air Mobility Command.

FINANCIAL SERVICES COMPETITIVENESS ACT

Committee on Banking and Financial Services: By a recorded vote of 38 to 6, ordered reported amended H.R. 1062, Financial Services Competitiveness Act of 1995.

CONCURRENT BUDGET RESOLUTION

Committee on the Budget: Ordered reported the Concurrent Resolution on the Budget for fiscal year 1996.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Committee on Commerce: Subcommittee on Energy and Power held a hearing on H.R. 558, Texas Low-Level Radioactive Waste Disposal Compact Consent Act. Testimony was heard from Representatives Fields of Texas, Bonilla, and Coleman; and public witnesses.

OVERSIGHT

Committee on Commerce: Subcommittee on Health and Environment held an oversight hearing on HIV Testing of Women and Infants. Testimony was heard from Representatives Ackerman, Morella, and Pelosi; the following officials of the Department of Health and Human Services: Helene D. Gayle, M.D., Associate Director, Centers for Disease Control-Washington and Acting Director, National Center for Prevention Services; and James Balsley, M.D., Chief, Pediatric Medicine Branch, Division of AIDS, National Institute of Allergy and Infectious Diseases, NIH; David H. Mulligan, Commissioner, Department of Public Health, State of Massachusetts; and public witnesses.

COMMUNICATIONS LAW REFORM PROPOSALS

Committee on Commerce: Subcommittee on Telecommunications and Finance continued hearings on the following: H.R. 1555, Communications Act of 1995; H.R. 514, to repeal the restrictions on foreign ownership of licensed telecommunications facilities; H.R. 912, to permit registered utility holding companies to participate in the provision of telecommunications services; H.R. 1556, to amend the Communications Act of 1934 to reduce the restrictions on ownership of broadcasting stations, and other media of mass communications; and related telecommunications reform legislation. Testimony was heard from Larry Irving, Assistant Secretary, National Telecommunications Information Administration, Department of Commerce; Anne Bingaman, Assistant Attorney General, Antitrust, Department of Justice; Reed Hundt, Chairman, FCC; Lisa Rosenblum, Deputy Chairman, Public Service Commission, State of New York; Ronald Binz, Director, Office of Consumer Counsel, State of Colorado; and public witnesses.

Hearings continue tomorrow.

TEAMWORK FOR EMPLOYEES AND MANAGERS ACT

Committee on Economic and Educational Opportunities: Held a hearing on H.R. 743, Teamwork for Employees and Managers Act of 1995. Testimony was heard from public witnesses.

AMERICAN OVERSEAS INTERESTS ACT

Committee on International Relations: Continued markup of H.R. 1561, American Overseas Interests Act.

Will continue tomorrow.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES—REAUTHORIZATION

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on the reauthorization of the Administrative Conference of the United States. Testimony was heard from Thomasina V. Rogers, Director, Administrative Conference of the United States; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held a hearing on the following bills: H.R. 1443, Court Arbitration Authorization Act of 1995; H.R. 1445, to amend rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions; S. 464, to make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts; and S. 532, to clarify the rules governing venue. Testimony was heard from J. Phil Gilbert, Chief Judge, U.S. District Court, Southern District of Illinois; Ann Claire Williams, Judge, U.S. District Court, Northern District of Illinois; Paul Friedman, Deputy Associate Attorney General, Department of Justice; and public witnesses.

OVERSIGHT

Committee on Resources: Subcommittee on National Parks, Forests and Lands held an oversight hearing on Recreation Fees on Federal Lands. Testimony was heard from public witnesses.

ALASKA POWER ADMINISTRATION SALE ACT; MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Water and Power Resources approved for full Committee action amended H.R. 1122, Alaska Power Administration Sale Act.

The Subcommittee also held a hearing on the following bills: H.R. 930, to amend the Colorado

River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner; and H.R. 1070, to designate the reservoir created by Trinity Dam in Central Valley project, CA, as ''Trinity Lake''. Testimony was heard from Representative Herger; Rick L. Gold, Deputy Regional Director, Upper Colorado Regional Office, Bureau of Reclamation, Department of the Interior; James Duffus III, Director, Natural Resources Management Issues, GAO; and public witnesses.

CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT

Committee on Rules: Granted, by a voice vote, an open rule providing 1 hour of debate on H.R. 535, Corning National Fish Hatchery Conveyance Act. The bill and committee amendment printed in the bill shall be considered as read. Finally, the rule provides one motion to recommit. Testimony was heard from Representatives Saxton and Lincoln.

FISH HATCHERY CONVEYANCE

Committee on Rules: Granted, by a voice vote, an open rule providing 1 hour of debate on H.R. 584, to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa. The rule provides that the bill shall be considered as read for amendment under the five minute rule. Finally, the rule provides for one motion to recommit. Testimony was heard from Representatives Saxton and Lincoln.

NEW LONDON NATIONAL FISH HATCHERY

Committee on Rules: Granted, by a voice vote, an open rule providing 1 hour of debate on H.R. 614, to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility. The rule provides that the bill and committee amendment shall be considered as read. Finally, the rule provides one motion to recommit. Testimony was heard from Representatives Saxton and Lincoln.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

DENVER INTERNATIONAL AIRPORT: WHAT WENT WRONG?

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on the Denver International Airport: What Went Wrong? Testimony was heard from the following officials of the Department of Transportation: Federico Pena, Secretary; and Cynthia Rich, Associate Administrator, Airports, FAA; Mike Gryszkowiec, Director, Planning and Reporting, Resources, Community, and Economic Development Division, GAO; Jim Delong, Director of Aviation, Denver International Airport; and public witnesses.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Hospitals and Health Care approved for full Committee action the following bills: H.R.1384, to amend title 38, United States Code, to exempt certain full-time health-care professionals of the Department of Veterans' Affairs from restrictions on remunerated outside professional activities; H.R. 1536, to amend title 38, United States Code, to extend for 2 years an expiring authority of the Secretary of Veterans Affairs with respect to determination of locality salaries for certain nurse anesthetist positions in the Department of Veterans Affairs; and H.R. 1565, to amend title 38, United States Code, to amend title 38 United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to Agent Orange, ionizing radiation, or environmental hazards.

EXTENSION OF FAST TRACK TRADE NEGOTIATING AUTHORITY

Committee on Ways and Means: Subcommittee on Trade and the Subcommittee on Rules and Organization of the House of the Committee on Rules held a joint hearing on Extension of Fast Track trade negotiating authority. Testimony was heard from Representatives Gephardt, Richardson and Kolbe; and public witnesses.

Hearings continue May 17.

COMMITEE BUSINESS; EXTENSION OF LEGAL AUTHORITY FOR DOD COMMERCIAL ACTIVITIES

Permanent Select Committee on Intelligence: Met in executive session to consider pending business.

The Subcommittee also met in executive session to hold a hearing on extension of the legal authority for DOD commercial activities to provide security for DOD intelligence collection activities abroad. Testimony was heard from departmental witnesses.

Joint Meetings

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Conferees continued to resolve the differences between the Senate- and House-passed versions of H.R. 1158, making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, but

did not complete action thereon, and will meet again tomorrow.

COMMITTEE MEETINGS FOR FRIDAY, MAY 12, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on VA, HUD, and Independent Agencies, to hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry, 9:30 a.m., SD–192.

Subcommittee on Legislative Branch, to hold hearings on proposed budget estimates for fiscal year 1996 for the Secretary of the Senate, the Sergeant at Arms and Doorkeeper of the Senate, the Senate Legal Counsel, and the Senate Office of Fair Employment Practices, 10 a.m., SD–116.

House

Committee on Commerce, Subcommittee on Telecommunications and Finance to continue hearings on the following: H.R. 1555, Communications Act of 1995; H.R. 514, to repeal the restrictions on foreign ownership of licensed telecommunications facilities; H.R. 912, to permit registered utility holding companies to participate in the provision of telecommunications services; H.R. 1556, to amend the Communications Act of 1934 to reduce the restrictions on ownership of broadcasting stations, and other media of mass communications; and related telecommunications reform legislation, 10 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Oversight and Investigations, hearing on the District of Columbia Schools, 10 a.m., 2175 Rayburn.

Committee on International Relations, to continue markup of H.R. 1561, American Overseas Interests Act, 9 a.m., 2172 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, hearing on Veterans Benefit Administrations' processing of compensation claims, with an emphasis on Persian Gulf War claims, and oversight of P.L. 103–446, the Veterans' Benefits Improvement Act of 1994, 9:30 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Health, hearing on Health Insurance Portability, 10 a.m., 1100 Longworth.

Joint Meetings

Conferees, on H.R. 1158, making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, 9:30 a.m., S–207, Capitol.

Next Meeting of the SENATE

9:30 a.m., Friday, May 12

Senate Chamber

Program for Friday: Senate will resume consideration of S. 534, Solid Waste Disposal Act, with a cloture vote to occur thereon at 10 a.m.

Senate may also consider H.R. 483, Extended Use of Medicare Selected Policies.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Friday, May 12

House Chamber

Program for Friday: Legislative program will be announced later.

Extensions of Remarks, as inserted in this issues

HOUSE

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