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House of Representatives

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

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 1, 1995.

I hereby designate the Honorable JOEL HEFLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

On this day, almighty God, we pray for all people who are called to public service, who are committed to serving You by serving others and who see occasions to work for justice and opportunity. As they hear the voices from every side and the inevitable contentions that mark the days, may Your gift of discernment be imprinted on their character and may wisdom be their guiding star. Encourage all, O God, to grasp facts and understand issues, and yet always to seek the truth and the insight and the good judgment that will give justice and mercy for us and all people. 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 New Jersey [Mr. SMITH] come forward and lead the House in the Pledge of Allegiance.

Mr. SMITH of New Jersey 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 without amendment a bill of the House of the following title:

H.R. 1715. An act representing the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

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

S. 187. An act to provide for the safety of journeymen boxers, and for other purposes; and

S. 325. An act to make certain technical corrections in laws relating to native Americans, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1905) ''An act making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.''

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2002) ''An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that there will be fifteen 1-minutes on each side.

SUPPORT PARTIAL-BIRTH ABORTION BAN

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

Mr. SMITH of New Jersey. Mr. Speaker, why is the pro-abortion movement even more fiercely opposed to the partial birth abortion bill than other pro-life measures? They insist that this bill would regulate only a small percentage of abortions, yet they are outraged that the bill is on the docket today.

I think it is this. Usually when we discuss abortion we talk about everything but abortion itself. According to the rules of the game the abortion controversy is about philosophy or religion or economics, about everything but what actually happens in each and every abortion.

By addressing one particular kind of abortion, this legislation forces us for the first time to acknowledge the dark, dirty secret of what actually happens. The baby dies. The 23-year coverup about the brutal methods of abortion, including dismemberment, injections of chemical poisons and now brain-sucking procedures is over. The coverup is over. The gruesome spectacle of partial-birth abortions forces us to admit that what happens is death. It forces us to acknowledge that what dies is a baby, and we see all too clearly that the death inflicted on that baby is unspeakably cruel.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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WHO IS DRAFTING ECONOMIC POLICY?

(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, something does not fit. There is civil war in Mexico. The peso is so low it could walk under a closed door with a top hat on. Mexico's biggest business is narcotics and they end up on the streets in America. Up north Canada just dodged a bullet. They almost voluntarily self-destructed.

After all this I keep reading the papers telling us how great the economy is. Well, if that is the case, how come wages keep going down? Workers are afraid of losing their house.

Tell me, Mr. Speaker, why is individual debt so high in America? Why are savings so low in America? And after all this, this administration wants a free-trade agreement with Chile. I ask today on the House floor, who is drafting our economic policies in America? Larry, Moe, and Curly, or a bunch of bureaucratic masochists who never stood in an unemployment line and are so dumb they could throw themselves at the ground and miss.

THE DEVIL IS IN THE DENIAL

(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, it is always an honor to follow my colleague from Ohio in these morning sessions.

This morning, Mr. Speaker, I thought I would illustrate a couple of differences between our budget plan, the conservative commonsense budget plan, and what the White House has offered. This is the budget reconciliation package. Yes, it is lengthy. Yes, it is exhaustive. But yes, it is complete. We have managed to do in less than 40 weeks what the liberals could not do in 40 years. That is, change the size and scope of the Federal Government.

On the other hand, here is the President's plan, such as it exists. Some interesting charts, a few talking points, but, Mr. Speaker, the devil is not in the details. The devil is in the denial.

As our Speaker and the leader of the other body go down to the other end of Pennsylvania Avenue to meet the President, I wonder which President will show up.

I hope it is the President who says he is for a balanced budget in 7 years. I hope it is the President who says he wants a tax cut for the middle class. I hope it is the President who says he wants welfare reform. If it is that President, Mr. Speaker, let him join with us to balance this budget and get this country back on track.

WOLVES IN SHEEP'S CLOTHING

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

Mr. HILLIARD. Mr. Speaker, just like the wolf that hid in a sheepskin to kill his prey, so have the Republicans attempted to act as though they were trying to save Medicare.

But finally, finally, the Republicans have shown us their true colors, as evidenced by Senator DOLE and Speaker GINGRICH's comments that they are really voting to kill Medicare.

The Republican leaders comments on Medicare shows us that when it comes to delivering to the rich of America the obscene and bloated Republican-sponsored tax break, that they will say anything and even sell out America's seniors to appease their rich masters.

Well, America is finally getting wise to the Republican half-truths and lies.

Senator DOLE opposed Medicare in 1965, and he also opposes it in 1995.

Just like the wolf in sheep's clothing, the Republicans have attempted to lure our seniors into a false sense of security, but Senator DOLE's comments to the Conservative Union and the Speaker's comments to Blue Cross/Blue Shield have helped us sound the alarm bell to warn our seniors so we may avert this disaster.

WHO ARE THE WOLVES?

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

Mr. SCARBOROUGH. Mr. Speaker, talk about wolves in sheep's clothing. My gosh, we have got the Democratic President telling us that Medicare goes bankrupt by the year 2002. Then they backpedal for the next 6 months saying we do not have to do anything about Medicare and anybody who does anything about Medicare to save Medicare is somehow a wolf in sheep's clothing.

Talk about a wolf in sheep's clothing on the budget issue. We have got a President who, as a candidate, said as President I would present a 5-year plan to balance the budget.

The freshman class presented that. MARK NEUMANN presented that. I do not see the President supporting that.

Then the Republicans come up with a 7-year plan that the President opposes. He says we can do it in 10 years. Then in New Hampshire he says, ''Well, I think it can be done in 7 years in May.'' Then in a press conference in October he says, ''I think we can reach it in 7 years.''

''I think we could reach it in 8 years.'' ''I think we could reach it in 9 years.''

I am confused. Help me out, Mr. President, make up your mind and side on the side of the American people.

MEDICARE

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

Mr. UNDERWOOD. Mr. Speaker, the morning after Halloween, we awake to find that the majority has been out all night playing trick or treat with senior citizens and Medicare.

The treat was supposed to be fixing Medicare and the trick is that the plan all along was to dismantle Medicare one step at a time.

The leader of the other body is actually proud that he opposed Medicare in 1965. Is this the same person who is assuring seniors that he has come to save Medicare, not to bury it?

And in a second surprise after the budget votes, the majority leadership finally admits that this is the first step in dismantling the program, and that the plan is to let Medicare wither on the vine.

If these guys were doctors, they might be accused of practicing Dr. Krevorkian medicine.

If they were used car salesmen, they might be eligible for salesmen of the month.

But since they are the fix Medicare gang, we need to expose the Halloween charade and defend the best health care program this country offers for seniors. No more trick or treat. How about straight talk on Medicare.

CONTROVERSY OVER CASTRO

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

Ms. ROS-LEHTINEN. Mr. Speaker, the award for the most deplorable idolizing of Cuban tyrant Fidel Castro during his recent United States visit goes to my Democrat colleague from the Bronx, who handed the dictator a pair of boxing gloves engraved with ''Fidel is #1.''

Castro is No. 1 in human rights violations. He is No. 1 in persecution of political opposition. He is No. 1 in detainment of political prisoners. He is No. 1 in the persecution of the free press. So those gloves fit Castro to a tee.

However, given the hugs and accolades my colleague laid on Castro, I doubt that the ''Fidel is #1'' slogan was intended to refer to those Castro characteristics. It was another pathetic display of the obvious disregard some have for the repression that Castro imposes on the people of Cuba, and for the millions who struggle against his tyranny. Maybe Castro should return the favor by sending our colleague a pair of gloves engraved: ''Castro's #1 pawn.''

WE CANNOT LET MEDICARE DIE ON THE VINE

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

Mr. WATT of North Carolina. Mr. Speaker, the Speaker of this House has indicated that he wants Medicare to die on the vine. That is his quote.

I do not want Medicare to die on the vine. I want it to live and to continue to provide health care and security to our older Americans.

The Speaker and the Republicans have been saying for weeks now that what they were trying to do was to save Medicare. We told you that was not their purpose. Now the truth is out. They never wanted Medicare. They never wanted Medicare in 1965. And now they want it to die on the vine.

We have got to fight to keep it living and serving our senior citizens. We cannot let Medicare die on the vine.

MORE ON THE MEDICARE DEBATE

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

Mr. PASTOR. Mr. Speaker, again, we say the Speaker made a mistake. Last weekend I happened to be in Phoenix with a number of senior citizens at a senior housing project, El Prima Vera, and they were concerned that we were taking away Medicare. I said, what is it, the Democrats in the debate scaring you?

They said, no, our fear has been reassured, reconfirmed, because we have heard the Republican leadership plan and clear, plain English, with the Senate President telling us that he did not support Medicare because he thought it would fail, which is false because that is a safety net that many seniors today rely on to get their medical health care.

□ 1015

And then to top it off, it was the Speaker who was not concerned about the administration but who wanted to abolish Medicare, and that is the plain English truth.

REPUBLICANS HAVE THE ONLY PLAN

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

Mr. ALLARD. Mr. Speaker, President Clinton says he thinks we can balance the budget in 7 years. Republicans have passed a bill that balances the budget in 7 years.

President Clinton says he wants to cut taxes. Republicans have passed a bill that cuts taxes for families and promotes economic growth.

President Clinton says he wants to save Medicare from bankruptcy. Republicans have passed a bill that saves Medicare for this generation and sets the stage for the baby boomers.

President Clinton says he wants to end welfare as we know it. Republicans have passed a plan to revolutionize the failed welfare system.

Mr. Speaker, talk is cheap. If the President is going to veto our balanced budget bill, then he is obligated to show us specifically what he would do differently. Balancing the budget is about more than just press conferences and talking points, it is about specific plans. And right now Republicans are the only ones with a legitimate plan.

THE DEFICIT HAS ALREADY BEEN CUT

(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, Members, we hear talk about the 7-year balanced budget and the 10-year balanced budget.

We did not develop the debt that we have or the deficit in 7 years or even 10 years. In fact, in the 1980's, the deficit exploded, but it took us decades to get the financial house in the shape that we have it now. In fact, in 1992, the last year of a Republican administration in the White House, we had a $290 billion deficit. This year, that deficit is down to $163 billion.

Now, whether we talk about 7 years or 10 years, that is all a political game. What we are talking about is that we reduced the deficit under a Democratic President, without cutting Medicare, without cutting education, and without raiding the pension plans.

We do not need to let Medicare wither on the vine, Mr. Speaker.

KEEPING OUR PROMISES

(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, apparently the previous speaker does not understand the difference between the debt and the deficit. We are not talking about paying off a debt that it has taken some 40 years to run up. We are talking about balancing the budget and bringing the deficit from $200 billion down to zero.

No question about it, when you have a $5 trillion debt, it would be very difficult to pay that off in a 7-year period. Unfortunately, this budget does not do that. It does not, in fact, pay off any of it, but what it does do is it gets us down to zero in terms of deficit.

Last week we did pass a balanced budget bill for the first time in 25 years. In doing that, we kept our promise. We kept our promise.

The President made a promise 3 years ago he was going to balance the budget in a 5-year period. He did not keep that promise.

In fact, he gave us a bad budget agreement in 1993 that showed $250 billion deficits as far as the eye can see.

We made the promise to balance the budget. We kept that promise, and that is probably the most important promise that we could have kept.

Because what does it mean? It means lower interest rates. It means more prosperity. It means more jobs. It means we are not going to be taxing our children for our own profligacy.

MOTION TO INSTRUCT CONFEREES ON VA–HUD BILL TO ELIMINATE ENVIRONMENTAL RIDERS

(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, there is going to be an effort this afternoon which I support to try to eliminate environmental riders that were put into the EPA appropriations bill by the Republican leadership. These Republican riders would severely hamper the EPA's ability to enforce regulations that are the veritable backbone of environmental protection in this country, leaving the EPA severely crippled and the environment utterly defenseless.

These provisos, supported by the Republican leadership, would limit EPA's ability to spend funds on activities related to the Clean Water Act, the Clean Air Act, RCRA, and Superfund. They even prevent the EPA from establishing drinking water standards for radon and arsenic, both known carcinogens.

These provisions are criminal in terms of the effects they will have on the environment. Then again, letting the environmental criminals off the hook is exactly what these provisions are all about.

I hope we are successful on a bipartisan basis this afternoon in eliminating these riders that severely hamper our ability to prevent the degradation of the Nation's environment.

IT IS TIME TO SET OUR COUNTRY ON THE RIGHT COURSE

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

Mrs. SEASTRAND. Mr. Speaker, what do the American people want? They want a Federal Government that is smaller, less costly, and less intrusive. They want us to cut spending and balance the budget. They want relief from taxes. They want us to reform the broken welfare system. And they want us to save Medicare from going bankrupt.

This is exactly why the people elected a Republican majority for the first time in 40 years. They wanted change from the status quo, and we have delivered that change. They wanted Republicans to keep our promises to balance the budget, cut taxes, reform welfare, and save Medicare. We have kept our promises.

Now it is our President's turn. Will President Clinton keep the promises he made? It is time to set our country on the right course. It is what the people want.

DO NOT SHUT DOWN THE GOVERNMENT

(Mr. DURBIN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, I would like to tell those who happen to be mortgage holders across America they have a surprise in store. It is the Republican Christmas tax.

Here is what it is all about: In order to force the President's hand on this budget negotiation, Speaker GINGRICH has suggested he would close down the Government.

Major economists know if that occurs interest rates go up. People who have adjusted rate mortgages, where the interest rates vary as those interest rates go up, will have to pay more on their monthly mortgage payment.

So Merry Christmas, America. What Speaker GINGRICH would like to do is close down the Government, raise the interest rates, force higher payments on people's home mortgages.

We just read in the paper this morning working families are finding it tougher than ever to get by. They do not need to receive this sort of Christmas gift from Speaker GINGRICH, this kind of hidden tax, that imposes a greater burden on families in America. It is unfair.

What we need is a bipartisan, commonsense approach that does not cut Medicare, that does not provide a tax break for the wealthiest of Americans. That is what people sent us to Washington to do.

TAXPAYER-SUBSIDIZED LOBBYING

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

Mr. COBURN. Mr. Speaker, if one were to take the time to explain the current controversy over taxpayer-subsidized lobbying to the average American, I have no doubt that the Istook-McIntosh-Ehrlich language would win easy approval.

Most of my constituents are flabbergasted to learn that taxpayer-subsidized lobbying occurs at all. They do not believe it is an appropriate use of their tax dollars. It is only inside the beltway that it is considered normal for groups to receive Federal grants that enable those same groups to lobby for more Federal grants. Mr. Speaker, this pernicious practice must end.

A few weeks ago, the House voted to retain the Istook language in an appropriations bill. Now, it is doubtful that that bill will ever make it to the Senate floor. And Senate conferences on a different vehicle have refused to add it to that bill. Mr. Speaker, the instincts of the average American are right. No one can plausibly justify the continuation of taxpayer-subsidized lobbying as we have come to know it.

Mr. Speaker, let us say no to business as usual and at the same time stand up for the taxpayer. Yes to the Istook-McIntosh language on Treasury—Postal.

PROHIBITING DEFENSE CONTRACTORS FROM LOBBYING

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

Mrs. SCHROEDER. Mr. Speaker, basically what is going on here is not a debate about will we cut the budget. Of course. It is not a debate about will we cut the deficit. Of course. The question is who bears the brunt of the cuts, and is that fair.

You know, we just heard a 1-minute about charities lobbying. Well, I have an amendment trying to prohibit defense contractors from lobbying. Guess what, it got turned down. You talk about federally subsidized lobbying, and boy, did it pay off. They are getting about $8 billion more in defense dollars than the President asked for or the Joint Chiefs of Staff asked for.

So to get to a balanced budget then, if you are going to let those paid lobbyists have their way, you are going to have to cut someone else. So who are we cutting? Well, we hear the Speaker saying he hopes Medicare dies on the vine, so I guess we are going to cut the older people. We see people saying we have got to do away with nursing home provisions and so forth.

So the issue is not will we, the question is how we, and the question is who we listen to.

VOTE ''YES'' ON THE PARTIAL BIRTH ABORTION BAN

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

Mr. HOSTETTLER. Mr. Speaker, my friends, can 3 inches really be our guide to death over live?

Can 3 inches determine the definition of ''person'' under the 14th and 5th amendments?

Have we become so hardened in our hearts that not even the killing of a child during birth can be recognized as wrong?

It was not always so in America. At one point in our history, ''We held these truths to be self-evident: that all men are created equal; that they are endowed, by their Creator, with certain unalienable rights; that among these are life * * *.''

God have mercy on us.

I urge a ''yes'' vote on H.R. 1833, the partial birth abortion ban.

SAVE SOCIAL SECURITY AND MEDICARE

(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, adjust your hearing aids, purchase new spectacles. Yes, if you were surprised to hear NEWT GINGRICH telling the truth for a change that he wanted, as his words say, ''Now, we don't get rid of it in round one,'' referring to Medicare, ''because we don't think that is politically smart, and we don't think that is the right way to go through a transition period; but we believe it is going to wither on the vine,'' then you have not been listening and you have not been watching.

Because there is nothing new about this plan to wreck Medicare. It was only in February that his very own Progress and Freedom Foundation newspaper entitled their lead editorial ''For Freedom's Sake, Eliminate Social Security,'' and proceeded to say it is time to slay the largest Government entitlement program of all, Social Security.

What we have had here this year is round 1 of eliminating and destroying Medicare and Social Security.

The Republicans did not come to this Congress to save Social Security and Medicare. They came to bury it.

WHAT DOES THE PRESIDENT REALLY WANT?

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

Mr. BARTLETT of Maryland. Mr. Speaker, I suspect that most Americans are confused as to what the President wants in a Federal budget. The President has said that he wants, one, a plan that will balance the Federal budget in 7 years; two, a plan that will save Medicare from bankruptcy; three, a plan that will end welfare as we know it; and, four, a plan that will cut taxes for families and reduce the capital gains tax to spur job creation and economic growth.

But the President has never presented a plan that would balance the budget and do these other things. The Congress has. However, the President has announced he intends to veto this plan that will balance the budget the House and Senate will shortly send to him.

Mr. Speaker, I, for one, do not understand why the President would veto the only plan that will balance the Federal budget and accomplish the goals he says he supports which is also what the American people want.

Why go through all of that trouble? What does the President really want, Mr. Speaker?

PLAYING WITH FIRE

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

Mr. BENTSEN. Mr. Speaker, there are some in this House who have suggested that perhaps the United States should default on its debt limit and, therefore, default on Treasury bonds.

As one who came to this House from the private sector, who came to this House from the securities industry, let

me tell you if we default on Treasury bonds, it will be violating a faith that the U.S. Government has had with the rest of the world and with its taxpayers since we came into existence.

If we break that faith, we will never again regain the confidence of the markets; but, furthermore, we will hurt U.S. bondholders which include pensioners throughout this country. We will hurt homeowners who will see their mortgage rates to up, particularly those who have adjustable rate mortgages.

Mr. Speaker, you are playing with fire if you are talking about defaulting on United States debt. Do not default, or history will find you wrong.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mrs. WALDHOLTZ. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on International Relations, Committee on the Judiciary, Committee on Science, and the Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentlewoman from Utah?

There was no objection.

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 251 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 251

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered as read for amendment under the five-minute rule. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted in the House and in the Committee of the Whole. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yield is for the purpose of debate only.

Mr. Speaker, House Resolution 251 is a closed rule providing for consideration of H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The rule provides for 1 hour of general debate equally divided between the chairman and ranking minority member of the Judiciary Committee and provides for one motion to recommit with or without instructions.

Mr. Speaker, of all of the issues with which our society, and this Congress, grapples, perhaps none is so contentious and difficult as the issue of abortion. It is an issue on which thoughtful people of good will, who have carefully pondered and considered its various aspects, passionately disagree, each side believing it is protecting the most fundamental of rights.

And yet, as divisive as this issue is, a majority of the citizens of our Nation have sought and found some common ground. One such area of general agreement relates to use of taxpayer funds. Most Americans do not think the money they send to their Government should be used to pay for elective abortions.

Mr. Speaker, I believe that the bill that we will debate today is another area where we can find that common ground. Because through this bill we will bring to an end a practice that is so gruesome and horrific and so repugnant to the valuing of human life that the American Medical Association's Council on Legislation voted unanimously to recommend that the AMA Board of Trustees endorse this bill, with one member voting that the council members agreed that this procedure is basically repulsive.

Mr. Speaker, let me stress that this debate is not about the myriad of other issues relating to abortion. This bill is very narrowly drawn to address only this particular procedure, and that is why we have brought this bill to the floor under a closed rule. While the Rules Committee has successfully worked to drastically reduce the number of closed rules in this Congress as compared to past years, it is appropriate to limit the debate on this very narrow proposal, and not attempt to use this as a vehicle to debate the enormous range of contentious issues relating to abortion.

Mr. Speaker, we have some anomalies in our laws across the country regarding the rights and interests of children. We recognize that children of parents who die before the child's birth should nevertheless be recognized as heirs of that parents's estate—establishing a property right for unborn children. We recognize causes of action for death or injury to unborn children—recognition of their right to be free from injury or pain. The moment a child is born any intentional injury to that child can be prosecuted as child abuse. And yet, the procedure we debate today indisputably causes pain and ends the life of partially born children—children whose bodies have been delivered and are outside the mother's womb but whose heads remain inside while the doctor ends the child's life and then finished the birth—except there is no birth now because the child is now dead. And currently, our laws do not protect these children.

Mr. Speaker, surely this is an area where we can find that elusive common ground—and prohibit a procedure used in lateterm abortions that measures the difference between life and death in inches. A procedure that one practitioner admits he has used for purely elective abortions 80 percent of the time.

Mr. Speaker, I submit that this bill is a place for us to set aside our other differences and unite in prohibiting a violent, morally repugnant practice. I urge my colleagues to support the rule and the bill.

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

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

Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we oppose in the strongest possible terms both this closed rule and the legislation it makes in order. This is, we believe, a dangerous piece of legislation that makes it a crime to perform a medically established, safe method of completing late abortions. We oppose the bill not only because it is the first time the Federal Government would ban a form of abortion, but also because it is part of an effort to make it virtually impossible for any abortion to be performed late in a pregnancy, no matter how endangered the mother's life on health might be.

On a personal note, Mr. Speaker, if I may say so as the author of California's Therapeutic Abortion Act, which our then Governor Mr. Reagan signed into law back in 1967, which is one of the first laws in the Nation passed to protect the lives of women, I cannot express how strongly and strenuously I oppose the bill, and how profoundly sad and disturbing I find it that we seem to be poised to turn back the clock 30 years by insisting again, as we used to, that the State, and not the individual woman and her family, make this most personal and horrific decision for every family facing this tragic choice.

Mr. Speaker, we believe it is an unconstitutional infringement on the right to an abortion. It directly challenges the Roe versus Wade decision to protect a woman's right to choose; it contravenes the central holding of Roe that the Government may not ban an abortion where it is necessary for the preservation of the life or health of the mother. Under the bill, preserving the health of the mother is no defense at all, so the bill would sacrifice a woman's health to serve an extreme political agenda.

The bill is so vague that it is bound to produce a chilling effect on a broad range of abortion procedures. Physicians will think long and hard about whether they can endure practicing medicine under the constant threat of imprisonment, of civil lawsuits, and with the knowledge Congress has forbidden them from exercising their best professional judgments on behalf of their patients.

Mr. Speaker, the U.S. Congress has absolutely no business passing judgments on lifesaving medical procedures. This legislation is reprehensible in its arrogance and it is an unprecedented intrusion by the Congress into the practice of medicine and into the private lives of our Nation's families at a time when they are facing the most terrible decisions they will ever, ever have to make.

It is bad enough Members are being asked to vote on this irresponsible piece of legislation. To make matters worse, we are being required to consider this very controversial bill under a completely closed rule. There is simply no excuse. There is simply no good reason for denying Members any opportunity at all to try to cure the obvious defects in this legislation.

At the very least, if we could not consider the bill under an open rule, the majority should have allowed votes on three very critical amendments. First, the Farr-Lofgren amendment, which would have given us the opportunity to add language to the bill to create a life and health exception to the abortion ban. This is a fundamental concern, obviously, to women and their families.

Without this exception, Mr. Speaker, the bill will force women and their physicians to resort to procedures that may be more dangerous to the woman's health than the method banned. This amendment would permit Members to cast a vote that respects the paramount importance of women's health and future fertility.

We also believe strongly the amendment offered by the gentlewoman from Connecticut [Mrs. JOHNSON], should have been made in order. Her amendment would have created a life exception to the abortion ban. We heard yesterday in the Committee on Rules extremely compelling testimony about how critical this exception is.

The bill before us contains a very narrow affirmative defense for cases where the banned procedure was the only one that would have saved the woman's life. This is not a life exception at all. It is only an affirmative defense, not an exception to the ban. It shifts the burden of proof to the doctor when he is already under indictment, already in court, already forced to have undergone lengthy and expensive legal proceedings. The Johnson amendment is extremely important, and Members should have been allowed the opportunity to debate it and to vote on it.

Finally, Mr. Speaker, the amendment by the gentleman from North Carolina [Mr. WATT], which would have returned the burden of proof in these cases to the Government, where it belongs, should have been allowed.

As the gentleman from North Carolina testified, the burden of proof in criminal cases is always on the Government. This bill upsets that time-honored legal standard by requiring the defendant, in this case the physician, to prove that the procedure was necessary to save a woman's life, and that no other procedure was available. This basic and fundamental standard of law should not be reversed in this bill. This is a great disservice not only to the medical people involved, but to our entire legal system. Mr. Speaker, we frankly find it outrageous that the gentleman from North Carolina [Mr. WATT], was not allowed to offer this very basic, very necessary amendment, which we believe the Members in their wisdom would have seen fit to adopt.

Mr. Speaker, this legislation before us is an uncalled for expansion of the Federal Government's power. It is one more step in the move to end a woman's access to safe and legal abortions. It is so broadly written it will surely prevent physicians from performing those lifesaving late-term abortions that are being performed because of deformities that prevent the fetus' survival or because a woman's life, health, or future reproductive capacity may be severely threatened.

We strongly oppose the rule before us and the bill it makes in order. We urge defeat of the rule.

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

Mrs. WALDHOLTZ. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, there are five good reasons for granting a closed rule for the Partial-Birth Abortion Ban Act. Here they are:

The act pictured here in these photographs, is, in the words of the American Medical Association's Legislative Council, basically repulsive.

The Rules Committee crafted this rule in a bipartisan fashion. Some Members voiced support for the addition of a life-of-the-mother amendment to be allowed to this legislation. The reason that this closed rule makes no provision for that is simple: The bill already permits a physician to perform a partial-birth abortion if he reasonably believes that it is necessary to save the life of the mother, and that no other procedure would suffice for that purpose.

Mr. Speaker, even the most ardent opponents of partial-birth abortion would not wish to allow women's lives to be endangered.

But make no mistake: Partial-birth abortions are being performed for many other elective reasons. According to the National Abortion Federation a national coalition of abortionists, late-term abortions are performed for fetal indications, lack of money or health insurance, social crises, or lack of knowledge about human reproduction. One abortionist even stated that he performed nine partial-birth abortions because the unborn baby had a cleft lip.

Mr. Speaker, this repulsive procedure is the act of a culture of death. Even at the turn of the century, American suffragettes recognized abortion as ''child murder'', in the words of Susan B. Anthony. Along with Elizabeth Cady Stanton, another one of the organizers of the women's right-to-vote movement, whose 75th anniversary we celebrate this year, Susan B. Anthony also wrote, ''When a woman destroys the life of her unborn child, it is a sign that, by education or circumstances, she has been greatly wronged.''

Let us not continue to offer partial-birth abortions to women as a solution to real-life problems. In the spirit of our American suffragettes, support the rule and the Partial-Birth Abortion Ban Act of 1995. Your conscience will make you glad you did.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, indeed this is a very, very tragic day and decision, and this rule is even more tragic, because it closes the door on the life or health of the mother. This is a closed rule, and it says that this procedure cannot be used for the life or health of the mother. This is in violation of Roe versus Wade, which says States can put all sorts of restrictions on late term abortions, and I certainly support that, but they cannot restrict them when it comes to life or health of the mother.

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So if this rule goes forward and we are not allowed to bring the life of the mother and all of the, I think, justice that that brings with it to this floor, I am appalled that we have shut down that plea.

Mr. Speaker, people will say that the life of the mother is protected in this bill. That is absolutely wrong. All this bill allows is, after a doctor is arrested in a criminal offense, the doctor then has the burden of proof to prove that

there was no other way that they could do this, and that is a very difficult burden of proof. And who in the world is going to submit to being arrested first. So the life of the mother is given very secondary status here.

But let me read from the California Medical Society's 38,000 doctors. They say, in their letter to this body,

An abortion performed in the late trimester of pregnancy is extremely difficult for everyone involved, and we wish to clarify we are not advocating the performance of elective abortions in this late stage of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy or a pregnant woman develops life-threatening medical conditions inconsistent with the continuation of that pregnancy, abortion, however heart wrenching, may be medically necessary. And in such cases the procedure described in this bill would be outlawed, and it would prohibit all sorts of medical benefits and the chance to give safer alternatives to her by maintaining uterine integrity, reducing blood loss, and other potential complications,

including death.

Mr. Speaker, how can we turn our back on that? Never, never have we outlawed a medical procedure or criminalized it, and here we are doing it, even if it is for the life of the mother. Vote ''no'' on this rule.

The information referred to above is included for the RECORD as follows:

CALIFORNIA MEDICAL ASSOCIATION,
San Francisco, CA, October 24, 1995.

RE. H.R. 1833.

Hon. SAM FARR,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE FARR: The California Medical Association is writing to express its strong opposition to the above-referenced bill, which would ban ''partial-birth abortions.'' We believe that this bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose an horrendous burden on families who are already facing a crushing personal situation—the loss of a wanted pregnancy to which the woman and her spouse are deeply committed.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved, and CMA wishes to clarify that it is not advocating the performance of *elective* abortions in the last stage of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary. In such cases, the intact dilation and extraction procedure (IDE)—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several aspects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. It also permits the parents to hold and mourn the fetus as a lost child, which may assist them in reaching closure on a tragic situation. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Thus, there are numerous reasons why the IDE procedure may be medically appropriate in a particular case, and there is virtually no *scientific* evidence supporting a ban on its use.

CMA recognizes that this type of abortion procedure performed late in a pregnancy is a very serious matter. However, political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. CMA opposes any legislation, state or federal, that denies a pregnant woman and her physician the ability to make medically appropriate decisions about the course of her medical care. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care. It would set a very undesirable precedent if Congress were by legislation fiat to decide such matters. The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge.

CMA urges you to defeat this bill. The patients who would seek the IDE procedure are already in great personal turmoil. Their physical and emotional trauma should not be compounded by an oppressive law that is devoid of scientific justification.

Sincerely,

EUGENE S. OGROD, II, M.D.,
President.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I think the record should be very clear that in the past, prior to Roe versus Wade, abortion was illegal and unborn children were protected in most of the States and it was the doctors that were prosecuted, the abortionists, the quacks, who were doing those abortions. So the previous speaker's statement simply is not true.

Mr. Speaker, the vote on this rule boils down to one simple question. Will our discussion and our votes today be about the procedure known as partial birth abortion or will the organized pro-abortion forces succeed again in diverting the debate and muddying the waters?

The professional abortionists and the paid representatives of the abortion industry desperately want to avoid a congressional debate on what actually happens in this procedure or any other method of abortion for that matter. They already know better than anyone else the gruesome details about every method of abortion. The abortion lobby also knows that most Members of Congress who generally vote on their side of the issue, like most Americans, are really not pro abortion in their heart of hearts.

Mr. Speaker, they know that today, if this rule is adopted, the abortion debate will shift from the abstract to the real. They know that the 23 year coverup by the multibillion dollar abortion industry, with the complicity of many in the media, will be over and history will be made.

For the first time ever we will directly confront the violence of what the abortionist actually does. For the first time ever we will directly confront the child abuse called legal abortion and say yes or no. If this rule is adopted Members of Congress who have sincere differences about abortion will be faced with one important question and only one: Whether this procedure, which inflicts a death so cruel that it would never be inflicted on a convicted murderer, so cruel that it would surely be a crime to inflict such torture on a dog, is too cruel to be inflicted on a child.

Mr. Speaker, the abortion industry knows that it can never win unless it deflects attention away from itself, away from the abortion procedures and on to something else. So this industry and its supporters are particularly infuriated when anyone threatens to describe an abortion procedure in detail. They attack as dangerous, an extremist, anyone who would describe such a procedure either with words or with pictures. So they know if this rule is adopted, if we have a fair and honest and thorough discussion today, not about side issues, but about the partial birth abortion procedure itself, the abortion debate will forever change.

Americans will see that the real extremists are not the people who insist on calling attention to the grizzly details of abortion, such as dismemberment of the unborn child, including injections of high concentrated salt solutions and other kinds of poisons that chemically burn and then kill the baby, or this particular method, a brain sucking method of abortion. They will see that the real extremists are those who actually do these heinous procedures and want to keep it a secret.

The dangerous person is not the one who shows us the pictures or who describes abortions, the dangerous person, the child abuser, is the one depicted in the picture, the person holding the scissors at the base of the baby's skull.

Mr. Speaker, Dr. Martin Haskel, one of the leaders in trying to promote this method who has actually done hundreds of these partial birth abortions, said in a recorded interview that 80 percent of the partial birth abortions are elective abortions, abortions on-demand, not life of the mother abortions, which again this bill would allow. Dr. Haskel describes it this way. These are his words. ''The surgeon forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon then removes those scissors and introduces a suction catheter into the hole and evacuates the skull contents. That is the brain of an unborn baby. Evacuates the skull contents.'' How dehumanizing.

Mr. Speaker, let us have a real debate on this issue today. Abortion methods and the coverup that has gone on for so long must end. Abortion is child abuse. This is a particularly heinous form of that child abuse. Why are so many good people on the other side

and on this side, that I know and respect, defending this kind of abuse against children?

I urge Members to vote for the Canady bill. Vote for this rule. We need to end this legalized child abuse. These children are precious. We have to look at life and birth really as an event that happens to each and every one of us. In this particular bill we are talking about a baby who is half born. The feet are literally out of the mother's womb. Vote for the Canady amendment and vote for this rule.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. HALL], my good friend.

(Mr. HALL of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I want to thank my friend, the gentleman from California [Mr. BEILENSON], a gentleman, a good legislator, and a very fine man for yielding time to me.

Mr. Speaker, I stand up as a sponsor of this legislation, actually I am proud to be an original cosponsor.

While abortions, except to save the mother's life, are wrong for those of us who believe in life, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Mr. Speaker, you will hear the medical details of these abortions from other witnesses, but I simply lend my support to the bill as one who ascribes to a moral code and common sense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capitol punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago surgery was performed on newborns with the thought that they did not feel pain. Now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells—more than us, since ours start dying off with adolescence. Regardless of the arguments surrounding the ethics of the procedure, it does seem that pain is inflicted.

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I could not sit here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life.

We need to promote social policies that ensure the mother and child will receive adequate health care, training and other assistance that will, in turn, enable them to become productive members of society. We have not done a good job so far, and I am afraid to say, this House has been unraveling social programs all too easily. Until our Nation makes a commitment to offering pregnant women and their children a promising future, I am afraid the demand for abortion will not subside.

Enough is enough. I'm glad we have a very clean bill in front of us. The vote is clean—up or down. Yes or no. No vagueness, no cloudiness to the issue. No chance to say my vote will be a definite maybe. If there's one thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this. Vote yes on this bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky [Mr. BUNNING].

(Mr. BUNNING of Kentucky asked and was given permission to revise and extend his remarks.)

Mr. BUNNING of Kentucky. Mr. Speaker, the title of this bill which we debate today includes the ultimate in gory contradictions—partial birth—abortion. Unfortunately, this contradictory term accurately depicts this horrendous abortion procedure in which a viable child is pulled partially from the womb only to be killed inches from life. It goes beyond repulsive. It goes beyond grotesque.

H.R. 1833 would prohibit abortionists from committing this horrible medical procedure. While some of my colleagues might suggest this is the first step in overturning Roe versus Wade, that is not the case at all. I wish we were considering legislation to do away with abortion altogether, but this bill doesn't do that. This is simply a bill to prohibit one particularly despicable method of abortion.

As a father of 9 children and a grandfather to 28, I have had a lot of experience in the wonders of new life being brought into this world. When a baby is born, it is the most innocent of creatures, its hands reach out for something to hold, its leg stretch and kick with energy, and its cry is filled with life.

Compare this to what occurs during a partial-birth abortion. The baby exits the uterus, its hands extend to hold its mother, its legs kick wildly in the air as the child attempts to breathe, but its first breath will never come. As registered nurse, Brenda Pratt Schafer, of Dayton, OH, who has witnessed this procedure describes it:

> The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking.
>
> Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startled reaction, like a new baby does when he thinks that he might fall.

Abortion has always been a controversial issue in this body. There are so many strong differences of opinion involved—differences of opinion about when life begins and differences of opinion about the point beyond which life should be protected.

But this procedure—the partial-birth abortion—is so grotesque—so inhuman—that I can see no way at all that any rational person could defend it.

Join me in doing what is right by supporting the partial birth abortion ban act.

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Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the distinguished ranking Democratic member on the Committee on the Judiciary.

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

Mr. CONYERS. Mr. Speaker, this vote against the rule is very important.

I urge all Members to vote against this rule. It is a sham.

Despite all the rhetoric on open rules, we get the door slammed shut when it comes to the most important issue of all: life and death.

Because that is what this bill is about. It says that even when a mother is in danger of losing her life, she may not undergo a late-term abortion, even if the physician says it is necessary to save her life.

That issue of life and death of the mother is thus relegated to the 5 minutes in a motion to recommit. That is an insult to this minority and it is an insult to women.

The language that a threat to a mother's life is an ''affirmative defense'' is also a sham in the bill. Anyone familiar with how the legal system works knows that this means a doctor could still be arrested, prosecuted, have to retain an attorney, suffer through a trial, before he could even suggest the defense of life and death necessity.

This bill is not written with the interests of the American family in mind, but rather represents a cynical attempt to exploit a highly sensitive and personal issue.

We learned at the hearings that third trimester abortions are incredibly rare—less than one one-hundredth of 1 percent of abortions are performed after 24 weeks. Only three doctors in the entire United States are known to offer abortions during this time period.

We also learned that abortion late in a pregnancy typically occurs under the most tragic of circumstances—the fetus may be severely disfigured and have little chance of long-term survival, or a mother may have contracted a serious disease which did not exist at the beginning of the pregnancy.

Ironically, the so-called D&X procedure sought to be outlawed by this bill is very often the safest procedure from the mother's perspective, and that the terms of the bill are so vague that they are likely to inhibit all third trimester abortions.

Despite these concerns, the Republicans are rushing through a bill that goes against the very principles they purport to stand for in a crude effort to take political advantage of the very difficult choices facing American families.

How else can we explain a bill that would—for the very first time—federalize the regulation of abortion, a matter traditionally left to the discretion of the States? How else can we explain a bill that would decimate the traditional doctor-patient privilege and shred constitutional protection of a woman's health? And how else can we explain the creation of a new tort action, with no dollar caps whatsoever? The sponsors are so intent on using the civil justice system to inhibit third trimester abortions that they would authorize lawsuits by men who have committed rape or incest.

Vote against the rule, please.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong opposition to this rule and urge my colleagues to defeat it. This will be the first time that this Congress will address the subject of abortion without clearly protecting the life of the mother.

I went to the Committee on Rules with an amendment that would very narrowly protect the life of the mother. It was very clear. It would just allow the physician to take into account preservation of the life of the mother. Never have we addressed this issue without clearly protecting the life of the mother.

We should not abrogate our allegiance to women, facing the most terrible personal tragedy any of us could be called upon to face, without protecting her life, without allowing her and her husband to protect her life. Voting ''no'' on this rule will not kill the bill. It will merely allow the Committee on Rules to return to this House a bill with a rule that will allow us to consider the two amendments that would assure that a woman's life and reproductive future can be taken into account as she and her physician and husband decide how best to deal with a level of tragedy most of us will never experience.

Men and women of this Congress, if it were your daughter, would you not want her life, her reproductive hopes and dreams, protected? Would you compound her agony? Would you compound her peril? Vote ''no'' on this rule. The Committee on Rules can bring back the bill with the right rule, so that we will have an opportunity to discuss fully the issues that are at stake here both for the woman and for the child. I urge a ''no'' vote

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, this is a bill with very good intentions, but this is a terrible rule. As a Member, I am offended that we cannot have a true debate. The procedure that has been described as a partial birth abortion is abhorrent, it is repugnant, it is gruesome. But that is not the only issue. It seems to me that we have to logically and in all fairness consider the life of the mother. This rule does not allow us to do it.

They say, well, we have an affirmative defense. That means that the doctor has to be arrested, he is in the process of prosecution, he has been humiliated he has the expenses, and then, yes, he gets to defend himself and say I made a decision on the mother's behalf. That is not the way this bill ought to operate.

We ought to have the opportunity to debate not whether we ought to have the procedure, because I do not want the procedure. What we ought to debate is whether we ought to consider the life and the reproductive future of the mother as we make this decision.

The gentlewoman from Utah said that this is an important issue. It is an important issue. It is not a fiscal issue. It is a moral and an ethical issue. It is an issue on which we ought to have a full debate and not a closed rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, in 6 weeks my wife will have our first child. I cannot put into words the joy that she and I share together. For months this baby has been at the center of our hearts and our hopes and our dreams and our prayers.

One of those prayers is that this little baby comes into the world with perfect health. But if for any reason our child has physical or mental disabilities, we will love that child and nurture it even more. But God forbid, if our physician in the next several weeks tells my wife that our baby for whatever reason has no chance of life, and that terminating this pregnancy was the best way to save my wife, my love one's life, and her ability to have children, to have the joy that some of you have already had, then that difficult choice should be my wife's and mine to make with her doctor, not this Congress' choice to make.

No politician, no pollster, no interest group, so election should determine that choice for my wife and for me and our family.

If my wife's life or her ability to have more children were to be at risk, I would want her doctor to be able to consider whatever procedure best protects her and that ability to have children.

What so offends me about this bill is that a physician could be sent to prison for saving my wife's life. Let me repeat that, because it is incredulous, but it is true. Under this bill, a physician could be sent to prison for saving my wife's life. That is wrong, that is immoral, that is unconscionable.

No Member of this House has the right to put the life of my wife or her ability to let us share in the joy that you have shared in in having children. No one in this House, no one in any Congress has the right to put that risk of my wife's life to task.

Yesterday morning I talked to our physician, the person that we hope will deliver a health baby in just a few weeks. He told me that this bill as written could force him to choose in an emergency between risking his patient's life, my wife's life, or his going to prison. This Congress has no right to put that choice before any physician, to make a doctor choose between keeping his oath as a doctor or going to prison.

This bill is not about saving the lives of babies. It is about risking the lives of mothers and their chance to have babies. This bill is not about protecting babies from late-term abortions. Look at it. Read it. The fact is this bill does not prohibit late-term abortions, not a single one. It deals with procedure.

What this bill does do, though, is allow Members of Congress, in our great medical wisdom, to dictate to physicians what medical procedures cannot be used even if those procedures maximize the chance of living for one's wife or one's daughter.

To my colleagues who share my personal belief that late-term abortion should only be used in rare and extreme cases, I plead with you to read this bill. Read it. It does not accomplish that goal. To my colleagues, even those that are pro-life, I plead with you to ask this question of yourself. If the life of your wife or your daughter or your granddaughter were at risk, if their ability, your wife, your daughter, your granddaughter, their ability to have future children were to be at risk, who do you want to make the decision about what best medical procedure to use? This Congress or your loved one.

If you agree with me that that difficult choice should be left to our families and to our loved ones, not the politicians and pollsters, then I plead with you to vote ''no'' on this rule and ''no'' on this bill.

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

Mr. Speaker, before I yield to the next speaker, I think it is important that we note exactly what we are talking about. I have great respect and agree with those who say that we need to protect the lives of mothers, but this procedure, Mr. Speaker, is not used for what people believe are emergency lifesaving procedures or circumstances, because this procedure requires 3 days to execute.

Mr. Speaker, 9 weeks ago Thursday, I gave birth to my first daughter. I had to have my labor induced because my daughter was experiencing some difficulties and she needed to be born quickly. But it nevertheless took over 24 hours to induce my labor to the point that we could begin the real work of delivering my daughter. So this is not a procedure that is used in emergency life-threatening situations.

With that, Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Speaker, I rise in support of the rule and in support of the rule and in support of this legislation.

Five times my wife and I have been blessed to give birth to a child, five times the opportunity to hold a brand new, newborn baby.

Mr. Speaker, it sickens me to think that some people believe it is a proper practice to delivery all of a baby, save only the head, and then before birth occurs, to jam a set of scissors into the back of the skull of that child and scramble its brains. That is what we are talking about, Mr. Speaker.

Should that be legal in a civilized society? We are talking about civilization versus barbarism.

Some people may not want to recognize the practice that we seek to prohibit. Some people did not want to look when Hitler was slaughtering the Jews or Stalin was slaughtering his countrymen. I am sure they did not want to look when Pharaoh went after the newborns or King Herod went after the newborn children, either.

It was slaughter, nevertheless, Mr. Speaker. If we do not look, if we do not understand what is being done, and instead of barbarity, they call it a choice. We have got to get away from that kind of language. We have got to get where someone speaks for the child, speaks for the newborn, speaks for a society that cares about life.

Words cannot convey the horror of this procedure. I would hope that no Member of this Chamber would endorse barbarism by voting against this legislation.

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Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise to urge my colleagues to defeat this rule so this vote on this procedure will not come to the floor today.

This legislation concerns a rare, extraordinarily personal, extremely difficult decision that a few families across this country have to make each year. This situation: A late-term pregnancy has become a crisis. What has happened is the life of the mother is at risk, her child will not be able to exist outside the womb, and some families choose to end this crisis.

Let me be clear about what we are voting on. This bill does not eliminate other third-term procedures. Roe, the law of the land, permits this to protect the life of the mother. What this bill does is involve the Congress in an incredibly difficult medical decision.

I fear for this Chamber, Mr. Speaker. It does, at times like this, begin to resemble a political gymnasium that plays political games to get political points, not a great hall which over history has debated the great problems that face this country.

Do we know on restraint? Is nothing sacred for the individual from the interference of government?

Vote down this rule, my colleagues. Return this tragic decision to where it belongs, in the doctor's office with the family.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, the issue of abortions is, perhaps, the most divisive subject to enter the political arena. It is a specific subject encompassed with other broader subjects of religion, morality, and constitutional rights. Theologians and jurists have struggled with this subject for centuries, and in recent decades, as the quest to establish a civilized balance between the rights of the mother and those of her unborn child have intensified, certain markers or points of demarcation have been sought. Viability and corresponding trimesters of pregnancy have become the courts' standard. As uncertain and arbitrary as this standard may be, since it has a fluctuation factory of months or weeks, there should be no disagreement that partial-birth abortions should be prohibited—for here, the difference between life and death is not months or weeks or days, it is a few centimeters.

Surely, no civilized society should tolerate such a barbaric procedure that allows the brains of a baby to be sucked from its skull within a few centimeters and a second away from its birth. Our humanity demands that we reject this procedure.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

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

Mr. SCHUMER. Mr. Speaker, I rise in opposition to this rule.

Let me say that, for the last year, my major involvement in this issue has been as author and then watching the FACE law, the clinic access law, be implemented; and what we say in that, why we needed that law, why a vast majority of people in this body, or not a vast majority but certainly a strong majority supported that law was because there was a pattern of intimidation. Doctors who were doing a perfectly legal procedure were being intimidated, harassed, threatened, and even shot.

This bill, in my judgment, given what it does, extends that intimidation to mental intimidation. What it is doing is saying to physicians, by the way it is constructed, that they must choose between their Hippocratic oath, this and their fear of prosecution, very simply. A physician and his patient or her patient may come together and decide that something is perfectly legal and necessary.

We have heard the horror stories all along, and then if the physician presumes that the life of the mother is at stake and feels that this procedure is necessary, he must then, or she must then, weigh the fact that once they do it, they will have to go to court and prove that the life of the mother was truly at stake or that no other procedure was possibly available. What kind of choice is that? What kind of country is this?

If you wish to debate the issue of pro-life versus pro-choice, let us do it. My view that this is a matter that should be left to the individual because some people believe life begins at conception, some people believe life begins at birth and others believe it begins somewhere in between is not an issue for the Government to decide but for us and our maker. But do not try this backdoor way of intimidating physicians to do something perfectly legal.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 1½ minutes to my colleague, the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. Mr. Speaker, I rise today as a supporter of this rule, this bill and a strong advocate for the human rights of all Americans, both born and unborn.

This Nation must raise the value of life if we are to survive as a nation, as a prosperous people. We must value human life.

My colleagues, this is an appropriate rule, because this procedure is so horrible, so inhumane that we should be able to vote right now without question to protect the lives of these little ones.

My friends, what more do we need to know? This bill outlaws a medical procedure which takes a child, almost completely outside the mother's body and robs the child of its life. What more do we need to know? A child, a fully formed child with arms, with legs, a body, feet, hands, and fingers, all outside the mother's womb in the very same air that you and I breathe, yet it is legal to end the life of this child, this gift from God, and, of course, a beating heart.

My friends, if it is not human, if it is not a human child, then why does their little heart have to be silenced? This silence should stir the very soul of this Nation and cause this House to act now. In the end, if we do not raise the value of life, we will have no life to value.

I urge Members to support this rule.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

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

Mr. BENTSEN. Mr. Speaker, this is part of the ongoing stealth campaign to outlaw choice for women in America, and now it is through criminalizing an ill-defined medical procedure. This is the congressional equivalent of medical malpractice.

For the record, let us make clear the American Medical Association did not endorse this legislation. In fact, I believe they unanimously rejected it. There is the same AMA which endorsed

the Medicare, Republican Medicare plan, so you cannot have it both ways.

Let us go a little bit further about this rule. This rule prohibits any amendments which would exclude instances in the case of rape or incest or the life of the mother. That is simply not right. But unfortunately that is politics in the 104th Congress.

Let us talk about parenthood, because I think those of us who are parents are all genuinely good parents. Last night I had the opportunity to leave early, to take my two daughters, Louise and Meredith, trick-or-treating in our neighborhood. It was one of those special moments that you get to spend as a father with your 4-year-old and 2-year-old. There are not many of those that you get in this job.

I will not come to this House today as a legislator and vote to take away their right to this medical procedure if their life depended on it. That is wrong. There is not a parent in this House who should consider doing that. This rule is wrong. This bill is ill-defined. This is politics in its worst form.

Vote against this rule.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I rise today as an original cosponsor of the partial birth abortion ban, and so to voice my support for this rule. Let us be clear about one thing, this has nothing to do with the life of the mother.

For those that support abortion on demand, they will use any excuse or any reason to overturn this rule.

What I do want to talk about though is this procedure is so grotesque, any American who understands what this procedure is about would be against it. I believe that banning partial birth abortions would start us on the road to restoring sanity to our Nation's abortion laws and away from the abortion-on-demand policies this Chamber has supported over the last few decades.

As the majority's report on this legislation pointed out, even the Roe court rejected the notion that a woman is entitled to an abortion at whatever time in whatever way and for whatever reason she alone chooses. Abortion on demand, that is what this bill's opponents are for, and what the heart of this debate is about.

Is this Nation destined to forever retain the most permissive, immoral abortion laws in the industrial world? You know, we have laws protecting the environment, we have laws protecting endangered species, we have laws protecting the air and water. It is time that we have laws protecting the unborn child.

I saw two bumper stickers this morning on a car. One said, ''Save the whales,'' and the other side said, ''I am pro-choice.'' What a sad state that this country has gone to that we are for saving the whales and murdering our unborn children.

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

Mrs. LOWEY. Mr. Speaker, my colleagues, as a mother of three beautiful grown children, I just have to express how deeply offended I am by this discussion today. Thank God, my husband and I never had to make a painful decision like this.

But how can we send this message to those few families that have to face this tragedy, that received a message that the fetus could not live and their wife was in danger of losing her life?

Mr. Speaker, the bill before us would ban a specific type of medical procedure used to perform abortions in cases where the life and health of the mother is threatened by her pregnancy. It would make it a crime for doctors to use this procedure to save the lives of their patients.

This legislation undermines the right to choose by directly challenging the historic Roe versus Wade decision; and, my colleagues, I wish we would deal with that issue head-on rather than undermine it in this backhanded way.

The bill provides no exception for cases where the life and health of the mother is endangered. Not only is it immoral, it is unconstitutional, and the fact that this closed rule does not allow us to protect the life and health of the mother is an absolute tragedy.

Mr. Speaker, we tried to offer amendments, but the Republican leadership said ''no''. Let me explain very clearly what this bill does instead. Doctors who perform this procedure to save their patients' lives would be arrested, indicted and tried. At trial, that doctor would have to prove the patient's life was in danger. In other words, the doctor is guilty until proven innocent.

This bill places doctors in an untenable situation. They have to choose between saving their patient's life and a 2-year jail term.

I urge my colleagues to defeat this rule.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, shame on those Members on the other side who are flagrantly misrepresenting this bill.

You know if you read the bill that it provides an exemption in the case of saving the life of the mother; and any American who requests this bill, wants to read it themselves, will see exactly what you are dishing out today, flagrant untruths.

What this is about, this is not the traditional pro-life-pro-choice debate. This is about a procedure so heinous as to take the baby outside of the body and leave the head still inside the womb and murder the baby.

How far are we from China where they are taking the baby girl, as soon as they are born, and snapping the spine and killing the baby once it has already been born? What is the difference? How far are we going to be from that?

I would not be surprised to see some of those of you on the other side defend that procedure as well. If you can sit there with a straight face and defend this kind of barbaric procedure and misrepresent with a bold face what this does, as you done today, shame on you.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, the amendment to H.R. 1833 that Ms. LOFGREN and I had intended to offer this morning was narrowly drafted to protect the life and health of the mother and in those tragic instances of severe, fatal fetal abnormalities.

While this is an emotional issue, we must remember that we are talking about real women's lives—in this case my former constituent, Tammy Watts, who lived in Monterey at the time she and her husband faced the painful choice to terminate her third trimester pregnancy.

Tammy and her husband, Mitch, had been eagerly looking forward to the birth of their first child they had named the child, and bought the furniture, with all the dreams and joy of any expectant couple.

The Watts' received the devastating news in her seventh month of pregnancy that their fetus suffered from a severe and fatal fetal anomaly, Trisomy 13. Their fetus already had enlarged and failing kidneys, no eyes, diseased and malfunctioning brain tissue, and a non-functional mass of bowels, intestines, and bladder growing outside the body.

The Watts' were told by numerous doctors that there were no surgical or genetic therapies to help their fetus. For all the advances in medical science, the sad and painful truth that Tammy and Mitch had to face was that their fetus would not live, even if carried full term.

As if the situation were not tragic enough, Tammy was told by her physicians that if she had continued the pregnancy and let the fetus die in utero, dangerous toxins could have been released into Tammy's body, presenting grave risk to her health and to her ability to have children in the future.

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Mrs. WALDHOLTZ. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

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

Mr. HYDE. Mr. Speaker, the gentlewoman from Connecticut said something quite interesting. She asked, ''Is nothing safe from the interference of government?'' Well, when a woman and her doctor decide that her pregnancy is inconvenient or inopportune, where does the tiny little member of the human family struggling to be born in the womb turn for equal protection of the law, for due process of the law?

The facts of life are and the facts of this legislation are the life-of-the-mother exception is in the law as an affirmative defense. The doctor only has to show that he reasonably believed that the woman's life was in danger. He does not have to prove it beyond a reasonable doubt. He does not even have to be right. He just has to have reasonable belief that the woman's life would be in danger unless he performed this macabre, gruesome, Auschwitz-like operation, this butchery in the service of infanticide.

I am stunned that people are not running from defending this type of gruesome procedure. Yet the only question that this bill asks is yes or no. Never mind the nuances and the highways and the byways. Do you support a process where an infant, a live infant, talk about I feel your pain, a live infant is almost extracted from the birth canal, 3 inches from being a fully-born child, and a scissors punctures the neck and the brains are sucked out.

Anybody that can find a word of defense for that is someone I do not understand. The American Medical Association Council on Legislation unanimously approved recommending this bill. The full AMA did not. They did nothing. They took a pass. They washed their hands. But at least the council on legislation unanimously supported it.

Look: If one thinks abortion is a good idea, that is fine, go ahead and live with that. But this form of abortion is indefensible. Indefensible.

This rule is a focused rule. It asks the question do you or do you not approve of this procedure? That is the only question that needs to be asked. The life of the mother is protected. Prosecutors are not going around indicating people willy-nilly when they have an affirmative defense, and it is an easy affirmative defense.

Mr. Speaker, I ask for support for this rule.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to my good friend, the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to the rule on this bill for two reasons:

One, this bill allows no exceptions—even to save a woman's life—making this bill clearly unconstitutional. We asked for a rule to allow that exception but we were denied.

Why? Because proponents of this bill want to challenge the legal right to choose for all women. This is just a step in that challenge. This is a legal strategy.

The second reason I oppose this rule and this bill is that by not allowing an exception to save the life of the woman, this bill is just cruel on its face.

My friends and colleagues, this bill bans the right to make a necessary medical decision when circumstances are most dire.

Despite the other side's spin doctors—real doctors know that the late term abortions this bill seeks to ban are rare and they're done only when there is no better alternative to save the woman and, if possible, preserve her ability to have children. They are done after a family has given careful thought and prayer to the matter—and has sought out the best medical advice possible.

When a woman is pregnant—with a pregnancy wanted and hoped for—and finds herself in a life-threatening situation late in that pregnancy, she is in grave danger and she's emotionally devastated.

I cannot imagine a more cruel act this Congress could make than to tell that woman—that woman whose hopes and dreams rested on the pending birth of her child—that we won't even allow her doctor to take the necessary steps to save her life and make every effort to preserve her ability to try again when she has grieved the loss and her health is restored.

Over and over again this Congress has picked on the weakest among us—the children, the elderly, families struggling just to make it—but now you're picking on a woman who very much wants to be a mother and you're telling her that her life means nothing. Telling he we'll jail her doctor for saving her life. Colleagues, we have never stooped lower than this.

If you care about life—about families—search your hearts and vote against this rule and against this bill.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. MALONEY].

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, I rise in opposition to this rule.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY]. As she reaches the podium, I ask Members to vote no on this rule, so we can send it back to the Committee on Rules and ask for a rule which would allow us to vote on amendments to preserve the life and health of the mother.

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

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to the rule for H.R. 1833.

The proposed rule for the Canady late term abortion bill is nothing less than an outrage. This rule bars Members from offering amendments which would allow a procedure when the life of the mother is in danger or when the fetus is so malformed that it has zero chance of survival.

This restrictive rule makes sure that an awful bill remains an awful bill.

Ladies and gentlemen, let's make one thing clear. This rule ensures that H.R. 1833 will be a direct challenge to Roe versus Wade. In other words, if you are a pro-choice Member of Congress, if your constituents vote for you because they feel assured that you will not violate a woman's right to choose, if you agree that the mother's life has value then there is no way that you can vote for this rule.

This rule will force the House of Representatives to vote on banning a specific surgical procedure with absolutely no safeguards for the life, health, or future fertility of the mother.

To my colleagues on both sides of the aisle I urge you to defeat this rule. This issue does not belong on the floor of the House of Representatives, it belongs in a doctor's office. Politicians should not decide whether a terminally malformed fetus should be brought to term. A woman, with her doctor's advice, should.

Remember this my friends, you can not say you are pro-choice and vote for this rule. Defeat this rule, stand up for women's lives, do not violate Roe versus Wade.

The SPEAKER pro tempore (Mr. HANSEN). All time has expired on the minority side. The majority has 1 minute remaining.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if this Congress has no other purpose, are we not obligated to protect the rights of those in our society who are too weak to protect themselves? The procedure that is the subject of this bill denies protection, life itself, to children who are nearly born alive, but for a few centimeters with their head left in the birth canal, a procedure used for elective abortion, a procedure used on viable children.

Mr. Speaker, this bill is not about protecting the life of the mother. This procedure is too lengthy to be used in true emergency situations. It takes too long.

This Congress, Mr. Speaker, cannot seriously defend measuring life in mere inches. It is time to outlaw this procedure, which even members of the AMA's Council on Legislation describe as repulsive and recommended that they take action against.

This is barbarism, Mr. Speaker. It is an area where those of us who differ on other issues relating to abortion can agree, that this is not something we want to go on in our country.

Mr. Speaker, I include for the RECORD the following information relating to rules reported by the Committee on Rules during the 104th Congress.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of October 31, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	52	69
Modified Closed[3]	49	47	18	24
Closed[4]	9	9	5	7
Total	104	100	75	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of October 31, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. LAZIO of New York. Mr. Speaker, I rise today to oppose the rule on H.R. 1833, the Partial-Birth Abortion Act of 1995. When Republicans won a majority last November we promised to have many more open rules on legislation than in previous years. Open rules are essential in order to have an open debate on important issues. Yet, regrettably the rule before us today prevents us from voting on an

important amendment to allow for exceptions from the bill's provisions in cases where the life of the mother is endangered.

This is an issue of great concern to many of us. It deserves to be openly debated, and it deserves a vote by the full House. Therefore, I urge my colleagues to vote against this rule so we can bring this bill back under an open rule and allow the will of the full House to prevail.

Mrs. WALDHOLTZ. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 190, not voting 5, as follows:

[Roll No. 754]

YEAS—237

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—190

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bishop
Boehlert
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Dunn
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hobson
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Moran
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Ramstad
Rangel
Reed
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Tanner
Thomas
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—5

Crane
Fields (LA)
Regula
Tucker
Weldon (PA)

☐ 1201

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO INSERT EXTRANEOUS MATERIAL

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent to insert extraneous material at this point in the RECORD.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BEILENSON. Mr. Speaker, the material referred to is as follows:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a ''Queen of the Hill'' procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a ''Queen of the Hill'' procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Rescissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority.. *RULE AMENDED*	N/A.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min) If adopted, it is considered as base text; Pre-printing gets priority.	N/A
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A

* Contract Bills, 67% restrictive; 33% open. ** All legislation, 54% restrictive; 46% open. *** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 251 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1833.

☐ 1201

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Mr. EMERSON in the chair.

The Clerk read the title of the bill.

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

The text of the Committee amendment in the nature of a substitute is as follows:

H.R. 1833

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 ''Partial-Birth Abortion Ban Act of 1995''.

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—PARTIAL-BIRTH ABORTIONS

''Sec.

''1531. Partial-birth abortions prohibited.

''§ 1531. Partial-birth abortions prohibited

''(a) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both.

''(b) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

''(c)(1) The father, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

''(2) Such relief shall include—

''(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

''(B) statutory damages equal to three times the cost of the partial-birth abortion.

''(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

''(e) It is an affirmative defense to a prosecution or a civil action under this section, which must be proved by a preponderance of the evidence, that the partial-birth abortion was performed by a physician who reasonably believed—

''(1) the partial-birth abortion was necessary to save the life of the mother; and

''(2) no other procedure would suffice for that purpose.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"74. Partial-birth abortions .... 1531".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. CANADY] will be recognized for 30 minutes and the gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, someone has observed that hard truths travel slowly. Ugly realities are often hidden from view. Uncomfortable facts are concealed or ignored. This is true in many areas of politics and of life. But nowhere is it more true than with respect to abortion.

Today we consider a bill that deals with a hard truth. H.R. 1833 addresses the ugly reality of partial-birth abortion. In this debate today, we confront the uncomfortable facts about this heinous procedure, facts that have been concealed for too long.

While every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb, while the baby is only partially in the birth canal. The difference between the partial-birth abortion procedure and homicide is a mere 3 inches.

Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a breech delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

Ms. JACKSON-LEE. Mr. Chairman, the House is not in order.

The CHAIRMAN. The Chair observes that the House is in order, but the Chair will try to obtain better order. Will Members please cease and desist their conversation.

Mrs. SCHROEDER. Mr. Chairman, I rise because I had hoped the Speaker would exercise his authority under rule I, clause 2 to preserve the order and decorum in this Chamber.

It seems obvious to me that we are going to have exhibits that I think are a breach of decorum. I would object to the use of these exhibits that have not been certified medically, and I would hope that the other side would withdraw them at this time.

The CHAIRMAN. The Chair will put the question to the Committee under rule XXX if any Member objects to the use of an exhibit in debate. The gentlewoman from Colorado has objected.

The question is: Shall the gentleman be permitted to use the exhibit that he has at his left?

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN (during the vote). The Chair will make a statement. A rollcall is in process, but the Chair understands that there is confusion. A ''yes'' vote on the question before the Committee permits the use of the material in question. A ''no'' vote would deny the use of the material in question. The vote will proceed.

The vote was taken by electronic device, and there were—ayes 332, noes 86, not voting 14, as follows:

[Roll No. 755]

AYES—332

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gibbons
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Markey
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McNulty
Meehan
Metcalf
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
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
Tiahrt
Torkildsen
Torres
Traficant
Upton
Velazquez
Volkmer
Vucanovich
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (FL)
Zeliff
Zimmer

NOES—86

Allard
Baesler
Baldacci
Beilenson
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clyburn
Collins (IL)
Collins (MI)
Conyers
Cox
Coyne
de la Garza
DeFazio
Deutsch
Dooley
Farr
Filner
Flake
Ford
Frank (MA)
Frost
Gekas
Geren
Gilchrest
Gilman
Goodling
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Horn
Houghton
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kennelly
Lincoln
Lofgren
Lowey
Maloney
Martinez
Martini
McKinney
Meek
Menendez
Meyers
Morella
Murtha
Nussle
Payne (NJ)
Payne (VA)
Pelosi
Rangel
Rivers
Roukema
Rush
Schroeder
Scott
Slaughter
Stark
Stokes
Studds
Tanner
Thompson
Thornton
Thurman
Torricelli
Towns
Vento
Visclosky
Walker
Waters
Woolsey
Wyden
Wynn
Yates

NOT VOTING—14

Clay
Dicks
Dornan
Fields (LA)
Gephardt
McIntosh
Olver
Owens
Tucker
Waldholtz
Weldon (PA)
Wilson
Wise
Young (AK)

☐ 1227

Mr. PETE GEREN of Texas changed his vote from ''aye'' to ''no.''

Mrs. KELLY and Ms. VELÁZQUEZ, Messrs. GORDON, GEJDENSON, RICHARDSON, PALLONE, EVANS, LEWIS of Georgia, and BECERRA changed their vote from ''no'' to 'aye.''

So, the gentleman was permitted to use the exhibit in question.

The result of the vote was announced as above recorded.

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] is permitted to utilize the exhibit in question.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, the attempt to further conceal the truth about this horrible procedure has failed, and I am very grateful to my colleagues on both sides of the aisle who supported my right to display these charts and explain the reality of this procedure.

This is partial-birth abortion: First, guided by ultrasound, the abortionist grabs the live baby's leg with forceps. Second, the baby's leg is pulled out into the birth canal. Third, the abortionist delivers the baby's entire body, except for the head. Fourth, then, the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole. Fifth, the scissors are then removed and a suction catheter is inserted. The child's brains are sucked out causing the skull to collapse so the delivery of the child can be completed.

□ 1230

This is a procedure which should not be allowed. This is a procedure which shocks the conscience.

Many claims are being made in opposition to this bill. We have heard them today. The abortion advocates claim that H.R. 1833 would jail doctors who perform lifesaving abortions. This statement makes me wonder whether the opponents of the bill have even bothered to read the bill.

H.R. 133 makes specific allowances for a practitioner who reasonably believes a partial birth abortion is necessary to save the life of a mother. No one can be prosecuted and convicted under this bill for performing a partial birth abortion which is necessary to save the life of the mother. Anyone who has any doubt about that should look at the text of the bill itself. No doctor who reasonably believes, he must simply reasonably believe, that he acted to save the life of the mother, will be arrested and go to prison under this bill.

Of course, there is not a shred of evidence to suggest that a partial birth abortion is ever necessary to save the life of the mother. In fact, few doctors even know the procedure exists. The American Medical Association's Council on Legislation, which includes 12 doctors, voted unanimously to recommend that the AMA Board of Trustees endorse H.R. 1833. The council felt partial birth abortion was not a recognized medical procedure.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I will not yield. We have limited time, as the gentlewoman knows.

The Council on Legislation agreed that the procedure is basically repulsive. In the end, the AMA board decided to remain neutral on H.R. 18933, but it is significant that the council of 12 doctors did not recognize partial birth abortion as a proper medical technique.

The truth is that the partial birth abortion procedure is never necessary to protect either the life or the health of the mother. Indeed, the procedure poses significant risks to maternal health—risks such as uterine rupture, and the development of cervical incompetence. Dr. Pamela Smith, Director of Medical Education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial-birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will . . . only be enhanced by the banning of this procedure.

Proponents of the partial-birth abortion method have also claimed that the procedure is only used to kill babies with serious disabilities. Focusing the debate on babies with disabilities is a blatant attempt to avoid addressing the reality of this inhuman procedure. Remember the brutal reality of what is done in a partial-birth abortion: The baby is partially delivered alive, then stabbed through the skull. No baby's life should be taken in this manner. It does not matter whether that baby is perfectly healthy or suffers from the most tragic of disabilities.

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. In fact, they advocate this method as the preferred method for late-term abortions. Dr. Haskell advocates the method from 20 to 26 weeks into the pregnancy and told the ''American Medical News'' that most of the partial-birth abortions he performs are elective. In fact, he told the reporter, ''I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.''

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. Dr. McMahon sent a letter to the Constitution Subcommittee in which he described abortions performed because of a mother's youth or depression as nonelective. I do not believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

Dr. McMahon also sent the subcommittee a graph which shows the percentage of, quote, ''flawed fetuses,'' that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies Dr. McMahon aborted were perfectly healthy and many of the babies he described as ''flawed'' had conditions that were compatible with long life, either with our without a disability. For example, Dr. McMahon listed 9 partial-birth abortions performed because the baby had a cleft lip.

The National Abortion Federation, a group representing abortionists, has also recognized that partial-birth abortions are performed for many reasons other than fetal abnormalities. In 1993, NAF counseled its members, ''Don't apologize: this is a legal abortion procedure,'' and stated:

> There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crisis, lack of knowledge about human reproduction, etc.

Now the National Abortion Federation is emphasizing only one of those reasons. In fact, NAF sent a letter to Members of Congress with pictures of babies with severe disabilities urging them to support the use of partial-birth abortion.

I find it offensive to suggest that taking a baby's life in this manner is justified because that baby has abnormalities. Abnormalities do not make babies any less human or any less deserving of humane treatment. No baby's life should be taken in this manner.

Abortion advocates are claiming that by banning partial-birth abortion we are mounting ''a direct attack on Roe versus Wade.'' Yet, in Roe, the Court explicitly rejected the argument that the right to an abortion is absolute and that a woman ''is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses.''

This is the question I would raise to my colleagues who support abortion on demand: Is there ever an instance when abortion, or a particular type of abortion, is inappropriate? The vehement opposition of abortion rights supporters to H.R. 1833 makes their answer to my question clear. For them there is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist chooses.

Despite their relentless effort to misrepresent and confuse the issue, the opponents of this bill can no longer conceal the uncomfortable facts about this horrible practice.

The supporters of partial-birth abortion seek to defend the indefensible. But today the hard truth cries out against them. The ugly reality of partial-birth abortion is revealed here in these drawings for all to see.

To all my colleagues I say: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Put an end to this detestable practice; vote in favor of H.R. 1833.

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

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

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Chairman, first of all, I regret the gentleman from Florida would not yield so I could correct the numerous distortions and inaccuracies in his statement. I will include the following materials for the RECORD.

H.R. 1833 contains an extremely narrow affirmative defense, available only when the doctor reasonably believed that the banned procedure was the only method that would save the woman's life. This is not a life exception for several reasons:

First, it is only an affirmative defense, not an exception to the ban. This means that it is available to the doctor after the handcuffs have snapped around his or her wrists, bond has been posted, and the criminal trial is underway.

An affirmative defense shifts the burden of proof to the doctor, placing on him or her the medically difficult burden of proving that no part of the fetus passed through the cervix before fetal demise; or proving that no other procedure would have sufficed to save the woman's life. Representative CHET EDWARDS consulted his wife's obstetrician, who told him that although this procedure is safer for the woman, a doctor would not be able to meet the burden of proof required under this bill. Thus, doctors would refuse to perform the safer procedure even when the woman's life is threatened.

Perhaps most important to the woman and her family, the affirmative defense is not available when, in the context of an abortion necessary to save her life, the woman and her doctor decide upon the banned procedure because it is the best method to preserve her health and her future fertility. These considerations are disallowed under the narrow affirmative defense found in the bill. Thus, doctors are in effect ordered by the Congress to set aside the paramount interests of the woman's health, and to trade off her health and future fertility to avoid the possibility of criminal prosecution.

The California Medical Association of 38,000 doctors would answer the gentleman from Florida by saying:

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved, and CMA wishes to clarify that it is not advocating the performance of elective abortions in the last state of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary. In such cases, the intact dilation and extraction procedure (IDE)—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. It also permits the parents to hold and mourn the fetus as a lost child, which may assist them in reaching closure on a tragic situation. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Thus, there are numerous reasons why the IDE procedure may be medically appropriate in a particular case, and there is virtually no scientific evidence supporting a ban on its use.

Mr. Chairman, I yield 2¼ minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, the hard truth is, sir, some can never conceive of a circumstance when an abortion is proper, even when it requires that the mother sacrifice her life. They call themselves pro-life? What about the life of mother which is at stake here? Because that is what is involved.

I have read this bill. It provides absolutely no protection to the physician who would go out and perform this procedure in order to preserve the life of the mother.

You see, this is all part of a broader agenda. These antichoice militants have an agenda: Prohibit abortion. No matter what the reason for that abortion, prohibit it. Prohibit all family planning monies. Even go in and dictate what type of birth control a woman can use.

Today's initiative reflects on the successes that some have had in this Congress: Successes like saying to an American service woman in a foreign land who is a victim of rape that she must bear that child; successes such as telling the minor daughter of a Federal employee who is the victim of incest, you must bear that child; successes such as telling a female prisoner who is beaten and raped, you must be a mother. That is the kind of successes that have come out of this Congress to date.

We will compel you to carry that child to pregnancy; you have no right to privacy, these zealots say.

Well, late term abortions are extremely rare. This procedure is even more rare. Indeed, I have yet to find a physician anywhere who ever heard the term ''partial birth abortion,'' until this bill came out. You see, it is not a medical term that they use in a medical school. It is a political term. It is a public relations term that they have come up with to describe a procedure that is used in the rarest of circumstances, when a woman's life is at stake. It is properly known as the intact dilation and evacuation procedure. In those circumstances, when it is used, it is necessary to use it to protect the life of the mother.

Some of the zealots as recently as this past month for this position have said they will never cease until they are able to declare in Federal law that having an abortion or providing one is murder. That is where this bill is leading us.

Mr. CANADY of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. BACHUS].

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

Mr. BACHUS. Mr. Chairman, the hard truth apparently is not what it used to be. I rise in strong support for banning partial birth abortions, and in defense of the innocent little victims of these procedures.

Today we take another important step in protecting the lives of the unborn. The Partial Birth Abortion Ban Act will end this most cruel practice—a practice that even the American Medical Association's legislative council has publicly stated is, "not a recognized medical technique." They also called this procedure, "repulsive."

Abortion advocates argue that partial birth abortions are only used after 26 weeks of pregnancy in cases where the procedure is nonelective. But the abortionists' interpretation of nonelective has an enormous scope and includes: severe fetal abnormality, Down's Syndrome, cleft palate, pediatric pelvis—that's if the mother is under age 18, depression of the mother, and even ignorance of human reproduction.

Today, those who would support this horrible procedure tell us that it is not a common practice. Can anyone really take comfort in debating the number of babies subject to this death? Whether it is a few hundred or tens of thousands or even one, wrong is wrong and no argument on how many will ever change that. A single life being taken in this way is reprehensible.

In conclusion, I would like to introduce into the RECORD a copy of a recent editorial in the Washington Post by Douglas Johnson. It spells out some of the most important reasons to support this legislation. Support H.R. 1833, the ban on partial birth abortions.

[From the Washington Post, July 16, 1995]

BAN PARTIAL-BIRTH ABORTIONS

(By Douglas Johnson)

Congress is considering a bill to ban the ''partial-birth abortion'' method, defined as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

The bill is aimed at an abortion method usually used after 4½ months into pregnancy and often much later, even into the ninth month. At 4½ months, a human being is about eight inches long, and—in the words of columnist Richard Cohen [op-ed, June 20]—''looks like a baby.''

The method in question, as described in a June 16 Los Angeles Times story, ''requires a physician to extract a fetus . . . through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus's skull and a suction catheter is inserted through the opening and the brain is removed.''

Some pro-abortion lobbying groups now claim that this method is utilized mainly to save the life of the mother or on fetuses that suffer from grave disorders incompatible with life. A number of syndicated columnists, major newspaper editorial boards and members of Congress have uncritically embraced these claims, even though there is

ample documentation that they are erroneous.

How many partial-birth abortions are performed? In the mind of Richard Cohen, ''they almost don't exist'' because ''just four one-hundredths of one percent of abortions are performed after 24 weeks.'' Why does citing such percentages give so much comfort to defenders of late-term abortions? Consider that Cohen's statistic, if accurate, would translate into the death of 600 humans each year—more than twice as many as resulted from the recent Ebola virus epidemic in Africa.

Actually, there are 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute, whose estimate should be regarded as conservative. There is really no way to know how many doctors are using the partial-birth abortion method, or how many partial-birth abortions are performed.

However, two specialists in the method, Dr. Martin Haskell of Dayton, Ohio, and Dr. James McMahon of Los Angeles, have between them performed more than 3,000 such abortions, and have also circulated detailed papers and given interviews on the subject. The polemical claims now being made by critics of the pending legislation cannot survive a careful reading of this material.

Is the baby already dead when the abortionist partly removes her from the uterus? The American Medical News—official newspaper of the ''pro-choice'' AMA—put that question to Haskell in a tape-recorded interview in 1993. Haskell replied, ''No, it's not. No, it's really not. . . . I would think probably about a third of those definitely are dead before I actually start to remove the fetus. And probably the other two-thirds are not.''

Brenda Shafer, a registered nurse, accepted assignment to Haskell's clinic because she was strongly ''pro-choice.'' She quit after witnessing, close-up, three partial-birth abortions. In a July 9 letter to Rep. Tony Hall, Shafer described the end of life for one six-month-old ''fetus'': ''His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside [the uterus]. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened the scissors up.''

McMahon now claims that analgesia he administers to the mother causes ''a medical coma'' and ''neurological fetal demise.'' But Prof. Watson Bowes, co-editor of the Obsterical and Gynecological Survey and an internationally recognized authority on fetal and maternal medicine at the University of North Carolina, responds: ''This statement suggests a lack of understanding of maternal/fetal pharmacology. . . . Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die. . . . Although it is true that analgesic medications given to the mother will reach the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document.''

A 1993 internal memo written by the then-executive director of the National Abortion Federation explained that these late abortions are done for ''many reasons,'' including ''social-psychological crises [and] lack of knowledge about human reproduction.''

An even more revealing statement appears in the American Medical News interview transcript, in which Haskell said, ''In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.''

McMahon told American Medical News that he uses the method for ''elective'' abortions up until 26 weeks (six months). After that point, he said, he does only ''non-elective'' abortions. But in materials provided to a House Judiciary subcommittee, McMahon revealed that his definition of ''non-elective'' is extremely expensive. For example, he listed ''depression'' as the largest single ''maternal indication'' for such so-called ''non-elective'' abortions. A 1990 article about McMahon by reporter Karen Tumulty, published in the Los Angeles Times Magazine, found that many such abortions involve not medical factors but young teenagers, who ''put telling anyone as long as they can.''

McMahon's materials also show that he uses the method to destroy many ''flawed fetuses,'' as he calls them. These include unborn humans with a wide variety of disorders—including conditions compatible with a long life with or without disability (e.g., cleft palate, spina bifida, Down's syndrome).

True, some babies have more profound disorders that will result in death soon after birth. These unfortunate members of the human family should not be killed. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly. The bill itself permits use of the partial-birth abortion method in any case in which it is really necessary because of danger to the life of the mother.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of this legislation, and commend the gentleman from Florida for his leadership.

Mr. Chairman, I have seen and heard it all now with this effort to block the chairman's ability to bring to the floor these charts. It is no wonder that abortion proponents are opposed to having a mother having informed consent, to children and parents having the benefit of parental notification, if they would hide even this inhumane, abominable procedure from this Congress and the American people. Perhaps it is shame on the part of those most dedicated abortion proponents, who would cause a vote to block this information from being presented. Even they feel the shame, that we as a society would allow a partial birth abortion.

By the way, those charts fully conform to this legislation. And by the way, this legislation fully protects the life of the mother. It is only the difference of 3 inches between full delivery and doing the same procedure which would be murder in this act.

Mr. Chairman, I strongly support this legislation. Let us ban this procedure.

Mrs. SCHROEDER. Mr. Chairman, I yield 15 seconds to the gentleman from California [Mr. BECERRA].

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

Mr. BECERRA. Mr. Chairman, disgraceful. That is the only way I can describe the proponents' descriptions of what is going on. My wife, who happens to be a obstetrician-gynecologist in high risk pregnancies, these types of pregnancies, has never had to do this, but she tells me this is not what is going on. We are not partially aborting a baby that would be born alive. This is to preserve the mother's life.

Mr. CANADY of Florida. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in full support of H.R. 1833, the Partial-Birth Abortion Ban Act. As a mother of two adopted children, I clearly understand the importance and significance of this legislation.

As a woman, I am amazed by claims of those who would suggest that I would support anything that would allow a woman's life to be placed at risk. Let me make this clear—the mother deserves and has the right to the best medical treatment possible. But partial birth abortions are not about saving the life of the mother.

Doctors performing partial birth abortions have reported that most are done as purely elective—one doctor stating that he had performed nine partial-births because the baby had a cleft lip. A member of the American Medical Association's Council on Legislation stated recently that ''he felt this was not a recognized procedure.'' Other council members agreed that the ''procedure is basically repulsive.'' However, with great consideration given to our commitment to protect the life of a mother. H.R. 1833 allows for the procedure when it is clear that ''no other procedure would suffice for that purpose.''

Incorrect information concerning H.R. 1833 has been spread by those who want to disguise the cruelty of this so-called normal medical procedure. The fact is nothing is normal or humane about extracting a baby, feet first, from the womb and through the birth canal until the head is exposed—thrusting scissors into the base of the baby's skull and inserting a suction catheter to remove the brain, I ask my colleagues to support H.R. 1833 and end this procedure that is the ultimate of child abuse.

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Mrs. SCHROEDER. Mr. Chairman, I yield 4 minutes and 30 seconds to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

(Mrs. JOHNSON of Connecticut asked and was given permission to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in firm opposition to this bill and remind my colleagues that late-term abortions are, in fact, legal only in very exceptional circumstances. I ask my colleagues to ask themselves this question. If their daughter and son-in-law or their son and daughter-in-law were faced with the extraordinary tragedy of discovering extreme fetal deformity late in pregnancy, or a life-threatening development, with abortion being the only

alternative, could they, would they want her to have available the procedure that was least life-threatening, most protective of her future reproductive capability, and most respectful of the fetus and the need of the parents and their living children to mourn this early, this eagerly anticipated child?

Mr. Chairman, this debate is not about the grossness of reducing the circumference of a fatally deformed fetus' head to allow vaginal delivery. It is about women facing terrible tragedy and their right to have the safest appropriate medical treatment. I am truly appalled at the flipness with which the proponents of this bill suggest she can have a cesarean. It is almost criminal. Women die every year of the complications of cesarean sections. C-sections have four times the fatality rate of vaginal births.

Why? Why would my colleagues ask their daughter to shoulder this small but real risk of death for a fetus with no potential of life. We are talking about extreme deformity. I am not going to keep this up here because I do not want children watching, I do not want people to have to be burdened with the terrible anguish and tragedy we are talking about when we say extreme deformity that prevents life. That is what these families are facing.

Another alternative? Cesarean section is one. The only other alternative to this kind of vaginal delivery through which a needle is used to reduce the circumference of the head so that the delivery can take place, the only other alternative is the old traditional alternative that this alternative was developed in order to avoid the terrible dangers to a woman's reproductive health and to her life that the other method posed. The other method I did not bring pictures of. I would not impose that on the world like my other colleague imposed his diagrams, but the other method is uglier.

The other method also endangers the birth canal and, therefore, the future reproductive capability of the woman. Why would my colleagues endanger their daughter's reproductive future for a fetus that cannot eat, has no kidneys, no heart? Not one physician in this body has ever performed a late-term abortion. No obstetrician I know has ever done one. That is because they are very, very rare. They are five-tenths of 1 percent of all the abortions performed after 20 weeks. But of the 600 third-trimester abortions performed last year, 450 were done through this method.

Mr. Chairman, what does that tell us? Why? Because it is the safest. Less bleeding, lower complication rate for the mother, less painful, and the geneticists can better determine what went wrong and counsel the couple for future pregnancies.

Men and women of this Congress, if it were our daughters, would we want her life and reproductive hopes and dreams protected? Will we vote for a bill that for the first time in history criminalizes a single procedure that could preserve life and health? No medical organization supports congressional censorship of treatment alternatives. None.

As a mother who lost a child, I can tell my colleagues that the tragedy of death is miraculously assuaged by the miracle of birth. Do not vote to let the tragedy of one death create the tragedy of another death and banish the renewing miracle of life. Vote no on this bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma, Dr. COBURN.

Mr. COBURN. Mr. Chairman, I think it is important that we have just had a medical lesson from a Member of this body that is totally inaccurate. Late-term abortions can be performed in a number of ways. This, least of which, is mostly convenient for the abortionist, has nothing to do with safety of the mother. Other methods are far safer than this method, where the uterus itself is never instrumented, the risk of bleeding, the risk of incompetent cervix, and the risk of fertility is avoided by the other methods.

Mrs. SCHROEDER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

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

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to this most unwise legislation.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT], a member of the Committee on the Judiciary.

Mr. BRYANT of Tennessee. Mr. Chairman, as a freshman, I am very often disappointed with what goes on in Washington, but nothing disappoints me more than to hear the low level, on occasion, the debate on this floor reaches, especially when we hear people, like one of my distinguished colleagues on the other side, refer to the folks who disagree with him as zealots and anitchoice militants.

I am very disappointed. That gentleman, as a former judge, I am sure if he were in the courtroom, and someone attempted to use this procedure as a means of execution in a capital murder case, his courtroom would have been full of civil libertarians hollering that this was cruel and inhumane punishment.

I want to tell my colleagues who some of these zealots and antichoice militants are. It is the Council on Legislation for the American Medical Association, who unanimously voted to endorse this particular bill 12 to nothing. Some of those said this was not a recognized medical technique. One even called it repulsive.

So, Mr. Chairman, if that is the kind of zealots, antichoice militants that we have, then I will stand with the Council on Legislation of the AMA every day.

Mrs. SCHROEDER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California [Ms. LOFGREN] who is also a member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, in many ways I feel very sad that we are here discussing this issue today. I have heard a lot of rhetoric. We saw charts, but one of the things that has been a real help to me in this discussion is the fact, through an odd quirk of fate, that I know real people who have had this procedure. I know a real family that has a mother today because this late-term abortion procedure is legal in America.

It was about a year ago last spring that Suzy Wilson, my long-time colleague on the board of supervisors, confided to me and her other friends that she was going to be a grandmother again and she was so happy that she would have a little Abigail.

Her son, Bill, and daughter-in-law, Vicky, were expecting. And it was late, very late in the pregnancy that Vicky and Bill discovered, much to their horror, that the birth defects of little Abigail were so severe that this child could not survive. They went to doctors seeking surgery in utero, could anything be done, and the sad truth was, no, nothing could be done.

Now Vicky had had very strong contractions and believed that that meant this was a very strong child in her excitement. The truth was that little Abigail was having seizures in utero because this child's brains had formed entirely outside of the cranial cavity. And those brains that did form were not normal brains. This child could not live.

Mr. Chairman, I voted to ban the use of charts, the cartoon charts, so I show this picture of Abigail with some trepidation but with the permission of the Wilson family. As Members can see, this child's brains are completely formed outside the cranial cavity. This child was a love child.

The Wilson family is raising money in Abigail's memory for a playground in their hometown. The fact that Abigail had these life-threatening deformities did not make her any less loved by her mother and father. What it did mean is that Abigail could not live.

Because of this procedure, which the California Medical Association has said is the safest, and the safest in several respects, Abigail's mother is still alive to be a mother to her other two children. If this bill passes, Vicky Wilson would be dead and her two living children without a mother.

I urge defeat of this bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I rise to support Mr. Canady's bill, which is an important step to help eliminate this tragic procedure. There is widespread agreement that this unfortunate and sickening act is not necessary and should not be permitted.

The partial birth abortion is not a legitimate medical procedure and it is not needed for any particular reason.

While the American Medical Association has officially taken no position on this bill, the AMA's Council on Legislation has voted unanimously to recommend support of this bill. As one member of the council said, ''The council believes that this is not a recognized medical technique and the procedure is basically repulsive.''

Listen to the words of a registered nurse who has witnessed partial birth abortions. Quote, ''The baby's feet were moving. His little fingers were collapsing together. He was kicking his feet. All the while his little head was still stuck inside. The doctor took a pair of scissors and inserted them in the back of the baby's head. Then he opened the scissors up. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out.''

As the mother of two children, I do not comprehend how we can allow any baby to be subjected to such inhumane treatment. I wholeheartedly support Mr. Canady's bill and I urge my colleagues to do so as well.

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Mrs. SCHROEDER. Mr. Chairman, I submit for the RECORD the following medical statements on this bill:

WHAT THE MEDICAL PROFESSION SAYS ABOUT H.R. 1833

1. California Medical Association (approx. 38,000 doctors: Strongly opposes H.R. 1833 as an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Further, it would impose a horrendous burden on families who are already facing a crushing personal situation—the loss of a wanted pregnancy to which the woman and her spouse are deeply committed.

2. American College of Obstetricians and Gynecologists [ACOG]: Will not support or endorse H.R. 1833. Opposed to any law that mandates against a specific medical procedure and criminalizes such a procedure.

3. American Medical Women's Association (approx. 13,000 women doctors): Opposes H.R. 1833 as legislation which unduly interferes with the physician-patient relationship. H.R. 1833 represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients.

4. American Medical Association: Refused to take a position on H.R. 1833. Rejected a recommendation from its legislative council, a 12-member council that includes no ob-gyns, to endorse the bill.

INDIVIDUAL STATEMENTS

Dr. Mitchell Creinin, Assistant Professor, U. of Pittsburgh School of Medicine, and Director of Family Planning and Family Planning Research in the Department of Obstetrics, Gynecology and Reproductive Sciences: ''This technique is a highly specialized operative procedure that is used for pregnancy termination under special circumstances by trained specialists. The usual patient has a desired pregnancy that is complicated most commonly by a genetic abnormality; this is not a procedure used arbitrarily by any practitioner under any circumstances. * * * In performing the abortion, the physician keeps in mind the woman's health, life and future reproductive ability. As such, it should be up to the physician to treat the patient with the procedure that is most appropriate . . . . [T]he decision about how the procedure is to be performed * * * is one that needs to be made by the doctor and patient together given that patient's individual needs and the specifics of the underlying disease and other illnesses. . . . [I]t should be obvious . . . that restricting the medical practice of a safe and effective procedure would never act to serve a patient's best interest.

Dr. David A. Grimes, Chief, Department of Obstetrics, Gynecology and Reproductive sciences, San Francisco General Hospital /University of California, San Francisco; formerly, Chief of the Abortion Surveillance Branch at the Centers for Disease Control, the principal official responsible for determining the safety of abortion in the U.S.:

As I understand the term, opponents of abortion are using [the phrase ''partial birth abortion''] to describe one variant of the dilation and evacuation procedure (D&E), which is the dominant method of second-trimester abortion in the U.S. If one does not use D&E, the alternative methods of abortion after 12 weeks' gestation are ''total birth abortion,'' labor induction, which is more costly and painful, or hysterectomy, which is still more costly, painful, and hazardous. Given the enviable record of safety of all D&E methods, as documented by the Centers for Disease Control and Prevention, there is no public health justification for any regulation or intervention in a physician's decision-making with the patient.

. . . [A]bortions after 24 weeks gestation are exceedingly uncommon and are done for compelling fetal or maternal indications only. . . . D&E dramatically reduces medical costs and patient suffering. . . . From a public health perspective, any intrusion of Congress into this medical issue is both unwarranted and unjustified. . . .

Dr. Lewis H. Koplik, Albuquerque, New Mexico:

This bill does not include any definitions. . . . These are no small concerns. We who provide abortions may be at risk for legal prosecution because of these omissions, even when an abortion is done in the first trimester or early second trimester.

With any dilation and evacuation (D&E) abortion procedure there is the possibility that the fetus may still have a pulsating heart when a somatic element is grasped with a forceps and brought through the dilated cervix. If this is true would those physicians who do second trimester D&E procedures, prior to viability, be at risk for being charged under the proposed bill? . . . During a suction curettage abortion is the fetus live if the heart muscle is contracting as the fetal tissue passes through the suction tubing? If this could be shown to be true would all suction abortions also be outlawed?

Though these considerations may seem far fetched, so was the likelihood, a few years ago, that a physician would be murdered because he or she was practicing medicine and providing a legally sanctioned operative procedure. Now such ''far fetched'' concerns and risks are what abortion providers live with daily.

[T]he D&X procedure is well recognized as a safe and effective technique by those who provided abortion care. It was originally developed to reduce the risk of complication to women who had to undergo a distressing late abortion procedure. With the D&X procedure the risk of severe cervical laceration and the possibility of damage to the uterine artery by a sharp fragment of calvarium is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, the risk of coagulation problems, D.I.C. does not occur. In skilled hands uterine perforation is almost unknown during D&X procedures . . . The fact that there are few who are skilled in its use speaks more to the small (but important) need for this care . . . Only the D&X procedure or a hysterotomy is able to provide a geneticist or a dysmorphologist with a specimen which is (almost) intact. The D&X may allow some women to grieve more effectively because they may hold their child, if they wish. . . .

Dr. Bruce Ferguson, New Mexico Medical Group, Albuquerque, NM:

This bill is an unprecedented and unwarranted attempt to legislate the type of surgical procedure that a physician may use in a particular case. . . . Those promoting the bill have used sensationalized drawings and graphic language to attempt to inflate opposition to this surgery. They have left out or distorted the realities that lead to difficult abortion decision late in pregnancy, the facts about how this procedure is performed, and how rarely this surgery takes place. But more importantly, the bill's language is vague and would probably apply to most second trimester abortions, even those done using the more conventional techniques.

[T]he language of the bill would make many doctors [who don't perform third trimester IDE procedures] into criminals, since there are many abortions in which a portion of the fetus may pass into the vaginal canal and there is no clarification of what is meant by ''a living fetus.''. . . Does the doctor have to do some kind of electrocardiogram and brain wave test to be able to prove their fetus was not living before he allows a foot or hand to pass through the cervix? The vagueness and the civil cause of action created in the bill will create all the opening that woman's parents need to file a suit against their daughter's physician. Even though the physician prevails in court, the costs of defending these suits by the patient's parents will cause considerable increased costs to all doctors providing abortion care, not just to those currently doing late third trimester IDE procedures.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute and 20 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE], another distinguished member of the Committee on the Judiciary.

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Chairman, this is so very tough. It is grueling. It is overwhelming. It is in the name of Abigail. It is in the name of Tammy Watts, who came to our committee and said that she lost a child because of its severe abnormalities and inability to live. Her quote was that, ''I would have done anything to save its life.''

Mr. Chairman, I do not want to be here. I do not want to have this debate, but the truth must be told and today, unfortunately, we are not telling the truth.

This bill presumes a physician guilty. This bill allows our sheriff, our chief of police, our FBI, whatever law enforcement, to go into the office of a physician and say that although you have saved the life of the woman you have violated the law.

This bill attacks Roe versus Wade. This bill presumes that saving the life of a mother is not a relevant part of what this physician or any physician has to do. This bill did not even allow

exception for the life or health of the mother.

This debate has injected an ugly picture of incorrect representation about this medical procedure simply to inflame your emotions. The fetus is already deceased based on an excessive amount of anesthesia. This is the only way to allow a situation for that mother to then be a mother again, because of this safe procedure.

Mr. Chairman, I only ask that my colleagues look realistically and not castigate those of us who painfully stand up here to ask that Americans' rights be protected and the rights of women and their right of good health to be able to become pregnant again. Vote against this bill. It does not help the American people. It breaks the hearts of mothers and criminalizes physicians.

Mr. Chairman, in 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade, 1973. This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetuses they are carrying have severe, often fatal, anomalies.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no exceptions for cases in which a banned procedure would be necessary to preserve a woman's life or health.

Instead the bill contains an ''affirmative defense'' that could be asserted by a doctor after he or she faces criminal prosecution or a civil claim. The affirmative defense covers only cases where a doctor could prove that he or she ''reasonably believed'' that no other procedure could have saved the woman's life. Few physicians would be willing to perform the procedure and risk the harsh penalties contained in the bill.

This bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose a horrendous burden on families who are already facing a crushing personal situation—the loss of a wanted pregnancy.

The misconceptions surrounding this bill are as astonishing:

First of all, the term ''Partial birth abortion'' is not found in any medical dictionaries, textbooks or coding manuals. The definition 1531(b) of H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear that this language could be interpreted to ban all abortions where the fetus remains intact. Partial birth abortion is a term made up by the authors of H.R. 1833 to suggest that a living baby is partially delivered and then killed.

Second, the fetus is not alive when it leaves the womb. The fetus dies of an overdose of anesthesia given to the mother intravenously. This dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise, therefore, occurs at the beginning of the procedure while the fetus is still in the womb.

Third, there are no scissors involved. Using the intact D&E procedure, a doctor can put into the cervix small dry cylinders that expand as they absorb fluid from the mother, causing gradual expansion of the cervix overnight. The patient can return home except for twice daily clinic visits to ensure that she is dilating and to replace the osmotic dilators if more dilation is required. She receives intravenous anesthesia for the insertion of the dilators as well as for the procedure.

The procedure can be accomplished with less dilation—which means less trauma to the cervix and less chance of problems in the next pregnancy—if some of the fluid is removed from the fetal head—which is the largest part of the fetus—by using a spinal needle for aspiration. This technique reduces the chances of lacerating the cervix which contains large blood vessels.

Fourth, late term abortions are not common. Ninety-five and one-half percent of abortions take place before 15 weeks. Only a little more than one-half of one percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother—severe heart disease, kidney failure, or rapidly advancing cancer—and in the case of severe fetal abnormalities incompatible with life—no eyes, no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

Finally, there are no safer alternatives: First, a woman cannot simply wait and ''let nature take its course'' that is, let the woman go to term and go into labor. Fetuses with severe abnormalities have a high chance of dying, in utero, even before labor begins thus posing a severe health threat to the mother. When a fetus dies, its tissues begin to break down and are released into the mother's circulation. This can lead to major problems with the mother's clotting mechanism, making it more difficult for her to stop bleeding. This is a huge problem for a woman undergoing either labor or a surgical delivery and increases the chances of requiring blood products and/or an emergency hysterectomy.

Second, induction of labor with drugs is not a safer alternative. The cervix, which holds the uterus closed during pregnancy, is very resistant to dilation until about 36 weeks. Inductions done before this time take between 2 to 4 days. Induction is also a physically painful process. Because of the danger of uterine rupture, inductions require constant nursing supervision and are therefore done on the labor and delivery ward. The physical pain is intensified by the emotional pain of losing a wanted pregnancy while spending days listening to other newborns cry and other families cheer in delight.

Third, a cesarean is a dangerous procedure. A cesarean delivery involves twice as much blood loss as a vaginal delivery. Before 34 weeks gestation the lower segment of the uterus is usually too thick to use a standard horizontal incision, so a vertical incision is necessary. Any uterine incision complicates future pregnancy, but a vertical incision is more dangerous and jeopardizes both the mother's health and any future pregnancies. When the uterus has a vertical scar, future pregnancies require a cesarean section and are more apt to be complicated by uterine rupture.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved. However, when serious fetal anomalies are discovered late in a pregnancy, or the mother develops a life-threatening medical condition that is inconsistent with the continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

In such cases, the intact dilation and extraction procedure [IDE]—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. Intact delivery allows geneticists, pathologists, and perinatalogists to determine what exactly the fetus's problems were. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Often, in these cases, the knowledge that a woman can have another child in the future is the only thing that keeps families going in their time of tragedy.

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Aren't these dangerous and unpleasant procedures?

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge. The mothers and families who seek late-term abortions are already severely distressed. They do not want an abortion—they want a child. Tammy Watts told us that she would have done anything to save her child. She told

me, "If I could have given my life for my child's I would have done it in a second."

Unfortunately, however, there was nothing she could do. For Tammy, and women like her, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically bet for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god. Women do not need medical instruction from the Government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice.

Mr. CANADY of Florida. Mr. Chairman, I yield 15 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, again to correct the medical facts, infants under this procedure who have received an anesthetic from their mother are not dead. They are not dead. They are as alive as my colleagues or I. The anesthetic required to terminate a fetus in utero would put the mother at great risk and it is never performed.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I rise in support of this bill as a prolife Democrat, not only concerned as we are talking about the process of birth today, but about the cycle of life for our Nation's children.

Mr. Chairman, what are we talking about today with partial-birth abortions? On page 5 in this bill we define this as meaning: An abortion in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery.

Mr. Chairman, I would encourage my colleagues to pay careful attention to that. "Delivers a living fetus before killing the fetus." We have had disagreements on this floor before about States' rights and restricting abortion and health care plans. This debate today is about a gruesome and repulsive medical technique that we should act on in a bipartisan way to ban on this House floor.

Mr. Chairman, this is not a vote that should divide men and women or Democrats from Republicans. This is a vote to ban a procedure that is not proper, that is not ethical, and that is inhumane to children.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Chairman, first, let us underline again the outrage of bringing up this bill under an absolutely closed rule. No Member was allowed to offer an amendment to explicitly allow for the protection of the life or serious health of the mother, except in the convoluted way in this bill because of only an hour of debate. I have rarely seen so important a subject so shabbily treated procedurally.

Second, this once again shows the great gap that exists between the Republicans' profession about States' rights and the reality. This bill makes criminal procedures which the States could make criminal, presumably, if they wanted to or not. What this bill says is that States are not smart enough; they do not care enough about these children. We, the Federal Government, will step in.

It does try to deal with that. It say this only involves abortions as crimes which are in or affect interstate or foreign commerce. How does the woman know that she is in foreign commerce or interstate commerce? Is her head in Canada and her feet in Detroit? What kind of nonsense are we talking about?

What they are is embarrassed that they are so blatantly preempting the States, because they know how much it differs with what they profess. It says we will make it a criminal procedure if it happens to be in interstate commerce.

Mr. Chairman, it also has a supposed defense if the doctor is worried about the life of the mother, but it becomes a defense that the doctor has to prove. To avoid a criminal proceeding here, a doctor will have to show that he was in interstate commerce. Nothing in here tells the doctor whether he is in interstate commerce or not.

Second, the doctor would have the burden of proof before the jury to show that he was trying to save the woman's life. Obviously, it will keep people from doing it.

This, obviously, once again shows that all that we hear about States' rights is just cover. When Republicans think the States are wrong, they will preempt the States. This is a disrespectful bill towards States' rights as well as the rights of women.

Mr. CANADY of Florida. Mr. Chairman, I would inquire of the Chair as to the remaining time on each side.

The CHAIRMAN (Mr. EMERSON). The gentleman from Florida [Mr. CANADY] has 11 minutes and 15 seconds remaining, and the gentlewoman from Colorado [Mr. SCHROEDER] has 17 minutes and 10 seconds remaining.

Mrs. SCHROEDER. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, I want to follow up on asking my colleagues to look at the bill. We have been looking at a lot of pictures today, but look at the bill.

Mr. Chairman, we are lawmakers. That is what my colleagues were sent here to do. This law says whoever performs a partial-birth abortion. What is a partial-birth abortion? There is no medical description of that. We are making that up today.

Whoever performs it shall be fined or imprisoned for not more than 2 years, or both. This is a bad law. We need to vote it down, because we did not pass the rule to allow for a good debate and good amendments.

Mrs. SCHROEDER. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MCDERMOTT].

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

Mr. MCDERMOTT. Mr. Chairman, I rise to enter my remarks in the RECORD in opposition to this terrible, terrible bill.

Mr. Chairman, I rise in strong opposition to H.R. 1833. As a medical doctor, I was trained to evaluate all viable options when accessing a patient's medical condition.

I oppose H.R. 1833 because it will ban a legitimate medical procedure, and jeopardize the lives of thousands of child-bearing women.

H.R. 1833 will ban a specific procedure used only in the most extreme and necessary cases of late-term abortions, usually when the health or life of the woman is at risk.

This legislation provides no exceptions in cases where the health or even the life of the woman are at risk. It is inhumane to unnecessarily risk a woman's life simply to pursue a political agenda.

This bill is not only bad public policy, but it is also bad medicine. Why should we interfere with the very personal, ethical, and medical decisions made between a patient and a doctor?

Why should we deny a woman's constitutional right to decide whether or not to have an abortion. The answer is that it is not our job to step between a woman and her doctor.

We know that the U.S. Supreme Court specifically recognized a woman's right to choose a safe abortion under the principles of Roe versus Wade, and those principles were again upheld in Planned Parenthood versus Casey.

The Supreme Court has already ruled that States may restrict late-term abortions, except when the woman's health or life are at risk. This bill is a blatant constitutional challenge to the rights outlined in Roe versus Wade.

Mr. Chairman, let me stress that this bill is opposed by several reputable medical organizations including the American College of Obstetricians and Gynecologists, and the American Medical Women's Association. It is not even endorsed by the American Medical Association.

Do not be fooled by H.R. 1833. If you vote yes, you are voting to deny a patient's right to receive medically necessary care. I urge you to take a long look at the potential ethical and medical dangers of this bill. Vote "no" on H.R. 1833.

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

Mrs. LOWEY. Mr. Chairman, I just want to alert the proponents of this bill that as we speak, two clinics have received bomb threats. I think we have to be very careful for our rhetoric and take responsibility for our words.

Mr. Chairman, this legislation is another attempt to make sure that doctors who perform abortions, which are legal in this country, are harassed. Around the country, anti-choice extremists are targeting doctors and their patients for harassment and violence, and it looks like on Capitol Hill anti-choice politicians seek to criminalize abortions and put the doctors who perform them in jail.

Mr. Chairman, I rise in strong opposition to this bill. Proponents of this bill attempt to exploit one of the greatest tragedies any family can ever face by using graphic pictures and sensationalized language and distortions.

Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents and only face terminating the pregnancy due to unavoidable circumstances. Unfortunately, our technology is still not sophisticated enough to detect all possible medical problems early in a pregnancy.

Mr. Chairman, I say to my colleagues, this bill is not about choice; it is about necessity. As the mother of three grown children, I thank God every day that my children were born healthy and strong. However, not everyone is so lucky.

Yesterday, my office received a call from Claudia Ades. She lives in Santa Monica. She had heard about this bill and called to beg us, called to ask us if there was anything she could do to defeat it. Claudia said so passionately, ''this procedure saved my life and saved my family.''

Mr. Chairman, 3 years ago Claudia was pregnant and happier than she had ever been in her life. However, 6 months into her pregnancy she discovered that the child she was carrying suffered from severe fetal anomalies and made its survival impossible and placed Claudia's life at risk.

After speaking to a number of doctors, Claudia and her husband finally had to accept that there was no way to save this pregnancy. Again, this was a desperately wanted pregnancy and she had to make this very difficult decision; not the Congress.

Mr. CANADY of Florida. Mr. Chairman, I yield 1½ minutes to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Chairman, I honestly believe that many of the societal problems we have today stem from the fact that we have no regard for human life. Partial-birth abortions, drive-by shootings, cop killings, they have all become a way of life.

Mr. Chairman, call me old-fashioned, but I believe every individual born into this world is special, needed and important.

Our forefathers shared this philosophy when they wrote into our Declaration of Independence that, ''We are endowed by our Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.''

Mr. Chairman, I ask that we consider the difference. A doctor performs a painful, cruel, partial-birth abortion one day and it is accepted. Then, if that same mother gave birth to the same age child the next day and then she killed her child, she would be charged with murder.

Mr. Chairman, only a few hours separate these two acts, but one is considered unjust and the other is accepted and even promoted. There is something wrong with our society today if we continue to justify such an unjust procedure.

Mr. Chairman, let us show our respect for human life and support H.R. 1833.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arizona [Mr. PASTOR].

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

Mr. PASTOR. Mr. Chairman, this is in response to the question that the distinguished gentlewoman from Connecticut asked me to consider.

Mr. Chairman, I have two daughters and they are in their mid-20s. My wife and I expect that they will have happy lives and we hope that they have children and are very productive. We pray to God that our daughters will never in their pregnancy have to face a situation in which their life is threatened or the fetus is developing in a very abnormal way.

But, Mr. Chairman, if God wills it, then we hope that the decision of this medical practice will be determined by a doctor and not a politician.

Mr. Chairman, this bill will force doctors to decide whether or not to perform this medical procedure under the threat of civil and criminal prosecution, even though my daughter's life may be threatened.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Chairman, I rise today in strong support of H.R. 1833, a bill that is clearly pro-life. It protects the unborn from one of the most grotesque forms of death imaginable.

Mr. Chairman, I urge my colleagues, who might otherwise not support a pro-life piece of legislation, to very carefully consider supporting this piece of legislation which simply and narrowly protects against partial-birth abortions.

Mr. Chairman, I would also like to note that H.R. 1833 does in fact recognize that there may be circumstances in which a physician must have legal protection when called on to perform one of these procedures in order to save the life of the mother.

While I do not believe there is evidence to suggest a partial-birth abortion would be necessary to save the mother's life, let me be clear, and the legislation is equally clear. If this procedure is ever needed for this reason, H.R. 1833 grants a defense to the physician performing it. Section E of the bill does this.

□ 1315

As a former prosecutor, I know it is not uncommon in the area of criminal law to provide an exception to a general prohibition in the form of a defense. For example, we have a general rule against homicide, but an exception to this general rule is carved out for those who are forced to kill another human being in order to defend themselves. We commonly call this exception self-defense. So in H.R. 1833, we allow a partial-birth abortion to be performed if it is necessary to save a mother's life.

There are more than 30 affirmative defenses in Federal law. These defenses share a common thread. The evidence for the defense is under the control of the defendant, and the defendant has special knowledge of the facts which establish the defense.

The practitioner who has performed a partial-birth abortion and claims that he performed it in order to save the life of the mother has the specific knowledge of the circumstances which surrounded his action and has complete control of the evidence to show why he used this method of abortion. There is simply no reason to oppose this narrow piece of legislation to protect our children.

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

I just add to the record, please read page 6 of the bill where on the affirmative defense, it is only after the doctor has been arrested and, No. 2, it says the doctor must also prove no other procedure would suffice. Not that it is the best, but none would suffice. I would like to counter what the gentleman has just said on the floor.

Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

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

Ms. SLAUGHTER. Mr. Chairman, I am absolutely panicked and concerned today that a majority of this House believes that a young pregnant woman has no right to life. Her health status, her family's wishes have nothing to say here. It is simply that we will do everything we can to preserve a fetus, which on the face of it, has no chance at life itself.

Remember that a third-trimester abortion is a medically necessary abortion to start with. The law specifies that. It has already been determined that the fetus will not live, cannot survive birth, or that the mother's life is in severe danger.

If you believe that a doctor having put his whole life in his medical practice, with a family of his own, faced with an emergency situation is going to act to save the life of the mother, putting himself up for arrest and to go to jail, then you pray to God that no member of your family is ever put in that position.

What is next for us? Are we going to decide that no woman of child-bearing age will be allowed to have a hysterectomy no matter what the circumstances? What do the great medical experts in the House of Representatives have in store for women of America next?

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Chairman, prior to coming to the House of Representatives, I was practicing medicine and, indeed, I was sitting at my desk and reading a copy of the American Medical News where this procedure was first described back in 1993, where the originators of this procedure printed in the article that in about 80 percent of the cases, it is purely an elective procedure. It is not a fetus that has defects, and, indeed, they admitted that they do them in not only the late second trimester, but as well in the third trimester.

I was shocked that these guys would admit it in public. I was not so much shocked by the grotesqueness of the procedure because all these abortion procedures are vile but the fact that these guys would admit how they do it to the public and admit that it is an elective procedure.

I very much support the legislation of the gentleman from Florida [Mr. CANADY]. I encourage all of my colleagues to vote in support of this legislation and make partial-birth abortions illegal.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Ms. WOOLSEY].

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

Ms. WOOLSEY. Mr. Chairman, make no mistake, you are hearing it. This bill is for one thing and one thing only and that is to criminalize late-term abortions and it is a cruel attempt to make a political point.

H.R. 1833 is a frontal attack on Roe versus Wade, plain and simple. The radical right wants to do away with Roe, and this bill is the first step. So let us be honest about what this debate is really about. This legislation seeks to prohibit abortion techniques which are used in the late stages of a pregnancy, when the life of the mother is in danger, or when a fetus is so malformed that it has no chance of survival.

Mr. Chairman, I cannot help but make the comparison and connection that a lot of the proponents of this bill are the same people who are cutting Medicaid, who are doing away with the support systems for those children that are going to be born malformed and for the mothers who will be ill.

Because of the gag rule which was just passed, the life or health of the mother, or the fetus will have zero consideration.

Mrs. SCHROEDER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. I thank the gentlewoman for yielding me the time.

Mr. Chairman, I rise in opposition to this antiwoman, extremist, unwise legislation. They would not even allow an amendment to save the mother's life. Apparently, the supporters of H.R. 1833 think it is more important to save a doomed fetus than to save the life of a woman and her ability to have children in the future.

This is the first time that this body has moved forward to criminalize a medical procedure. As the mother of two children, I know firsthand the joy and excitement that a pregnant woman has when she awaits the birth of a very much wanted child. I cannot think of anything more horrible than to learn that the baby, the fetus, has abnormalities incompatible with life. In these situations, the family is confronted with the child dying in her womb, possibly killing the mother, or this lifesaving procedure.

Vote to put people over propaganda. This legislation is bad medicine and bad policy.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DORNAN].

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

Mr. DORNAN. Mr. Chairman, I asked for 30 seconds so I could hear more from this excellent prolife freshman class, our prolife women, our prolife doctors, we have two of them on our side now. I will do a 5-minute or a 60-minute, depending on how we conclude today, to analyze the vote and I welcome any participation.

Thomas Aquinas died 721 years ago at age 50 and there was some discussion then about when life began. My pal, the gentleman from New York [Mr. SCHUMER], said we all have different opinions. When you pull out feet, f-e-e-t, and you feel a little beating heart and you are sucking out brains, you know it is a human being. And it has a soul. S-o-u-l, soul.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I do not want to be here today and the AMA does not want to be here today, and the groups who protect the interests of women do not want to be here today.

All of us agree that late-term abortions are terrible and we hope that none ever have to be performed. But we are here because others have decided that it is imperative that we vote on the floor of this House on the medical procedure.

We know that after the 24 week, only .01 percent of all abortions are performed, .01 percent. There are two or three procedures that are used, meaning that this procedure is used in only a portion of that .01 percent. Of these procedures, all are more terrifying and unpleasant than this one. But if a woman is carrying a fetus which has a severe abnormality or if she herself has a severe health condition which threatens her health if she continues to carry the fetus, one of these procedures must be used. The bill itself states that there are circumstances in which no other procedure will suffice.

I believe strongly that we should not decide medical procedures on the floor of this House and am deeply concerned about where this might lead.

I believe strongly that we should always provide exceptions to save the life of the mother, and this bill criminalizes that process.

I do not think we should be voting on this process today, but because the bill is before us, I intend to vote ''no.''

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, some might argue otherwise but I would submit that this should not be controversial legislation. This bill would prohibit a particularly grotesque and inhuman practice. A partial birth abortion is literally the killing, in a most brutal fashion, of a late-term baby. It is incredible that a practice like this could go on in a civilized society. Adoption of this legislation would stop it.

I hope my colleagues resoundingly support this bill. It is a major step in the battle to protect the lives of the unborn.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the distinguished freshman gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Chairman, as we listen to the debate today, it is very clear that one side would like us to focus more on the procedure than on the circumstances that lead families to this decision. I think it is important that we do not do so. I think it is important that we recognize that this is a rare procedure that is performed under relatively narrow legal conditions. That, for the most part, the women involved are older, they are married, the pregnancies are wanted, planned for, joyously anticipated, and it is only when things go terribly, terribly wrong that families turn to this option when there is a fetal anomaly, when there is a threat to the mom.

Many people have talked here today about their own experiences as parents and the joy and the happiness that they went through holding the baby for the first time, counting the fingers, counting the toes. You are right. It is an exciting and wonderful time, but it is particularly cruel to use those kinds of experiences as an attack on these families who, through circumstances they cannot control, are not going to have that opportunity.

We are talking about mothers who are carrying pregnancies that cannot survive, promises that cannot be fulfilled, and people are attacking them unfairly.

We are leaving those moms with no avenue. We are saying they must risk their lives, because the fetus' condition can oftentimes cause infection, sometimes even sterility, taking away the opportunity for a later pregnancy. For what reason? To make a point.

I think it is important that Congress makes a point, but I also think it is important that they consider a point, which is we have made a decision that the 435 people in this room should decide for families across America. So I ask you, which among us, who will step forward to be the messenger who will go into the homes and tell the husband that we will not step in to protect his wife, his helpmate, the love of his life, or the mother of a 5-year-old child? Who wants to carry that message?

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Chairman, I rise today in support of H.R. 1833, the Partial-Birth Abortion Act and I urge my colleagues to vote in favor of this important legislation.

As a pro-life advocate, I am committed to protecting the rights of unborn children. My primary concern is that abortion should not be treated like a routine medical procedure and my pro-life position is always foremost in my mind. although Some consider partial-birth abortions routine medical procedures, this could not be further from the truth. Partial-birth abortions are neither routine, legitimate or necessary.

Partial-birth abortions are most often performed in the second or third trimester and I am particularly troubled by the horrifying prospect of late-term abortions. Even in Roe versus Wade abortions are limited to the first trimester. Today, we are considering continuing to allow abortions through the third trimester or fetal viability.

H.R. 1833 not only bans the performance of this type of inhuman abortion but imposes fines and a maximum of 2 years imprisonment for any person who administers a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life and if 80 percent of the abortions are elective, we have to reconsider and reevaluate the value our society places on human life. this decision is not made in the case of rape or incest, not if the mother's life is in danger, and not if there are birth defects. In many cases, this is a cold, calculated, and selfish decision.

This is not a choice issue. this is a life or death issue for an innocent child. Please join me in making this heinous procedure illegal.

□ 1330

Mrs. SCHROEDER. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I would like to respond and remind my colleagues once more to be very careful of their rhetoric. The analogy between abortion and drive-by shootings is extremely inflammatory.

I also would like to remind my colleagues that during this debate it has been reported that there are two serious bomb threats on clinics, so let us be careful to watch our rhetoric and not use political advantage in a very serious issue.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise with tremendous compassion for the victims of abortions that are walking around today. There are a lot of them in America that did not know what was going on. But that compassion gives way to the facts, or should here on the floor, that a lot of Members who persist in talking about this being an unfortunate choice, but 80 percent, according to published reports, 80 percent of these abortions are done in an elective manner.

Surely the facts will come out on this floor, and surely we can vote in support of this very excellent piece of legislation that will ban this procedure.

Mrs. SCHROEDER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT], a member of the Committee on the Judiciary.

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Chairman, I would just like to add one important point to this debate, and that is that I think we should be honest with ourselves and honest with the American people.

The fact of the matter is that not one single person who has spoken in favor of this bill today can deny the fact that they are opposed to abortion entirely and do not support Roe versus Wade and do not believe in the right of the mother to choose. So we are really not talking here today about a procedure. We are talking about Roe versus Wade and about the right of a woman to be able to choose.

I asked in the Committee on the Judiciary when this was being considered, of the chairman on the Committee on the Judiciary if it was not the case that the entire Republican majority, if it was just a little bit bigger, would bring a constitutional amendment before the House to totally criminalize abortion. He said, as far as he was concerned, he would do it in a minute. That is a matter of record.

The fact of the matter is this bill represents the almost total politicization of this process, as you have brought a bill before the House today that really is a surrogate for what you want to do and that is make all abortions criminal. That is really what is at issue.

I urge the Members to vote against it.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, this is a historic day for our Nation. The coverup of abortion methods is over.

Today, Congress comes to grips with the specifics of what an abortion actually does, and it ain't pretty. From this day forward, we will no longer be able to say we did not know. We now know, and every Member of this Chamber should know, that every abortion takes the life of a child. Whether it be a partial-birth abortion or D&E abortion, where the baby is literally dismembered while in utero, or the suction abortions routinely done, thousands per day, where a high-powered vacuum, 20 to 30 times more powerful than a vacuum cleaner in one's home, literally dismembers the child. All of these methods kill the baby. This is all about human rights for children, and it is about preserving and protecting the right to life of baby girls and baby boys.

Somebody said this is anti-woman. Half of those little infants killed are baby girls. Let us not ever forget that. Then again, let's also remember what Dr. Haskel himself has said. I would like to repeat it very briefly. Dr. Haskel said and I quote: ''The surgeon forces the scissors into the base of the skull.'' This is medical practice? And then a high-powered suction catheter is introduced, and the baby's brains are sucked out.

This is not medical practice.

This is child abuse.

Mrs. SCHROEDER. Mr. Chairman, I yield, 1 minute to the distinguished gentleman from New York [Mr. SCHUMER], a member of the Committee on the Judiciary.

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

Mr. SCHUMER. Mr. Chairman, I would like to address my comments to those who might be for this bill. You know, the great debate on abortion is— of course, it all boils down to when do you think life begins, and those who are pro-life fervently believe, and I respect it, that life begins at conception. Others of us do not believe that, and we believe ultimately that the choice ought not be made by the Government but ought to be made by each individual convening with his or her maker.

Even if you believe that life begins at conception, why did you prohibit an amendment dealing with life of the mother? If it is the life of the mother versus the life of a child, why does this legislation impose the fact that it must be the life of the child that takes precedence over the life of the mother? That is what the bill does, plain and simple.

If you are so sure it did not, you would not have prohibited us in the rule from having a clause in the bill that says that if the life of the mother

is at stake the choice should be between the woman and her doctor. That is the hypocrisy of this legislation.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, this bill in no way limits the ability of the doctor to care for a woman whose life is at risk with a late-term pregnancy.

Having been involved in obstetrical care, delivering over 3,000 children, caring for women with complicated pregnancies, anencephaly, neural tube defects, hydrocephaly and all the major complications associated with that, this procedure is an unneeded, gruesome attack on life.

May God forgive this Nation for what we allow in terms of procedures to be performed on our unborn children.

Mrs. SCHROEDER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am not a doctor. But I am a lawyer. I am a mother. I have been married 33 years. I think I belong in the Marriage Hall of Fame, and I will put up my family values against anyone.

I must say, as a woman today standing in this Chamber, I feel like I am in the Chamber of Horrors, because no one really talks about the mother. But let me begin my statement by reading a letter that we received from the American College of Obstetricians and Gynecologists saying that they do not support or endorse this bill, but they are opposed to any law mandating a specific medical procedure and against criminalization of the procedure, and these bills are flawed. They go on to say they have no idea where the rumor was that they supported the bill. It is incorrect. These are obstetricians and gynecologists whose main concern is the health of the mother, and they are also looking at the child.

What we are talking about today is rolling back the road to save motherhood that this country began on. If you look at 1920, 800 women died for every 100,000 births. If you look at 1990, we got that 800 down to 8, down to 8.

For most people, going through pregnancy is not difficult; but for some it can be life-threatening; and, fortunately, medical science has made some progress that has been able to deal with these life-threatening situations and also preserve the health of the mother so that if this pregnancy goes terribly wrong, they can have another one and be able to have the great privilege I have been able to have of being a mother.

Today, what this Chamber is saying is we are going to limit one of these procedures for doctors. We are not going to allow them to be able to say the life of the mother is an exemption. No, we were not allowed to offer that amendment on this floor, nor were we allowed to bring the health of the mother to this floor; no; no; no; no; no. We show charts, but we do not show the chart with the face of the mother, the family, the decisions made.

Does anybody here think someone would engage in a late-term abortion frivolously? Do you think that they have not thought about this in the last minute? Do you think doctors would engage in this frivolously? No, no and no.

There is only a handful of these ever done in a year. These are tragic situations in which there are not many good choices yet.

We hear people over there saying ''elective.'' It is not elective in the sense folks are claiming it is over there. Every doctor has said you only have limited procedures at certain points if you are concerned about the mother's health, and you must elect one of those.

What we are talking about today seems to be one that for some women can help preserve their life and is the safest and best for them in that circumstance. Why are we taking that away? Why does this Congress think they have a better idea of what is going on, and why do we insist on criminalizing the doctor that would try to listen to their patient's best needs?

Vote ''no.'' This is terrible. We are gagging women. This is terrible. We are not listening, and if you want to know why most of the speakers today were women is because they understand what is happening here. Wake up, America. This is an outrage.

Mr. CANADY of Florida. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

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

Mr. HYDE. Mr. Chairman, ladies and gentlemen, I wish I had a lot of time. We got a very short hour of debate on this important issue.

I would like to talk about how you would not treat an animal this way. You would not take a coyote, a mangy raccoon and treat that animal that way, because it is too cruel. I would like to talk about Dr. Joseph Mengele or Dr. Kevorkian. We talk about interfering with the doctor.

Our job is to protect the weak from the strong.

But, no, I want to talk about a love story. Here is a letter that came October 30 to the gentleman from Florida [Mr. CANADY] from my own district, Oak Park, IL, Jeannie Wallace French. She says:

DEAR CONGRESSMAN CANADY: Opponents of H.R. 1833, ''The Partial-Birth Abortion Ban Act,'' claim that partial-birth abortion is justifiable when performed on babies with disabilities. Please consider the personal experience of our family as you debate HR 1833 on the floor of the House.

In June of 1993 I was 5 months along carrying twins. My husband and I were notified that one of the twins, our daughter Mary, suffered from a severe neural tube defect. Mary's prognosis for life was slim, and her chance at normal development nonexistent. Her severe abnormality complicated the twin pregnancy and specialists encouraged amniocentesis and Mary's abortion.

Though severely disabled, we knew that Mary was a member of our family and was entitled to live out her allotted time without being assaulted by instruments or chemicals. When it became clear that Mary, whose brain had developed outside of her skull (an occipital encephalocele) would not survive normal labor, we opted for a Cesarean delivery.

Born December 13, 1993, a minute after her healthy big brother Will, Mary lived 6 hours cradled peacefully in her father's arms. She was with us long enough to greet her grandparents and our close friends. She also gave a special gift to other children: The gift of life. On the day of her funeral we received a letter from the Regional Organ Bank of Illinois. Our daughter's heart valves were a match for 2 Chicago infants, critically ill at the time of Mary's birth. We have learned that even anencephalic babies and meningomyelocele children like our Mary can give life, or sight, or strength to others.

The death of a child is the most tragic experience many of us will ever face. As parents, we can do only what we can—insure that our children do not suffer. As we now know, when their natural time comes it can be comforting that their short life has become a gift to others.

Our daughter, living less than a day, saved the lives of two other children. Which of us, even after decades of living, can make the same claim?

Sincerely,

JEANNIE WALLACE FRENCH.

□ 1345

The CHAIRMAN. The Chair will state to the gentlewoman from Colorado [Mrs. SCHROEDER] that he was as generous with the gavel as it applied to her as he was with the gentleman from Illinois [Mr. HYDE].

Mrs. SCHROEDER. Mr. Chairman, if I might say, I thought that was a moving letter, but I also must say I do not think we should mandate one's choice on everybody else in this Congress.

Mr. LEVIN. Mr. Chairman, H.R. 1833 would criminalize the use of one medical procedure, but not others, utilized rarely in cases where the health or life of a mother is at risk or a fetus is diagnosed with severe abnormalities.

By making this procedure a crime, H.R. 1833 would subject doctors to prosecution for offering to a woman a chance to save her life. Further, H.R. 1833 is inconsistent with present law which allows States to ban abortions after viability except where the woman's life or health is at risk.

This kind of decision barring women from utilizing a procedure when their health and life are involved does not belong in Washington, DC. I cannot support limiting a patient's right to receive medically necessary care, especially when her life is at stake.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 1833, the partial-birth abortion ban. The fact that we are voting on this bill today is a true testament to how extreme many of the Members of this House of Representatives and their agenda are. Further evidence that extremists are pushing their agenda through the House of Representatives is the fact that the Rules Committee would not allow any amendments to be offered, not even amendments to protect the health or life of the mother.

Despite their campaign pledges to “get the U.S. government out of your life”, today Republican Members are advocating that the

U.S. Congress take an unprecedented step into the personal lives of American women and their families—as well as into the doctor's office—in order to ban a particular type of abortion procedure.

In order to promote H.R. 1833, Members are focusing on certain aspects of this medical procedure that are intended to elicit emotional responses. What they do not focus on, however, is that women who seek rare, third-trimester abortions are almost overwhelmingly in tragic, heart-rendering situations in which they must make one of the most difficult decisions of their lives.

Often the women are faced with personal health risks that threaten their lives and/or their ability to have children in the future. Or, some women discover very late in their pregnancy, in some cases after they already know the sex of the child, have picked out a name, and gotten the baby's crib ready, that their child has horrific fetal anomalies that are incompatible with life and will cause the baby terrible pain before the end of its short life.

Clearly, each of these situations are serious, tragic, and terribly difficult for the families involved, and the decision to seek such an abortion is one that is not made carelessly or lightly. The U.S. Congress is the last entity that should be intruding into this type of personal, family decision.

The U.S. Congress also has absolutely no right to interfere with a doctor's medical judgment when he or she is making critical decisions affecting the life of a woman, her health, and her ability to bear children in the future.

It is extremely important to note that this bill makes no exception for the health of the mother. In fact, it makes no mention of the health of the mother whatsoever. Clearly, her health and her reproductive future mean nothing to the extremists who are pushing this bill forward or else they would have included this essential exception.

H.R. 1833 takes advantage of tragic circumstances and sacrifices the health and maybe lives of women in order to push an extremist agenda forward. We should reject it completely.

Mr. McCOLLUM. Mr. Chairman, I rise today in strong support of H.R. 1833, the partial-birth abortion act. This bill would ban the barbaric acts of partial-birth abortions.

I believe that life begins at conception and that it should be protected. I understand that there are those who differ with me, but a partial-birth abortion goes far beyond what is reasonably considered a pro-life versus pro-choice debate.

A partial-birth abortion is just that—an abortion performed on a partially born child. The fetus is generally between 4½ months old to 9 months old when the doctor partially delivers the child through the birth canal, leaving the head in the uterus. The baby's arms and legs will squirm as the doctor inserts scissors into the base of the baby's skull. A high-powered suction tube is then inserted and the brains are literally sucked out.

Remember when doctors were expected to do everything in their power to assist and protect both the mother and child during the birth process? Now the doctor is the executioner as the baby travels down the birth canal.

This is barbaric in a partial-birth abortion. The only thing separating the child's head from the outside world is 3 inches. This is clearly homicide.

H.R. 1833 would make it against the law to perform a partial-birth abortion. I cannot imagine how anyone could oppose this bill. Whether you are pro-life, as I am, or pro-choice there should be no disagreement about ending this abhorrent practice which so callously and cruelly destroys an infant during birth.

I urge my colleagues on both sides of the aisle to vote for H.R. 1833.

Ms. SLAUGHTER. Mr. Chairman, I am deeply concerned about the potential precedent H.R. 1833 would set. There are vast and dangerous implications of the Congress interfering with medical practice and procedure.

H.R. 1833 would ban late-term abortions which account for only one half of 1 percent of all abortions. Annually, fewer than 600 abortions occur in the third trimester and they are performed in cases of severe fetal anomalies and/or risk to the life and health of the pregnant woman.

This bill makes it a criminal offense for a doctor to make the professional decision of how best to protect the life and health of his patients. Imagine the repercussions of such legislation. What will be next. Will a physician end up in jail for performing a hysterectomy in order to save the life of a woman with cancer.

Never before has Congress made such an unprecedented attempt to legislate the type of surgical procedure that a physician may use in a particular case. H.R. 1833 is an unwarranted intrusion by Congress into medical decision-making, and it poses a serious risk to women's health. If enacted, this bill will compromise the physicians ability to provide life and health preserving medical care to their patients. H.R. 1833 represents a serious impingement on the rights of physicians to determine appropriate medical management for their patients.

I urge my colleagues to vote against this deadly attack on the life and health of our Nation's women.

Mrs. VUCANOVICH. Mr. Chairman, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins, I call them, were born early at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 13 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little preborn human beings 7 months old in their mothers' womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. Recently the American Medical Association's legislative council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive."

I have also heard from my constituents who overwhelmingly object to this repugnant procedure, especially in light of the fact that 80 percent of these types of abortion are done as a purely elective procedure. I strongly urge my colleagues to support H.R. 1833, which would ban this brutal procedure known as partial birth abortion.

Mr. HOKE. Mr. Chairman, since many of my colleagues have already explained the procedure under debate today, I will spare our listeners an additional description. Suffice it to say that this is one of the most brutal, uncivilized assaults on human life imaginable.

Abortion is wrong to begin with, but this procedure is so grotesque as to disgust the moral sensibility of anyone exposed to it.

In this procedure, the feet, legs, chest and arms of the baby have already been delivered from the birth canal. Only the head has not. The distinction that the procedure's defenders make between the fully-protected rights of a delivered baby and the total absence of rights of a three-quarters delivered baby is as irrational as it is disturbing.

I have been especially interested in this bill, since my own State legislature has passed a similar measure. Governor Voinovich signed the bill and it is now law.

There are a great many pieces of misinformation circulating about this bill. Let me try to address just one of them—the issue of whether this sort of procedure is used frequently or only in the most extreme emergencies.

While opponents of this legislation argue that the procedure is rarely performed, some of their cohorts belie this characterization. We know that there are at least 13,000 late term abortions each year. How many of these are accomplished by this procedure? We do not know for sure. But what we do know is that two doctors who specialize in the method have publicly said they use this procedure about 450 times a year. Between the two of them, they have performed more than 3,000 such abortions.

Doctor McMahon was quoted in the January 7, 1990 Los Angeles Times, as saying "Frankly, I don't think I was any good until I had done 3,000 or 4,000" late term abortions. In his own literature, the doctor refers to having performed a "series" of more than 2,000 abortions by the partial birth method.

Whatever the real numbers are, I think it is safe to say that this procedure is used more frequently than it would be if it were truly limited to the most extreme emergencies. Because the bill's opponents cannot possibly win this debate on the merits of the procedure, they have taken to distorting the facts about its use.

I for one have heard enough to know that as a nation founded on and dedicated to the preservation of life and liberty, this procedure has no place in our society.

Mr. BUYER. Mr. Chairman, I rise in support of H.R. 1833 to ban a late-term abortion procedure. This procedure is defined in the bill as the partial delivery of a living fetus, which is then destroyed prior to the completion of delivery. This is a particularly appalling procedure in which the difference between a complete birth and an abortion is a matter of a few inches in the birth canal.

This bill does not ban all late-term abortions. Other procedures are available. This bill applies only to the procedure in which the living fetus is partially delivered prior to the abortion act being completed. It does not jeopardize maternal health in instances when the fetus has died in utero. There is an exception in the bill for instances in which the life of the mother is at risk and no other procedure will be sufficient to preserve the mother's life.

Even if the procedure is rare, as is contended by the opponents of this legislation, it is a horrific procedure that should not be performed. Constitutionally, the Congress can legislate and regulate in protecting legitimate State interests, including protecting human life and encouraging childbirth over abortion.

This bill bans an abortion practice that offends most Americans who value the sanctity of life. H.R. 1833 would ban a cruel and inhuman method of abortion and I urge its adoption.

Mr. SMITH of Texas. Mr. Chairman, I rise today in support of H.R. 1833, the Partial-Birth Abortion Ban Act.

Many of my colleagues on the other side of the aisle will attempt to frame this debate in terms of a woman's right to choose. But the Partial Birth Abortion Ban Act is not about women, choice, or reproductive rights. The true issue that this legislation addresses is the brutal late-term abortion procedure called partial-birth abortion.

Regardless of whether or not one believes that life begins at conception, a partial-birth abortion, which can be performed at any time following the 5-month period, is clearly the taking of an innocent human life. A baby is developed enough at 5-months to be able to live outside of the womb and there are many instances of infants being born prematurely at 5 months and surviving to live a full life.

The partial-birth abortion procedure should be prohibited. I heartily support this effort to protect the sanctity of human life.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule and the amendment in the nature of a substitute is adopted.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. EMERSON, 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. 1833), to amend title 18, United States Code, to ban partial-birth abortions, pursuant to House Resolution 251, he reported the bill, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered and the amendment is adopted.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 288, nays 139, answered ''present'' 1, not voting 4, as follows:

[Roll No. 756]

YEAS—288

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
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
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
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
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—139

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennelly
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Rangel
Reed
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

ANSWERED ''PRESENT''—1

Houghton

NOT VOTING—4

Becerra
Fields (LA)
Tucker
Weldon (PA)

☐ 1408

Mr. RUSH changed his vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and insert extraneous material in the RECORD on the legislation just completed.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 252 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 252

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and amendments specified in this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Before consideration of any other amendment, it shall be in order without intervention of any point of order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by a Member designated in the report. That amendment shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the bill, as amended, shall be considered as the original bill for the purpose of further amendment. The bill, as amended, shall be considered as read through page 58, line 4. All points of order against provisions of the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived. Debate on each further amendment to the bill and any amendments thereto shall be limited to thirty minutes. It shall be in order without intervention of any point of order to consider each of the amendments printed in the Congressional Record and numbered 1, 2 or 4 pursuant to clause 6 of rule XXIII, if offered by the Member who caused it to be printed or a designee. Each such amendment shall be considered as read, shall be debatable for thirty minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. During consideration of the bill for amendment the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendments as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

(Mr. LINDER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. LINDER. Mr. Speaker, House Resolution 252 is a modified open rule which provides for consideration of the H.R. 2546, the District of Columbia Appropriations Act for fiscal year 1996, and waives all points of order against this bill. House Resolution 252 allows for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations.

Following the hour of general debate, the bill shall be considered for amendment under the 5-minute rule. Before consideration of any other amendment, it shall be in order to consider the amendment offered by Representative WALSH, which is printed in the Rules Committee's report, will not be subject to amendment and shall be debatable for 10 minutes equally divided and controlled by a proponent and an opponent of the amendment.

If the Walsh amendment is adopted, the bill as amended shall be considered as the original bill for the purpose of further amendment, and shall be considered as read through page 58, line 4. The rule also waives clauses 2 and 6 of rule XXI. As a consequence of the District's precarious financial situation, the subcommittee has included a number of legislative provisions that will ensure that a few specified activities are achieved by the local government.

The rule holds that debate and consideration of any amendments to the bill, and amendments thereto, shall be limited to 30 minutes. House Resolution 252 specifically makes in order amendments numbered 1, 2, and 4 which were printed in the CONGRESSIONAL RECORD of October 30, 1995, waives points of order against these amendments, and provides that these amendments shall not be subject to amendment.

Amendment No. 1, offered by Representative BONILLA, is designed to revoke the National Education Association's property tax exemption. It is now acknowledged that the NEA is a taxpayer subsidized labor union that has strayed from its original purpose to promote education. The NEA no longer deserves this tax exemption, and the Bonilla amendment will remove this Federal mandate and bring in over $1 million to the District of Columbia.

Amendment No. 2, offered by Representative GUNDERSON, offers an opportunity to revive the District's school system by authorizing funding for school reforms and the creation of renewable 5-year public school charters. Mr. GUNDERSON has consulted with local officials on his reform package to help repair the ruined District school system, and the Rules Committee believes that this amendment deserved consideration by the whole House.

Amendment No. 4, offered by Representative HOSTETTLER, would repeal the District's Domestic Partners Act, which provides that unmarried, adult, non-dependent cohabitants may register to receive health benefits and other legal rights. This act is simply poor public policy. Congress has consistently prohibited the use of Federal funds for implementing this act, and this amendment will end the annual process of prohibiting the enforcement of this law.

Members will have the opportunity to offer additional amendments under the 30 minute time arrangement for each amendment. The specified time limits will give all Members the opportunity to debate fully each amendment, while ensuring that this important bill moves along the appropriations process in a timely manner. The rule permits the chairman of the Committee of the Whole to accord priority in recognition to those Members who pre-printed their amendments in the CONGRESSIONAL RECORD, which will assist all the Members of the House in the consideration of the merits of each proposed amendment. Finally, the resolution provides for a motion to recommit with or without instructions as is the right of the minority.

Mr. Speaker, the District of Columbia, by all accounts, has gotten itself into a financial predicament that necessitates the serious action taken in H.R. 2546. The bill provides a total appropriation of $4.97 billion for fiscal year 1996, and takes the additional step of placing a cap of $4.87 billion on the total amount of appropriations available to the District Government for operating expenses. Certainly, a city the size of Washington, DC, can survive on almost $5 billion, especially after the local District leadership institutes the necessary reforms to create a more efficient operation for our Nation's capital and its citizens.

Mr. Speaker, I might parenthetically point out that the county in which I live has 20,000 more citizens than the District of Columbia and it provides all the same services and does so for $410 million per year, rather than $4.97 billion.

In addition to the provisions that the DC subcommittee has included in the bill, I am pleased that the District Financial Management Assistance Authority has been specifically encouraged to expedite the implementation of sound financial practices as soon as possible. The Financial Authority, the local government and the inhabitants of the capital all recognize the feeling of apprehension that exists about the ability of the District to govern itself, and I hope that everyone can agree that this bill will effectively spur the District toward financial solvency.

Under the leadership of Chairman WALSH, the appropriators have had to balance an assortment of concerns, including home rule, and make difficult choices with the limited funding available this year. The product of their

work reflects both these new budget realities and the District's fiscal emergency. As a result, H.R. 2546 guarantees that the available funding is spent efficiently and where it is needed most.

Mr. Speaker, this rule was favorably reported by the Rules Committee yesterday. I urge my colleagues to support the rule so that we may proceed with debate and consideration of the underlying legislation which will assist the District along the road to financial well-being.

☐ 1415

Mr. Speaker, I submit the following for the CONGRESSIONAL RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of November 1, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	52	69
Modified Closed[3]	49	47	18	24
Closed[4]	9	9	5	7
Total	104	100	75	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of November 1, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of November 1, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

Mr. FROST. Mr. Speaker, I rise in opposition not only to this rule, but the D.C. Appropriations bill. Mr. Speaker, this bill makes me wonder what has happened to oft repeated Republican mantra of ''local knows best.'' After reviewing the contents of this bill and the amendments made in order in the rule, that mantra might rather be ''father knows best.''

The Republican majority has for the past 10 months explained away their dismantling of Federal programs by claiming that the American people elected them to Congress to return power to the States and local governments. Well, Mr. Speaker, if those claims are so true, can you explain why the District of Columbia Subcommittee has seen fit to send us a bill which micromanages the affairs of the rightfully and lawfully elected government of this city?

Mr. Speaker, I am no particular fan of the manner in which the government of the District has been run in the past. It is bloated, inefficient, and taxes its residents far heavily. Its financial affairs are a disgrace, and that is evidenced by the street lights that are burned out and not replaced, the animal shelter nearly closed because the city did not pay its bills, and the ranks of the police force being decimated by the loss of senior experienced officers because of cuts in their basic rates of pay. The situation in which the Nation's Capital finds itself is very, very sad.

But, Mr. Speaker, does this situation then grant license to the gentleman from New York [Mr. WALSH] and his subcommittee to impose their own vision of the world as it should be? Does this situation grant the Congress the right to subvert the will of those American people who reside in the District? Because, as you well know, Mr. Speaker, those people have no voting voice in this Congress and this bill ensures that what little voice they have in governing their own affairs is nothing short of meaningless.

Mr. Speaker, if the content of the reported bill is not bad enough, then the rule reported by the Republican majority of the Rules Committee only makes matters worse. I am particularly opposed to the rule because of an amendment which was made in order. That amendment, to be offered by the gentleman from Wisconsin [Mr. GUNDERSON] will allow the use of Federal tax dollars to provide vouchers for students to attend private and religious schools. I have long opposed the use of tax-funded vouchers and I must strongly protest the inclusion of this amendment in the rule.

Mr. Speaker, in April the Congress enacted legislation which established the financial control board for the District of Columbia. That board, along with the city council and the Mayor, is working to resolve the deep financial crisis that faces this city. I do not know, Mr. Speaker, how prohibiting any city-owned or city-run facility from performing abortions is going to help the board, the council, or the Mayor find a way to fund the $256 million shortfall in funds provided in this bill.

Mr. Speaker, we all agree the District of Columbia is in serious trouble and that much of this trouble is of the city's own doing. But that does not, Mr. Speaker, give this Congress the right to act in such a blatantly paternalistic manner. If the Republican majority finds such value in letting local governments conduct their own affairs, then I believe one of the first places they should demonstrate this commitment is in the city which houses our Nation's Capital. Let's let the financial control board do its job. Let's let the council make the laws which govern those American citizens who elected them.

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

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, it is interesting to me that the other side of this House is suddenly concerned about micromanaging Washington, DC. Maybe if they had dared to micromanage Washington, DC, for 1 or 2 of the years that they have been in the majority, Washington, DC, would not be a bankrupt city.

Mr. Speaker, we are in a position where we have been working with the Financial Control Board, with city officials, with outside experts, all year long trying to turn the Nation's Capital around.

It is a great city. They have some good folks involved in the government of Washington. We want them to run their own city. We want them to run the Nation's Capital. Yet, at the same time, we cannot continue year after year writing checks to Washington, DC, and turning the other way and act like the status quo is good enough.

Mr. Speaker, the city is in the red. It has been in the red. The audit is just unbelievable, the amount of things that have been found in it. For the other side of this House to be saying that we are micromanaging it is absurd.

Mr. Speaker, I have only been a Member of this body for 3 years, but I know that we have debated the abortion issue, the domestic partnership issue, year after year every time the DC bill comes up. That is not something new. That is something that, yes, there is a philosophical difference generally outlined by party differences on those particular issues. But actually bringing it to the floor of the House shows that we are not trying to ram it through in a backroom deal. We are not trying to micromanage.

Mr. Speaker, these are things that we believe the American people should debate about. Remember this, the history of Washington, DC, is the Government moving to Washington. When George Washington was the President, the capital was in New York City and it was in Philadelphia. When they came here, it was a swamp. Washington surveyed this land, established the Nation's Capital and the city of Washington.

The city of Washington, DC, grew up around Congress; not vice versa. The only city that was here was Georgetown. Washington, DC, actually went through a period of home rule and lost it in the year 1874, because of mismanagement. Congress took over then for 100 years and then in 1974, home rule was started again.

We are at a situation now where we had all the evidence needed to pull home rule away, but we are choosing not to. The gentleman from New York [Mr. WALSH] and the committee, in a bipartisan basis with the gentleman from California [Mr. DIXON] has said no. Let us do not. Let us work with the Financial Control Board. Let us work with the city officials and give them the arm's-length support and leadership and partnership that they need to turn this great Nation's Capital around.

Mr. Speaker, I am confident that we can do that and I urge Members to support the rule.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. DIXON].

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

Mr. DIXON. Mr. Speaker, I rise in opposition to the rule for the fiscal year 1996 District of Columbia appropriations bill. Mr. Speaker, the House begins consideration of the District of Columbia Appropriations bill 1 month after the fiscal year has begun and 13 days before the continuing resolution—which covers the District government as well as the Federal Government—expires. Since the time that the subcommittee first marked up this bill on September 19, this measure has been mired in controversy about the budget cuts included in the bill, as well as some 40 legislative provisions initially

recommended by Chairman WALSH for inclusion in the bill.

After a second subcommittee markup on October 19, the District of Columbia appropriations bill was able to proceed to consideration by the full Appropriations Committee, in large measure, only because of an agreement reached among the principals to drop legislative and policy riders from the bill that deeply undermined the principle of home rule for the District of Columbia. Given the District's precarious financial condition, I thought that we had agreed to drop these controversial matters to expedite consideration of the bill, so that we could begin conference deliberations promptly and enact a final measure prior to the November 13 expiration of the continuing resolution.

Now, Mr. Speaker, we find ourselves in much the same situation in which we started with this bill. Apparently, the majority is determined to be the second city council for the District of Columbia. This rule grants point of order waivers for several legislative matters that should be determined by District voters through their elected representatives, not by this Congress.

During consideration of the bill by the full Appropriations Committee, an amendment was added to amend the District of Columbia Code to prohibit the use of both Federal and District funds for abortions, and to prohibit even privately-funded abortions in District-owned or operated facilities, except in the cases of life, rape or incest.

Mr. Speaker, this section of the bill goes far beyond the existing Hyde restrictions. In fact, this language is the most restrictive language ever imposed on women in the District of Columbia who rely on public facilities to receive health care. This language simply does not belong in this bill. And, the President has signaled that he will veto the bill of this language remains in it.

Second, the rule protects provisions which amend the District of Columbia Code to prohibit joint adoptions by individuals who are not married. Again, this is a policy matter that does not belong in an appropriations bill. It is a matter for local residents to decide, just as we allow residents of every other local and State government to determine their own adoption laws.

Mr. Speaker, I must also oppose the rule because it violates what I believed was an agreement reached to keep this bill as clean as possible of additional legislative provisions. The pending rule would make in order a 142-page legislative amendment on educational reform in the District of Columbia. Now, we all know that the District public schools are not doing the job that should be done for students. And, I commend the distinguished gentleman from Wisconsin [Mr. GUNDERSON], for his sincerity and hard work in crafting this amendment. But, the reality is that this is a very controversial amendment. There is no consensus on it. There is, however, a great deal of concern about the bill's provisions as they relate to the establishment of charter schools and a voucher program in the District of Columbia. The Secretary of Education is opposed to the authorization of Federal funding to pay for private school vouchers. The American Civil Liberties is opposed to the voucher program in the amendment. As is the American Jewish Congress, Americans United for Separation of Church and State, the National Parent Teacher Association, and the National Association of State Boards of Education, American Federation of Teachers, American Association of School Administrators, National Education Association, Council of Great City Schools, and National Association of Elementary School Principals.

Mr. Speaker, the fact remains that this amendment simply does not belong in this bill, notwithstanding the fact that many elements of this bill have support among District of Columbia elected officials and residents. Adoption of the Gunderson amendment will only serve to further prolong the time it takes to enact the District's funding measure when it is critical to provide additional financial resources to a city on the brink of insolvency.

Finally, Mr. Speaker, the rule makes in order an amendment designed solely to punish one organization because some members do not happen to like its ideology. The Bonilla amendment would strip a congressional-granted District property tax exemption from the National Education Association. This is a punitive amendment that singles out just 1 of 27 organizations that enjoy the same exemption. The amendment does not belong on this bill.

Mr. Speaker, this rule is a bad rule. I cannot support it and I urge its defeat.

☐ 1430

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

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, this is a first for many Members of this body. It is the first time the Republicans have carried an appropriation for the District of Columbia since home rule. It is the first time that freshmen have had to vote on a bill at all for the capital of the United States. I hope they are bewildered by the exercise, because they have come here, of course, for national, not local matters.

I had hoped that this would be the year of bipartisanship, and I had every reason to believe it might. The District is in a financial crisis that is known around the world. And every Member of this body bears a responsibility, wherever the fault lies, to help raise the city again so that it can proudly claim to be the capital of this Nation.

I had every reason to hope for bipartisanship in the tone set by Speaker GINGRICH and in my work, especially with the chair of the Subcommittee on the District of Columbia, the gentleman from Virginia, Mr. DAVIS. I faced a personal crisis, when my city had all the signs of going down the drain. Somebody had to speak up. At some political risk to myself, I said to the residents of my city, there must be a financial authority. Do not fight it. You need it in order to borrow, and you need it because we must revive the finances and management of the D.C. government. And in a bipartisan way and with the help of the administration, we worked on the financial authority bill.

The gentleman from New York [Mr. WALSH] worked fruitfully and productively with us as well. The bipartisanship continued when the District did not have funds so that it could put its share for Federal highway money. The majority helped get us the votes and that bill was passed, also with the help of the administration.

Pitifully, the Speaker, the Speaker's office called PEPCO last week to say, do not turn off the lights in the District. Money is coming. We will see to it. Yet I am told, there is plenty of money down there somewhere, ELEANOR. And the cops cannot get their cars out of the garage and yet the gentleman from New York [Mr. WALSH] says, I do not know where it is but it has got to be there. And, of course, he imposes a huge cut on the District knowing full well that he himself cannot point to where the money is. That is folded into this bill.

Thanks to the Speaker, we were able to negotiate most of the home rule and statutory items off the bill; and then of course we came to the Committee on Appropriations, and Members began to add such items to the bill. It is those items that make it impossible for this bill to come forward in the bipartisan way that other bills involving the District this year have come forward.

Some amendments are more gratuitous than others. Mr. WALSH regularly puts in an abortion amendment, but for some reason, he ceded his amendment to a Member that would amend the DC code on abortion. That has never been done in 20 years of home rule, and one wonders why he would not have exercised the necessary leadership on this instead of driving votes away on a statutory amendment on abortion, coming from the Congress, when every single jurisdiction in the United States has a local option on this controversial issue.

Where was his leadership then? Where was his leadership on Hostettler, when he comes forward knowing that there is already a domestic partnership amendment in the bill that keeps D.C. from spending its money and demagogically comes forward and says, let us enact it into legislation. Where is your leadership on that, Mr. WALSH?

The tragedy here is the Gunderson matter which has been negotiated endlessly and wonderfully with the District. Yet a voucher is in that bill that will drive votes from my side, and I can tell you from your side, as well, off the bill. And then just to be truly partisan

about it, you go to the list of agencies that have been granted exemption from DC property taxes, none of which should have been granted, and you say, let us pick out our political favorite to get. Let us pick out the NEA.

Pick them all out. Give us all 27, if you are serious, and you are not serious.

Mr. LIVINGSTON. Mr. Speaker, will the gentlewoman yield?

Ms. NORTON. I will not yield, sir.

POINT OF ORDER

Mr. LIVINGSTON. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman will state his point of order.

Mr. LIVINGSTON. Mr. Speaker, the remarks of the gentlewoman at the desk are very personal. I would like to inquire of the Chair what the rule is regarding personal arguments versus substantive arguments.

The SPEAKER pro tempore. Members cannot indulge in personalities during the debate.

Ms. NORTON. Mr. Speaker, I ask the gentleman to cite a personal remark. I have called the name of the leader of the subcommittee. I have made no personal remarks.

Mr. LIVINGSTON. Mr. Speaker, continuing my point of order, Mr. Speaker, I do not intend to ask that the Chair take down the words of the gentlewoman at this point, but the RECORD is replete with personal comments. We can debate this bill and we can pass this bill if we talk about the substance of the bill and not personalities.

Ms. NORTON. Mr. Speaker, I have made no invidious remarks. The one thing you have taken from me is my vote. Let me speak for my city.

The real crime is that this bill undercuts the financial authority that this body set up. Against the advice of the financial authority, this bill says, you must impose severe cuts on the city. A tough financial authority stepped forward and said, we have imposed cuts on the city. Now they said, give us only time enough so that we can also impose management reforms on the city, then perhaps we will go back to cuts. And still cuts have been extracted from our own (DC) budget.

This appropriation bill did not follow the bipartisan lead that was the lead of the Speaker and the authorizing committee this year. There were four pages of invasions into home rule. They were finally gotten off with the help of the leadership. Now there is a cut that will bury the city. Now the financial authority which the city has accepted has been ignored. Now the District is being treated like a Federal agency.

My colleagues, I represent 600,000 breathing Americans who have been loyal to their country. In their name, I ask that they be treated with the respect each and every one of you have insisted for your constituents.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I thank the distinguished gentleman from the Committee on Rules for yielding time to me.

Mr. Speaker, I rise in strong support of this rule. I think the rule recommended by the Committee on Rules gives us all an opportunity to offer amendments. The rule makes some amendments in order. Other amendments would be in order to strike language in the bill. In all cases an adequate amount of time is allowed by the rule for full debate. I think it is a fair rule, and I urge bipartisan support.

Speaking of bipartisanship, Mr. Speaker, I would like to suggest that last year when the other party, the former majority party, had control of this committee, I worked with them to pass this bill. The District of Columbia spends every penny of the Federal formula funds that it receives from this Congress on the very first day of its fiscal year. That is the kind of fiscal house they operate.

The District of Columbia spends $5 billion every year on a city of 570,000 people. That is unheard of anywhere else in this country. But I, along with others on our side, reached across the aisle to help the current minority party get this bill passed last year.

I would ask nothing less of them this year than to help us to pass this bill. It is our responsibility to govern. It is our responsibility to pass this bill. It took Republican votes last year to pass this bill, and I would ask them to reach across the aisle this year.

I would ask the Delegate, who has spoken so strongly in opposition to this bill, to recognize the fact that the District needs the money in this bill, that the District government needs the money to meet their commitments. There was no emphasis or effort on this side of the aisle to cut Federal funds from this bill. This is a hold-fast, steady-as-you-go, financial commitment to the District of Columbia. While the rest of the country is being asked to take severe cuts all across the board, we are not cutting the Federal funds to the District of Columbia. If this rule were to fail, that might be the first order of business by this subcommittee.

Home rule: Home rule is a delegation of responsibility from the Congress to the District of Columbia to organize and operate its own affairs. In the 20 years of home rule, we have seen one unbalanced budget after another to the point where the new administration last January announced that they were $700 million in the hole. When Mayor Kelly was elected 4 years ago, the Congress gave the District authority to borrow $336 million and gave them an additional $100 million within the first eight months of her administration—$400 million to cover the financial deficit that was occurring then.

The consistent message to the Congress from the District of Columbia is ''respect home rule and send money; as much as you can send us, send us.''

The District Government has done a terrible job running this city. Congress is always criticized for stepping in and involving itself, but I dare say the Congress would not step in, would not involve itself, if the city was being run in a responsible way.

There is no accountability in this city. There is no fiscal discipline in this city. There is an inability to deliver basic services in this city. The potholes do not get fixed, the garbage does not get picked up, the water and sewer system does not work right. It is rife with overemployment. The list goes on and on. They have the worst schools in America.

This subcommittee pursued the resolution of these problems aggressively. Then we took a step back and said, okay, we have the financial control board in place now. We will ask them to review these problems and make recommendations to Congress, back to the authorizing committee. So we basically took our hands off of the problem. I felt we should have been more aggressive, but that was not to be. But the fact is the control board now has the responsibility. We have delegated additional responsibility to them in our bill, and we have done our level best to avoid involving ourselves in the responsibilities of the District.

□ 1445

When the other party ran this committee, they interfered in home rule when it served their purposes. The underlying definition of ''home rule'' was, ''if it is not controversial, we can do it. If it is controversial, we cannot do it.'' That is not home rule. That is a rationalization process.

Let me end by saying the delicate question: Where is the leadership here? Leadership requires individuals to take risks. The Delegate has taken no risks. They want the money, but they do not want to stand up for the bill. My colleagues cannot have it both ways; that is not leadership. They cannot say we have got to help the District, we have got to move the bill along, and then stand up and oppose the rule and oppose the bill. That is not leadership, not by my definition.

So I would suggest as a challenge to all of us to work together to extend a hand across the aisle, as the Republicans did for the Democrats last year, and get together, and pass this bill. There is enough in this bill to make everybody angry, but it is what the District needs at a minimum, and I would urge all of us, Republicans and Democrats, to support the rule and support the bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding this time to me, and I rise to respond to the chairman of the subcommittee because I think his comments here point to the crux of the situation. There is certainly a financial

crisis in the District of Columbia, and I believe the gentleman from New York [Mr. WALSH] at the time believed that the approach to take was to establish the Financial Review Authority, and for my point of view that is working. But if anyone believes that the justification for the most rigid abortion language has anything to do with the financial crisis of the District, I will sell them the Brooklyn Bridge. If anyone believes that language dealing with adoption relates to the financial crisis, I will sell them a bridge in California. And if anyone believes the NEA or the domestic partners has anything to do with the financial crisis or moves the District forward as it relates to its finances, I will sell them this Capitol.

Mr. Speaker, the point is that this bill is being used to justify the political persuasions of some Members of this House.

Now it is clear that we have the jurisdiction to do so, but to stand up and say that we would not be interfering in the District's affairs if things were going well financially just ain't so because, these philosophies, notwithstanding problems of the District financially, are being driven to demonstrate a point to a constituent in anybody's particular State or district.

Finally, yes, the Congress, when there has been a Federal interest, has exercised certain discipline over the District of Columbia, but when we move on the issues that I am concerned about, we are not dealing with the financial structure of this District. No one on this floor believes it. No one on this floor thinks that we are eliminating abortion in city facilities either funded or operated because of the finances of this District. So let us be straightforward, Mr. Speaker. There is philosophy driving this and not financial concerns.

Mr. Speaker, I, in particular, support my colleagues' desire to get the finances of the District straight, but I do not, in particular, support the philosophy that is driving the amendments that we are going to be discussing to enter into this bill and the amendments that are already in this bill.

Mr. LINDER. Mr. Speaker, I yield myself a couple of seconds to say that, if the gentleman from California [Mr. DIXON] does not believe giving the NEA, or any other organization, tax-free use of its property, expanding the health insurance plans, or any of the other costly social programs that they have tried to not add to fiscal woes, he probably does believe he has bridges in Brooklyn to sell.

Mr. DIXON. Mr. Speaker, will the gentleman yield to me to respond?

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

Mr. DIXON. The problem with the NEA exemption is that the gentleman from Texas [Mr. BONILLA] says that they have violated their charter that was established in 1906. The committee of jurisdiction is the Committee on the Judiciary. There are 26 other organizations that enjoy the same, yes antiquated, exemption. Either we should make a finding and hold a hearing, but not come to a committee one day, and because we do not like this particular organization, say we are going to take it, the exemption, away from it. Whether my colleague is for the NEA or against the NEA, this is fundamentally wrong.

Mr. LINDER. Reclaiming my time, I would just respond to that by saying the only point to your reference that I was responding to was the notion that giving them $1.4 million a year worth of the tax-free benefit is not additional financial burden. It does indeed.

Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

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

Mr. GUNDERSON. Mr. Speaker, I would like to calm things down just a little bit, if I can, and I would like to begin by paying my respects to my friend and colleague, the gentleman from New York [Mr. WALSH], who has more patience than Solomon, and to the gentleman from California [Mr. DIXON] and to the gentlewoman from the District of Columbia [Ms. NORTON]. I got to tell the rest of my colleagues I have not been involved in the D.C. issue until this year. It is some of the hardest work in this Congress, and my colleagues all ought to understand that, and they ought to respect what these people go through, but I want to share with my colleagues in that mode three particular points that I think are important as we debate this rule and as we deal, in particular, with the so-called Gunderson amendment on reforming D.C.'s education.

There was an agreed upon process at the very beginning that we would try to reach a consensus in the various initiatives of reform, whether it be the schools, or the housing, or the crime and safety, or the taxes, and, where those agreements could be reached, we would marry them with the appropriation bill. Now nobody objected to that last spring, and I just have to tell my colleagues not to complain about the process now when they did not complain about the process at the beginning. There was a common understanding of how this was going to work.

Second, I think it is important to understand guidelines. It was the gentlewoman from the District of Columbia [Ms. NORTON] who told the Speaker that after some of my initial mistakes and some of my efforts to compensate for those mistakes by reaching out to the District that she believed we could reach a consensus on education and reform and that she asked the Speaker directly to do that, and so I have tried to bring everybody along in a consensus. This is not my preferred document. If I were going to have my name on education reform, there are a lot of things I would change in this because I would want to know I could guarantee the outcomes, but we tried to bring everybody along in a consensus package under the guidelines that every one of us had to like 80 percent of the package.

Some of the people today who are opposing the package are the very ones who submitted to us in their reform document the very recommendations for independent charter schools included in our bill. Some of those who are opposing the scholarships today are the very people who sat in my office and said they understood, while they could not endorse this, this was a rational, reasonable compromise between the education reformers and the public education advocates and they would accept that, not endorse that, but they would accept that. They have changed. I cannot help that, that they have changed their word in that regard.

Third, let us talk about the scholarships. The Department of Education, the AFT, the NEA said, ''Steve, we cannot in any way, shape, or form support a voucher, because a voucher takes money out of D.C. schools and puts it into private schools.''

I said, ''That's fair, and we're not going to do that.'' So we are not doing vouchers in this bill, and anybody who tries to say we are doing vouchers in this bill is frankly lying and misleading intentionally to misrepresent what this bill does.

This bill is a scholarship bill. It is a scholarship for D.C.'s children to improve their education. It is scholarships so students can go to the public schools in the District of Columbia. If a student in Anacostia wants transportation to go to Northwest, they can do so. If a young kid in Northeast wants to join the band, but does not have the money to buy a trombone, they can get a scholarship to do so. In the public schools of the District of Columbia, yes, there is a chance that a young student who wants to go to Gonzaga can apply for a scholarship, and if there is enough money there from public and private resources, not one dime coming from the District of Columbia, they can apply for that scholarship, and they may or may not get it.

But do not confuse this with the vouchers, and in the name of D.C.'s children do not misrepresent what we are doing, and in the name of those children of the District of Columbia and their future can we calm the rhetoric? Can we find a consensus? And can we find a way to move forward to reform D.C. schools? Because if we do not do it this week, we lose that chance for a whole year.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] for yielding this time to me, and I want to use this opportunity to express my dismay at this bill. I think the Delegate from the District of Columbia [Ms.

NORTON] spoke very eloquently when she spoke about the elimination of home rule for D.C. We talk a good game about giving the power back to the States and the cities, about taking it away from the Congress, and when it comes to Washington, DC, we want to, apparently, do just the opposite. I think that home rule is home rule, and, if we are going to allow it for others, D.C. should be no different.

What disturbs me in this bill are several different parts. First of all, and it has been mentioned before, the whole abortion dispute to amend the D.C. Code not to allow the people of the District to decide what is right for them, not to allow them to spend their own money when it comes to abortion; this to me is wrong despite what people may feel, pro or con, on the issue of abortion. Singling out the NEA, as the gentleman from California [Mr. DIXON] points out, when there are 26 other groups that have the same privileges, singling them out to me seems absolutely wrong. The whole issue of domestic partnership, again to make it statutory not to allow D.C. home rule, if they want to have and allow domestic partnerships, I do not think that should be this Congress' business to tell them no. I think they ought to have a right to do whatever they want in terms of domestic partnership, and I do not think we ought to impose our views on them.

I also rise today to oppose the gentleman from Wisconsin, Mr. GUNDERSON's amendment to a D.C. appropriations bill. This amendment in my opinion is the latest in the ongoing efforts of this Congress to destroy rather than improve the public school system in this country, and it is time, when D.C. public schools need our strongest support, we are instead, in my opinion, considering proposals that will weaken them. I commend the gentleman from Wisconsin for his efforts to be open and inclusive in developing school reform proposals, however the provisions in the amendment to provide funding for charter schools will only create chaos in the D.C. schools without promoting real reform. The charter schools that could be funded by the legislation will include private schools. These private schools would have a direct entitlement to public funds and would not include requirements that teachers be certified.

□ 1500

Mr. Speaker, Federal funding of the charter schools would deprive the District's public schools of needed funds and further divide students along class, religious, and ethnic lines, without doing anything to improve education or increase student achievement.

The so-called low-income scholarship program in reality, despite what my friend, the gentleman from Wisconsin [Mr. GUNDERSON], says, is actually a voucher system and would have a similar adverse effect on the District's public schools. The program would allow Federal tax dollars to provide funding for students attending private and religious schools in and outside the District.

This plan will divert attention and vital resources away from efforts to reform the District's schools. If additional resources can be found to support education in Washington, DC, they should be spent on helping the public system within the District, rather than funding schools outside of the District.

Mr. Speaker, I urge my colleagues to vote against the Gunderson amendment. We must reform D.C. schools, but the way to solve this problem is not to take funds and attention away from students that need help. The public schools need our support so our students can succeed. I also want to say if there are any amendments, the gentleman from Indiana [Mr. HOSTETTLER], I understand, is doing one on domestic partnership, I think, that should be rejected. The domestic partnership allows two people who are living together as a family for more than 6 months to enjoy certain rights.

If the people in the District of Columbia want to have that, that should be their prerogative. We cannot have this dual standard, this double standard whereby we say we want to take power away from Congress and give it to the States and cities, but when it comes to Washington, DC, we want to hit them over the head and tell them that they cannot run their own show.

Mr. FROST. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the gentleman from Wisconsin [Mr. GUNDERSON] accused me of misrepresenting the facts. I have a copy of his amendment in front of me. I would like to read from the amendment. The English language is very clear.

There is hereby established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

The Secretary of the Treasury shall make available and disburse to the corporation, at the beginning of each of fiscal years 1996 through 2000, such funds as may have been appropriated to the District of Columbia Scholarship Fund. . . .

There are authorized to be appropriated to the fund $5 million in fiscal year 1996, $7 million in fiscal year 1997, and $10 million for each of fiscal years 1998 through the year 2000. That is Federal funds going into those scholarships. That is vouchers.

The gentleman accused me of misrepresenting the fact, saying that there were no Federal funds involved in those vouchers. It is in the language of his amendment on pages 110, 111, and 112.

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

Mr. FROST. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I never said there were not Federal funds involved. There are obviously Federal funds involved. I said there is a huge difference between a voucher and a scholarship. I would invite the gentleman, frankly, to go look up the two words in Webster's dictionary.

Mr. FROST. Reclaiming my time, Mr. Speaker, I believe the gentleman said there were no Federal funds involved, and that I was misrepresenting the fact that Federal funds were involved for this purpose. His own amendment, in the pages that I just read, 111 and 112, make it very clear that Federal funds were authorized to be appropriated under this bill for vouchers.

Mr. Speaker, I yield 2½ minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I urge my colleagues, somewhat reluctantly but urgently, to oppose this rule on the basis that it will allow public money to go to religious institutions. It does that through this rule because the rule, through the use of a parliamentary gimmick, allows for authorization on an appropriation bill. The bill that will be before us contains what has consistently and historically been described as school vouchers.

The gentleman from Wisconsin [Mr. GUNDERSON] prefers to call them scholarships, but I think that is a distinction without much of a difference. Vouchers, or scholarships, as the gentleman from Wisconsin calls them, have been a great national issue for the past decade and more in this country. They have been widely considered and debated in cities all across America, including this city, the District of Columbia, which just a few years ago had this proposal before them. They were not called vouchers, they were not called scholarships. At that time it was called paroch aid.

The voters of the District of Columbia, in a fairly broad turnout, voted 9 to 1 against vouchers, scholarships, paroch aid. Are we not going to tell them that the Congress of the United States knows better than they do, when they spoke by a vote of 9 to 1?

Mr. Speaker, time and time again, Supreme Court after Supreme Court has found that taxpayer money being diverted to religious schools is unconstitutional because it violates, clearly, the first amendment to the Constitution of the United States. I urge my colleagues, therefore, to begin the process of opposing vouchers. I urge my colleagues to oppose vouchers, scholarships, and paroch aid by voting no on the rule, and then no on the Gunderson substitute.

In my remaining time, however, I want to commend the gentlewoman from the District of Columbia [Ms. NORTON], who finds herself, unfortunately, in a fiscal and legislative box canyon not of her making. She is doing a good job in trying to solve this dilemma. I do not urge my colleagues to support the bill, but I do urge them in their commendation of the work of the

gentlewoman from the District of Columbia.

The SPEAKER pro tempore (Mr. HANSEN). The gentleman from Texas [Mr. FROST] has 2½ minutes remaining, and the gentleman from Georgia [Mr. LINDER] has 7½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield myself the balance of our time.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 2½ minutes.

Mr. FROST. The issues are very clear, Mr. Speaker. This is a question of local control, which the other side says they believe in, but they obviously only believe in it in every case except the District of Columbia. This is a question of are we going to appropriate Federal funds to be used for school vouchers in the District of Columbia; are we going to do other things that have been described by the gentleman from California [Mr. DIXON], the ranking member on this committee, that we have not done in the past.

Mr. Speaker, I urge a ''no'' vote on the rule, and if the rule should be successful, a ''no'' vote on the bill.

Mr. LINDER. Mr. Speaker, I yield myself the remainder of our time.

Mr. Speaker, it may not be very exciting to talk about the rule, but I think the rule is fair. We would be here all day with efforts to instruct Washington, DC on how to conduct their lives and their government if we did not have a reasonably closed rule, and we have that. Yet, we have the important decisions to be put before us.

I think the Gunderson amendment is an important one, because it is an honest effort to try to change a school system that is an abject failure by any measure. It spends more money per pupil than any other school system in the Nation and does not graduate 50 percent of its people. To try and do that not with their money, not telling them how to spend their money, but money we give to them, seems to me to be reasonable.

Someone said if the people of the District of Columbia want that, they ought to have it. That is true in theory, but in practice, they are spending 40 percent of their budget coming from other folks. I would not be here pleading and begging for more of your money plus freedom if it were my county. I would not think I would have deserved more of your money. I would be embarrassed to make some of these claims. However, this District of Columbia government spends over 10 times what my county government spends with more people and more services, and yet runs up an annual deficit that exceeds my county's entire budget by two times. I would be embarrassed to say we deserve more.

The fact of the matter is we could just read this morning on the front page of the Washington Post Metro section, where the city of the District of Columbia gave a $547,000 loan to an entrepreneur who had not paid back the previous loan, had $100,000 in liens against his businesses, had not paid back his school loan until this year, and the Mayor, in announcing the $547,000 loan, did not even know how much it was for. He thought it was $400,000.

No, this is not a city that does know better. It is a city that has been spending other people's money for an awful lot of time, and wants, of course, absolute freedom in doing that. There is not another city in America that can look to someone else for 40 percent of its budget, and look to themselves for the freedom to spend it.

I think this bill will pass today, because I think we have to pass some kind of appropriations for this city to keep it going. It will be close. I think it will pass without much help from the minority, but I think we must pass the rule to get the bill to the floor. There are too many bills unpaid, there are too many fire engines in garages, being held there because we have not been able to pay for the repair. There are too many hospitals waiting for reimbursements. We simply must help them pay their bills to keep the city moving. I suspect we will be doing this.

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

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

Mr. DIXON. Mr. Speaker, I do not want to argue with the gentleman from Georgia, but the gentleman says that 40 percent of the budget is someone else's money. The gentleman may be correct, I do not know for sure. Could he tell me where he gets this figure?

Mr. LINDER. I suspect that the gentleman who is the chairman of the subcommittee could address that.

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

Mr. LINDER. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I think the gentleman is correct. The District's total appropriated budget is about $5 billion, including a $712 million direct grant to the District by Congress.

Mr. DIXON. Is the gentleman referring to the Federal payment——

Mr. WALSH. Yes.

Mr. DIXON. Of $660 million.

Mr. WALSH. Plus $52 million for the pensions.

Mr. DIXON. $712 million.

Mr. WALSH. $712 million, and another perhaps $1 billion, $1.2 billion, for formula funds, Medicaid funds, transportation funds, and so on.

Mr. DIXON. All communities receive those.

Mr. WALSH. The gentleman made the point that it makes up 40 percent of their budget. It does not in other communities around the United States.

Mr. LINDER. Mr. Speaker, reclaiming my time, there is not another city in America that has 40 percent of its money coming from a Federal grant or direct aid.

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

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

Mr. FROST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 241, nays 181, not voting 10, as follows:

[Roll No. 757]

YEAS—241

Allard	Gallegly	Myrick
Archer	Ganske	Nethercutt
Bachus	Gekas	Neumann
Baesler	Geren	Ney
Baker (CA)	Gilchrest	Norwood
Baker (LA)	Gillmor	Nussle
Ballenger	Goodlatte	Oxley
Barr	Goodling	Packard
Barrett (NE)	Gordon	Parker
Bartlett	Goss	Paxon
Barton	Graham	Petri
Bass	Greenwood	Pickett
Bateman	Gunderson	Pombo
Bereuter	Gutknecht	Porter
Bevill	Hall (TX)	Portman
Bilbray	Hancock	Poshard
Bilirakis	Hansen	Pryce
Bliley	Hastert	Quillen
Blute	Hastings (WA)	Quinn
Boehner	Hayes	Radanovich
Bonilla	Hayworth	Ramstad
Bono	Hefley	Regula
Brownback	Heineman	Riggs
Bryant (TN)	Herger	Roberts
Bunn	Hilleary	Rogers
Bunning	Hobson	Rohrabacher
Burr	Hoekstra	Ros-Lehtinen
Burton	Hoke	Roth
Buyer	Hostettler	Royce
Callahan	Hunter	Salmon
Calvert	Hutchinson	Sanford
Camp	Hyde	Saxton
Canady	Inglis	Scarborough
Castle	Istook	Schaefer
Chabot	Johnson, Sam	Schiff
Chambliss	Jones	Seastrand
Chenoweth	Kasich	Sensenbrenner
Christensen	Kelly	Shadegg
Chrysler	Kim	Shaw
Clinger	King	Shays
Coble	Kingston	Shuster
Coburn	Klug	Skeen
Collins (GA)	Knollenberg	Smith (MI)
Combest	Kolbe	Smith (NJ)
Condit	LaHood	Smith (TX)
Cooley	Lantos	Smith (WA)
Cox	Largent	Solomon
Cramer	Latham	Souder
Crane	LaTourette	Spence
Crapo	Laughlin	Stearns
Cremeans	Lazio	Stockman
Cubin	Leach	Stump
Cunningham	Lewis (CA)	Stupak
Davis	Lewis (KY)	Talent
Deal	Lightfoot	Tate
DeLay	Linder	Tauzin
Diaz-Balart	Lipinski	Taylor (NC)
Dickey	Livingston	Thomas
Doolittle	LoBiondo	Thornberry
Dornan	Longley	Tiahrt
Dreier	Lucas	Traficant
Duncan	Manton	Upton
Dunn	Manzullo	Vucanovich
Ehlers	Martini	Waldholtz
Ehrlich	Matsui	Walker
Emerson	McCollum	Walsh
English	McCrery	Wamp
Ensign	McDade	Watts (OK)
Everett	McHugh	Weldon (FL)
Ewing	McInnis	Weller
Fawell	McIntosh	White
Fields (TX)	McKeon	Whitfield
Flanagan	McNulty	Wicker
Foley	Metcalf	Wilson
Forbes	Mica	Wolf
Fowler	Miller (FL)	Young (AK)
Fox	Molinari	Young (FL)
Franks (CT)	Montgomery	Zeliff
Frelinghuysen	Moorhead	Zimmer
Frisa	Morella	
Funderburk	Myers	

NAYS—181

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gilman
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Armey
Fields (LA)
Franks (NJ)
Gephardt
Harman
Moakley
Rose
Tejeda
Tucker
Weldon (PA)

☐ 1532

Ms. ESHOO, Mrs. ROUKEMA, Mr. STENHOLM, and Mr. ABERCROMBIE changed their vote from ''yea'' to ''nay.''

Mr. CRAMER and Mr. COX of California changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include tabular and extraneous material on the bill, H.R. 2546.

The SPEAKER pro tempore (Mr. HANSEN). Is there objection to the request of the gentleman from New York?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 252 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2546.

☐ 1533

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2546) making appropriations for the government of the district of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from New York [Mr. WALSH] will be recognized for 30 minutes and the gentleman from California [Mr. DIXON] will be recognized for 30 minutes.

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

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

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

Mr. Chairman, 20 years of home rule and 15 years of unrestrained spending have brought the District government to the brink of financial insolvency.

The District government has had the same mayor for 13 of those 20 years. It is very difficult sometimes to discern charisma from leadership, and when that occurs and the latter is lacking, unsuspecting citizens are left to shoulder the burden.

The bill we bring to you today will provide the District government with a total budget of $4.97 billion for fiscal year 1996 consisting of $4.87 billion for operating expenses and $102 million for capital outlay. I believe $4.97 billion is sufficient to provide adequate services given the size—68 square miles—and population—570,000—of the city. The District needs to do a better job of managing and setting priorities. It needs to be held accountable. I believe that will be done through the D.C. Financial Responsibility and Management Assistance Authority that was established earlier this year by Public Law 104–8. The authority is chaired by Dr. Brimmer, and I am confident with he and his colleagues will be successful in encouraging meaningful structural reforms and accountability in the District government.

Mr. Chairman, the $4.97 billion consists of $2.8 billion of the District's own funds, and $712 million in Federal funds provided in this bill, $1 billion in Federal grants, and $362 million in private and other funds, and $161 million in intra-District funds.

The $712 million in Federal funds recommended in this bill is consistent with our 602(b) allocation in budget authority and outlays. That amount includes a Federal payment to the general fund of $660 million as authorized in Public Law 103–373 and requested in the President's budget. In my opinion, Mr. Chairman, this payment by the Federal Government is generous.

The other part of the $712 million is the $52 million for the Federal contribution to the police, fire, teachers, and judges retirement funds. This amount is $70 thousand below the President's request and reflects a reduction that was necessary in order to comply with our 602(b) allocation.

DISTRICT'S FINANCIAL CRISIS

During fiscal year 1994 it became apparent that the District government was in serious financial trouble. The District's annual financial statement for fiscal year 1994 confirmed everyone's suspicion—the biggest annual deficit in the District's history had occurred and the government was technically insolvent.

Realizing what was about to occur, the House fifteen months ago made a decision that was long overdue. It recognized that there was very little accountability in the District government and a great deal of deception. Although the budgets in the past were balanced on paper, the city was overspending its budget and would soon be out of cash unless it changed its ways. The House, on a bipartisan basis, voted to cut the District's spending by $150 million—no change was made to its revenues.

When the bill came out of conference last year the reductions were $140 million and 2,000 positions as well as a cut in the Federal payment of $10 million.

A year later the District is still in a financial crisis.

FINANCIAL MANAGEMENT AUTHORITY

Recognizing this the Congress in April of this year created a Financial Responsibility and Management Assistance Authority. The Authority became operative in June and in the last 5 months has made some tough decisions. I have a lot of confidence in the Authority and believe it is headed in the right direction to bring the District government back from the brink of financial disaster to a sound financial footing.

BILL APPROPRIATES ALL REVENUE SOURCES

Unlike past years, our bill this year appropriates all of the District's revenues which include the Federal payment, local taxes and other local revenues, and Federal and other grants. In past years the bill did not include Federal and other grants which were considered nonappropriated revenues. The

independent audit for fiscal year 1994 showed that two-thirds of the District's $335 million deficit was due to this nonappropriated category.

ACTION BY DISTRICT

While the bill does not go as far as some think it should, our actions at the subcommittee level have resulted in what I believe to be positive action by the District. The day after our markup the Board of Education voted to allow the Superintendent to use his discretion in contracting out the management of any of the 164 public schools. According to the press the Board as well as the Mayor and Council are taking a look at the salaries of school board members which are said to be the highest in the country. City officials have agreed to turn over the Blue Plains sewage treatment plant to an independent authority under a pact with suburban governments.

One of the Council members introduced a bill to consolidate the District government's economic development entities into a single unit to cut costs and improve services. In addition, the Council Chairman sent up a draft copy of a bill to establish a pension plan for new hires that will not have any unfunded liability.

So all in all I believe our actions are getting some results even though the legislative provisions were dropped from our bill in our subsequent markup on October 19. Instead of including the language in our bill, we are asking the Financial Authority to review several matters listed on pages 7, 8 and 9 of the report and try to resolve them at the local level and report to the Congress in March 1996 on the disposition of the items and recommendations for resolving those that are still outstanding at that time.

It is vitally important that District officials try to change the culture that has contributed greatly to the city's financial predicament.

HIGH PER CAPITA COSTS

Another top priority of the Authority will have to be—and I reiterate the words ''have to be''—getting the per capita costs of operating the District under control. By almost every measure the cost of delivering services here in the District is the highest around. According to a Congressional Research Service comparison of the District of Columbia to cities of comparable size for fiscal year 1992, the District had the highest per capita costs for police, fire, education and welfare services.

To provide police protection in 1992 the District government spent $467 per person compared to $248 for the city of Boston, MA. Regarding Emergency Assistance Services, the City Auditor recently reported that a ''comparison between the District and neighboring jurisdictions revealed that the District provided the most generous emergency assistance benefits in the region during fiscal years 1993 and 1994. The District provided benefits up to a maximum of $4,350, while Prince George's and Montgomery Counties in Maryland limit their maximum benefits to $750.'' The City Auditor's report goes on further to say that ''the District lags behind in receiving its full share of the 50 percent Federal reimbursement through participation in the Emergency Assistance Services program sponsored by the U.S. Department of Health and Human Services.'' This occurs because of deficiencies in meeting certain Federal documentation requirements, so therefore the District has to pick up the full cost of the program when they cannot provide the documentation.

''WASTE'' IN DISTRICT GOVERNMENT

It is waste such as this which I believe is causing a lot of the city's problems. Recently the court-appointed Receiver of the District's foster care services discovered another instance of waste. According to press reports, and I quote: ''Miller (the court-appointed receiver) said that in an astounding example of lax cost control, his staff discovered that the agency is paying an additional $5,000 a month rent for cafeteria space in the basement of (a building) without ever having installed the cafeteria.'' Miller goes on to talk about other problems like a questionable $25 million data-processing contract. The point is that this and so many other reports and testimonies we have had seem to indicate that there is a lot of waste going on in the District and if we can at least begin to eliminate some of this we may see some of those high per capita costs come down.

ACCOUNTABILITY

We need accountability in the District government, both for finances as well as the delivery of services. We are hopeful that the Authority will begin to show the kind of results we are all looking forward to, and we hope that this will be done in an atmosphere of cooperation with the Mayor and City Council.

CONCLUSION

We are all in this together and we each have to accept our role in this process of making our Nation's Capital the urban jewel it should be. It is Congress' role to appropriate. The Authority's role is to formulate the financial controls and the process to improve services so that the city can perform its role, which is to execute and carry out that process in a disciplined and professional manner.

We hope much will be accomplished this year so that we do not see more of the city's operations falling under court orders or into receivership. That is the final action that will need to be taken if the city cannot get control of its spending and reduce its costs to reasonable levels.

Other very important issues, such as tax reform and health and welfare issues, will also have to be reviewed by the authorizing committees. These reforms will be needed to revitalize the economy of the District and will be the subject of many discussions and possible future legislation.

In closing, I want to thank all of the members of our subcommittee for their assistance in bringing this bill to the Committee.

Mr. BONILLA of Texas, Mr. KINGSTON of Georgia, Mr. FRELINGHUYSEN of New Jersey, Mr. NEUMANN of Wisconsin, Mr. DIXON of California, the ranking member of our subcommittee who served as chairman for the past 15 years, Mr. DURBIN of Illinois, and Ms. KAPTUR of Ohio.

Also Mr. Chairman, I want to thank the staff for a job well done under some very difficult circumstances.

John Simmons of my personal staff has done an outstanding job in coordinating between the Speaker's office, the appropriations and authorizing committees, the Speaker's task force and Members' officers.

Mary Porter who does an excellent job keeping track of the numbers. I am told she has been doing this for the Committee for 35 years—she started back when our departed colleague Mr. Natcher first became chairman of the DC Subcommittee. She is detailed to the Committee from the District government and works with the numbers when they are first put together in the Mayor's budget office, and follows them through the Council, the House, the Senate and conference. She is to be commended for the high quality of her work as well as for her endurance and perseverance.

Mike Fischetti is on loan from GAO. He is a CPA and a certified fraud examiner who is in great demand these days. We are very fortunate to have the benefit of his expertise and analysis.

And of course Migo Miconi, who has been on the staff for longer than he cares to admit.

Each of them does an excellent job and together they make a great team.

Mr. Chairman, I believe the bill we bring to the House today is a good bill and one that the District can live with.

At the appropriate time I will offer a managers amendment to clarify language concerning adoptions by unmarried couples.

Mr. Chairman, I strongly recommend this bill to my colleagues and urge an ''aye'' vote.

□ 1545

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

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

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

Mr. DIXON. Mr. Chairman, I rise today in opposition to this bill. I do so with great reluctance because while I do not always agree philosophically with the distinguished gentleman from New York, I realize that and understand that we both respect each other's opinions. I commend Chairman WALSH for his work on a very difficult bill, for his sincere efforts to bring the District back to financial health.

I also want to thank the staff that he just mentioned, Migo Micone, Mr. John Simmons, Mike Fischetti, and Mary

Porter, and a special thanks to the minority consultant on this bill, Cheryl Smith.

Additionally, I would like to throw an accolade to the delegate from the District of Columbia, the gentlewoman from the District of Columbia [Ms. NORTON]. She has done yeoman's work in trying to work with both Republicans and Democrats to craft a better bill for the District. She has been tireless in her efforts to facilitate agreements between all of the various parties that have competing interests in this bill.

This bill is important for what it does not contain as much as for what it does contain. In particular, I commend the chairman, the gentleman from New York [Mr. WALSH], for decisions to drop some 40 legislative provisions from the bill that would have created considerable controversy and delayed consideration of this matter. In this respect, the bill has been greatly improved over earlier versions.

I also want to commend our chairman, the gentleman from New York [Mr. WALSH], for recommending the full Federal payment for the District. This bill includes $660 million for the Federal payment in fiscal year 1996, the full authorized amount, and $52 million for the Federal contributions to the District's retirement funds for police, fire, judges, and teachers. There has been no disagreement on these funds, and they are fully provided for in this bill.

Unfortunately, though, notwithstanding the good parts of this bill, this bill falls far short. We all know that the District is in a financial crisis. Yet this bill imposes a spending cap of $4.867 billion on the District of Columbia's operating budget for fiscal year 1996. The spending cap will force the Mayor, under the direction of the District of Columbia Financial Control Board, to allocate $256 million in additional cuts below the cuts already recommended by the District of Columbia's Financial Review Board.

Mr. Chairman, this is a bad bill because it tells the District that it cannot spend all of the tax revenue it generates. Let me repeat that: all of the tax revenue that it generates from District residents. It is a bad bill, because Congress has decided, not the District nor the Financial Board, knows best about what to do in this situation. As it relates to the District, apparently, the Republican rhetoric to get the Federal Government out of the lives of Americans does not apply to the District's citizens.

Mr. Chairman, in April of this year, Congress established a new Financial Oversight Board comprised of District residents to solve the District's financial and management problems and to bring the District's budget into balance over a 4-year period. That legislation included some very tough medicine for the District including granting the Financial Oversight Board the most extensive powers of any such board in the Nation.

In September, the Mayor, the City Council, and the Financial Oversight Board reached an agreement on significant budget cuts and staffing reductions that will result in over 5,200 positions being cut from the fiscal year 1996 budget. These personnel cuts amount to a 13-percent cut from the staffing levels originally requested by the Mayor.

Yet despite these reductions, this bill would require the District to cut an additional $256 million more than the Financial Control Board says is prudent. These cuts are not endorsed by the Financial Control Board.

Mr. Chairman, members of the Financial Oversight Board now find that months of hard working with the District officials and analyzing the District's budget have seen their figures and facts thrown out the door. I cannot understand how the majority and the gentleman from New York [Mr. WALSH] in particular can say it accepts the findings of the Control Board and they totally disagree with him.

For the first time I recall the committee has knowingly used figures in this bill that are wrong. The figures are just plain wrong. The majority continues to disregard the Control Board's recommendation that $5.123 billion be provided for the District's operating budget in fiscal year 1996, not $5.16 billion, not $4.86 billion, not $5.12 billion. This bill falls far short of the mark.

If we approve this bill, we severely undermine the credibility and the confidence of the Control Board. When the Control Board was put in place, its main responsibility was to establish under their budget how much the District Government would cost to run for the fiscal year and to recommend to us appropriate cuts. We have not accepted their figure nor have we accepted their recommendations, and so I just fail to see how we are placing any confidence in the Board that has done a stellar job thus far in this bill.

Mr. Chairman, this is a bad bill, because the District will not be able to use its own money to buy books for students, repair the schools, pick up the garbage, fight crime, maintaining other critical services for the District residents. The additional budget cuts endorsed by the majority were made without consultation with the District officials or Control Board regarding their impact on city services. These cuts are not based on sound analysis or thorough review of the budget savings that responsibly could be achieved by the District in less than a year's time nor any evaluation of the resources needed to sustain education, public safety, sanitation, public works for those who work and live in and visit the District.

This is an analysis that was conducted by the Control Board and rejected out of hand by the majority.

I will insert in the CONGRESSIONAL RECORD at the end of my statement the various documents submitted by the Financial Control Board concerning its recommendations for the District for 1996.

Mr. Chairman, the distinguished gentleman from New York has indicated, and will indicate, that this bill will result only in an $85 million cut for the District below the 1995 budget. In reality, this cut will be much deeper. Realistically speaking, these cuts will likely have to be made over a 9-month period, because it will take the Financial Oversight Board and the Mayor several months to determine where to make these cuts, and the choices are not pretty.

The District already owes millions to vendors who have already provided services to the city. In August, the District stopped making Medicaid payments to hospitals and health care providers because of the lack of funds. Last week, the Washington Post included an article about the inability of the District to promptly repair broken street lights and traffic signals because it owes the local utility company nearly $4 million.

The District cannot pay health insurance premiums for city employees because of shortage of funds. Low-income citizens cannot receive timely care at D.C. General Hospital because of lack of resources to purchase supplies and to retain medical personnel. Distraught firefighters must call on surrounding jurisdictions to fight two-alarm fires because funding shortages have prevented them from maintaining the fleet of fire trucks.

Many believe the District's schools are among the worst in the Nation, and that is why we will be debating the Gunderson education reform package later in this bill. Yet this bill cuts funds that could be used to hire teachers, to buy books and repair schools, to provide the city, this city, with the quality of education that I think we all agree it deserves.

This bill will make this bad situation only worse.

Finally, Mr. Chairman, this is a bad bill because it clearly violates the home rule of the District of Columbia and has nothing to do with the financial situation here. The bill amends the code to ban all Federal and local funding for abortion and would ban even privately funded abortions conducted in District-operated or funded facilities except to save the life of the mother, rape, or incest. These restrictions go far beyond any previous restrictions in the District of Columbia appropriations bill. They simply do not belong in this bill.

Second, the bill amends the local statutes to dictate to District residents who may or may not adopt a child in the District of Columbia. This provision simply does not belong in this bill and has nothing to do with the financial condition of this city.

Mr. Chairman, these are policy decisions that severely trample the rights of District residents to make their own

judgments about the matters through their elected officials. The inclusion of these provisions in this bill is even more outrageous because, with the exception of the Delegate from the District of Columbia, many Members of this body have no accountability to the District.

Mr. Chairman, the President has indicated that he will veto this bill because the budget cuts are too deep and the home-rule violations are intrusive.

The bill should be defeated.

Finally, Mr. Chairman, I want to once again acknowledge the hard work of the chairman, the gentleman from New York [Mr. WALSH]. He has taken a lot of heat on this bill. We just disagree with the judgment that the way to get the finances in order in this community is, first, to use the wrong numbers so the cuts turn out to be greater than he says, not 148, but 256; that, in fact, the way to do it is just to arbitrarily take the 250 and tell the Control Board to make those cuts.

Second, we disagree that now that the Republicans are in control they can do whatever they want to, they can bring up any bill they want to on abortion, they can bring up a clean bill to affect the NEA or any of the other 26 organizations that they want to.

Those matters do not belong in the financial condition of the bill; but, nevertheless, I understand his dilemma.

The materials referred to are as follows:

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY,
Washington, DC, October 20, 1995.

Hon. JULIAN DIXON,
Ranking Minority Member, Subcommittee on the District of Columbia, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. DIXON: I am writing in response to your October 19, 1995 letter regarding recent actions taken by the House Appropriations Subcommittee on the District of Columbia.

The Authority is aware that the Subcommittee's actions, if passed by the Congress and signed into law by the President, will result in fiscal year 1996 cuts to the District of Columbia of $256 million below the $5.123 billion level recommended by the Authority in our August 15, 1995, report to Congress.

On September 28, 1995, I wrote to Chairman Walsh to express the views of the Authority on the proposed cuts to the District's appropriations. I advised him that additional cuts below the Authority's recommendations, made without further study, could harm service delivery and have a negative impact on District residents. A copy of my letter to Chairman Walsh is enclosed.

You observed that recent statements attributed to me in the media suggested that we now support the proposed budget reductions. Actually, in the meeting with Messrs. Gingrich, Livingston, and Walsh on October 17, I was not asked whether the Board would support the lower budget ceiling. Rather, I was asked only whether we would be prepared to allocate the amount appropriated. I said we would do that.

Let me assure you that the Authority continues to stand by its recommendations on the District budget. We continue to believe that an adverse impact on the city is likely if the additional cuts become law. Many District agencies already are experiencing serious problems in maintaining adequate service delivery and in meeting their obligations to vendors. Cuts to levels below our recommendations would only exacerbate these problems.

Sincerely yours,
ANDREW F. BRIMMER,
Chairman.

Enclosure.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY,
Washington, DC, September 28, 1995.

Hon. JAMES T. WALSH,
Chairman, Subcommittee on the District of Columbia, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Last week, the House Subcommittee on Appropriations for the District of Columbia marked up the District's transition budget for fiscal year 1996. The District of Columbia Financial Responsibility and Management Assistance Authority (DCFRA) has reviewed the Subcommittee's actions. We are respectfully submitting this letter because we have several concerns about the potential impact of many of those actions.

According to preliminary information on the Subcommittee mark up, the Subcommittee approved further reductions of District appropriations by $258 million and 461 FTEs. The Authority is very concerned about these additional reductions. Public Law 104–8, which created the Authority, also laid out a process for addressing the District's financial and management weaknesses. This process for fiscal year 1996 called not only for a review of the initial fiscal year 1996 transition budget, but also for preparation of a supplemental budget for fiscal year 1996 and a financial plan that must be approved by February 1, 1996. The special process used for fiscal year 1996 was developed because there was agreement that more information and analysis was needed before a final fiscal year budget was approved. The Authority and staff spent considerable time reviewing District documents and meeting with District officials before making both our July 15 recommendations to the District and the final recommendations contained in our August 15 report to the Congress. We believe additional reductions to the District budget, without further review and analysis, could harm service delivery and be counter-productive to the process stipulated in Public Law 104–8. The Authority also has a number of concerns about some of the other provisions that surfaced during the mark up of the District appropriations bill. I detail our concerns later in this letter.

BACKGROUND

Before I provide our detailed views on the various Subcommittee's amendments and other actions, I want to emphasize the careful analysis and assessment which served as a basis for the Authority's initial recommendations to the District and our final recommendations to the Congress. The District of Columbia initially submitted a budget for fiscal year 1996 to the Congress on May 8, 1995. In accordance with Public Law 104–8, Section 208(a)(1), on July 15, 1995, the Authority made recommendations on the fiscal year 1996 budget to the Major, the Council, the President, and the Congress. The Council adopted a revised fiscal year 1996 transition budget and on August 1, 1995, submitted the budget to the Authority, the President, and the Congress in accordance with Public Law 104–8, Section 208(a)(2). On August 15, 1995, the Authority issued a report to the Congress that contained recommendations for revisions to the District's fiscal year 1996 transition budget in accordance with Public Law 104–8, Section 208(a)(3).

As was intended in the legislation, the process has been iterative. The final budget based on Authority recommendations was significantly different from the original budget submitted by the District in May. Based on our recommendations, not only did the final District budget call for more than 5,000 FTE reductions, but the District also has started to develop information that will be valuable in developing the supplemental fiscal year 1996 budget and future budgets and financial plans.

As a part of this process, the Authority staff worked closely with both the District's executive and legislative branch offices. This included meetings with the Mayor, the Chairman and Members of the City Council, the City Administrator, the Director of the Budget, and the Directors and Chief Financial Officers of Several District agencies.

We analyzed numerous District-wide issues including personnel, financial management systems, and cash projections. This information, combined with a review of previous studies of the District (including the November, 1990, Rivlin report), provided the context necessary for the Authority to address District-wide issues. Furthermore, we undertook extensive analysis of current personnel levels, FTE calculations, and historical personnel patterns. This analysis was the basis of our detailed recommendations on District FTE levels. We also met with officials in the District's Office of Financial Management, City Administrator, Controller, and agency heads and Chief Financial Officers to assess the financial information management system weaknesses, and we concluded a new system is needed immediately.

In addition to our analysis of District-wide issues, we also held detailed discussions with agency officials and analyzed many aspects of agencies' budget projections. Some examples include:

District Public Schools: we reviewed personnel reports for locations and types of employees and school building utilization reports;

Medicaid within DHS: we examined cost reports and cash flow analysis to determine the reasonableness of the fiscal year 1996 projections;

District General Hospital: we met with hospital officials and reviewed management initiatives;

Department of Public Works: we reviewed historical personnel levels and studied management initiatives designed to reengineer DPW programs and improve customer service;

Department of Corrections: we analyzed staffing levels and patterns and studied the costs of housing prisoners in federal facilities.

VIEWS OF FTE AND FUNDING CHANGES

The Authority does not currently have final data on the District of Columbia budget as marked up by the Subcommittee. Nevertheless, it would appear from available information that total budget figures included in the draft House documents are preliminary. For example, the House Subcommittee summary budget shows total expenditures of $4.943 billion. However, detailed agency breakouts total to $4.867 billion.

Based on the revised District budget (August 1 budget) of $5.148 billion and the detailed information contained in the Subcommittee's preliminary tables, the Subcommittee calls for reductions of 461 FTEs and $258 million! The attached table illustrates these changes by appropriation title.

FTE changes

The Authority is very concerned about further reductions of 461 FTEs contained in the

Subcommittee budget. These reductions would have a deleterious effect on the ability of many District agencies to carry out their missions and to deliver services to residents. We are particularly disturbed by the following proposed reductions:

(1) The Department of Public Works was reduced by 146 FTEs and $17.7 million. The Authority believes these additional reductions would be very harmful, especially since, in recent years, DPW has already taken significant cuts and reduced many upper and middle management positions. In our recommendation directing the District to allocate an additional 704 reductions, we specifically recommended that the District not allocate any of these reductions to DPW. We believed at that time that additional DPW cuts would seriously harm an agency critical to District service provision. We still believe this would be the case. Consequently, we do not support these reductions.

(2) The University of the District of Columbia was reduced by 120 FTEs, from 1,079 to 959, and by $7 million. the Authority does not support this reduction. In meetings held with Authority staff, UDC officials noted that the revised budget of 1,079 FTEs, which reduced more than 200 FTEs from actual fiscal year 1994 levels, would adversely impact the university. In our recommendation, we urged the university to assess its undergraduate and graduate offerings as one part of its efforts to reduce costs. Cutting additional FTEs at this time before such a study is complete is not prudent.

(3) The Department of Employment Services was reduced by 86 positions. The Authority does not support this reduction and notes that this budget had already been reduced by more than 150 FTEs. At the August Budget Summit, District officials noted that any further reductions in this department could result in the loss of substantial federal grant funds, which comprise approximately one-half of this agency's budget.

(4) The Department of Human Services (DHS) was reduced by 149 FTEs. The Authority does not support this reduction. The Authority had already recommended reductions from on-board DHS staffing of 637 FTEs. As with the other reductions, further cuts without additional study could harm this critical agency which serves the District's most disadvantaged citizens.

Funding and other changes

The Subcommittee markup also contained a number of other financial and organizational changes that the Authority does not support without additional analytical study.

(1) The Office of Financial Management was reduced by more than $30 million, which mostly consisted of funds for the new Financial Management System (FMS). The Authority strongly disagrees with this action. We recommended that $28 million be appropriated to finance the development and installation of the FMS. However, funding for the FMS was shifted to pay-as-you-go capital project, a shift the Authority opposes. Improved financial management requires a new FMS now. By shifting FMS funding to the capital budget, the project would have to compete with other capital needs, which could delay FMS' implementation.

(2) The Inspector General's budget was decreased by an additional $73,000. The Authority does not support this reduction. The Authority recommended that resources for this office be increased, not decreased. Public Law 104–8 created a more powerful IG, a role that could not be fulfilled if funding for the office is decreased. In a related issue, the District of Columbia Auditor staffing was nearly doubled from 12 FTEs to 22 FTEs and funding increased by more than $300,000. The D.C. Auditor performs a valuable function, but a doubling of the staff, especially in the face of reductions in the IG's office, is not warranted.

(3) Funding for the City Administrator's Office was more than doubled from $4.7 million to $9.7 million. Officials in the City Administrator's Office were not previously aware of this change and did not know the purpose of the substantial funds increase. Based on information available, the Authority does not support this funding change.

(4) The Board of Elections and Ethics' budget and FTEs were doubled. Funds increased from $2.1 million to $4.3 million and FTEs increased from 35 to 73. Based on information available, the Authority does not support this increase.

(5) WMATA was reduced by $12.5 million. WMATA is jointly funded by Washington Metropolitan Area governments. Reduction of the District's subsidy could impact the entire system. Any change should be considered as part of a broader agreement. The Authority advises against making such reductions without additional study and consultation with other area jurisdictions.

(6) District employees health benefits were reduced by $68 million. Total health benefit costs are currently $148 million, which includes approximately 18,000 employees under the Federal Health Benefits program and the remaining employees under the District's health program. The District's Office of Personnel is planning a major restructuring of the health benefits program, but reducing funding by more than 45 percent would undoubtedly have harmful consequences for the District. Therefore, the Authority does not support this reduction.

VIEWS ON OTHER PROPOSALS

The Subcommittee in markup considered 40 specific provisions, some of which were approved, others of which were withdrawn. The Authority has views on a number of these proposals:

(1) Ryan White federal grant funds be disbursed by the District within 90 days. The Authority believes this is sound management and good policy, but it should not be legislated. Such a policy should not be limited to Ryan White grant funds.

(2) Directs Board of Education to: (a) contract out all food services and security services operations, and (b) develop management, data systems, and training. The Authority believes the District should be encouraged to explore these contracting out options, but the decision should be based on cost-benefit analysis, as opposed to an arbitrary mandate. The Authority agrees that management and data systems are needed. Such systems should be compatible with District-wide systems.

(3) Board of Education should maintain the number of school-based educational and clerical employees at a minimum of 7,000. The Authority believes that school-based FTEs should be set according to an agreed staffing plan, but not by mandates at arbitrary levels.

(4) establishes ceiling of 2,200 non-school based employees. As stated under provision 3, staffing should be based on a plan.

(5) Requires that DC Public Schools financial management and related information be interfaced with D.C. systems and accessible to staff of Mayor, Council, Congress, and the Authority. The Authority agrees that DCPS' system must be compatible with District-wide information.

(6) Directs School Board to develop school-by-school gross operating budget. The Authority does not believe such a provision should be mandated. Other school systems budgets should be studied to see if they budget on the basis of individual schools. The advantages and disadvantages should be weighed, but the decision whether to adopt this type of budget delineation should be left to school officials.

(7) Requires escrowing of motor vehicle fuel taxes. The Authority is opposed to this provision. Recently enacted legislation allowed the District to receive highway funds with a delayed match. This legislation required the establishment of a fund to provide for these matches in the future. The fund was established, but Congress did not mandate the funding mechanism. However, the Authority plans to review these requirements and to provide assurance that the provisions are carried out. Without knowing the total amount of fuel tax and matching funds, setting up a fund escrowing these amounts would be ill advised.

(8) Work rules for police, firefighters, and teachers should include performance measures and the District should hire consultants to negotiate labor contracts. The Authority agrees that work rules should include performance measures, but it is opposed to mandating the retention of a consultant for labor negotiations.

(9) Requires the Inspector General to audit use of vehicles, cellular phones, fax machines, and televisions. The Authority believes that, although these issues are important and may be worthy of study, specifically requiring the IG to perform these audits is ill-advised. Areas studied by the IG should be identified in a strategic plan. The IG is required to prepare a plan in conjunction with the CFO and the Authority. Such a plan may identify other areas that are more urgent than these mandated audits. The resources of the IG should be allocated on the basis of the most critical issues to be faced.

(10) Directs District to develop a plan for a health care facility or close D.C. General by September 30, 1996. The Authority is strongly opposed to this provision. The hospital should not be forced to close at the end of the fiscal year without alternative provision for services to the most needy in the community. This would have a drastic effect on the health industry in the Washington area since other hospitals would have to absorb the uncompensated care of those displaced by D.C. General's closing. In its August 15 report to Congress on the District's Fiscal Year 1996 budget, the Authority supported a proposal to turn over control of the Hospital to a Public Benefits Corporation. The Authority also noted, however, that the Authority and the District need much more information about the new entity proposed to be created, the impact of the shift on employee rights, and other factors.

(11) Requires management assessment studies in several areas and requires the establishment of 25 inspection stations. The Authority has already recommended pilot studies in three areas: Department of Public Works, Department of Administrative Services, and Office of Personnel. The potential need for more inspection stations will be a part of these efforts.

(12) Requires preparation of budget within 15 days of enactment of the appropriation bill. The Authority agrees with this recommendation.

(13) Technical changes to the provisions establishing the Financial Responsibility Authority. The Authority agrees with this recommendation.

(14) Gives the Authority responsibility to appoint the Chief Financial Officer and Inspector General if the positions remain vacant for more than 60 days. The Authority supports this provision.

(15) Requires CFO to make appropriation allotments to each certifying and contract officer and provides that these officials who incur obligations in excess of their allotments shall be in violation of the Anti-Deficiency Act and shall be personally liable. In

these cases, these officials will be terminated without by the CFO without recourse. The Authority supports the basic concept of this provision to establish accountability for managers. However, there must be some recognition of the fact that the District is still working with the same system that was in place in the past. As pointed out by GAO and others, there are limitations to the accuracy and timeliness of the data in this system. These are the same data that officials must use to make their certifications. However, the Authority recommends that the mandatory firing provision be eliminated, especially a firing provision without recourse. The CFO should be given the authority to make all personnel decisions with respect to those peoples reporting to the CFO.

(16) Places a cap on the amount appropriated for each type of fund and requires that funds must be obligated by object class, purpose, and department. Variances require approval of CFO, Authority, and advance notice to appropriations subcommittees. The Authority generally agrees with this provision, except for advance notice to the Congress. The Authority believes quarterly reporting as required under Public Law 104–8 may be sufficient. The Authority also points out that the limitations of the current financial management system could hamper implementation of these kinds of controls. As noted previously, the Authority strongly supports the immediate development and implementation of a new financial management system.

(17) Prohibits debt restructuring. The Authority is opposed to this restriction. There may be situations where debt restructuring is a prudent course of action. The Authority is required to approve such actions.

(18) Waives personnel rules to downsize workforce and prohibits buyout incentives to employees in positions that will be downsized. The Authority notes PL 104–8 waives all personnel rules if reductions are carried out as a result of an approved financial plan and budget. The Authority also believes that this is a good general rule, but there may be a case where the District would want to encourage turnover in positions that they would backfill. This should be an exceptional condition, but it should not be closed off to the District as an option.

(19) Repeals Displaced Workers Act. In general, the Authority supports eliminating barriers to privatization and therefore supports the concept of this proposal.

(20) Requires the District to develop a plan to close Lorton. Although a study of Lorton should be an integral part of future options for the District, the Authority opposes this provision because it requires closing the facility without benefit of a study. The Authority would be willing to coordinate such a study. The District should be able to consider a variety of options concerning Lorton. All actions should be the result of the Financial Plan and Budget process.

(21) Requires privatization of Blue Plains. The Authority opposes mandating the privatization of Blue Plains immediately. The Authority agrees that the problems at Blue Plains need to be immediately addressed, but Congress should allow the implementation of the existing review process and long range plan. This decision also should be left to the planning process of the local government and other jurisdictions which have a direct interest.

(22) Repeals the Clean Air Compliance Fee Act of 1994. The authority notes that, if the repeal of this provision has tax implications and changes in revenue, the likely impact should be studied before the Act is repealed or modified.

In closing, I would reiterate that the Authority feels quite strongly that the prices put in place by the District of Columbia Financial Responsibility and Management Assistance Act of 1995 should be used in order to effect positive financial and management changes in the District. This process anticipates a strong role for the Authority in ensuring financial discipline and improving services in the District. I look forward to working with you in ensuring that the process mandated by Congress benefits the District.

Sincerely yours,

ANDREW F. BRIMMER,
Chairman.

Attachment.

DISTRICT OF COLUMBIA FISCAL YEAR 1996 BUDGET

	Revised district	Authority	House	House authority	Percent change
Appropriation title:					
Economic Development	$142,661	$139,335	$121,966	−$17,369	−12.47
Financing and Other Uses	273,717	343,717	271,154	−72,563	−21.11
Government Direction	150,721	149,793	118,290	−31,503	−21.03
Human Resources	0	0	0	0	
Health and Human Services	1,859,622	1,845,638	1,729,019	−116,619	−6.32
Public Education	800,081	789,079	780,519	−8,560	−1.08
Public Safety and Justice	960,747	961,559	939,672	−21,887	−2.28
Public Works	297,568	297,326	267,154	−30,172	−10.15
Enterprise	663,181	597,156	639,509	42,353	−7.09
Total	5,148,298	5,123,603	4,867,283	−256,320	−5.00
FTE's:					
Economic Development	1,800	1,692	1,543	−149	−8.81
Financing and Other Uses	−1,000			0	
Government Direction	1,625	1,465	1,448	−17	−1.16
Human Resources				0	
Health and Human Services	6,757	6,289	6,320	31	0.49
Public Education	12,139	11,670	11,514	−156	−1.34
Public Safety and Justice	11,697	11,544	11,588	44	0.38
Public Works	1,914	1,914	1,768	−146	−7.63
Enterprise	1,309	1,197	1,129	−68	−5.68
Total	36,241	35,771	35,310	−461	−1.29

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY,
Washington, DC, August 15, 1995.

Hon. BOB LIVINGSTON,
Chairman, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: This letter transmits the District of Columbia Financial Responsibility and Management Assistance Authority's (Authority) report on the District of Columbia's fiscal year 1996 budget in accordance with Public Law 104–8 Section 208(a)(3). The report contains recommendations for revisions to the District of Columbia's Fiscal Year 1996 transition budget.

These recommendations are designed to help ensure the District government makes continuous, substantial progress towards equalizing its expenditures and revenues and reducing the cumulative fund balance deficit. They also address other key goals of the legislation. As such, they not only focus on addressing the current fiscal condition of the District, but they also begin a process that will help the District ensure the appropriate and efficient delivery of services and future financial stability. The District has already agreed to take steps to (1) develop pilot performance management projects and (2) to strengthen its financial management information infrastructure so that critical information is available not only to assess the finances of the District, but more importantly to give District officials better real-time information to manage their programs.

The Authority and its staff stand ready to respond to any questions you may have about this report. We look forward to working with you and your staff.

Sincerely yours,

Dr. ANDREW F. BRIMMER,
Chairman.

Enclosure.

REPORT OF THE DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY ON THE DISTRICT OF COLUMBIA'S FISCAL YEAR 1996 BUDGET

The Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8) created the Authority to help eliminate District budget deficits and cash shortages; to assist the District in restructuring its organization and work force for more efficient and effective service delivery; and to ensure the long-term economic, financial, and fiscal viability of the District. The review of District budgets is one aspect of carrying out this responsibility. Therefore, the Authority's review of the fiscal year 1996 budget was a much broader look than simply an analysis of budget dollars or the number of full-time equivalent (FTE) personnel. The Authority also focused on improving the quality of services provided to the District. Authority members expressed concerns about maintaining and improving quality services for those who need it most. For example, targets for reductions are focused on administrative and mid-management level personnel, not on the employees who are in front-line service delivery positions.

Authority members have listened to many citizens at the Authority's public meetings and other forums talk about the quality of services. For example, one citizen said that essential services such as police and emergency services need to be improved. Others have talked about improvements needed in

the schools or the Department of Corrections. These citizens want and deserve an effective and efficient District Government. The District has many qualified employees who are working hard every day to deliver services to District residents. However, many of the processes for carrying out these programs are ineffective and service delivery suffers no matter how hard employees work.

In order to carry out its mandate, the Authority worked closely with both the executive and legislative branches of the District Government. In addition to detailed budget analyses by the Authority staff and frequent meetings with District staff, the Authority members held several extended sessions with the Mayor and the Council. The Executive Director met individually with most Council Members. Although review of District government documents and meetings with District officials formed the basis of our review, a vital ingredient was the views of individual District citizens and organizations. Not only did the Authority hear oral statements from more than 100 citizens at public meetings held on July 13, 1995 and August 12, 1995, but hundreds of statements containing comments and suggestions were received by mail. In addition, Authority members and staff have heard from many citizens at community meetings.

The Authority is making a series of recommendations for revisions to the District's Fiscal Year 1996 transition budget that was enacted by the Council and transmitted to the Authority on August 1, 1995. These recommendations address a variety of topics, including management initiatives, the need for more and better information, and reductions in FTEs. After adjusting for agencies that should be removed from the FTE base, the Authority FTE recommendations call for reductions of 5,239 FTEs from the original fiscal year 1996 budget, which will result in 2,164 fewer FTEs than were on-board in June 1995. A complete discussion of the Authority's recommendations is included later in this report.

In addition to the Authority's recommendations on the transition budget, this report contains, a description of the two July 15 Authority recommendations that were satisfactorily adopted by the District in the transition budget, and a summary of the projected fiscal year 1996 revenues and expenditures taking into account these recommendations.

BACKGROUND

On May 8, 1995, the District of Columbia submitted a budget for fiscal year 1996 to the Congress (original fiscal year 1996 budget). In accordance with Public Law 104–8, Section 208(a)(1), on July 15, 1995, the Authority made recommendations on the fiscal year 1996 budget to the Mayor, Council, President, and Congress (these recommendations are shown as appendix I). The Council adopted a revised fiscal year 1996 transition budget and on August 1, 1995, submitted the budget to the Authority, President, and Congress, in accordance with Public Law 104–8, Section 208(a)(2). This report contains the Authority's recommendations for revisions to the District's fiscal year 1996 transition budget in accordance with Public Law 104–8, Section 208(a)(3).

As stipulated in Public Law 104–8 Section 208(a)(3), the Authority reviewed the District's Fiscal Year 1996 transition budget to determine if it ''promotes the financial stability of the District government during the fiscal year.'' Section 201 of Public Law 104–8 describes several standards to promote financial stability including:

The District government shall make continuous, substantial progress towards equalizing the expenditures and revenues of the District government;

The District government shall provide for the orderly liquidation of the cumulative fund balance deficit of the District government;

The financial plan and budget shall assure the continuing long-term financial stability of the District government, as indicated by factors including access to short-term and long-term capital markets, the efficient management of the District government's workforce, and the effective provision of services by the District government.

In meeting these standards with respect to the financial plan and budget, the District government shall apply sound budgetary practices, including reducing costs and other expenditures, improving productivity, increasing revenues, or combinations of such practices.

RECOMMENDATIONS FOR REVISIONS TO THE DISTRICT'S FISCAL YEAR 1996 TRANSITION BUDGET

This section outlines the Authority's specific recommendations for revisions to the District's Fiscal Year 1996 transition budget. There are three overall categories of recommendations: (1) adjustments and reductions in full-time equivalent personnel (FTEs), (2) recommendations on management initiatives, the financial plan, and total expenditures, and (3) recommendations for more information.

Adjustments and reductions in FTE's

Personnel is a large component of District spending. The District has 1 employee for every 13 residents. The Rivlin Commission Report[1] in 1990 noted that, even accounting for state and county services, the District has 40 percent more staff per 10,000 population (or nearly 15,000 more staff) than the average for 12 similar cities. This report recommended staff reductions. Personnel management is seen as a major challenge and key to the financial recovery effort. District personnel positions are financed by both appropriated and non-appropriated funds. The District reports personnel data in a variety of ways, including actual FTEs, approved FTEs, the number of personnel receiving paychecks, and full-time on-board staff. An FTE is used to measure the number of equivalent positions and takes into account how many hours are actually being worked. For example, two employees working half-time would be counted as one FTE.[2]

The Authority is making a series of FTE recommendations to: (1) remove agencies from the District's FTE base; (2) make adjustments for FTEs related to contracting out; (3) reduce FTEs in agencies in the Government Direction and Support and Public Education appropriation titles; and (4) request the Council to allocate another 704 FTE reductions. The Authority targeted these reductions to administrative and mid-level management positions, and not to front-line workers who actually deliver the services to District residents. For example, the Authority called for reductions in the District of Columbia Public Schools to be targeted to non-teaching positions (see page 9 for definition of non-teaching positions) that do not directly serve students. In addition, several citizens at public meetings cautioned the Authority against eliminating the jobs of front-line workers, who provide direct-services to the public.

The following recommendations result in a new FTE ceiling for the District of 35,771. This FTE ceiling is to be reached by September 30, 1996, the end of fiscal year 1996. The Authority will ask the District to develop a plan for reaching these FTE targets and monitor progress toward executing this plan throughout fiscal year 1996. This plan needs to be developed quickly and should become a integral part of the District's financial plan.

The net result of the FTE reductions are outlined in the following table:

Appropriation title	Adjusted original budget	Adjusted council	Adjusted on board June 1995	Authority recommendation	Authority less council	Authority less original	Authority less on board
Government Direction	1,868	1,625	1,672	1,465	(160)	(403)	(207)
Economic Development	1,996	1,800	1,779	1,800	0	(196)	21
Public Safety and Justice	11,867	11,558	11,536	11,558	0	(309)	22
Public Education	12,588	12,141	12,729	11,672	(469)	(916)	(1,057)
Health and Human Services	8,154	6,757	7,127	6,757	0	(1,397)	(370)
Public Works	2,207	1,914	1,636	1,914	0	(293)	278
Enterprise	2,330	1,309	1,456	1,309	0	(1,021)	(147)
FTE to be allocated	....	....	....	(704)	(704)	(704)	(704)
Total	41,010	37,104	37,935	35,771	(1,333)	(5,239)	(2,164)

The specific FTE recommendations follow.

Recommendation 1A: Reduce the original budget base for FTEs (2,926) related to the Department of Public and Assisted Housing, Public Defender Service, Washington Aqueduct, and D.C. General Hospital. Adjust the 5,600 required reduction by the same proportion.

The Department of Public and Assisted Housing, Public Defender Service, Washington Aqueduct, and D.C. General Hospital were included in the original budget from which the Authority determined its 5,600 reduction. The Authority recommends they not be counted in the FTE calculations for the following reasons:

(1) The Department of Public and Assisted Housing is under the direction of a court-appointed receiver and is not presently directly controlled by the District of Columbia government.

(2) The Public Defender Service and Washington Aqueduct employees are not District of Columbia employees.

(3) The District has proposed putting the District of Columbia General Hospital under the control of a Public Benefits Corporation. If this is done, the employees should not be

[1] ''Financing the Nation's Capital: The Report of the Commission on Budget and Financial Priorities of the District of Columbia,'' November 1990.

[2] OMB circular A–11 defines FTE employment as the total number of regular hours, not including overtime and holiday hours worked by employees, divided by the number of compensable hours applicable to each fiscal year (260 days or 2,080 hours in fiscal year 1995).

counted in the District's FTE budget. Further discussion of D.C. General Hospital is included under Recommendation 1B.

These agencies comprised 2,926 FTEs out of the total of 45,378 FTEs in the original fiscal year 1996 budget. When these agency FTEs are removed from the base the total remaining is 42,452 FTEs. The Authority originally recommended 5,600 reductions from the fiscal year 1996 budget. The Authority recommends reducing this number in the same proportion as the removed agencies' FTEs (2,926) or 6.45%. Thus, the 5,600 FTE reduction should be reduced by 6.45% for an adjusted total FTE reduction of 5,239. The new reduction target is a figure that is comparable to the original 5,600 reduction.

Description		FTEs
Total original fiscal year 1996 budget	....	45,378
Agencies eliminated from calculation:		
Public and Assisted Housing (other than local)	913	....
Public Defender Service	139	....
Aqueduct	294	....
D.C. General Hospital [1]	1,580	2,926
Revised original fiscal year 1996 total	....	42,452
Authority recommended reduction	5,600	....
Proportion of eliminated agencies in original FTE budget (2,926/45,378=6.45%)	361	....
Authority recommended revised reduction	5,239	....

[1] This represents the number of D.C. General employees on-board as of August 1995. The Authority used this number rather than the original fiscal year 1996 budget of 1,760 FTEs. The Authority did this to give the District credit for the reductions already achieved at D.C. General.

Recommendation 1B: Transfer D.C. General Hospital to a Public Benefits Corporation and continue to address the issue of restructuring the manner in which health care is provided. As noted in recommendation 1A, remove D.C. General from the District's FTE calculations. D.C. General Hospital budget should reflect no more than 1,580 FTEs (the current on-board staff).

The District of Columbia Hospital is a significant cost component of District expenditures. Funding for the hospital's operations comes largely from three sources: net patient service revenue, D.C. government appropriations, and a series of loans from the D.C. government. The table below outlines D.C. General funding sources for the last several years.

[In millions of dollars]

Year	Patient revenue (net)	D.C. appropriated subsidy	D.C. other subsidies "loans"	Total
1990	46.9	50.0	9.7	106.6
1991	70.7	59.5	18.3	148.5
1992	79.2	69.0	12.9	161.1
1993	76.8	58.8	17.1	152.7
1994	74.8	46.7	27.0	148.5
1995 [1]	87.4	56.7	8.9	153.0
1996 [1]	58.3	56.7	0	115.0

[1] Note.—Fiscal years 1995 and 1996 are budgeted information.

The District has proposed to turn over control of the Hospital to a Public Benefits Corporation (PBC) and to study the delivery of health care to the citizens of the District. The Authority supports the District's proposal. However, the Authority and the District need much more information about the new entity created, the impact of the shift on employee rights, and other factors. A critical part of the proposal to turn over the hospital to a Public Benefits Corporation is the need to study the entire District of Columbia health care delivery system. District officials maintain that a PBC will allow the hospital to operate independently of District procurement and personnel restrictions, which in their opinion have hampered its efficiency. The decision to turn over control of the hospital to the PBC was also supported by the Mayor's Blue Ribbon Panel on Health Care Reform Implementation. The Authority points out that even with these changes, the District is expected to continue to pay a substantial subsidy to the hospital whether it is directly operated by the District or operated by the Public Benefits Corporation. Holding down costs, including FTEs, will help to reduce this subsidy.

The Authority believes the Hospital has made progress to reduce staff to its current FTE level of 1,580. The Authority recommends that the hospital not exceed 1,580 FTEs during fiscal year 1996. The Authority members pointed out that this recommendation calls for no further reductions from the June 1995 on-board strength, and emphasized the importance of D.C. General to the safety net for those District residents who are most vulnerable. As noted in recommendation 1A, the Authority is recommending removing 1,580 FTEs from the District's FTE base. By using this on-board strength rather than the 1,760 FTEs in the budget, the Authority acknowledges the reductions already achieved.

Recommendation 1C: Agency FTE budgets are reduced by the total amount of the contracting out initiatives (1,519 FTEs); however only five percent (77 FTEs) of the privatization initiatives should be counted toward the recommended 5,239 FTE reductions.

The Council proposed a variety of contracting out initiatives in several District agencies and said these initiatives involved functions that totaled 1,519 FTEs. The Council also counted all of the these FTEs toward the recommended FTE reductions. Contracting out city services can have substantial benefits by reducing cost and increasing efficiencies and these efforts are encouraged.

During discussions with the Authority, District officials said they expected that the efforts are encouraged.

During discussions with the Authority, District officials said they expected that the efforts would save at least five percent of the District's total cost of the providing these services. The Authority therefore recommends that five percent of the FTE's involved in these contracting out proposals be counted toward FTE reductions. All of the 1,519 FTEs are removed from the agency budgets. The table below outlines the contracting out proposals and the savings as a function of FTEs.

Agency and program	Contracting out FTE's	Amount counted toward reductions
Police: Medical services	32	2
Corrections: Medical services, inmate food services, other	352	18
Schools: Food services and security	892	45
Human services: Health services, dental services, medical affairs	201	10
Public Works: Transportation Systems Administration	42	2
Total	1,519	77

The Authority is not encouraging contracting out for every service in all parts of the District government, only in those instances where savings and administrative or management efficiencies could be achieved, and the quality of services can be improved. The Authority will monitor all contracts negotiated for these services.

The FTE adjustments to the base, the Authority recommended reductions discussed in Recommendation 1A, and the adjustments for the contracting out initiatives recommended, result in a revised FTE ceiling for District agencies of 35,771. This calculation is shown in the following table.

Description	*FTE's*
Total original fiscal year 1996 budget	45,378
Agencies eliminated from calculation.	(2,926)
Revised original fiscal year 1996 total	42,452
Authority revised reduction	(5,239)
Contracting out reductions	(1,519)
Credit for contracting out	77
Authority recommended revised fiscal year 1996 ceiling	35,771

Recommendation 1D: The District should reduce 160 FTEs from the Government Direction and Support of the Council's revised fiscal year 1996 budget.

As a part of the narrative that accompanied the Authority's July 15, 1995, recommendation to reduce 5,600 FTEs from the Fiscal Year 1996 budget, the Authority noted that "the District should focus on overhead positions and not exclusively on positions that provide a direct service to the public." Numerous citizens at the August 12, 1995, public hearing said that reductions in positions that provide services to the public will result in a decline in service. The Authority is stressing that the recommended 160 reductions not occur in those types of positions. The Government Direction and Support function contains a variety of administrative and overhead positions. The Authority believes that 160 (10%) additional FTE reductions should be made from these agencies.

Recommendation 1E: The District should set the level of FTEs for the D.C. Public Schools at 10,167, which is the Mayor's revised budget adjusted for the Council's contracting out initiatives.

The Council's revised budget for the District of Columbia Public Schools reduced 190 FTEs from the original fiscal year 1996 budget, not including 892 positions through contracting out as was discussed in recommendation 1B. The Mayor recommended 500 reductions from the original fiscal year 1996 budget. The Authority accepts the Mayor's FTE reduction amount. The Council had identified specific positions that should be cut. The Authority believes that the specific reductions should be determined by the Superintendent, but that the reductions should be from administrative, non-teaching positions. The Authority defined non-teaching positions as those that do not directly impact students. Positions that directly affect students include, but are not limited to, teachers, counselors, librarians, and principals.

The Authority also supports contracting out initiatives involving food services and security. The table below summarizes the Public Schools recommended reductions.

Description	*FTE's*
Original fiscal year 1996 budget	11,559
Cuts made by mayor	(*500*)
Mayor's revised budget	11,059
Council recommended contracting out of food service and security	(*892*)
Authority recommended FTE's	10,167

The Authority also expressed interest in the number of school buildings and noted that information provided by the Superintendent indicated a substantial number of schools were significantly under capacity. The Schools currently have a study underway to assess school facilities for capital needs, as well as capacity. The Authority will review this study and other information to assist the school's in determining the extent to which District schools can be consolidated.

Recommendation 1F: The District should set the level of FTEs for the University of the District of Columbia (UDC) at 1,079 FTEs, which is the Mayor's budget less 48 FTEs.

The Council recommended that UDC reduce 188 FTEs from the original fiscal year 1996 budget to 1,238 FTEs. The Mayor recommended that UDC reduce 299 FTEs to 1,127 FTEs. The District said that, as of June 1995, UDC had 1,079 FTEs on-board. District officials informed the Authority that the Mayor's recommendation of 1,127 was calculated by adding the on-board UDC strength to the 48 positions transferred from the Law School. The closing of the District of Columbia Law School has been discussed for years. The Rivlin Commission recommended closing the Law School in its November 1990 report. The Authority members are uncertain regarding the need for a District government supported law school. However, the Authority believes that the Law School's future should be determined as a part of a broader assessment of all offerings at UDC, both undergraduate and graduate. The Authority recommends accepting the Mayor's revised budget, but reducing it by an addition 48 FTEs.

Recommendation 1G: The District should transfer to the Inspector General auditor FTEs currently allocated in other agencies.

Public Law 104–8 redefined an Inspector General for the District of Columbia who was given more powers and independence to review District programs for fraud, waste, and abuse and other purposes. Since fiscal year 1994, the District has reduced staff in the current Inspector General's staff by more than half and proposed additional reductions in Fiscal Year 1996. The Authority believes the Inspector General will need a substantial increase in resources. One of the Authority's July 15 recommendations included a request for information on the number of auditors in all District agencies. (See Appendix 1 Recommendation 12.) The District in its response identified 18 auditor positions: Police (8 FTE's), Board of Education (3 FTE's), D.C. General (1 FTE), and Department of Public Works (6 FTE's). These positions should be transferred to the Inspector General's Office. The District also needs to continue the process of identifying all auditor positions in its agencies, and these additional positions should also be transferred to the Inspector General's office. The Authority notes that this will result in no net change in FTEs District-wide.

In transferring the auditor positions to the Inspector General, the IG needs to assess the background and qualifications of each individual currently filling the positions to determine if the person has the appropriate qualifications and background for the job. Centralizing the auditors under the Inspector General will provide the new Inspector General an increased staff and the flexibility to focus the resources on the priority issues requiring audit within the District government. This initial centralizing of all auditor positions under the Inspector General should not be viewed as a limitation on the new Inspector General to organize the audit function as deemed necessary and appropriate to most efficiently utilize those resources.

Recommendation 1H: The District should allocate the reduction of an additional 704 FTEs before the congressional mark-up of the District's fiscal year 1996 budget. The Authority will make these allocations if this information is not provided timely.

Implementation of recommendations 1A through 1G will result in 4,535 reductions in FTEs from the adjusted fiscal year 1996 budget, 704 short of the revised target of 5,239 FTEs. The Council proposed that 1,000 additional reductions could be achieved by offering an extension of retirement and voluntary separation incentive programs through March 1996. The Council did not allocate where the net result of these reductions should occur. There was some concern expressed as to whether this reduction goal was achievable. The Authority believes that any reductions need to be identified at least at the appropriation level. Therefore, the Authority recommends that the District provide information to the Authority that allocates at least 704 additional FTE reductions. These reductions should be focussed on management positions and not front-line employees who provide services to the public.

These FTE reductions should also not take place in the Metropolitan Police Department or the Department of Public Works. This information should be supplied to the Authority before congressional mark-up of the District's fiscal year 1996 budget, which is expected to begin in early September 1995. If the Authority does not receive the information before the mark-up, the Authority will allocate the 704 reductions.

Recommendation 1J: Section 601 of the Enrolled Original Legislation that prevents backfilling of FTE positions resulting from any incentive program should be modified.

The Council enacted legislation that prohibits the backfilling of any vacant position resulting from the exercise of an early-out retirement, easy-out retirement, or voluntary severance incentive program. The Mayor had proposed to create a pool of 300 FTEs to be used to backfill certain positions that were critical or resulted from restructuring and reengineering of District functions. The Mayor noted that he needed the flexibility of such a pool especially in light of the proposed Council legislation. The Authority had noted that the backfilling of positions should generally be discouraged; however the Authority does not believe that the complete elimination of such backfilling is wise due to the possibility that positions critical to providing services to residents may go unfilled. The Authority recommends elimination of section 601 and believes that the backfilling of any position should follow the procedure outlined in Section 602 of the Enrolled Original legislation. This provision allows the City Administrator to certify that the position is critical before it can be backfilled. The backfilling of positions should be within the FTE limit set in the appropriation title line item.

RECOMMENDATIONS ON MANAGEMENT INITIATIVES, THE FINANCIAL PLAN, AND TOTAL EXPENDITURES

Recommendation 2: Eliminate $70 million in reductions from the budget for debt restructuring. Also, make sure that cost savings from government reengineering, alternative service delivery, and recisions of board and commission members stipends are achieved.

The Authority initially recommended to the Council that plans and milestones for achieving $70 million of management initiatives be provided to document the actions and time frames for implementing actions to reduce costs and save funds. See Appendix 1 Recommendation 2. The revised fiscal year 1996 budget from the Council includes $70 million in savings attributable to debt restructuring, $16 million in cost savings from government reengineering and alternative service delivery, and $500,000 in cost reductions from board and commission recisions.

The District indicates that it will pursue a debt restructuring in fiscal year 1996 to achieve a projected debt service reduction of $70 million. The Mayor has submitted legislation to the Council which would amend the General Obligation Bond Act of 1994 to authorize a negotiated sale of certain general obligation bonds issued by the District. However, specific plans and milestones to accomplish the restructuring are still being discussed. In addition, the District's financial condition makes it uncertain whether such a restructuring is achievable. If these savings are achieved, they should be used to reduce the District's accumulated deficit or held in contingencies. The use of any such contingency should be approved by the Authority.

The District anticipates that it will save $16 million in fiscal year 1996 through restructuring, privatization initiatives, and procurement reform. The projected target involves agencies and functions across the government. However, the description of the actions to be taken generally describes the program and its scope, but does not provide specific plans with steps to be taken to implement the actions and milestones for accomplishing the steps.

The budget includes cost reductions of $500,000 to be achieved by eliminating stipends for all board and commission members except those who are full-time and certain select boards and commissions. The budget does not specify which boards' and commissions' members will not be paid.

The Authority instructs the Executive Director to work with the District to develop specific plans and milestones for management actions intended to reduce costs. Further, the Authority directs the Authority staff to monitor District initiatives to assure that progress is made in implementing the initiatives.

Recommendation 3: The authority's Executive Director will work with the City Administrator's staff and contractors hired by the city to develop the financial plan and budget in accordance with the Authority's guidance that is under development.

The City Administrator's office identified ''an increase of $2 million to provide resources to assist the government in responding to the Financial Control Board's directives.'' More specifically, according to District officials these funds are expected to be used to contract with public finance specialists to develop the following:

—an improved budget process and procedures,

—the financial plan and budget for fiscal year 1996,

—improved cash flow forecasting models,

—performance measurement models and tracking system, and

—re-engineering the procurement process.

The contract related to the first three items should be transferred to the new Chief Financial Officer (CFO) when appointed and the performance measurement contract should be a joint contract in which both the City Administrator and CFO participate.

Guidance for the financial plan and budget are currently being developed by the Authority staff and includes the concepts originally recommended by the Authority on July 15 (See Appendix 1) as well as the recommendations included in this report. The overall objective is to develop a comprehensive, realistic financial plan that is actually a management plan with financial effects. Accordingly, the plan needs to include not only the general operations, but also needs to incorporate the capital plan and plans for the enterprise funds and the new public benefits corporation.

Recommendation 4: Based on the current information, the total expenditures for fiscal year 1996 should be $5.016 billion.

The District's gross budget estimate for fiscal year 1996 includes all funds and revenue sources as recommended by the Authority on July 15 (see Appendix 1 Recommendation 5). The adjustments to the Council's proposed budget are for additional personnel reductions and debt restructuring. Appendix 1 provides a summary of the District's budget with the Authority's adjustments.

The personnel savings of $39.5 million were estimated based on $32,000 for a vacant position and $16,000 for a filled position. Additional adjustments may be necessary related to the following:

—additional information is provided concerning the extent to which intra-District funds are double counted in the budget estimates;

—the personnel savings do not include any savings that may be realized from federal grants and intra-District FTE's; and

—management initiatives are implemented and savings result.

The Authority is even more concerned about delivery of services by the District. Many of the issues and concerns presented by groups and individuals during the public meeting addressed specific service problems within the District. These concerns and problems are related to the fiscal crisis, but also are caused by archaic procedures, lack of equipment because repairs are needed, and insufficient nonpersonal services funds to purchase parts and supplies. The Authority believes that implementation of the performance measurement recommendation discussed later in this report will help address this concern.

The Authority instructs the Executive Director to work with the District to (1) analyze the intra-District funds to identify any double counting in the budget estimates and (2) identify any savings that may be realized from FTE reductions in federal grants and intra-District budget estimates. Before mark-up of the appropriation, the total budget of the District recommended by the Authority will be adjusted for the results of this review.

INFORMATION RECOMMENDATIONS

The Authority made a number of recommendations requesting information that should be included with the budget. The District provided a substantial amount of information in response to these recommendations, but much more is needed. The Authority expects that much of this information should be developed over the next several months. Although much of this information appears to be fundamental data that should be readily available, it is not necessarily easy to compile the data and is even more difficult to analyze and present the data in a meaningful format for higher level managers to utilize. This information will not only assist the Authority as it reviews the budget and financial plan, but more importantly will assist District managers as they develop multi-year budgets and plans and implement programs. Essential to developing and maintaining this information is the hiring of the CFO. The Authority will continue working with the Mayor in the search for a new CFO and a new Inspector General.

Recommendation 5A: Detail all major revenue and expenditure assumptions and include them in the budget documents.

The District's budget is generally developed based upon the amounts estimated in the previous year's budget rather than constructed from budget assumptions. The budget is not constructed from an identified or defined program need, such as the number of Medicaid patients receiving inpatient care multiplied by the average cost for that type of care. For the most part, the budget estimates are developed as a percentage increase or decrease from the previous year's budget estimates, which was estimated in a similar manner. Using a percentage basis to adjust budgets from one year to the next is not an uncommon practice. However, the adjusted amounts should still be assessed by those knowledgeable about the programs and operations to determine the effect on the program or service delivery or efficiencies which have to be achieved to meet the budget.

The Authority directs its staff to work with the District administration and the City Council to outline and/or develop the types of information needed to define revenue and expenditure assumptions for future budget estimates. Developing budgets based on revenue and expenditure assumptions will not only provide a better basis for making budget related decisions, but also will facilitate the development of performance measures and will provide a basis to monitor budget execution throughout each year.

Recommendation 5B: Develop a capital plan that identifies total capital needs.

The District agrees with this recommendation as proposed in Appendix 1 Recommendation 7. However, they acknowledge that a current assessment of the total capital needs does not exist and plan to enter into a professional services contract ($1.5–2 million) to provide the technical expertise to document and produce a comprehensive capital needs assessment that complements a government operations master plan for the District government. For Fiscal Year 1996, the District plans over $369 million in capital spending in the following appropriation title areas:

Fiscal year 1996 planned gross capital spending

Appropriation title	Millions
Government Direction	$24,954
Economic	24,250
Public Safety	18,854
Public Education	22,519
Health and Human Services	11,730
Public Works	195,857
Financing and other uses/enterprise funds	71,334
Total	369,398

A task force has been formed to define the scope of work for the contract; select the contractor and coordinate their work; develop prioritization standards; and, ultimately, recommend the restructuring of the capital program. The task force expects to develop the Request for Proposal and select a contractor by October 1995. The initial needs assessment stage of this process is planned for completion to be included in the Financial Plan to be submitted on February 1, 1996. During the first phase of the contract, an assessment will be developed that details the condition of all of the District's infrastructure. In this assessment the contractor will categorize the needs and detail the condition within each category. Phase two of the contract will have the contractor assist in developing the plan including identification of funding alternatives.

The Authority instructs the Executive Director to monitor and coordinate with the task force and contractor during the development of the capital plan.

Recommendation 5C: Develop a schedule that links the District's current financing obligations with its long term financial plan.

The District agreed with the recommendation to include in the budget estimates of short- and long-term debt as proposed on July 15 as Recommendation 8 (see Appendix 1). Further refining the original recommendation, a schedule needs to be developed that links the District's current financing obligations with its long term financial plan. The amounts from expected borrowings should also be linked to the capital plan so that priorities of financing are evident from the financial plan. Other areas that should be considered in this schedule include:

—the impact on the revenue assumptions of segregating revenue streams for borrowings related to the sports arena and the convention center. In addition, the current letter of credit affects the use of property taxes by requiring escrows sooner than those utilized for the general obligation bonds;

—the District's outstanding short-term Treasury borrowings and the repayment of these borrowings will result in decreased future revenues available for future borrowings;

—how the District will address the cash flow shortage, including how this shortfall will impact long- and short-term debt; and

—the effect of any planned refinancing on debts, including impact on the cash forecasts and the budget.

The Authority staff has asked for this information, but the District does not have this type of data readily available. This type of data is essential for any borrowings to occur and more importantly for the District's internal management of its cash and debt. The Authority instructs the Executive Director to work with the District in developing and refining the debt information for the budgets.

Recommendation 5D: Develop information on the costs associated with court orders.

A substantial portion of the District's operations are subject to court orders and consent decrees. In effect, these judicial mandates are establishing policies and directing significant segments of the District's operations and programs. Considering the scope of these orders and decrees, the District and the Authority need to establish an effective working relationship with the courts to help the District move programs out from judicial control and avoid future court orders and consent decrees. Accordingly, the District should assess its current programs and operations under court orders and consent decrees to determine the levels of compliance and relate the compliance with the available resources. The District should also identify costs that it is incurring that would not be incurred in the absence of the court order. This information could provide a basis for discussions with the appropriate court officials in resolving what can be realistically accomplished in light of the current financial crisis. The District should also assess the vulnerability of all other District programs and operations to obviate the need for future action by the courts.

The District provided information on the various court orders its operations are subject to, but the information could be improved by distinguishing between the costs of the programs that would be incurred if the programs were not subject to a court order and the additional costs that are attributable to the court orders. Refer to the Authority's July 15 recommendation 9 (see Appendix 1). For example, the entire budget for several agencies is included as a cost of the court order, which does not recognize the fact that the agency would have operated at some level without the court order. The Authority instructs the Executive Director to work with the District to develop and report more meaningful information on the court orders' costs.

Recommendation 5F: Include cash flow estimates for all funds.

The District agreed that cash flow estimates for all funds should be developed as proposed by the Authority in Appendix 1 Recommendation 10 and stated that a consolidated cash flow statement and a cash statement for all debt service escrow accounts will be prepared once a final budget for fiscal year 1996 is adopted. Cash flow statements for enterprise funds will be developed after decisions related to staffing reductions are made in response to Authority recommendations. Finally, a cash flow statement for the capital account will be based on the approved capital plan for fiscal year 1996 and borrowing assumptions related to market access or U.S. Treasury access.

The Authority instructs the Executive Director to monitor development of the various cash flow statements.

Recommendation 5F: Include information on all active grants and develop a list of grants that the District has not yet applied for but for which it may be eligible. Identify the grant funding that is at risk because of staff reductions.

The District provided a list of grants and the expenditures for each grant for the first three quarters of fiscal year 1995. However, it's not clear how this information relates to the fiscal year 1996 budget as proposed on July 15 in Recommendation 11 (see Appendix 1). The Authority instructs the Executive Director to work with the District to develop the reporting of the grant information requested.

The District's budget overview states that "the District may lose grant funding because of the staff reductions." However, the budget does not identify the grants where funding may be "lost". The Authority instructs the Executive Director to coordinate with the District in the development of the information related to the loss of grant funding due to staff reductions.

Grant funding is an important source of financing the needs of District residents, particularly in times of budget crisis. It is not acceptable to have these valued resources unavailable because the District lacks matching funds or has not applied for the grants. Furthermore, the District also needs to assure compliance with all the requirements defined for the grants, particularly the audit requirements on grant settlements, to maximize cost reimbursement.

The Authority heard from several sources that the District has not applied for all the grants for which it may be eligible and citizens questioned how the District was using federal grant money for AIDS treatment and awareness. The District needs to identify all the grants for which its programs and operations may be eligible and attempt to obtain funding from the appropriate entities for such grants.

JULY 15 RECOMMENDATIONS ADOPTED BY THE DISTRICT FOR THE FISCAL YEAR 1996 TRANSITION BUDGET

The District provided responses to parts of all twelve recommendations that the Authority made on July 15, 1995. These recommendations are included as Appendix 1. Two of the twelve recommendations that the Authority made on July 15, 1995 on the original fiscal year 1996 budget were incorporated in the District's fiscal year 1996 transition budget. These were recommendations to develop an improved financial management system and a recommendation to develop pilot performance management projects in the Department of Public Works, the Office of Personnel, and the Office of Administrative Services. These recommendations and District responses are discussed below.

Develop an improved financial management system

The Authority recommended that the District should immediately develop and implement an improved financial management information system. Such a system should include not only equipment and software improvements, but also improved financial controls, procedures, and training of financial management employees.

Numerous internal and external studies and audits over a number of years have highlighted problems with various aspects of the District's financial information system. The Rivlin Commission Report[3] in November 1990 recommended a comprehensive financial management improvement program, including a new financial management system. Both the current interim Chief Financial Officer (CFO) and previous Ceo have recommended major financial management improvements, including better procedures and improved training, and specifically discussed developing and implementing a new financial management system. The U.S. General Accounting Office reported on June 21, 1995[4] that: The District's financial information and internal controls are poor. The District does not know the status of expenditures against budgeted amounts, does not know how many bills it owes, is allowing millions of dollars of obligations to occur without required written contracts, and does not know its cash status on a daily basis. Millions of dollars of bills are not entered into the Financial Management System until months and sometimes years after they are paid.

The District's financial management system consists of a 15-year old central system and at least 17 separate program systems. These separate program systems are not integrated with the central system. As a result, District Controller officials must input to the central system thousands of general journal entries that were originally entered into the individual systems. For example, at the Department of Human Services, benefit payments made under programs such as Medicaid, Aid to Families with Dependent Children, General Public Assistance, and Foster Care are computed by the program's own unique systems, which are not integrated with the city's Financial Management System. The benefit payment amounts for these programs and the associated obligations are then manually recorded in the Financial Management System by the D.C. Controller's Office after the payments are made. This results in processing delays and a lack of timely and accurate information to manage budget execution and cash flow.

The District's financial management system is not an effective tool to monitor or manage activities on the agency level. The District's current financial management system and operations do not establish agency managers as accountable for the resources at their disposal, particularly the funds available to pay for the costs of their operations. The new financial management system should incorporate a fund control system with regulatory controls that fixes responsibility with agency officials to ensure that the agency stays within authorized funding limits. Agency managers would then know the resources available to them to operate their programs and would be responsible for operating within those funding constraints.

The Congress should continue to appropriate the District's funds at the appropriation title level. The Authority would then have some flexibility to reprogram funds if necessary within the appropriations. The Authority instructs the Executive Director to assist the Congress throughout the appropriations mark up process.

The CFO would be responsible for monitoring agency use of funds and the CFO staff within each agency (the agency controllers and controller staff) would serve as the agency's source of data on the status of funds. Agency officials should be required to consult with the agency controller as to the availability of funds to cover any proposed obligations before entering into the obligation. The agency controller would be responsible for keeping the fund control system current concerning the availability of funds and reserving funds to ensure their continued availability even though the obligation may not be finalized until a later date. The CFO could also delegate to the agency controllers the authority to certify and approve payment of all bills, invoices, payrolls and other disbursements. This certification and approval would also include a determination of the legality and correctness of the payments. The Authority also plans to monitor the District's spending throughout the fiscal year and will closely review the contracts subject to Authority approval against the transition budget initially and the fiscal year 1996 budget and financial plan when it has been developed. The Authority will also review the financial impact of the Council's legislation in context with the budgets and financial plans.

Further, the CFO should develop guidelines related to administrative discipline and/or penalties for violations and fund limitations. The Inspector General should be responsible for investigating any such violations and reporting on the violations to the CFO who would then recommend the appropriate discipline/penalty to the Mayor for imposition. The reports, including a description of the resulting discipline/penalty, should also be forwarded to the congressional authorization and appropriation committees.

The District needs to immediately purchase and implement a financial management system. But more importantly, District managers cannot effectively manage programs without drastically improved real-time financial information. This system needs to consider the needs of all users and appropriate interface with other information systems. The District should consult with other jurisdictions that have implemented new financial management systems. In order to reduce cost and shorten the time needed to implement a system, off-the-shelf systems should be considered. The District should immediately make funds available for this system, which should be implemented no later than the end of fiscal year 1996.

The District agreed with this recommendation and provided $28 million, an increase of $21 million from the original fiscal year 1996 budget, to replace the existing financial management system with technology that will address its current financial and informational management needs. System development and implementation will occur in the following phases:

During Phase 1 (fourth quarter of fiscal year 1995), the District will develop and prepare a Request for Proposal to contract for identification of the processes that need to be automated and interfaces with other existing District systems.

Phase 2 (first and second quarters of fiscal year 1996) will assess the existing financial management system environment, including the purpose and functions, staff, process and procedures, and technology as well as further refinement of the technology needs and procurement of the needs.

Phase 3 (third and fourth quarters of fiscal year 1996) will involve procurement of the necessary hardware and installation of the software for the new system. During this phase, processes will be redesigned and staff qualifications and the organizational structure will be addressed.

Phase 4 (fourth quarter of fiscal year 1996 and first quarter of fiscal year 1997) will be data conversion, system testing, and training.

Phase 5 (first quarter of fiscal year 1997) will be full on-line implementation.

The Executive Director will work with the District and its contractors in monitoring the development and implementation of the new financial management system and related procedures with the goal of an earlier implementation, if possible.

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[3] Financing the Nation's Capital: The Report of the Commission on Budget and Financial Priorities of the District of Columbia, November 1990.

[4] District of Columbia: Improved Financial Information and Controls Are Essential to Address the Financial Crisis, GAO/T–AIMD–95–176, June 21, 1995.

Implement pilot performance management projects

The District agreed with the Authority's recommendation to implement pilot performance management/results-oriented programs in the Department of Public Works, the Department of Administrative Services, and the Office of Personnel. These pilots should incorporate business process re-engineering and quality management principles.

The District of Columbia is not only facing a financial crisis, it is facing a performance delivery crisis. All citizens of the District want quality services. The Authority has already received numerous comments about the poor quality of service provided by District agencies. For example, a constant comment is that citizens simply want their trash picked up. These citizens want and deserve an effective and efficient District Government. The district has many qualified employees who are working hard every day to deliver services to District residents. However, many of the processes for carrying out these programs are ineffective and service delivery suffers no matter how hard employees work.

Other jurisdictions have implemented effective results-oriented customer service approaches to many of their functions. Of particular note are the states of Florida, Minnesota, North Carolina, Oregon, Texas, and Virginia, and the cities of Sunnyvale, California and Portland, Oregon. Last December the U.S. General Accounting Office issued a report on the experiences of these states.[5] The experiences of these jurisdictions could help the District develop its pilot programs. The approach used by these entities focuses on program outcomes as opposed to only inputs and outputs. These entities have found that aligning departments and employees around results can yield such benefits as: improved service to citizens, improved productivity and elimination of extraneous programs, and better information for making budget and program decisions.

A key first step in implementing these pilots is developing information on: (1) specific programs and their cost, (2) all outputs for the selected programs, (3) the impact (outcomes expected) and methodology for achievement, (4) all constituents impacted and how their satisfaction will be measured, (5) benchmarks for programs using other jurisdictions' experiences and results, and (6) spending and performance targets to hold managers accountable. Training programs to bring worker skills in line with those needed for the new processes should be an integral part of the implementation plan.

A critical part of this process includes involving the workers, who are carrying out these tasks every day, in the development of innovative solutions. Many of the best ideas for improving the process come from the people who do the job. We want to openly solicit any and all ideas relating to District operations and suggestions to improve delivery of services.

The District responded that several initiatives are already underway in the three agencies that incorporate business process reengineering and quality management concepts. The transition budget includes an additional $2 million to split among the three agencies to implement these initiatives. The initiatives underway include: at the Department of Public Works, household trash collection, the recycling program, and a fleet management program; at the Office of Personnel, an effort to re-engineer the District's entire personnel system, including the planned identification of legislative changes needed to the Comprehensive Merit Personnel Act of 1978; and at the Department of Administrative Services, the development of the Excellence in Procurement Task Force.

The Authority will work with the District on these and other projects and identify individuals or organizations that can assist in the development of the pilots. The Authority members have noted that many private and public organizations in the Washington Metropolitan area have expertise in results-oriented management and they may be willing to assist the District.

SUMMARY OF REVISED FISCAL YEAR 1996 PROJECTED REVENUES AND EXPENDITURES

The District's fiscal year 1996 estimates for revenues are $4.979 billion. These estimates are consistent with prior years' actual revenues. Based on the Authority's recommended revisions to the transition budget, the District's expenditures are estimated to total $5.016 billion. Thus the results of operations is projected to show a deficit of $37 million.

These estimates are based on the City Council's budget is adjusted for Authority recommendations. Additional analysis will need to be performed as the District develops assumptions for its expenditures. In addition, data is needed from the District regarding the intra-District operations. These estimates may also require adjustment based upon the District's success with its management initiatives and debt restructuring.

The table on the next page summarizes the fiscal year 1996 expenditures for the District.

[In thousands of dollars]

Appropriation title	Original adjusted budget	Adjusted council	Authority	Authority less council	Authority less original
Revenue:					
Taxes	2,449,855	2,449,855	2,449,855	0	0
Other local sources	271,992	271,992	271,992	0	0
Federal payment	660,000	660,000	660,000	0	0
Grants	851,532	851,532	851,532	0	0
Enterprise	505,113	505,113	505,113	0	0
Intra District and private	240,068	240,068	240,068	0	0
Total revenue	4,978,560	4,978,560	4,978,560	0	0
Expenditures:					
Governament direction	124,122	150,721	149,793	(928)	25,671
Economic	144,149	142,661	141,013	(1,648)	(3,136)
Public safety	958,955	952,971	954,331	1,360	(4,624)
Public education	802,951	799,367	789,015	(10,352)	(13,936)
Health and human services	1,872,614	1,859,622	1,850,422	(9,200)	(22,192)
Public works	297,315	297,534	297,326	(208)	(11)
Enterprise	505,123	508,623	501,338	(7,305)	(3,785)
To be allocated	0	0	(11,248)	(11,248)	(11,248)
Net effect of FTE changes	4,705,229	4,711,519	4,671,990	(39,529)	(33,239)
Financing and other uses	280,654	273,717	343,717	70,000	63,063
Total expenditures	4,985,883	4,985,236	5,015,707	30,471	29,824
Deficit	(7,323)	(6,676)	(37,147)	....	....

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 30, 1995.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 2546—DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FY 1996

(Sponsors: Livingston (R), Louisiana; Walsh (R), New York)

This Statement of Administration Policy provides the Administration's views on H.R. 2546, the District of Columbia Appropriations Bill, FY 1996, as reported by the House Appropriations Committee.

The Administration strongly objects to the $256 million reduction that the Committee would require the District to take in FY 1996 from the level estimated by the Financial Responsibility and Management Assistance Authority (the Authority) based on deliberations with the Mayor and District Council in September. A reduction of this magnitude would most likely result in substantial interruptions in program operations and service delivery. The Authority was established in April to assist the District in balancing its budget and improving its management structure over time. Working with the District, the Authority is committed to bringing the District's budget into balance, but within a reasonable timeframe of two to three years. It would be inappropriate for Congress to override the considered judgment of the Authority on the District's budget, a responsibility that the Congress gave to the Authority in April.

The Administration strongly opposes the abortion language of the bill, which would alter current law by prohibiting the use of both Federal and District funds to pay for abortions except in those cases where the life of the mother is endangered or in situations of rape or incest. The Administration objects to the prohibition on the use of local funds as an unwarranted intrusion into the affairs of the District. In addition, the Committee bill would prohibit any abortions from being performed by ''any facility owned or operated'' by the District, except in cases where the life of the mother is endangered ''or in

[5] Managing for Results: State Experiences Provide Insights for Federal Management Reforms (GAO/GGD–95–22, December 21, 1994).

cases of forcible rape reported within 30 days to a law enforcement agency, or cases of incest reported to a law enforcement agency or child abuse agency prior to the performance of the abortion.'' The Administration objects to this provision because it would prevent women who need legal abortion services from exercising that choice at a hospital or clinic owned or operated by the District, even if they were using their own funds. Furthermore, the Administration objects to the language that purports to require women who are victims of rape to prove that the crime was ''forcible'' and the language adding reporting requirements both for rape and for children who are victims of incest.

These provisions are all designed to preclude or discourage women who need legal abortions from obtaining them. For all of the reasons cited above, if the bill were presented to the President as reported by the Committee, the President's senior advisers would recommend that he veto the bill.

Additionally, the Administration has concerns regarding the request that the Authority review 28 amendments, some of which were originally introduced in the Committee's first mark-up on September 19, 1995. First, the amendments infringe on Home Rule and represent congressional micromanagement of the District government. Many of the proposed amendments involve issues that the Mayor and the City Council should work together to resolve or study, such as the effect of the Displaced Workers Protection Act on the District government or the economic impact of rent control and the feasibility of decontrolling units. The Authority was specifically mandated to assist in District budgetary and management reform. The Authority's role should not involve the review of policy issues unrelated to improving the District's financial condition.

The Administration supports the Committee's action to approve $28 million for a new financial management system for the District of Columbia. The District should immediately develop and implement an improved financial management information system. The District's current financial information and internal controls are weak, making it difficult for city officials and managers to track expenditures and to know how much is owed.

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

□ 1600

Mr. WALSH. Mr. Chairman, I yield 4½ minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations.

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

Mr. LIVINGSTON. Mr. Chairman, I, too, want to congratulate the gentleman from New York [Mr. WALSH] for all of his hard work. This has been an extraordinarily difficult bill. But the gentleman and the staff, both the majority and the minority, have worked diligently to bring this bill to the floor today. They are to be commended for their efforts.

Mr. Chairman, this has not been an easy course, but it is my hope the majority of the Members will vote for this bill, because I think this is the best bill we are going to get, both in terms of the needs of the American people and the needs of the District of Columbia.

I want to congratulate and thank the gentleman from California [Mr. DIXON], the ranking minority Member, for his cooperation, as well as thanking the gentlewoman from the District of Columbia [Ms. NORTON]. They may not support the bill at this point, we regret that fact, but at least they worked well with us to get us to this point, and we appreciate their cooperation.

Mr. Chairman, I will disagree though with what has just been said, because this is a fiscally responsible bill. It is well within the targets set by the budget resolution passed in this House only a few days ago, and in fact it cuts $84 million from the District's budget under what was appropriated last year. We have heard a lot of talk about the fact that we are $256 million below what the control board wants. Sure, that is their wish-list. If everything were the same, they would have asked for $256 million more than this bill appropriates. Actually, this bill still appropriates $84 million less than what was appropriated last year. That is pretty close to even, when you are talking about a $5 billion bill. There is really very little difference.

Under the provision of this bill, no Federal or local funds can be used for the city-approved Domestic Partners Program. This language is identical to current law. It existed last year. This bill is designed to send a strong message that the mismanagement, the acknowledged mismanagement of District finances, cannot and will not be tolerated.

But its mission is not to leave the city in dire straits. Five billion dollars is not ''in dire straits,'' as some D.C. officials have suggested. The fact of the matter is, there are only 570,000 residents in the District of Columbia. The amount we provided averages out to $9,000 per resident. That is a higher per capita investment than almost any other city. In fact, probably any other city that I know of, but certainly most other cities in America. It is a considerable investment. Still we see that the services are not adequate and that there has been mismanagement and waste and inefficiency.

So it seems to me we are not being overly restrictive. In fact, I believe the city officials should embrace this bill, because almost all the authorization language which was in the bill at the outset and which was heavily complained about by the delegate and others has been stripped. Most of that authorization language has been stripped out in deference to home rule.

As a matter of fact, I might add, it was the mayor's own transition team that recommended in November of 1994 that the District ''Implement a budget plan to cut expenditures in the magnitude of $431 million and to generate additional cash of $100 million to solve the cash crisis.'' The team put forth a plan to do this. Yet nothing has been done by the District Government to achieve the savings pointed out by both them, the transition team, and the Rivlin Commission, which was headed by none other than the current director of the Office of Management and Budget, Alice Rivlin.

The Rivlin Commission report goes on to say that ''The high cost of the District's government is the logical outcome of a long series of events and decisions. Although steps have been taken to reverse the process, they haven't been enough.'' That is Alice Rivlin.

In this bill we have honored the Control Board's request for a $28 million new financial management system, with $2 million immediately available for a needs analysis and investment assessment report. We believe the initiative will help the D.C. Government get its finances back on track.

The District needs to understand that the American people are serious about the need for structural reforms of the District's finances. We have invested the Control Board with tremendous power. We have given them enough money to manage and to begin the fiscal reforms that we seek from every agency and every government program that receives taxpayer dollars.

Mr. Chairman, this is a good bill. It complies with the demands by the Rivlin Commission, it complies with the promises by the city administration when they took office, and I urge our Members to vote for this bill. The next bill will only be worse.

Mr. DIXON. Mr. Chairman, I yield 9 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I recognize for most Members, this is just another bill. But I ask Members to recognize that for me, this is my life and my city, and your Capital City.

Mr. Chairman, the bill puts me in the worst of positions. The Mayor cannot support a bill that would wreck the city. My city council, which has gathered courage, now finds it did not do any good. The Congress has second-guessed it. And I do not know what I am going to recommend as Members come up to me and say, ''Eleanor, what shall we do?'' And I do not know, I must say to you, whether it would make a dime's worth of difference, whatever I recommend.

This is an appropriations bill, my friends, so let us talk about money. I have heard in this debate about ''your money.'' Let us be clear whose money this is. More than 80 percent of the money in this bill is the hard-earned money raised in the District of Columbia from District taxpayers.

This is not your Federal payment alone. This is our money, and we cannot get our money without coming to a national legislature to get it. I hope Members are proud of that, because, if they are, they should be ashamed of that. This is not a Federal agency. This is a self-governing jurisdiction of the United States of America.

My greatest regret about this bill is how close it came to being a bipartisan bill. I do not know why four pages of home rule violations were put on the bill, but I do know that the Speaker stepped forward and said ''Perhaps we can work this out,'' and they got off the bill. I said, ''Oh, my goodness, we really are going toward bipartisanship.''

I appreciate that the gentleman from New York [Mr. WALSH] cooperated in that procedure and has said that he never indeed intended to have the bill, nor did the gentleman from Louisiana [Mr. LIVINGSTON] intend to have the bill full of home rule matters that were unrelated to the appropriation.

At the end of the day, however, this bill has in fact invited other home rule violations, of a kind that only excite those who would ordinarily vote for the bill. By allowing on to the appropriation these amendments, the majority has made it impossible for me to do what I certainly desire to do, and that was to get votes on my side of the aisle. It is very hard to ask a Member to vote for you when you are asking a Member to vote against his own principles on something like abortion, especially when the amendment on abortion of the gentleman from New York [Mr. WALSH] was expected, and we have an escalated version. It makes it very difficult for all of us, and especially for me.

Whose money is this? Let us be entirely accurate. This is a Congress that is particularly excited about taxes. I bet there are few Members in this Congress who know that there is only one State that pays more taxes to the Federal Treasury per capita than I do. And yet I stand before this body representing 600,000 District residents, and I cannot vote for the bill that is before us, the bill that has my money, my taxpayers' money in it, far more than any Federal money in it.

We are No. 2 per capita. If you are from New Jersey, my hat is off to you, because you pay more taxes per capita to the Federal Government than I do. The rest of you, get in line behind me.

Nor am I here as an apologist for my own city or city government. You have not heard me say ''This is a wonderful city government; why don't you vote for it?'' We know the city government has problems. The city government has in fact agreed to the acceptance of a financial control board.

How many times did I go before my own people and publicly say, ''Reform your own government, or the Congress may do it.'' So to beat up on the District government because it is not yet reformed is particularly gratuitous, since we have just put in place a financial authority to assist it in reforming. The authority just got there, and got there only in time to cut.

It is said, ''Hey, why doesn't the government look wonderful yet?'' The government looks about the same way it does in Syracuse and in Newark and in San Diego and Atlanta, and it needs reforming, and you have in place a mechanism to do that reform. And you are not respecting that mechanism when it says if you cut beyond what they are already cut, you will cut into the blood and guts of the District government and bring it down.

I do not use those words lightly. I am more accustomed to going to the District government and saying ''Please, cut yourself before they cut.''

We have heard a lot about the District and its responsibility. I do not know why we did not hear more about congressional responsibility. We have not heard a peep about $5 billion in unfunded pension liability handed to the District government when home rule was given. The Congress used to pay for the pensions out of its pocket because it had access to the Treasury. It gave us that unfunded pension liability and said ''Now you pay for it out of your pocket.'' That is $300 million a year we pay so our cops can get their pensions. And the Federal Government and the Congress have not responded when we have said ''Help us out of this, and you will help our budget and help our bond rating.''

We have not heard them tell us about Medicaid, where we pay the entire cost, county and State, of Medicaid; and not one Member comes from a city that would be left standing if that were the case. And we have not heard them say a thing about State prison systems, and we are the only city in the United States that pays the full cost of State prisons. Medicaid and the State prison system, as much as anything, these are what has driven the District close to insolvency. When one talks about unfunded Federal mandates, if they hurt your State, they hurt your entire State.

The budget cuts are not cuts I oppose on their face. The financial authority said ''Give us time to do the reengineering before any more cuts.'' Why that would not be respected is completely puzzling to me. For 2 years in a row, the District simply cannot take it off the top. That is what we are asking them to do. We are saying take it from the police department, that cannot get the cars out of the garage. We have had to raise the retirement age of the police department and cut the pay, so the police department is completely noncompetitive. We cannot recruit police. That is a danger to public safety. This shows callous disregard for innocent bystanders, the people who pay the highest taxes per capita in the United States, except for New Jersey.

The gentleman from New York [Mr. WALSH] had a case to make on the merits, and he has failed to make it. Let me make it quickly. The reasons that he did not need this reckless cut, the reasons that he did not need these amendments, are the following: On his watch, there has been the establishment of a financial authority. On his watch the District has eliminated 3,600 jobs, not 2,000 as the Congress demanded. On his watch, the authority has gotten 750 additional positions from the District. On his watch there has been a 12-percent give-back from District employees and 6 furlough days. On his watch there has been the initiation of a baseline audit. On his watch there has been a reduction in spending from $3.9 billion to $3.3 billion. On his watch, the District has made requests that are in fact going through for Medicaid savings. That should have been enough to get this bill passed within putting on this bill amendments that have chased away those who devoutly wanted to support it.

Mr. WALSH. Mr. Chairman, I thank the gentlewoman for recognizing the progress that we have made, and would submit we have a lot more to make.

Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA], a member of the subcommittee.

□ 1615

Mr. BONILLA. Mr. Chairman, I thank the gentleman for this time, and I rise in strong support of the District of Columbia appropriations bill. And in the spirit of David Letterman, I have a top 10 list of reasons why Republicans and Democrats should support this in a bipartisan way.

Reason No. 10. It continues the process of restoring discipline and accountability in D.C. government.

Reason No. 9. It is the responsibility of Congress to pass a bill that provides for the operation and maintenance of the Federal city, our Nation's capital.

Reason No. 8. Prohibits the use of taxpayer dollars to implement the Domestic Partners Act.

Reason No. 7. Empowers control board to enforce the budget cap, allocate spending cuts and reprogram funds.

Reason No. 6. Eliminates over 5,000 full time city positions.

Reason No. 5. Places a spending cap at $4.87 billion.

Reason No. 4. Appropriates $346 million less than the Mayor originally requested.

Reason No. 3. Appropriates fewer Federal funds than last year.

Reason No. 2. Appropriates $84 million less than last year.

And reason No. 1. It is this bill or, more than likely, no bill.

Mr. Chairman, I would also like to put in a word for an amendment I will be offering on this bill that will make it even better. Those who support adding additional funding and making it available to the District of Columbia for educational purposes will hopefully support my amendment to eliminate the special privilege allotted to the National Education Association of a property tax exemption, a privilege that is not granted to any other labor union in the District of Columbia and a privilege that should be revoked because we need to eliminate this privilege that has been on the books for a long time, granted by congressional charter.

We are not picking on the National Education Association. The IRS has already deemed it a union and it is only protected by the congressional charter that was written in the early part of the century. We need this money to be available for the District of Columbia and we hope that people will vote for this amendment on both sides of the aisle and support the District of Columbia's opportunity to garner $1.6 million in property taxes from a very rich union in D.C.

Mr. DIXON. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking minority member of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, this is an appropriations bill, and being an appropriations bill we are supposed to be dealing with financial issues. I do not like the fact that we have to interpose ourselves when it comes to the financial decisions of the District, that we have to interpose ourselves in their affairs, but we have no choice because the District Government has proven itself to be incapable of managing its financial affairs. Because that lack of capability has a spillover effect on taxpayers around the country, I think we have no choice but to reenter the fray.

Having said that, I would observe, however, that I do not honestly believe, given the nature of the District and given the nature of the surrounding territory, the suburbs, I do not believe that the District will ever truly be financially viable unless there is exhibited a great deal, or a great—well, I will make somebody mad if I put it that way. Let me simply say that I think persons who reside in suburbs need to recognize their financial responsibilities to the District that they use to a much greater degree than they do right now if the District is ever to be financially viable. That will probably make some people mad, too.

Having said that, Mr. Chairman, I want to deal with what I consider to be a very serious overreaching on the part of the Congress here this afternoon. It is one thing for us to make financial decisions affecting the District because we have no financial choice. It is quite another for us to become the city council for the District of Columbia on nonfinancial affairs and start changing D.C. law on a variety of subjects just because we do not like what D.C. law happens to be at this moment.

Example. We are being asked to make major changes in D.C. law with respect to their education system. We are being asked to make major changes in D.C. law with respect to adoption. We are being asked to single out the NEA for the loss of a tax exemption, when there are many other organizations who are also exempt from paying property taxes in the District.

Mr. Chairman, I believe that when the Congress crosses the line and gets involved in these legislative issues it does so illegitimately for one very simple reason: Because the persons who live in the District of Columbia cannot retaliate against the elected officials who make those decisions. They have no ability to vote us in or out, unlike out constituents. And when we start making legislative decisions that affect their lives and they do not have any redress, our forefathers called that taxation without representation.

So I think that when we get into these other legislative areas, we are engaging in an illegitimate legislative act, and that is why, when they come to the floor, if they do not relate strictly to the financial problems that the District has, I will not vote for them or against them. I will simply cast a vote ''present'' in order to, in some small way, to protest the fact that this House is being asked to act as a mini city council and I do not think our taxpayers back home expect us to do that.

Mr. Chairman, we screw up enough of what we touch at the national level without wasting time screwing things up in the District of Columbia as well, to be blunt about it. I think that it is the height of arrogance for Members to use their power simply because in this instance we have the political ability to engage in these actions.

I would simply observe in closing that while I do not know what the proper level of the Federal payment to the District ought to be, I think the committee has a right to make a judgment on that. But when we start telling the District how it must change its law on nonfinancial items, I think we are abusing the power we have been given by our own constituents and I think we ought not to do it.

Mr. WALSH. Mr. Chairman, I yield myself 30 seconds just to clarify a couple of points just raised.

I would remind the distinguished ranking member of the full committee that the Constitution of the United States, article 1, section 8, paragraph 17, empowers the Congress of the United States to exercise exclusive legislation in all cases whatsoever over such District.

Clearly, he would not argue with the founding fathers of this Nation who suggest that this is our responsibility.

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

Mr. WALSH. I only have 5 seconds remaining.

The CHAIRMAN. The gentleman's time has expired.

Mr. OBEY. I would appreciate it if the gentleman would not mention my name if he is not going to yield to me.

The CHAIRMAN. The gentleman from New York is recognized. The gentleman from New York has the time.

Mr. WALSH. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. DAVIS].

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

Mr. DAVIS. Mr. Chairman, I rise today to lend my support and urge my fellow Members to vote in favor of H.R. 2546, the fiscal year 1996 District of Columbia appropriations bill.

Like most appropriations bills, this has some good elements to it; it has some bad element to it, and I would suggest to my colleagues that this is the first step in a long process of moving the appropriation bill through Congress and eventually getting it signed. I think the good news for the city is, as many other items are being cut around us, the appropriation level from Congress is consistent with last year's appropriations.

No one seriously doubts that the District of Columbia is in the midst of a serious financial crisis. This Congress has already laid a strong foundation for the successful resolution of the city's problems with the passage of the District of Columbia Financial Responsibility and Management Assistance Act earlier this year. The authority has been operating for 5 months. It appears to be moving ahead forcefully with its mission, but the passage of that act did not absolve Congress of either its duties or obligations to the District of Columbia.

The matter before us today, the fiscal year 1996 appropriations bill, must be passed for the District and the authority to know what parameters they must operate within from both policy and financial perspectives. The District can ask for, and the authority may recommend anything they want to Congress, but, ultimately, it is only Congress which has the power to act.

Now, more than a full month into fiscal year 1996, the House must act to move forward in the process of dealing with the city's problems rather than continuing to wring our hands and talk about them. This legislation is only the first step in what will be a yearlong fiscal year 1996 appropriations process for the city.

The Financial Responsibility and Management Assistance Act established a special process for fiscal year 1996. One of the main reasons behind the creation of the authority is the lack of accurate financial information from the city. The authority and the city need substantial time to develop a more accurate picture of the true financial condition of the city.

Mr. Chairman, Congress decided to delay the submission of the District's 4-year financial plan until February 1, 1996.

Mr. Chairman, I commend the long hours of dedicated toil which Mr. WALSH, the chairman of the District of Columbia Appropriations Subcommittee and Mr. LIVINGSTON, the chairman of the Appropriations Committee have devoted to this bill. Their hard work was ably supplemented by the many invaluable contributions of Ms. NORTON and Mr. DIXON. Their efforts, aided by the valuable contribution of staff, in writing the bill and its rule mark a major step forward in this must pass legislation.

The bill before the House this afternoon should be passed because it enables this body to deliberate and work its will on the budget of our Capital City including several matters of great importance not only to the

residents of our Nation's Capital, but to citizens all across America. No other city in our Nation holds the place of Washington, DC in the hearts of the American people. The city, its monuments, museums, and most of all, its public buildings symbolize all that is great and good about the American way of life. It is our duty to give mature consideration to its affairs and to do our best to enhance our Capital City and to help steer it back to a course of fiscal responsibility.

The first year of the plan is a supplemental fiscal year 1996 budget. The supplemental budget will be a document that the authority has been intimately involved with from its inception. It will provide this Congress a second opportunity to exercise its collective oversight responsibilities for the District's finances and one with far more credibility as far as both revenue and spending estimates are concerned.

This legislation sets an overall fiscal year 1996 District spending level at $4.867 billion. It establishes guidelines for the basic categories of the city's spending. The bill also establishes new, lower levels for FTEs. The city, under the vigilant guidance of the authority, has begun the process of reforming itself. Passage of H.R. 2546 is the next, essential step in the process. H.R. 2546 is important not only because our Nation's Capital needs a budget. It needs a budget which will enable it to move a few more steps along the road to financial stability. By moving the appropriations process forward, we come closer to meeting our responsibility for the well being of the District.

This legislation serves to further the new and vital partnership we are forging between the 104th Congress and our Nation's Capital. As this bill works its way through the legislative process it may receive further modifications. In its final form, the fiscal year 1996 District appropriation bill will be a reflection of both local and national priorities. Only by working closely together as partners can either the District of Columbia, the White House, or Congress realize our common goal—a city in which all Americans take great pride.

Once again, I commend the hard work of the members and staff who have brought us to this point in the process. I am happy to stand in strong support of this bill and urge all my colleagues to do likewise and to vote in favor of H.R. 2546.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding, and I rise as a lawyer who spent most of her life as a constitutional scholar to say that it is inappropriate to cite the Constitution of the United States for taxation without representation. It is inappropriate to cite the Constitution of the United States for overriding the consent of the governed. To do so is to defile the Constitution and to defame Madison, its principal author.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume to say to the gentlewoman that I would suggest it is never wrong to quote from the Constitution of the United States.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I would never defile that five-foot-four package of constitutional genius James Madison, nor George Mason up here, who was too old to ever be President and loved his privacy too much, but who also probably should have debated this whole thing longer.

I will not apologize for interesting myself in this Federal enclave, our beloved District. It is my job. It is the job of all 435 of us. But I do come close to feeling empathy for when we discuss domestic partnership, abortions in the District, and other issues that seem far afield from a District that, frankly, I am surprised somebody did not come up with a motion to strip it of its name, Columbia, because it is named after a dead, white, Catholic, Italian male who sailed from Spain and did not find what he was looking for.

But, nevertheless, Mr. Chairman, let me put everyone on notice about two amendments coming up here. The Bonilla-Hayes, that is a good member of the minority, Dornan amendment on tax exempt status for one of the most politically charged groups in America, the National Education Association.

My brother is a high school teacher, finishing his third decade as one of the best high school teachers I have ever watched in operation in my life. He will not join this organization because it is so politically fired up and so ideologically far left. I will avoid words like, extremist and radical, like we heard earlier in the debate.

The other is domestic partnership, Mr. Chairman. This will be a fascinating debate because in Seattle they decided they were not about to ask firemen and policemen if they do the nasty; if they have bizarre sex with their roommate. So they said it is going to apply to bonded friendships. Heterosexual females living together as friends for life, males brought together by bonding of mutual affection, vets from Vietnam who saved one another's lives.

There is going to be a strange commonsense debate on what is wrong with domestic partnership. When they have to fire, they perform certain weird sex acts.

□ 1630

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

Mr. WALSH. Mr. Chairman, just to clarify a couple of points that have been made earlier in the debate, the appropriated level in this bill is $84 million less than last year's appropriated level. There are a lot of other numbers that have been offered. The District government requested an appropriation level; the Control Board responded to that; the subcommittee responded to that. Mr. Chairman, take all the numbers away, we end up with $84 million less than last year.

Again, regarding the Constitution, it does clearly state that Congress has the authority and responsibility regarding the District of Columbia. The Home Rule Act was a delegation of that responsibility to the District government, but it was contingent upon the District presenting balanced budgets to the Congress each and every year.

Mr. Chairman, the General Accounting Office showed us very clearly that over the last 3 or 4 years, they have not done that. They used fiscal gimmickry, they decided not to make pension payments, or they included five quarters of property tax collections in 1 year, which is impossible. There are four quarters in 1 year and they cannot get five quarters in 1 year. Mr. Chairman, they did anything and everything to make it look like the budgets were balanced. But the fact is they have not been balanced.

Mr. Chairman, we have bent over backward to continue home rule. Mr. Chairman, lately this committee has done its best to try to allow the District to continue to govern itself, and we have asked the Control Board to work with the District government to resolve some of these issues.

We are prepared to support the Control Board and give them the authority to allocate the reductions recommended in our bill. I think that is fair.

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

Mr. DIXON. Mr. Chairman, I have no further requests for time and I yield back the balance of my time.

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

The CHAIRMAN (Mr. HASTINGS of Washington). All time for general debate has expired.

Before consideration of any other amendment, it shall be in order to consider the amendment printed in House Report 104–302, if offered by the gentleman from New York [Mr. WALSH], or his designee. That amendment shall be considered read, shall be debatable for 10 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

If that amendment is adopted, the bill, as amended, shall be considered as the original bill for the purpose of further amendment. Debate on each further amendment shall be limited to 30 minutes.

It shall be in order to consider each of the amendments numbered 1, 2, or 4 printed in the designated place in the CONGRESSIONAL RECORD if offered by the Member who caused each to be printed, or a designee. Each of those amendments shall be considered read, shall be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1996, and for other purposes, namely:

The CHAIRMAN. Pursuant to the rule, it is now in order to consider the amendment by the gentleman from New York [Mr. WALSH].

AMENDMENT OFFERED BY MR. WALSH

Mr. WALSH. 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. WALSH: Page 57, line 23, strike ''Section'' and insert ''(a) IN GENERAL.—Section''.

Page 58, insert after line 4 the following:

(b) NO EFFECT ON PETITIONS FOR ADOPTION FILED BY INDIVIDUAL UNMARRIED PETITIONER.—Nothing in section 16–302(b), D.C. Code (as added by subsection (a)) shall be construed to affect the ability of any unmarried person to file a petition for adoption in the Superior Court of the District of Columbia where no other person joins in the petition.

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. WALSH] and a Member opposed each will be recognized for 5 minutes.

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

Mr. WALSH. Mr. Chairman, my amendment clarifies the language in section 153 on pages 57 and 58 of the bill concerning adoptions by unmarried couples.

Mr. Chairman, the language presently in the bill amends the D.C. Code and requires that a person who joins in a petition to adopt must be spouse of the petitioner.

My perfecting amendment makes it clear that the language does not apply to individual, unmarried petitioners. In other words, a single person is permitted to file a petition for adoption, and that has always been the case.

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

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

Mr. DIXON. Mr. Chairman, I am not in opposition, nor do I know of anyone who is in opposition. I am in opposition to the original underlying amendment here, but I have no objections to it.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. WALSH].

The amendment was agreed to.

The CHAIRMAN. Pursuant to the rule, the bill is considered read through page 58, line 4.

The text of H.R. 2546, as amended, through page 58, line 4, is as follows:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,793,000 and 1,465 full-time equivalent positions (end of year) (including $118,167,000 and 1,125 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,688,000 and 264 full-time equivalent positions from intra-District funds): *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That $29,500,000 is used for pay-as-you-go capital projects of which $1,500,000 shall be used for a capital needs assessment study, and $28,000,000 shall be used for a new financial management system of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: *Provided further,* That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the General Accounting Office within 90 days after the date of enactment of this Act reporting the results of the needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; (2) the General Accounting Office reviews the Authority's report and forwards it along with such comments or recommendations as deemed appropriate on any matter contained therein to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate within 60 days from receipt of the report; and (3) 30 days lapse after receipt by Congress of the General Accounting Office's comments or recommendations.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $139,285,000 and 1,692 full-time equivalent positions (end-of-year) (including $66,505,000 and 696 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 260 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $954,106,000 and 11,544 full-time equivalent positions (end-of-year) (including $930,889,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under

the Act in each fiscal year since inception in the fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $788,983,000 and 11,670 full-time equivalent positions (end-of-year) (including $670,833,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,046,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $577,242,000 and 10,167 full-time equivalent positions (including $494,556,000 and 9,014 full-time equivalent positions from local funds, $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $109,175,000 from local funds shall be allocated for the District of Columbia Teachers' Retirement Fund; $79,269,000 and 1,079 full-time equivalent positions (including $45,250,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $21,062,000 and 415 full-time equivalent positions (including $20,159,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities; $64,000 from local funds for the District of Columbia School of Law and a reduction of $96,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $1,845,638,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,067,516,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,763,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): *Provided,* That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,326,000 and 1,914 full-time equivalent positions (end-of-year) (including $225,673,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For payment to the Washington Convention Center Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

SHORT-TERM BORROWING

For short-term borrowing, $9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized for employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: *Provided,* That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant

to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: *Provided,* That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this Act in the amount of $500,000.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000 within one or several of the various appropriation headings in this Act.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Mayor shall adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $148,411,000, within or among one or several of the various appropriation headings in this Act, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $105,660,000 appropriated under this heading in prior fiscal years is rescinded: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $193,398,000 and 1,024 full-time equivalent positions (end-of-year) (including $188,221,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $39,477,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided,* That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,907,000 and 88 full-time equivalent positions (end-of-year) (including $8,099,000 and 88 full-time equivalent positions for administrative expenses and $221,808,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,469,000 and 8 full-time equivalent positions (end-of-year) (including $2,137,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $690,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $8,637,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided,* That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, a reduction of $2,487,000 and a reduction of 180 full-time equivalent positions in intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Comprehensive Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,417,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,048,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $6,633,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on General Services, Federalism, and the District of Columbia, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided,* That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term ''program, project, and activity'' shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided,* That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term ''entity of the District of Columbia government'' includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representatives under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. (a) IN GENERAL.—Section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 1–233(a), D.C. Code), as amended by section 108(b)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, is amended—

(1) by striking ''or'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; or''; and

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

''(11) enact any act, resolution, or rule which obligates or expends funds of the District of Columbia (without regard to the source of such funds) for any abortion, or which appropriates funds to any facility owned or operated by the District of Columbia in which any abortion is performed, except where the life of the mother would be endangered if the fetus were carried to term, or in cases of forcible rape reported within 30 days to a law enforcement agency, or cases of incest reported to a law enforcement agency or child abuse agency prior to the performance of the abortion.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts, resolutions, or rules of the Council of the District of Columbia which take effect in fiscal years beginning with fiscal year 1996.

SEC. 132. None of the funds appropriated in this Act shall be obligated or expended on any proposed change in either the use or configuration of, or on any proposed improvement to, the Municipal Fish Wharf until such proposed change or improvement has been reviewed and approved by Federal and local authorities including, but not limited to, the National Capital Planning Commission, the Commission of Fine Arts, and the Council of the District of Columbia, in compliance with applicable local and Federal laws which require public hearings, compliance with applicable environmental regulations including, but not limited to, any amendments to the Washington, D.C. urban renewal plan which must be approved by both the Council of the District of Columbia and the National Capital Planning Commission.

SEC. 133. (a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each agency of the Federal or District of Columbia government, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 134. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

SEC. 135. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93–198; D.C. Code, secs. 11–1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11–1524) is amended to read as follows:

''(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.''.

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

''(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.''.

SEC. 136. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93–198; D.C. Code, sec. 1–1130), is amended by adding a new subsection (c) to read as follows:

''(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

''(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

''(A) appropriations originally available for the performance of the contract concerned;

''(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

''(C) funds appropriated for those payments.

''(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.''.

SEC. 137. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47–801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47–812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: ''If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.''.

(B) A new subsection (a–2) is added to read as follows:

''(a–2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.''.

(2) Section 413(c) (D.C. Code, sec. 47–815(c)) is repealed.

SEC. 138. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase ''or not-for-profit organizations.'' in its place.

SEC. 139. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

SEC. 140. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 141. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds.

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 142. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor and Council of the District of Columbia, by not later than February 8 of each year.

SEC. 143. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the Congress, the Mayor, and Council of the District of Columbia, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

SEC. 144. The Board of Education, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

SEC. 145. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

SEC. 146. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,771 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C Code, except chapter 23.

SEC. 147. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

SEC. 148. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 301 (D.C. Code, sec. 1–603.1) is amended as follows:

(1) A new paragraph (13A) is added to read as follows:

''(13A) 'Nonschool-based personnel' means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.''.

(2) A new paragraph (15A) is added to read as follows:

''(15A) 'School administrators' means principals, assistant principals, school program

directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.''.

(b) Section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)) is amended by adding a new subparagraph (L–i) to read as follows:

''(L–i) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;''

(c) Section 2402 (D.C. Code, sec. 1–625.2) is amended by adding a new subsection (f) to read as follows:

''(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool- based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.''.

SEC. 149. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee'

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 150. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1–625.1) is amended by amending the third sentence to read as follows: ''A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.''.

(b) A new section 2406 is added to read as follows:

''SEC. 2406. Abolishment of positions for Fiscal Year 1996.

''(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

''(b) Prior to February 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

''(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

''(d) An employee effected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

''(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeths Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

''(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

''(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to this section shall be subject to review except as follows—

''(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

''(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

''(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

''(1) four years for an employee who qualified for veteran's preference under this act, and

''(2) three years for an employee who qualified for residency preference under this act.

''(i) Separation pursuant to this section shall not affect an employee's rights under either the Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

''(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

''(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this act shall not be deemed negotiable.

''(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section''.

SEC. 151. Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption ''Division of Expenses'' shall not exceed $4,867,283,000.

REQUIRING DEVELOPMENT OF PLAN TO CLOSE LORTON CORRECTIONAL COMPLEX

SEC. 152. (a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Not later than February 15, 1996, the District of Columbia shall develop a plan for closing the Lorton Correctional Complex over a transition period not to exceed 5 years in length.

(2) REQUIREMENTS OF PLAN.—The plan developed by the District of Columbia under paragraph (1) shall meet the following requirements:

(A) Under the plan, the Lorton Correctional Complex will be closed by the expiration of the transition period.

(B) Under the plan, the District of Columbia may not operate any correctional facilities on the Federal property known as the Lorton Complex located in Fairfax County, Virginia, after the expiration of the transition period.

(C) The plan shall include provisions specifying how and to what extent the District will utilize alternative management, including the private sector, for the operation of correctional facilities for the District, and shall include provisions describing the treatment under such alternative management (including under contracts) of site selection, design, financing, construction, and operation of correctional facilities for the District.

(D) The plan shall include an implementation schedule, together with specific performance measures and timelines to determine the extent to which the District is meeting the schedule during the transition period.

(E) Under the plan, the Mayor of the District of Columbia shall submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all significant measures taken under the plan as soon as such measures are taken.

(b) CONSISTENCY WITH FINANCIAL PLAN AND BUDGET.—In developing the plan under subsection (a), the District of Columbia shall ensure that for each of the years during which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) SUBMISSION OF PLAN.—Upon completing the development of the plan under subsection (a), the District of Columbia shall submit the plan to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

PROHIBITION AGAINST ADOPTION BY UNMARRIED COUPLES

SEC. 153. Section 16–302, D.C. Code, is amended—

(1) by striking ''Any person'' and inserting ''(a) Subject to subsection (b), any person''; and

(2) by adding at the end the following subsection:

''(b) No person may join in a petition under this section unless the person is the spouse of the petitioner.''.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. DAVIS

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

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Insert at the appropriate place the following new section:

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. . (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking ''may provide'' and inserting ''shall promptly provide''.

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

''(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

''(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

''(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

''(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

''(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

''(A) shall qualify such individual for the treatment described in such provisions for purposes of—

''(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

''(ii) chapter 87 of such title (relating to life insurance); and

''(iii) chapter 89 of such title (relating to health insurance); and

''(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

''(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

''(A) it is made before such individual separates from service with the Federal Government; and

''(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

''(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

''(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed by—

''(A) the Office of Personnel Management, to the extent that any program administered by the Office is involved;

''(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

''(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.''.

(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

''(f) FEDERAL BENEFITS FOR OTHERS.—

''(1) IN GENERAL.—The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

''(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A)(i)–(iii); or

''(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

''(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

''(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

''(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.''.

(3) EFFECTIVE DATE; ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT; ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed (and take effect)—

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) ADDITIONAL ELECTION FOR FORMER FEDERAL EMPLOYEES SERVING ON DATE OF ENACTMENT.—

(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking ''the Authority and its members'' and inserting ''the Authority, its members, and its employees''; and

(2) by striking ''the District of Columbia'' and inserting ''the Authority or its members or employees or the District of Columbia''.

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

Mr. DAVIS (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 Virginia?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. DAVIS] and a Member opposed will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Virginia [Mr. DAVIS].

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

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

Mr. Chairman, as chairman of the District of Columbia Subcommittee of the Committee on Government Reform and Oversight, I offer this amendment to the District of Columbia appropriations bill of 1996.

Mr. Chairman, I offer this amendment to the District of Columbia appropriations bill of 1996, H.R. 2546, as chairman of the District of Columbia Subcommittee of the Government Reform and Oversight Committee. I also offer this amendment as chief sponsor of Public Law 104–8, the District of Columbia Financial Responsibility and Management Assistance Authority, H.R. 1345.

This Congress can take great pride in the landmark legislation we enacted this past spring for the District of Columbia. Public Law 104–8, which passed unanimously, averted a financial catastrophe and put the Nation's Capital on a glidepath towards economic recovery. It is an honor for me to be presiding as chairman of the District's Oversight Subcommittee, the Authorizing Subcommittee, at this historic time. Not only the District, but the Washington metropolitan region, and the entire country all share a vital stake in the successful outcome of what we have initiated. The amendment that I offer today is not only consistent with what we began but necessary to carry forward the work of the new Authority.

The amendment is technical in nature, and conforms to the legislative intent of Public Law 104–8. The substance of the amendment is noncontroversial. It is being offered as an amendment to the appropriations bill in order to expedite the technical corrections that are

required to enable the Authority to operate in the most efficient manner possible and to fulfill its responsibilities. The amendment does nothing more than to give the Authority tools to do the job mandated by Congress.

1. The amendment changes section 102(e)(1)(A) to insure, as intended by the legislation, the Federal employees joining the Authority may elect to have their service with the Authority treated as if performed within the Federal Government for purposes of the thrift savings plan, health insurance, life insurance, and any other Federal benefit program. The statute already provides such persons that election for purposes of the Federal retirement program. The omission of the other programs in the statutory language was clearly inadvertent.

2. The amendment changes section 102(e)(2)(B) to clarify congressional intent and make clear that an individual electing coverage under the Federal programs referred to in section 102(e)(1)(A) will not be entitled to double coverage under comparable District Government programs. This change merely conforms the sections.

3. The amendment changes section 102(e)(3) to provide that the Office of Personnel Management, in promulgating regulations authorized by section 102(e) must consult with the Authority as well as with the District government. This change is necessary because when OPM first promulgated interim regulations, as it was authorized by the statute to do, it failed to consult with the Authority or even send on its own initiative a copy of the proposed regulations to the Authority. This change is consistent with the clear legislative intent in the statute that the Authority should be consulted.

4. The amendment changes section 102(f) in order to carry out the policy mandate created in section 102(e). It clarifies that persons employed by the Authority have an election to be treated as if they were employees of the Federal Government or employees of the District of Columbia government for purposes of the retirement system, health insurance, and any other employee benefit programs. Section 102(e) deals only with employees of the Authority who come from the Federal Government. Several other categories of persons are becoming employees of the Authority, including Federal retirees, District employees, and private sector employees. This new section gives these employees the same options as persons joining the Authority from the Federal Government. It will help to insure that qualified employees will not be discouraged from seeking employment with the Authority by clarifying legislative intent so as to provide that such persons would not lose benefits.

5. The amendment changes "may" to "shall" in section 103(f) to give the General Services Administration the appropriate degree of discretion. This clarifies that the GSA has a duty to provide the administrative services required by the Authority in a prompt manner.

6. The amendment changes section 104 because the Authority is a legal entity subject to suit. A plaintiff could thus initiate a cause of action against the Authority, its members, or employees for official actions they take, instead of suing the District of Columbia. Only claims against the District are included in the technical language of the existing exemption. This was not intended in adopting the statute, as the purpose of the section is to protect the Authority and those who act on its behalf from claims arising from their official actions.

7. The amendment deletes section 203(a)(3)(C) in its entirety, as it inadvertently undermines the fundamental responsibilities of the Authority, contrary to the clear legislative intent of the statute as a whole. A significant amount of District legislation is now being enacted on an emergency basis, thus making it exempt from the Authority's power to consider under the existing section. Even if a particular enactment is later made permanent, thus subjecting it to the Authority's review, rights could in the meantime be created or claimed under the emergency legislation and objections asserted to any subsequent disapproval by the Authority. This would frustrate the very purpose of creating the Authority. Emergency legislation can clearly have a substantial fiscal impact while it is in force and effect. The current section is not only an undesirable and significant dilution of the Authority's ability to function, but it also casts doubt on the Authority's ability to require that emergency legislation be reviewed, separate and apart from the issue of approval or disapproval. Eliminating this section would remove any doubt as to legislative intent on this point and enhance the authority's basic ability to function in accordance with its congressional mandate.

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

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

Mr. DIXON. Mr. Chairman, the minority has no objections to the gentleman's amendment.

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

Mr. DAVIS. I yield to the gentleman from New York.

Mr. WALSH. Mr. Chairman, I rise in support of the gentleman's amendment and urge its adoption.

Mr. DAVIS. Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. DAVIS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT NO. 1 OFFERED BY MR. BONILLA

Mr. BONILLA. 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. BONILLA: Insert on page 58, after line 4, the following section:

REVOCATION OF PROPERTY TAX-EXEMPTION FOR NATIONAL EDUCATION ASSOCIATION

SEC. . Effective for taxable years beginning after September 30, 1995, section 4 of the act entitled "An Act to incorporate the National Education Association of the United States", Approved June 30, 1906 (34 Stat. 805; Sec. 46–1036, D.C. Code) is repealed.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BONILLA] is recognized for 15 minutes.

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

Mr. Chairman, my amendment is a bipartisan amendment. It is being led on the other side by the gentleman from Louisiana [Mr. HAYES], as well as getting a tremendous amount of assistance and hard work on this amendment by the gentleman from California [Mr. DORNAN].

Mr. Chairman, this is a bipartisan amendment that would allow the District of Columbia to collect an additional $1.6 million in badly needed revenue for their operations.

My amendment would eliminate the special exemption, the special privilege currently granted under a congressional charter to the National Education Association. This is an amendment that would reserve a special privilege that has been on the books for a long time.

Mr. Chairman, the NEA was officially judged to be a union by the Internal Revenue Service, but nonetheless it is put in a special category aside from other unions that all pay taxes in the District of Columbia. So, we are trying to simply give the District of Columbia the privilege of levying local property taxes on the National Education Association.

Mr. Chairman, I would like to point out that we are not in any way singling out the NEA for any kind of special target or treatment. Other unions like the AFL–CIO, the Teamsters, they all pay taxes. The American Federation of Teachers pays taxes. We would not want these groups to have a local special-privilege exemption like the NEA any more than we would want the U.S. Chamber of Commerce to have an exemption or the NFIB or any group that would currently exist for similar purposes that is advocating positions here and in neighborhoods across the country.

There is no other group currently on the list of congressionally chartered organizations that is not a charity that falls under this exemption. In other words, the NEA is the only noncharity congressionally chartered organization that receives this special treatment.

Mr. Chairman, the NEA has also violated its original congressional charter by no longer just limiting itself to educational issues. Back in the early part of the century when it was chartered, it was originally set up to work on the basics: Reading, writing, and arithmetic. Now, we have the NEA working on issues from arms control to the NAFTA controversy, Medicare, human rights, defense issues. My colleagues can name it, they are involved in it; none of which has to do with education in our schools across this country.

Mr. Chairman, for that reason, setting it aside from the other congressionally chartered groups in this country, they have violated their charter, and we strongly are urging Members on both sides of the aisle in a bipartisan way to support this amendment that would allow the District to have an opportunity to levy the badly needed $1.5 million needed for its budget.

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

Mr. DIXON. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from California [Mr. DIXON] is recognized for 15 minutes.

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

Mr. Chairman, I rise in opposition to this amendment because it basically is mean-spirited. Republicans have the majority in this House and they can offer a freestanding bill to do anything they want and not attach it to this.

First of all, Mr. Chairman, let me say sincerely that I have great respect for the gentleman from Texas [Mr. BONILLA]. The gentleman served on the Committee on the District of Columbia for some time. We have discussed ideas that might improve the District and we have certainly worked together.

But Mr. Chairman, the gentleman from Texas says that the rest of the list is charities. That is not true. The American Pharmaceutical Association is not a charity. The Brookings Institute is not a charity. The National Academy of Sciences is not a charity. Mr. Chairman, I can go on and on.

This was a charter granted by the Federal Government when there was no home rule here in 1906, and it was obviously a charter granted for incorporation purposes. In that, right or wrong, the Congress at that time gave a tax exempt status as it relates to District of Columbia taxes.

The gentleman from Texas said in his opening comments that this amendment was promulgated because the gentleman wants to save money and is interested in the taxpayers. Nobody believes that. That is not what this is about. The gentleman is not trying to provide $1.4 million to the District. Even if he was, the cap that the gentleman from New York [Mr. WALSH] has put on here would prohibit it.

So, Mr. Chairman, the gentleman from Texas should not come to the floor and say that he is trying to raise money for the District. The fact is that the gentleman does not, and the Speaker does not, like the philosophy of the NEA.

That is not wrong. So, therefore, they come to the conclusion that they have violated their charter and without a hearing of the appropriate committee, we will just stand up and cancel this tax exemption. The gentleman may be right on the merits. After an adjudication of this issue, after consideration of all 27 of the organizations that have this, the gentleman may be absolutely right. Mr. Chairman, I am saying that as a member of the subcommittee, this is not the forum to address their tax status.

Even if we do, Mr. Chairman, the gentleman should not come here and say that he is trying to raise revenue for the District. It just ain't so.

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

Mr. BONILLA. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. HAYES].

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

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Mr. HAYES. Mr. Chairman, I went to public schools in a small town in Louisiana, in a school that would not be one that we would point to for its physical plant, in a small school in which those within the community quite often ended up baking cakes and having car washes just to have enough money to send a debate team out of town.

But it had one extraordinary resource. It had a group of men and women who were so committed to the ideals of education above everything else that they made personal financial sacrifices. They made sacrifices to the time of their own family by grading papers. They made sacrifices to attend dances and balls when they did not yet have kids old enough to go to those same high schools. And they made an incredible imprint on the community.

To the gentleman from California [Mr. DIXON], in my high school class is a young lady who is now the director of Common Cause. In my high school class is a former vice president of Johnson & Johnson. In my high school class is a gentleman who received balloting in the Heisman Trophy. And all of them taught by a handful of dedicated teachers. But the gentleman just touched upon the change that has occurred: philosophy.

What the gentleman said was that this side of the aisle disagrees with the philosophy, and I do, too. Only I am not talking about the left and the right. I am talking about placing issues above education. That is a bad philosophy.

When I last ran for Congress, I got a brochure from the NEA asking me how I felt about the nuclear freeze, how I felt about abortion. How I felt about issues that while very important and worth the time of this Chamber were not as important as what should have been going on in the classrooms of my State in the district.

I represent a great deal of teaching and educational background to where I am proud to say I worked hard and did well with the support of teachers and parents.

Now, it is wrong, and I was taught by teachers who taught me to look at the facts and determine in a very substantive and objective way, it is wrong to use an exemption given in 1906 when Theodore Roosevelt was President to protect the assets of a union that in 1978 determined as such by the Internal Revenue Service. It is wrong to reverse the concept of taxation without representation and make it representation without taxation.

We want to lobby. We want to go in your office. We want to tell you how to vote. We want to send you faxes. We want to send you letters just like today, but we do not want to pay or give a dime.

That is an insult to the people who taught me and even more an insult to the values and lessons that I learned in public schools in my home town.

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

Mr. KLECZKA. Mr. Chairman, I do not serve on the Subcommittee on the District of Columbia. When I saw the rule coming forth on this amendment, I had to make a special point to come down here and to listen firsthand to the arguments from those who supported the justification of this change.

My colleague from Louisiana who just spoke indicated that here is a group that comes to this office asking for support on this issue, that issue. Well, I will tell Members, if we went to the Federal tax code and deleted the tax exemption of every organization that lobbied us, from defense contractors to the Chamber, you name it, we would raise billions of dollars and we would never see anyone in the Halls of Congress or in our offices.

But as Americans, as the delegate from the District said, there is a Constitution. There is a Constitution that talks about freedom of speech. And I think we want people to do that. We want people to come forward and talk to us about the issues of the day. But I view this amendment as probably the most vindictive that I have seen in my tenure here before this body.

Many, in fact all the years except this year, I was in the majority party. There were groups that we did not like who opposed our candidates, who opposed our position on issues. Did my colleagues see the majority party, the Democrats at that point, come forth with amendments to repeal their tax exempt status? No. That would not be right. We might disagree with them, but they have a right to say what they want to say.

But here we go, the first time you folks have had the majority in years, using the majority muscle that you have to punish one group in this country that you disagree with. I think that is a shame.

If you look at the other organizations that are not touched by the gentleman's amendment, as the chairman, said, they are not charities. They are not charitable organizations. I am looking at one here, the Medical Society of the District of Columbia. Is that a charitable organization? I doubt it. But I do not think and I would not support taking away their exempt status because they endorsed your Medicare cuts.

Shame on you. Shame on you.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DORNAN], a cosponsor and a Member who was really behind this cause for some time.

Mr. DORNAN. Mr. Chairman, if I could refer in opening to my distinguished colleague, the gentleman from California [Mr. DIXON], and I do mean distinguished, he does not have to ever worry about me having hidden agendas or any other motives. But I have listened to some private conversations

where people thoughtfully and heartfelt said, hey, in the measure we saved the taxpayers a lot of money here.

I said during general debate that my younger brother, in whom I am justifiably proud because his students for 29 years, at the discouragement of the administration, have unofficially elected him best teacher on his high school campus. Dick Dornan is a natural giving, enthusiastic English and U.S. history teacher. He is disgusted with the NEA. He does not like being pressured to declare an entire month bisexuality month. That is just for openers. I am not going to mention all the other stuff, just the AC/DC, acey-deucey switch hitting crowd. What does that have to do with education?

I will not mention the 1906 charter. We have covered that. I will not mention some of the good points that the gentleman from Texas [Mr. BONILLA] has covered about switching 501(c)(3) to 501(5). I will not go back over ancient history, although I will ask permission to put that in my remarks.

The very real reason that the NEA become unionized was in order, as a retired teacher said, who took a break in service, when he came back and found it was now a union, he said, I suddenly realized that all they obsessed on were salaries and money and money and salaries and not about kids' education and teaching or the SAT scores would not have been going in the dumper, and we would have our dynamic Speaker quoting around this country that kids are getting diplomas from high school and they cannot even read the English on the diploma, let alone talk about where they are going to go with their careers or how they are going to balance their checkbooks.

It is true there are a number of organizations and enterprises within the District of Columbia that benefit from property taxes. What is so incredible is that the NEA is the only union that gets that privileged status. More about that from the distinguished Member from Indiana.

I close on this, vote for Bonilla-Hayes-Dornan. Repeal the NEA's congressionally sanctioned property tax. The taxpayers should not be expected to subsidize the palatial, plush headquarters of any union, much less one that wants a month for bisexuality advancement.

Mr. Chairman, I rise in strong support of the Bonilla-Hayes-Dornan amendment.

As Mr. BONILLA said the NEA is currently exempt from having to pay any property taxes on their palatial headquarters located here in Washington, DC. Their tax-exempt status derives from the Federal charter the NEA received back in 1906, when it was little more than an association of educators throughout the United States. At that time, and I have read some of the debate that took place in both Chambers during consideration of the NEA charter, then Members of Congress felt that it would be improper to tax property held for educational purposes.

Back then, I am certain that no one envisioned the NEA would ever evolve into anything more than a bipartisan, do-good organization dedicated to promoting education in America. But times sure have changed, Mr. Chairman, and so has the NEA. Today the NEA is not now an association of professional educators. In 1978, they changed their corporate tax status from a 501(c)(3) to a 501(5) benefiting all labor unions. The NEA is now a hostile political machine that wields its incredible power to influence legislation, public opinion, and our Nation's school children.

The very reason the NEA became unionized was in order for them to gain the maximum amount of political power and control in Washington and throughout the United States. In fact, back when the NEA was changing into a labor union, a retired teacher who took a break in service recalls their radical transformation claimed, "In the interval that I had been out of school, they had become unionized, and when they realized that I refused to join. They no longer represented my views. They had become more concerned with salaries and money than they were about students and education." Meanwhile, Mr. Speaker, its archaic congressional charter continues to allow the NEA its property tax exemption as if this power political machine were still an innocuous teachers association.

It is true that there are a number of organizations and enterprises within the District of Columbia that benefit from a property tax exemption. What's so incredible is that the NEA is the only labor union in the whole bunch. And so when opponents of our amendment complain that we are singling out the NEA for political reasons, I say they are completely missing the point. The NEA does not deserve this tax break because they are a union, the country's biggest union in fact, and no other union enjoys such preferential tax treatment in the District of Columbia.

Mr. Chairman, it is the height of irony—and it is exactly the kind of insidiousness this new Congress is attempting to undo—that the NEA, a monstrous special interest group dedicated, as they would say, "to helping America's children," ferociously clings to $1.4 million each year that otherwise could be used to improve the District's impoverished public school system.

I strongly urge you to vote in favor of the Bonilla-Hayes-Dornan amendment and repeal the NEA's congressionally-sanctioned property tax exemption. The taxpayers should not be expected to subsidize the plush headquarters of any union, much less the NEA.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DURBIN], a member of the committee.

Mr. DURBIN. Mr. Chairman, make no mistake, a pattern is clearly emerging. The Republican soldiers in the Gingrich revolution have no respect whatsoever for freedom of expression in this country. If they can find an opportunity to close down speech and ideas which they find repulsive, they will grab at it. Six screwballs decide to burn the American flag, and the Gingrich revolutionaries want to amend the Bill of Rights for the first time in our history. Garrison Keillor makes fun of them on Prairie Home Companion, they want to close down National Public Radio.

The gentleman from Oklahoma [Mr. ISTOOK] becomes exercised because some lobby group does not agree with him. He wants to close down any opportunity for them to receive Federal funds. And today the gentleman from Texas [Mr. BONILLA], who has an axe to grind with the National Education Association, said, I know how to take care of them, hit them in their tax status.

If your ideas are so good, so right, so American, why are you so afraid of freedom of expression? The National Education Association has said things that I disagree with, as have many of the organizations here. But to go after these organizations, to close down their operations, make them more expensive, impose more taxes on them is downright unAmerican.

It is the nature of politics. It is the nature of Government to have the free exchange of ideas. Why is it once the Republicans get in control they want to turn off the microphones? They want to shut down the presses. They want to stop the free exchange of ideas.

What are you afraid of? Let us defeat this terrible amendment.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I have no particular interest in this amendment except that, when we considered it in the full Committee on Appropriations, it was evident to me that in 1906 the NEA got a special charter from the Federal Government as an education association devoted to the cause of education. Over time, that purpose has apparently changed. It has become, and no one doubts the status of the NEA, a labor union devoted to the interests of its members.

In 1978, under the Carter administration, not a Republican administration, it was determined that in fact it was a labor union devoted to its own purposes and not to the general cause of education. So, for the last 17 years, the NEA has had a special status where it did not have to pay taxes even though every other union in the District of Columbia had to pay taxes on its property—17 years for free.

The gentleman from Illinois, my colleague from Illinois, says that we are disrupting freedom of expression? They have had free expression without paying the cost that everybody else has paid for all these years.

Are we singling them out? No, they are the only union that has this status. It seems to me that it is up to Congress, when it finds these kinds of things, to address them. They do not deserve tax-exempt status. They have not deserved it for 17 years. It is time to close the door and to say, you have had 17 free years. You do not get any more. You have to be treated just like everyone else.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

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

I make these remarks before asking the gentleman from Texas [Mr. BONILLA] to consent to a better idea. This Trojan horse, I am afraid, would be of no use to the district, if the gentleman is sincere and there is a way to help us. The comments, however, especially of the gentleman from Texas [Mr. BONILLA], the gentleman from Louisiana [Mr. HAYES], and the gentleman from California [Mr. DORNAN], give evidence to the fact that this is an unvarnished case of political retribution. They have not sought to hide it.

The gentleman from Texas [Mr. BONILLA], when he offered the amendment, went down the list of positions that NEA had taken, among them that we hear: That of course is a union. We know how the other side of the aisle loves unions. It does not want anything to do with the District and certainly not with helping the District. If so, the gentleman would have given the District the discretion to get these property taxes from all 27 of these people, none of whom should have had property taxes at our expense. My people pay higher property taxes, not because of the NEA but because of 27 people whom you gave, you gave the right to be exempt from property taxes from people I represent.

The gentleman says that these people are not about education anymore and that they have gone off their charter. Have you looked at the legislative agenda of the American Legion? Is that what you want to do, go down and see what each of these organizations are doing and put a political test into these proceedings? This is not a good precedent to set.

This was defeated in committee. There is a better idea. Give the District the jurisdiction, do not give it to us piecemeal. You do not intend to give us any more at all, do not give us one. Give us all, give us access to our property taxes from all 27 of these folks.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. chairman, I rise and speak out in support of this amendment. The NEA receives 1.6 million in a tax break from their congressional charter. This congressional charter was given to the National Education Association when it was a trade association, and it is not only quite apparent to the American public but as well to the IRS that it is no longer a trade association. It is, indeed, a union.

As has been said multiple times but deserves to be said again, it would be irresponsible for this Congress to continue to allow this tax exempt status for a union when no other unions get a tax exempt status. Indeed, this $1.6 million of funds could be applied to the District of Columbia's school system to help improve their school system. So I think this is a very good amendment. It is very much an appropriate amendment. It is in keeping with being consistent in our policies. I would encourage all of my colleagues to support this amendment.

☐ 1700

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman from California [Mr. DIXON] for yielding this time to me.

I, too, am not a member of the Subcommittee on the District of Columbia, but I am privileged to stand here and to support the measure that I feel is the correct one, and that is to oppose this retribution, and that is all it can be classified as.

Let me go to perhaps the heart of the matter, and what I hear being discussed, and all of the disparagement directed toward the National Education Association. My understanding is that the building that is here is peopled by a significant number of individuals, some who come here from around the country, others who are here on a regular basis, and my belief is that they make a major contribution to the well-being of the District of Columbia, perhaps a more major contribution than the micromanagement that is going on now.

Who else are exempt from taxes in the District of Columbia and why? I would not bother to be facetious enough to suggest that there are Government-owned properties in the District of Columbia that, had they been taxed over this same number of years, the District of Columbia may conceivably not have the kinds of problems that it is having today. None of us would stand for the type of micromanagement that is going on in this particular bill in our respective home cities.

Mr. Chairman, this type of retribution is retrogressive, and in the final analysis, Mr. Chairman, downright insulting to any of our Members. I do not know what the Brookings Institution stands for. I do not know what the Carnegie Institution of Washington, DC, stands for. I do not know what the Daughters of the American Revolution stand for, but I can doggone cite I do not believe they stand for much that I believe in, but at the very same time I think they have a right to be here, I think they have a right to state their position, and the tax exemption that was given to them was evidently given with well meaning.

We need to stop this micromanagement, we need to stop this retribution, especially toward such an outstanding organization as the National Education Association.

Mr. BONILLA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, let me just say to my colleague from Florida it is our responsibility as the Congress, because this is the Nation's Capital, to keep an eye on what goes on here, so we do involve ourselves in managing this city, and we better because it was a real mess just a year ago.

Now let me just say to one of my colleagues from Illinois that spoke awhile ago; he said we are opposing the free speech. The NEA can say anything they want to, and they do, and we do not object, but we do believe they should not get a $1.6 million tax break just because they are the only union in this city that gets that tax break, the only one. And so they should not get that tax break.

Now I want to read to my colleagues something that was in the Indianapolis Star newspaper editorial just a week ago because this really upsets me. It says:

> This summer the NEA annual convention passed a resolution supporting a month-long celebration ‘‘as a means of acknowledging the contributions of lesbians, gays and bisexuals throughout history.’’
>
> The celebration was the brain child of Rodney Wilson, a gay high school teacher from St. Louis. What Wilson wanted in this October and every subsequent October, was for public high schools to focus on a gay curriculum detailing the history of homosexual persecution and acknowledging the homosexuality of some historical figures.
>
> The latter alone should give parents the jitters. According to a Concerned Women of America ad, the Alyson Almanac, ‘‘the fact book of the lesbian and gay community,’’ claims some research indicates that Jesus Christ, Winston Churchill and George Washington were homosexuals.
>
> According to Newsweek magazine, ‘‘not a single school district in the nation accepted the history month idea or a proposed gay curriculum. Even the NEA has gotten skittish after hundreds of teachers threatened to quit when the resolution passed in July.’’
>
> The Concerned Women organization was right to target the NEA action and any move to promote a gay history month. Comparing such a month, as some advocates have done, to Black History Month is an affront to social consciousness and common sense.
>
> Public education has embraced one foolishness after another in recent decades, but parents should scream bloody murder at the first sign a school in their district is prepared to adopt this latest.

Mr. DIXON. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, if anyone had any doubt that this amendment is directed at the speech, the views, of the NEA, that should have been removed by the comments just made by the gentleman from Indiana [Mr. BURTON] who is clearly motivated in going after the NEA because he does not like what they think or say. So lest there be any doubt, this amendment is a clear, I think absolutely unashamed, act of discrimination, picking out 1 organization among 27 that has the same status because many in the majority do not like what they think or say. It is a tour de force as it is seen together with many other things going on around here right now in the suppression of opposing points of view.

Mr. Chairman, it started early in the year with the majority leader sending letters to organizations complaining if

they made charitable donations to organizations that the majority did not like. We are seeing it in the effort being made by the gentlemen from Oklahoma, and Maryland, and Indiana to suppress the ability not just of nonprofit organizations, but of many groups and individuals in this country to exercise their rights under the first amendment to the Constitution, masquerading that effort as if it had to do with the misuse of Federal funds when, in fact, we are going after the use of private funds for free political expression, and now this expedient and cynical effort to attack yet another enemy of this new and vindictive majority.

Mr. Chairman, this is part and parcel of freedom of expression. We have to be willing to hear some things we do not like if all of us are going to have the freedom to engage in our constitutionally protected right and responsibility to help shape this great democracy. This is a thinly veiled, if veiled at all, effort to get even, and when we are trying to get even based upon the content of someone else's or some other organization's position, their thought, their speech, we should all be deeply worried about the future of a robust democracy.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN], a Member who has worked very hard on this amendment.

Mr. CHRISTENSEN. Mr. Chairman, as my colleagues know, I heard my colleague from Colorado, my colleague from Illinois, just a moment ago talk about cynical ploys and that it is un-American to disagree with someone else's point of view, and that is not the point at all. The point here is just about them paying their property taxes. There is a million six that they are not paying.

The AFL–CIO pays their property taxes. The Teamsters pay their property taxes. The American Federation of Teachers pays their fair share on property taxes. We can disagree, and we can have a honest disagreement in ideology. All we are saying is, ''Pay your property taxes.'' That is all this is about.

Mr. Chairman, it is a simple amendment. It says the NEA should pay their property taxes. Now I see why Forbes magazine not too long ago called the NEA not the National Education Association, but the National Extortion Association. That more accurately depicts what the NEA really stands for.

Mr. BONILLA. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Chairman, I think everything has been said that needs to be said on this issue. The NEA is clearly in violation of their original intended purpose when their tax exemption was granted. It is time for us to be honest about this issue. I do think that there are some other institutions that are in the city of Washington, DC, that we should probably look at in the future, but this is a good start.

I do though want to emphasize that Members of our side of the aisle will be eager and ready to work with Members of the other side of the aisle in ferreting out some of these other institutions that have property tax exemptions, and let us get them to start paying property taxes to the city of Washington, DC, because the city needs the revenue and needs the money.

So in the meantime, Mr. Chairman, I believe that we should all support this Bonilla amendment.

Mr. BONILLA. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. BONILLA] is recognized for 2 minutes.

Mr. BONILLA. Mr. Chairman, I would like to close on this amendment by pointing out very clearly that no one who is supporting this amendment is opposed to free speech in this country. There is no American in this country that supports free speech as strongly as I do. What we have here is the philosophical difference. Those of us who are supporting an amendment and other issues similar to this in this Congress are tired of groups that have opinions of feeding at the public trough and then using that money to advocate political positions. I believe the NEA should thrive and survive and have a long life beyond this day to advocate the positions that they feel strongly about, absolutely. What I do not think they should do is use public money or have special privileges in order to advocate those positions.

As my colleagues know, there is one sense that the American people believe in very strongly in this country, and that is fairness, fairness. There is no other union that has this special tax exemption. Fairness. There is no other group that has this special tax exemption that is allowed to venture beyond the congressional charter boundaries which were originally created to go out and advocate their position. If the NEA or any other advocacy group in this country, be they left, or right, or in the middle, would like to go out and continue advocating their positions, wonderful, do it with their privately raised funds, do it with volunteers, do it with people who believe in their position. But do not try to hoodwink the public into trying to fool them and thinking that their tax money is somehow going somewhere else when in fact it is going to subsidize a position, a political position, in this country.

And I do not care whether that position again is a liberal position or a conservative position. It is wrong to feed at the public trough and then go out and advocate political positions in this country. We are tired of this. This is a dirty little secret that we are determined to expose across this country, and a ''yes'' vote on this amendment will help put an end to this once and for all.

Mr. DIXON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. DIXON] is recognized for 2½ minutes.

Mr. DIXON. Mr. Chairman, the word ''responsibility'' has been raised several times in this debate. I believe that we all have a responsibility to this institution to follow due process. This is not the committee of jurisdiction. There have been no hearings. We heard the gentleman from Georgia come to the well a minute ago and say, ''We all know they violated the charger, so let us snatch their charter, and move on, and maybe we will talk about some others.'' That is not the way that this institution should proceed.

My colleagues have the votes. Send this to the Committee on the Judiciary. have a hearing where witnesses can come and bring that testimony. This charter was conferred by the Congress and should follow a process to revoke that charter.

So I am not weighing in on the merits of the case at all.

□ 1715

I am saying that you have a responsibility to this institution. I am sure that the brother of the gentleman from California, Mr. ROBERT DORNAN, teaches due process, and that is my point. You have made up your mind, I would say to the gentleman from Texas [Mr. BONILLA] and the gentleman from Georgia [Mr. LINDER] has made up his mind. But that is not the way we operate around here. That is not the way we should operate around here. Make your case to the Committee on the Judiciary on this and any other issue. Do not make up your mind and try to shove this down the body's throat.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. BONILLA].

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 213, 2, not voting 7, as follows:

[Roll No. 758]

AYES—210

Allard	Blute	Chenoweth
Archer	Boehner	Christensen
Armey	Bonilla	Chrysler
Bachus	Bono	Clinger
Baker (CA)	Brewster	Coble
Baker (LA)	Brownback	Coburn
Ballenger	Bryant (TN)	Collins (GA)
Barr	Bunning	Combest
Barrett (NE)	Burr	Cooley
Bartlett	Burton	Cox
Barton	Buyer	Crane
Bass	Callahan	Crapo
Bateman	Calvert	Cremeans
Bereuter	Camp	Cubin
Bilbray	Canady	Cunningham
Bilirakis	Chabot	Deal
Bliley	Chambliss	DeLay

Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Quillen
Radanovich
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Young (AK)
Zeliff

NOES—213

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

ANSWERED ''PRESENT''—2

Gunderson
Obey

NOT VOTING—7

Fields (LA)
Hall (OH)
Harman
Moakley
Tucker
Weldon (PA)
Wilson

□ 1737

Mr. QUINN 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. HOSTETTLER

Mr. HOSTETTLER. 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. HOSTETTLER: Page 37, line 15, strike ''No funds'' and insert ''(a) No funds''.

Page 37, line 22, strike ''; nor shall any'' and all that follows through ''1992''.

Page 38, insert after line 2 the following:

(b) The Health Care Benefits Expansion Act (D.C. Law 9–114; sec. 36–1401 et seq., D.C. Code) is hereby repealed.

The CHAIRMAN. Pursuant to the rule, the gentleman from Indiana [Mr. HOSTETTLER] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HOSTETTLER].

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

Mr. Chairman, I rise today to offer an amendment to strike down the District of Columbia's so-called domestic partners ordinance, a misguided statute that Congress has blocked the District from implementing for the past 3 years. In fact, this city act has never been implemented, which is a critical point that needs to be made. It is time today to put this bad bill to a final rest and clear away this issue so the District and the Congress can begin building a more constructive relationship. Congress has never seen fit to appropriate $1 for this legislation, and act that seeks to provide health care and extend other legal benefits to domestic partners defined as those unmarried couples who are over 18 and who live together.

Many, I'm sure, will oppose my amendment today, saying Congress is meddling in the District's matters. Or, even worse some my claim, Congress is meddling in a place where we never should venture: the bedroom. Perhaps there will also be a few here today who will castigate me for offering legislation based on what is the preferred over that many will say is the perverted. Such is the nature of our debate.

I am offering legislation today to make an important public policy statement about families in our Nation's Capital, the very seat of our whole Nation's Federal Government. This legislation is not about extending health care benefits to the needy. I can guarantee you that there are an infinite number of ways that the city can do this without enacting a domestic partnership law. This amendment is about right and wrong, about the proper role of government in general and about the appropriate role of the Federal Government in involving itself in the affairs of the Nation's Capital. Supporters of my amendment seek to affirm the positive, not to cast stones at those engaging in alternative lifestyles. We seek to lift up and honor the family, not to put down and shame anyone who does not make a commitment to furthering the family.

But let me address those opposed to my measure before I highlight the important public policy aspects of my amendment.

First, striking down this statute, which Congress has thrice blocked from being implemented, is not meddling in the local government of the District of Columbia. Congress has a clear, express, unquestioned constitutional responsibility to direct the District of Columbia, the Federal City, especially if the passage and implementation of poor public policy is at hand. Yes, Congress passed home rule, and gave the District's local governing authority greater power to enact ordinances on matters where the Congress had otherwise been silent. But this body never gave up our authority, nor renounced our responsibility to oversee our Nation's Capital. On the contrary, we reserved those rights, as we needed to under the Constitution. The statute at issue today confirms the wisdom of the Framers of the Constitution and the wise heads in a prior Congress which preserved this role for the Congress in Washington, DC. We have the right and the responsibility to act and that includes the repeal of any District act at any time. The District of Columbia is the Nation's Capital, the Federal City, our national government's seat. This seat cannot and should not be kidnaped by any group—of the left or right—to make political statement. We have the right and indeed I would argue we have the responsibility to act in this matter and strike down the Domestic Partners Act. Now while we are

on the issue of the Constitution, I cannot forget to point out that during hearings that were held on this issue in 1992, a number of significant public policy issues were raised by many legal experts including the fact that this act quite possibly is preempted by the Employee Retirement Income Security Act of 1994, which renders this act unconstitutional.

Now other who oppose my measure will say I seek to inject congressional authority and oversight in a place it should never go—the bedroom, They will again offer the well-worn phrases about consenting adults being able to engage in whatever consensual acts they wish. Well, I point out at the outset of this debate that this bill is not about sex. I know that admission will disappoint many; I can see stunned staffers looking up from their overheated word processors now as they prepared to defend sexual promiscuity and sexual orientation and sexual everything else. But that's the wrong speech. The issue before this Congress is whether we will allow the District to carry a statute on its book that allows a domestic partner, a person so vaguely defined that it can be a homosexual lover, a same-sex lover, a roommate, a member of one's extended family, a homeless person one invites into their abode, to enjoy health benefits and other legal rights by virtue of their so-called partnership with a District of Columbia government employee or any other individual for that matter.

The problem with this act is the statement it makes about family, equating the support we give families as a society and as units of government with loosely affiliated partners. It equates the faithful familial ties that are the bedrock of our society's stability and the loving environment in which we rear the next generation with a roommate or a casual live-in lover or a down-on-their-luck friend who moves to get health benefits.

Still others may rise today and say I am only disparaging gays and lesbians to satisfy a personal mean streak or to win political points at home with certain groups. This argument, too, misses the mark. My amendment seeks to lift up the positive, to value the valuable, to hold up the ideal. Government, I believe, has every right to uphold the ideal, to esteem, to value, to honor the best. Society, and society's tool of government, has a clear right and, indeed, a clear responsibility to encourage the preferred. We need to honor traditional families, which are the Nation's best hope for emotionally healthy and happy, well-adjusted citizens who can govern themselves and continue this experiment in self-government we call America.

Government can give preference to the best for our people—the best by any standard, whether health indicators or happiness measures, without punishing or singling out the aberrant, the alternative, the less-than-best. We as a Congress must stand up and say that we are familiar with the social research, we are familiar with the findings of the caring professions and mental health, we know the conclusions of the health care workers. All point to the dire need in our Nation today for stable, two-parent loving families that will honor all family measures, especially their children.

The DC statute denigrates that loving, sacrificial commitment by turning these relationships into a menu of economic goodies to be grabbed by simply going down to the Mayor's office and signing in. Living together? Come on down for health care and more. Shacking up? Then you need to sign up.

This is hardly the basis of sound fiscal stewardship or enlightened public policy, which the American taxpayer and the American citizen can expect, especially from our Nation's Capital.

But whether we agree with the misguided policy, the backhanded slap at the family cannot and should not be tolerated by this Congress. We have thrice blocked this poor piece of work. Today we need to kill it and put this issue behind this Congress for good.

□ 1745

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

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

The CHAIRMAN. The gentleman from California [Mr. DIXON] is recognized for 15 minutes.

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

Mr. Chairman, this amendment clearly illustrates the mean-spiritedness of this Congress. This law is intended to extend health coverage, something that everyone should have, to a domestic partner.

Yes, they can be gay; yes, they can be lesbian, but they can also be heterosexual.

This amendment costs the District government nothing. The employee pays the entire amount for the additional person carried.

What is wrong with the District government deciding to extend this benefit at no expense to them and of great ability to cover someone in their health benefit?

Yes, there is a division in this country about homosexuality, but certainly everyone is entitled to health care, and the District has made some other people eligible for it. That is all that is happening here. It is, in fact, a cost saving to the District. Because if the person does not have insurance, they, in fact, would probably go to the general hospital or some other public facility.

I understand your reservations about some lifestyles, but you are not going to change any lifestyle. You do not recognize any lifestyle by extending to a person health care coverage. That is all the DC law does. Why should Congress repeal that important progressive initiative by the District of Columbia?

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

Mr. HOSTETTLER. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Georgia [Mr. BARR].

Mr. BARR. I thank the gentleman for yielding me the time.

Mr. Chairman, the question is very simple. Do we want the Congress to give its approval as representatives of all the people of this country to a law in the District of Columbia over which Congress has very clear and appropriate authority that, for purposes of extending certain privileges, not entitlements, not rights, to so-called domestic partners, placing nontraditional groupings of people, men and men, women and women, nonmarried couples on par with the traditional family structure of men and women, in marriage, with children?

I think that it is very appropriate for this Congress to step forward, have the backbone to say what previous Congresses have not done. They have done it through the back door, by simply not extending funding, to once and for all stand up and say that we do believe there is merit in the traditional family structure that has done this country so well for so long.

We believe that that heritage ought to be protected and preserved, and we think it is wrong for jurisdictions, particularly those over which this Congress has jurisdiction, to go against the grain of American history, to go against the grain of the strength of our society. This legislation is good, it is limited, it is appropriate, it does what previous Congresses have not had the backbone to do. It steps forward and says traditional family structures are good for this country. They have been the backbone of this country. They ought to remain the backbone of this country and we should not weaken that.

I support the gentleman's amendment and urge its adoption.

Mr. DIXON. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. STUDDS].

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

Mr. STUDDS. Mr. Chairman, I have a stable, loving family.

As many Members know, this weekend I announced my intention not to seek a 13th term in this body. When I did so, I had at my side my stable, loving family: My brother, his wife, my sister. Her husband unfortunately had died a few months ago. He was a Presbyterian minister who led the fight within his church for the ordination of openly gay clergy. He would have been there. I think he was there in spirit. It was in a church that we made the announcement. And my partner, Dean Hara, whom a great many of you, perhaps most of you, know and a great many of you consider as a very close friend.

My colleague from Massachusetts has a stable, loving family; and my colleague from Wisconsin has a stable, loving family.

I would suggest that Members do something that is rare around here; that is, read the law that we are proposing to repeal. I just did that.

We have heard it referred to as privileges and economic goodies, among other things.

Let me tell you what this law does that you now are asked to repeal. It defines a domestic partner as a person with whom an individual maintains a committed relationship. It defines a committed relationship as a familial relationship between two individuals characterized by mutual caring—mutual caring—and the sharing of a mutual residence. I do not know why that frightens or offends anyone in this institution.

What are the benefits? Unless you are an employee of the District of Columbia, and I will come to that in a moment, there is only one sentence under domestic partnership benefits. See how this frightens you: All health care facilities, including hospitals, convalescent facilities, or other long-term care facilities shall allow a patient's family member to visit the patient.

That is the sum total of what is granted by this law to every resident of the District of Columbia who is not an employee of the District.

If there is any Member of this House that thinks that I or Mr. FRANK or Mr. GUNDERSON or any of the dozens of gay and lesbian staff members on both sides of this aisle ought to be denied the right to visit the hospital if their domestic partner is ill or dying, I would like to hear them stand up here and say that.

If you are an employee of the District of Columbia, here is what you are granted by the statute: Sick leave when needed to care for a family member. Funeral leave or annual leave when needed to make arrangements for or to attend a funeral or memorial service for a family member.

I have had more experience than I would like to have had attending such memorial services, and I am damned if anybody in this institution is going to tell me or anyone else that they can be forbidden the right to attend a memorial service for someone they love.

The only provision in the District statute, the only provision other than the ones I have read to you, the only privilege, as it has been characterized, the only economic goody, as it has been characterized, is optional self-financed health benefits for employees of the District of Columbia. They are allowed, and I quote, to purchase, to purchase family health insurance coverage. That is it.

That, my friends, is what we are being asked to repeal. I fail to comprehend how that could offend any person.

Mr. HOSTETTLER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN], the former fighter pilot and colleague of mine in the Committee on National Security.

Mr. DORNAN. Mr. Chairman, I predicted about 10 years ago that I someday would come to this floor and announce a great tragedy in modern American life. Having just gotten the statistics this week from the Centers for Disease Control, the time has come.

More Americans in the prime of life, including thousands of children, have died because of the AIDS virus than were killed in World War II. We are now past 295,000 deaths out of 470,000 some odd reported cases. There were thousands of deaths in the early part of the 1980s that were not reported because of merciful doctors putting down as the cause of death, the proximate cause, because of the immune system collapsing, they would put down cancer or heart attack. So here we are with more people dead of AIDS than World War II, 300,000 rounded off, people who died.

I understand that that horror gives a great deal of passion to a debate on redefining the family. But what I just learned from the gentleman from California [Mr. DIXON], again I point out, my very distinguished friend, that we are covering roommates.

Two very macho heterosexual firemen or policemen who have alternately saved one another's lives in severe fires or shootouts can be rooming together and have developed a true bonding from professional danger shared that they could get health insurance for one another.

I do not know of anybody who has ever been denied going to be a memorial service ever. I never heard of that in my life. I do not know why anybody in a life-threatening situation in the hospital cannot designate a long list of friends that he or she would rather see even than some family members, blood members who have not been too kind to them. I never heard of that until recent times, and that can be easily resolved.

What we are simply debating here in the federally controlled District of Columbia is a redefinition of the family.

I do not know. These heterosexual roommates, two wives who maybe their husbands were killed in a plane crash, they go to know one another through legal process and they became close and their children got to know one another. Now they are rooming together, and they have different economic situations.

Have they come to me and lobbied me that we would like to have all the advantages of the traditional American family? I have never heard of anybody lobbying like that.

Or two Vietnam vets who alternately shared a combat and saved one another's lives and have become roommates, heterosexual roommates, I have never heard of any of them lobbying that we now have to redefine the American family. I am not prepared to redefine the American family.

Vote ''yes'' on the Hostettler amendment.

So in conclusion, Mr. Chairman, I close with these salient points.

First, we all know that the intent of this law is to officially recognize and sanction homosexual and heterosexual relationships which are outside the bonds of marriage.

Second, some are invoking the Home Rule argument to prevent the repeal of this ridiculous law. This amendment is entirely consistent with the mechanisms of Congressional review under the Home Rule Act. Congress has only delegated authority to the District government, it has not abdicated its constitutional obligations.

Third, this law erodes the legal status of the traditional family and denigrates the sanctity of marriage.

Fourth, if you want to look at reasons why we have too much drug abuse, too much teenage pregnancy, too many problems in our schools, too much crime in America, look no further than the breakdown of the American family unit. I, for one, will not be a party to any measure that tries to break down the family any further than it already is.

Fifth, besides giving health benefits and sick leave to both heterosexual and homosexual couples who are merely living together, this law gives the appearance that the Congress endorses such behavior. It also forces the residents of the District and indeed all Americans to accept the devaluation of marriage and the traditional family unit.

Sixth, this is a vote to keep the Nation's Capital in tune with the values that we are supposed to be promoting.

Mr. DIXON. Mr. Chairman, I yield 2½ minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. I thank the gentleman for yielding me the time.

Mr. Chairman, the overriding theme, if there is any, of the 104th Congress, appears to be devolving power back to the localities. More than any measure that has come on the House floor today, this is the real test of whether the majority means it.

This, of course, is an utterly redundant provision, because it is already in the bill. The gentleman from Indiana [Mr. HOSTETTLER] raises the ante by saying let us amend the D.C. Code on an appropriations bill.

It is an insult to the District to amend our law and all and certainly in this way.

This is a gratuitously self-indulgent amendment because it rises to do what is already done in the body of the bill. It is one of those easy targets that makes you say, ''Why don't you pick on somebody your own size?''

☐ 1800

District of Columbia residents feel deeply about bigotry. It may have to do with the fact that many of us are people of color. In my district, most of my residents are Baptists and Fundamentalists.

But, in the District, there is a consensus that gay men and lesbians ought to be able to register and purchase health care if they happen to be D.C. government employees, and this bill has a de minimis effect because it can help only D.C. government employees. So my constituents of every religious background and of every persuasion on the question of gays and lesbians support this bill as applied to gay men and lesbians.

I want you to know who the chief beneficiaries of this bill are given our demographics: Two elderly people living together, a disabled person who cannot live alone, two sisters or brothers living together, a grandchild and a grandparent living together, a mother and a grown daughter living together. That is who you would deny if you deny us the right to pass this bill which power should devolve to pass.

Who supports this provision? the National Council of Senior Citizens, the District of Columbia Nurses' Association, the Gray Panthers, Concerned Clergy of D.C., Churchwomen United, Disciples of Christ. We support this bill. This is our jurisdiction. Let us do with our lives and with our constituents what you might not choose to do. Give us our full rights as American citizens to recognize all of our citizens.

Do not vote for this amendment.

Mr. HOSTETTLER. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise in support of the gentleman's amendment to repeal the D.C. Domestic Partnership Act.

We voted on this last year. We got 251 votes. Basically, what this did is shut down the funding; but we did not have an amendment like this which basically from now on will prevent this from happening.

I ask my colleagues to listen carefully. The District of Columbia is a fiscal nightmare. There is too much spending and not enough savings, a classic example of big government, big spending that was wholeheartedly rejected by the voters in 1994. Priorities must be set. Repealing the Domestic Partnership Act is the perfect opportunity to set some priorities in this House and ensure that funding for nonessential programs will not be sanctioned by this Congress.

Laws that, in essence, allow homosexual, heterosexual couples to cohabitate, register as domestic partners and receive health benefits in addition to other legal rights undermine the traditional moral values that are the bedrock of this Nation. Legitimizing these relationships will only serve to erode our Nation's values. The Domestic Partnership Act is nothing more than a revolving door for people who have no desire to enter into marriage but still wish to receive all the legal and social benefits of the sacred institution of marriage.

We must make it clear that these relationships will not be endorsed by this Congress.

Support the amendment offered by the gentleman from Indiana to ensure that D.C. sets its budgetary priorities straight. Say ''no'' to irresponsible social experimenting, and let us not tonight redefine the definition of the family. Vote ''yes'' on this amendment.

Mr. DIXON. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, this bill does not implicate, contrary to the previous speaker, any funds. This bill would allow, or rather this amendment would prohibit the District of Columbia law that allows a domestic partner to visit his partner in a hospital, that allows a public employee in the District of Columbia to self-finance family health insurance for himself or herself and his or her domestic partner, self-finance. This has nothing to do with financing. This has nothing to do with the fiscal crisis of the District of Columbia.

This simply has to do with Congress deciding for motives of hatred of gay people and lesbians to reach in and tell local government, ''You may not have an enlightened policy.''

The gentleman, the previous speaker, said this is beneficial to people who have no desire to marry. There is no jurisdiction in the country which allows a gay person or lesbian person to marry. All the District of Columbia has decided is certain benefits, to visit the sick, to take annual leave, to take leave for bereavement, to bury their domestic partner, that they are entitled to that. But we are going to say no, we will not let you decide that. The hypocrisy of saying that we support local rights, we support home rule, when it has nothing to do with fiscal policy, and then passing this amendment is paramount, is supreme.

I urge a ''no'' vote on this amendment on grounds of home rule and grounds of simple humanity.

Mr. HOSTETTLER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, article I, section 8 of the U.S. Constitution says the Congress of the United States has the authority to exercise exclusive legislation in all cases whatsoever over the District of Columbia. In fact, when the home rule charter was passed for the District of Columbia, that authority was expressly retained because we cannot give it away. Even if we wanted to, we have responsibility for the laws of the District of Columbia, and if they are out of tune with what they should be, with what should be the laws in the United States of America, we as Members of Congress have the obligation, we have the duty, we have taken an oath that says we will act.

Three years straight, the House of Representatives and the Senate in bills that have passed and been signed into law by the President, 3 years straight we have said the law that is now at issue will not be effective, will not be enforced. We have had votes in 1994, in 1993, in 1992, and now in 1995. It is time that we say we make this a permanent restriction.

We do not believe in redefining the family. I heard a speaker say, after all, this measure says that people ought to be treated with the same advantages as if they were married if they are heterosexual and living together. He thought that made the bill better. I say it makes it worse. If you are saying that without benefit of marriage you want to encourage people to live together and redefine the definition of family to include that, the same as a husband and wife, then you are twisting what a family is. You are twisting what marriage is. You are undercutting families in the United States of America.

We have enough problems already. Family decline is at the root of problems in schools, problems in drug use, of too many teenage pregnancies. Marriages might have occurred and now people say, ''We don't need to have them because we can have an alternative to family. We can undercut the basic building block of our society.'' That is wrong. That is wrong to do so. The country will collapse if families collapse, and the are teetering and tottering already.

We do not need the Nation's Capital to say we are going to undercut family values. In fact, we are going to kidnap the very definition of what constitutes a family. We are going to redefine it as though we can improve upon what has given stability and strength to this country for its two centuries plus.

Mr. Chairman, I encourage people to vote in favor of the amendment. Say permanently the Congress of the United States is not going to redefine family and is not going to undercut marriage.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Chairman, I join the gentlewoman from the District of Columbia for her wisdom in recognizing that there is something to sovereignty.

This bill covers disabled citizens. It covers those unable to care for themselves. It covers the grandmothers living with the daughter trying to protect their life and jointly raising children. Yes, it covers African-Americans, Asians, Latinos, it covers gays and lesbians. It simply covers the human family.

I am somewhat concerned with the new message of the U.S. Congress of States rights. Although I recognize that many time States rights enslaved me as an African-American, I am prepared now to join with them and give to the District of Columbia the privilege of being able to say that they believe in the humanity of all mankind and womankind, if you will, and that they should have the opportunity to rise up to be covered by good health care, to visit their loved ones, to protect grandmothers, protect the disabled and simply run their business.

I do not know why we have nothing else to do and why we feel we must intrude into this process. I simply ask for fairness, ladies and gentlemen, just a simple question of fairness. Treat all people alike.

This is a bad amendment. I would ask you to vote against it and vote for humanity and believe that gays and lesbians are human as well.

Mr. HOSTETTLER. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, in conclusion, I would just like to reiterate the points that need to be made in consideration of this amendment.

First of all, we have a constitutional obligation in this issue. Article I, section 8, clause 17, is that authority under which I am offering this amendment. Section 601 of the Home Rule Act further returns to the Constitution on Congress' ability to legislate here.

Also, there is the issue of ERISA preemption. We are also considering the moral and legal erosion of the traditional family in this.

We also must then point out, Mr. Chairman, that in all practical terms this legislation has never been implemented. This Congress has never appropriated $1 for the implementation of this legislation in this legislation's history, and so that must be reiterated.

I would like to also point out, as I am, that there is something very wrong with a piece of legislation that says this, that a person may register a new domestic partner after a waiting period of only 6 months. Thereby, a person could feasibly put two domestic partners a year onto his or her health plan every year for the rest of his or her life.

Mr. Chairman, I am coming up very soon now on 12 years of marriage. Marriage is an institution in this country that I believe needs to be edified and exalted, and our Congress should do its part.

I ask for a ''yea'' vote on this amendment.

Mr. DIXON. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I hope intellectual honesty is still in order. ERISA, schmarisa, this is not about ERISA. This is about people who want to show a dislike and disapproval of gay men and lesbians, and for some odd reason, apparently they find gay men and lesbians more obnoxious if we happen to be in a stable relationship than if we are not.

☐ 1815

This is the ''Promote Promiscuity Act,'' I suppose, but people sometimes get into unintended consequences. Let us also be clear the nitpicking of the statute, it is a District of Columbia ordinance, is besides the point. If it were tightened, if it in fact said this is for gay men and lesbians who could not otherwise be married, they would be just as angry.

I did agree with the gentleman from California, who pointed out how many people have died of AIDS, who were well below the normal age at which people die. I welcome his support for greater AIDS funding. Maybe he will explain to the Senator from North Carolina the relevance of that, when more people have died of AIDS than died in World War II.

But I want to address this notion that somehow this undermines the family. Members have said ''Well, people are here looking for their approval.'' Herb and I have been together for 8 years. I want to assure those who have spoken in favor of this, we do not seek your approval. It is of no consequence to us whatsoever.

What we seek is to protect ourselves, and, even more, people more vulnerable than us, from the bigotry and interference that would harass them, belittle them, and deny them basic rights. And you say ''Well, you have got to do this. It is not meanness, it is not bigotry. You have got to do it, because it would undermine the family.''

That is bizarre. Is your faith in the family of such fragility that you think people are going to learn that Herb and I live together, that Dean and Gary live together, and they are going to leave their wives?

I have said this before. There was a commercial before about V–8 Juice, and there would be this cartoon character. And he would drink an apple juice, and he would drink a tomato juice, and he would drink a carrot juice. And someone would give him a V–8, and he would say, ''I could have had a V–8.''

What are we, gay men, the V–8 of American society? Are you so frightened that people will see two men living together in a loving relationship, or two women living together in a loving relationship, and that will undermine the family? Shame on those. You are the ones who undermine the family when you trivialize it like this.

If you want to compare, if your view of the family is that materialistic, apparently some of them believe on the other side that if you do not bribe people, they will not stay in their families. If you have that materialistic view, I would say do not worry, because there will still be many, many more advantages. The right to visit someone who is very ill, and that right has been denied to gay partners. It is not purely academic, it has been denied to people. The material balance will still be on your side.

But I have to know what it is, how does this mechanism work? How are we undermining families? And you say, ''Well, we don't want the Federal Government to give this stamp of approval.'' That is a very totalitarian concept of the Federal Government. What happened to your libertarianism? Is it not the role of the Federal Government in fact to let people make their own choices. Are you saying that the people you represent, the people for whom you speak, do not think what they do has value, unless it is stamped ''kosher for Passover'' by the Federal Government, the necessary changes being made?

I do not understand the logic here. In fact, what has happened is the District of Columbia, and, by the way, I am also struck, I guess maybe the New York Times is going to have to recall the issue of a couple weeks ago with the picture of Marion Barry and NEWT GINGRICH on the cover, the two pals. Speaker GINGRICH said he is for home rule. What, until bigotry says otherwise?

We are not talking about the constitutional right to do things. We have a constitutional right to do a lot of things. The question is whether or not we should do it.

What is it that drives us to say that we will strike from the books something that was democratically done by the elected people of the District of Columbia? ''Well, it is going to undermine the family.'' I have asked and asked and asked again, how does the fact that Herb and I share a residence in the District of Columbia, and care for each, and love each other, and wish to spend our time together, how does that undermine your family? What is it about our life that is going to tear asunder these family ties?

What we are talking about, and this makes it very clear, we are not talking about a threat to the family. We are talking about people who cannot abide, apparently, people differing with them. That is what we are talking about.

I have no desire to abandon families. Ten days ago Herb and I were hosts to his sister and brother-in-law and their two children, and then my niece came down. We are both members of loving, extended families. We interact quite well with our families.

This is an absolute tissue of lies, this assertion that you are doing this to protect the family, because anyone who understands families, who understands what the emotion really is that brings families together, could not think that we undermine the family.

I would ask the Members to vote with the earliest speaker in favor of home rule, and not with this effort to impose bigotry on the people of the District of Columbia.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. HOSTETTLER].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 172, answered ''present'' 1, not voting 10, as follows:

[Roll No. 759]

AYES—249

Allard	Barcia	Bilbray
Archer	Barr	Bilirakis
Armey	Barrett (NE)	Bliley
Bachus	Bartlett	Boehner
Baesler	Bass	Bonilla
Baker (CA)	Bateman	Boucher
Baker (LA)	Bereuter	Brewster
Ballenger	Bevill	Browder

Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fawell
Fields (TX)
Forbes
Fowler
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—172

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bishop
Blute
Boehlert
Bonior
Bono
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Green
Greenwood
Gunderson
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moran
Morella
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Rangel
Reed
Richardson
Rivers
Rohrabacher
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Thomas
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
White
Williams
Woolsey
Wyden
Wynn
Yates

ANSWERED ''PRESENT''—1

Obey

NOT VOTING—10

Chapman
Fields (LA)
Harman
McDade
Moakley
Murtha
Thornton
Tucker
Volkmer
Weldon (PA)

☐ 1840

Mr. BONO, Mr. BALDACCI, and Ms. BROWN of Florida changed their vote from ''aye'' to ''no.''

Mr. NEY and Mr. FORBES changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WALSH. 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. ALLARD) having assumed the chair, Mr. HASTINGS of Washington, 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. 2446) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST FURTHER CONFERENCE REPORT ON H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–304) on the resolution (H. Res. 253) waiving points of order against the further conference report to accompany the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. RUSH. Mr. Speaker, on rollcall votes 733 and 734, I was unavoidably detained and was not here to vote.

Mr. Speaker, had I been here to vote, I would have voted, ''aye'' on rollcall vote 733 and ''aye'' on rollcall vote 734.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. SCARBOROUGH. 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.

Committee on Banking and Financial Services, Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on Government Reform and Oversight, Committee on House Oversight, Committee on the Judiciary, Committee on National Security, Committee on Resources, Committee on Science, and the Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. ALLARD). Is there objection to the request of the gentleman from Florida?

There was no objection.

ORDER OF BUSINESS

Mr. SCARBOROUGH. Mr. Speaker, I ask unanimous consent that the order of the 5-minute special orders granted today to Ms. ROS-LEHTINEN and Mr. CLINGER be transposed.

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

There was no objection.

REPUBLICAN RESPONSE TO DYING ON THE VINE

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

Mr. LINDER. Mr. Speaker, I just must respond to the comments made by the gentleman before me because they are simply not true.

What the Speaker has said in a speech last week was he would like for the Health Care Financing Administration to wither on the vine. So would I. So would everyone.

As we take Medicare into more private markets with managed care opportunities and private insurance opportunities, we hope that the Health

Care Financing Administration, which has strangled health care with regulatory burdens, does indeed die on the vine.

Let me also point out that in 1965 when Medicare was passed, nearly half of the Republicans then in this House voted in favor of it. That should be pointed out again. Nearly half of the Republicans supported it. Over half support it now. Nearly all of us want to fix it, preserve it, protect it. But allowing erroneous statements to be made simply is not helping the process.

HCFA, the Health Care Financing Administration, should wither on the vine. Medicare will be better for it.

Mr. Speaker, the text of the speech by Speaker GINGRICH follows:

[From the Washington Times, Oct. 27, 1995]

GINGRICH SAYS HALT MONOPOLY

Text of House Speaker Newt Gingrich's remarks before a conference of Blue Cross and Blue Shield on Tuesday.

Now let me talk a little bit about Medicare. Let me start at the vision level so you understand how radically different we are and why it's so hard for the press corps to cover us. Medicare is the 1964 Blue Cross plan codified into law by Lyndon B. Johnson, and it is about what you'd—I mean, if you all went out in the marketplace tomorrow morning and said, ''Hi, I've got a 1964 Blue Cross plan,'' I'll let you decide how competitive you'd be. But I don't think very.

So what we're trying to do, first of all, is say, OK, here is a government monopoly plan. We're designing a free-market plan. Now, they're very different models. You know, we tell Boris Yeltsin, ''Get rid of centralized command bureaucracies. Go to the marketplace.'' OK, what do you think the Health Care Financing Administration is? It's a centralized command bureaucracy. It's everything we're telling Boris Yeltsin to get rid of. Now we don't get rid of it in Round 1 because we don't think that that's politically smart and we don't think that's the right way to go through a transition. But we believe it's going to wither on the vine because we think people are voluntarily going to leave it—voluntarily. Notice the difference, again, from the Clinton plan. No one under our plan is coerced into doing anything.

☐ 1845

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. ALLARD). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HEARING ''PROP'' INCIDENT DOES NOT MERIT ETHICS INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, halloween is over and it is time to take off the masks and reveal to the American public the truth about the so-called ethics matter regarding a prop used at a recent subcommittee hearing in the Government Reform and Oversight Committee. The truth is that this issue is really about partisan politics. I shouldn't have to be here tonight, or for that matter none of us should be. I find it truly discouraging when Congress has so many urgent matters at hand, balancing the budget, health care, and education, just to name a few, we find ourselves having to spend time and money addressing a matter that deserves nothing more than a brief explanation and an apology. Both of which have already been done.

I hope tonight that once and for all we can put an end to discussing this issue—we are beating a dead horse. Many of us, like myself, are sick and tired of discussing this nonissue. Clearly, this whole incident has been exaggerated and blown way out of proportion.

Let me clarify exactly what happened. On September 28 as part of a hearing conducted by the National Economic Growth, Natural Resources, and Regulatory Affairs Subcommittee a prop was prepared to show that certain organizations received Federal grants. The prop, a large chart prepared by HIS, was a reproduction of the organization's letterhead and showed in red ink the amount of Federal funds received by several members of the organization. The exhibit was xeroxed on letter size paper so that those that might not otherwise be able to see the easel could review it, including members of the press, and was released before the prop itself. The prop did not include any identifying information on it as to who prepared it as many hearing props do not; it was to be used for questioning a witness as to whether the information on the chart was accurate. No one who saw the prop or document would believe that it was put out by the organization itself.

Was there a crime committed? Was there a conscious attempt to deceive? Was this a forgery? The answer to each of these questions is a resounding no. This whole incident is being blown out of proportion. What did occur is that a new staffer on the Hill simply made an error. A human error. Nothing more, nothing less. Our Democrat colleagues want to spend more taxpayer money on trying to pursue an ethics violation. However, if one looks at the history of the types of ethics investigations brought before the House in the past they are far more serious charges, such as bribery or sexual harassment. There is no basis for comparison. The one incident referenced last week regarding a staffer who in 1983 intentionally and maliciously altered transcripts, which are official records of the House was a concern because of the legal nature of the document as legislative history. There is a big distinction between a prop used at a hearing to question a witness and altering the official records of the House. There is absolutely no precedent in the history of the House for bringing up an ethics charge based upon the unintentional actions of a staffer creating a prop for purposes of questioning a witness at a hearing.

In fact, we all make errors. I would like to expose some of the inaccuracies expressed last week in speeches given by my Democrat colleagues with regards to this incident. I will give them the benefit of the doubt, and assume that they too were errors. First, it was stated that Subcommittee Chairman MCINTOSH did not issue a letter of apology for some time, but in fact, a written letter of apology was issued that very same day. Second, it was stated the motion to table Mrs. SLAUGHTER's resolution was voted down twice—when in fact it was only voted down once by the House. Third, this incident is being mischaracterized as a criminal forgery. This is erroneous. For the record, according the Perkins' casebook defining criminal law the term ''forgery'' means the fraudulent making of a false writing having apparent legal significance. This prop had no such legal significance; it was not done intentionally, and it was not done to deceive. It was intended to be used for the purposes of questioning a witness during a hearing.

Mr. Speaker, there was no forgery and there was no crime committed. What I find most embarrassing and upsetting about this entire incident is the amount of time and money spent by Members discussing it on the House floor. There is nothing more to discuss—so let's be done with it and get on with the business that the taxpayers sent us here to do.

HOLDING DEBT CEILING HOSTAGE WILL HURT WORKING AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, in the past 220 years, America has been through 10 wars, the westward expansion, a Civil War, the Industrial Revolution, the Great Depression, Naziism, and Communism. This Capitol that we reside in right now was even burned in 1812, I believe.

Mr. Speaker, through it all, through all of that, for 220 years, the government has paid its bills. It has always paid its bills. But now Speaker GINGRICH is threatening to put it all at risk.

The Washington Times pointed out last Thursday, in order to force through the extreme Republican budget, they pointed out by the way which would cut Medicare to pay for tax breaks for the wealthy, they pointed out that the Speaker is threatening to throw the U.S. Government into default for the first time in our history.

In order to ram through their Medicare cuts, Speaker GINGRICH is willing to use the debt limit to blackmail the President, to hold America's working families hostage, and put us in league with some of the Third World nations who have not met their obligations over the years and who do not honor their promises.

Mr. Speaker, this just will not be an international embarrassment or an embarrassment that breaks records of historical precedence. It is going to have a devastating impact on the men and women, the working men and women in this country. It is going to affect them directly.

The debt ceiling affects interest rates. If we do not pay our bills, interest rates are going to go up. Some people say they are going to shoot through the roof. The Gingrich interest rate increase will mean that Americans will pay more for car loans; they will pay more for school loans; they will pay more for credit cards.

Worst of all, every family that has an adjustable mortgage rate, they have an ARM, and there are literally millions of Americans who have these financial instruments to pay for their mortgage, they will see their payments go up right around Christmas time.

New home buyers could easily see a $600 mortgage increase. That is what is at stake when we talk about the debt limit, and when we talk about holding it hostage, and when we talk about for the first time in 220 years not paying our bills.

Mr. Speaker, this will have an effect on the pension funds of senior citizens and the savings plans of many people who have payroll deduction plans.

One Republican Member on this side of the aisle even suggested that they should use all the tricks up their sleeve. He suggested that Republicans let the Government go bankrupt, even if it means delaying tax refunds next year. He even suggested that we not put payroll tax receipts into the Social Security trust fund.

Keep in mind, this comes from the same party which had a Congressman define the middle-class last week as those people who earn between $300,000 and $750,000 a year, and he defined the lower middle-class as those making between $100,000 and $200,000 a year. I would sure like to live in his neighborhood.

Mr. Speaker, the Gingrich budget passed last week slashes Medicare and slashes Medicaid; it cuts student loans; it repeals nursing home standards, all to pay for tax breaks for the wealthiest individuals and the wealthiest corporations in America.

Speaker GINGRICH says we have to default on our debt in order to get the budget passed. Mr. Speaker, I say they have to drop these irresponsible tax breaks for the wealthy. We stand with the President and we stand solid and we say to the President, ''Hold firm, Mr. President. You are doing the right thing.''

REPUBLICAN ATTEMPTS TO BLACKMAIL PRESIDENT WILL REQUIRE AMERICANS TO PAY RANSOM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, this afternoon the Republican leaders in the House and Senate went to the White House in an attempt to blackmail the President into signing their extreme budget.

Democrats and the President are opposed to the Republican budget because it includes deep cuts in Medicare and Medicaid and because it increases taxes on working families, while cutting taxes for the wealthy.

The President has promised to veto the budget unless changes are made to protect seniors, children and working families from bearing the brunt of GOP cuts.

But now, Speaker GINGRICH and the leader of the other body are attempting to blackmail the President by threatening to throw the government into default if the President doesn't sign their extreme budget. It's a very dangerous game. Playing politics with our economy is bad news for both Wall Street and Main Street. The Speaker's irresponsible threats sent shock waves up and down Wall Street. But, the real impact of the Speaker's ill-considered political gambit will be felt on Main Street. Once again, working families will be hurt the most.

In fact, the Speaker's threat to throw government into default will amount to a Christmas tax on working families. You see if the government goes belly up, interest rates will go up and up. What does that mean? Well, for starters, it would mean higher mortgage, car loan and credit card payments.

For millions of working families with adjustable rate mortgages, increased interest rates will mean their monthly payments will mean their monthly payments will increase, just in time for Christmas.

If the Speaker forces the Government into default, Americans can expect to ring in the New Year with higher car loans and credit card payments.

In fact, a Tuesday Washington Times story explained that Republicans are so committed to their blackmail strategy that they would be willing to allow the Government to default, even if it means they will have to delay income tax refunds next year.

Mr. Speaker, this is the quote from the Washington Times, Tuesday, October 31:

> Representative Nick Smith, the Michigan Republican who heads a 130 member House coalition that wants to use the debt limit as leverage to force Mr. Clinton to sign the Republican budget, said he believes the Treasury could go through January without a debt increase, and if it delayed income tax refunds next year, it might last through spring.

So, in fact, the gentleman does not really care if people do not get their income tax refund, if the interest rates go up, and people have to pay a higher mortgage payment, car loan payment, or credit card payment.

Mr. Speaker, raising mortgage rates for homeowners and denying tax refunds to hard-working Americans is wrong. But, that's what this GOP gambit will mean to working families in this country.

It's hard to believe that Republicans are willing to bankrupt the country. What's worse is that this is all being done to force the President to sign a budget that will further devastate working families.

It's a budget that would repeal Federal nursing home standards. That's right. The House budget would end minimum protections for senior citizens in nursing homes, opening the door for a return to the health care dark ages of bed restraints and mind-altering drugs.

It's a budget that would increase taxes on working families, while decreasing taxes on millionaires. By changing the earned income tax credit, the Republican budget means that working families will pay higher taxes last year. In my district, this budget will raise taxes on 14,309 working families.

It's a budget that would allow big corporations to raid the pension funds of their workers. This budget repeals current penalties for pension raids and allows companies to dip into their employees' retirement money for any reason whatever. In my State, it will mean that $6.5 billion in retirement funds will be at risk.

Eliminating nursing standards, raising taxes on working families and allowing giant corporations to squander their workers retirement benefits have nothing to do with balancing the budget. They have everything to do with the upside down priorities of the GOP majority.

Let's not play politics with working families' monthly mortgage payments. Let's not play politics with working people's tax refunds. Let's not play politics with the financial markets.

Republicans are attempting to blackmail President Clinton into signing their extreme budget bill, but it is working Americans who are being asked to pay the ransom.

□ 1900

SEQUENCE OF SPECIAL ORDER

Mr. SMITH of Michigan. Mr. Speaker, since my name was invoked by the previous speaker, I would ask unanimous consent that I be allowed to go out of order with my 5 minutes and speak at this time.

The SPEAKER pro tempore (Mr. ALLARD). Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE DEBT CEILING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, first I would like to ask the previous speaker if I could have that

chart. It is a beautiful chart. It must have taken several dollars to construct that chart.

Let me tell you, Mr. Speaker, and our colleagues what is happening with the efforts of the Republicans to reach a balanced budget. In Kemp-Roth in the early 1980s, we talked about reaching a balanced budget and we set out a plan and we failed. In 1986 and 1985, Gramm-Rudman again tried to develop a plan and a proposal to reach a balanced budget and, again, we failed. In 1990 the same thing happened.

Now we are talking about a situation where we have increased the spending of this country from $370 billion in 1970 to the $1.5 trillion that we have today. Back in 1970, $370 billion. Today the interest on the public debt is almost that.

Last year the interest on the debt that is subject to the debt limit was $330 billion. This Congress, politicians in Washington, Members of the Senate, Members of the House, the White House have found it to their political advantage to spend more money to do things for people, and they have decided that maybe increasing taxes is not so popular so what we have done is expanded our borrowing.

Do you know what we are doing when we borrow all this money and go into debt like we are today? We are saying to our kids and our grandkids, we are going to make you pay this back out of earnings and wages that you have not even earned yet, possibly that you have not even had a chance to go through school yet, and yet we are saying to you that our overindulgence today is going to be paid for by your earnings 10, 20, 30, 40, 50 years from now.

How do we get to a balanced budget? Well, the debt limit and the vote on increasing the debt limit is not a way to have leverage. It was used in 1985 and 1986. In fact, we have increased the debt limit of this country 77 times since 1940. I mean it has become a way of life. Nobody seems to care.

The consequences of that debt are now devastating the kind of economic expansion we could have. We had four individuals from Wall Street down to Washington today. They came down to talk to Members of Congress about what they thought the consequences of not sticking to our guns and not achieving a balanced budget was going to be.

They simply said, look, you are halfway through this stream. If you do not stick to your guns, you are going to see the stock market fall. You are going to see the bond market fall, and you are going to see more chaos than if you stick to your guns.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Is it not true, though, that what you want to try to do here with this debt limit is use it as leverage, as you have said, in order to force the President on the budget? That in itself has created chaos on Wall Street.

Mr. SMITH of Michigan. Reclaiming my time, Mr. Speaker, that is exactly what we are trying to do. We are trying to use the debt ceiling vote as leverage to force not only the President but those 160 of us, it was not 130, it was 160.

We sent the letter to BOB DOLE. We sent the letter to NEWT GINGRICH. We said, look, our interest is in achieving a balanced budget. We know it is going to be difficult. We know it is going to be hard, but here is what we are saying. We are saying we are not going to vote to increase that debt limit unless we get on an absolute glide path to a balanced budget.

Now Stan Druckenmiller came down from Wall Street today; James Capra came down from Wall Street; Edward Hyman, ranked the number one economist for each of the last 16 years came down here today, and Kenneth Langone came down here today.

Ladies and gentlemen, what they said is, you have got to stick to your guns. If we do not stick to our guns, we are going to perpetually continue to spend and tax and borrow. The question to the American people is, do you want a bigger government with more taxes or do you want a smaller government with fewer taxes? I mean, that is the question. The American people answered it last November. They are now giving us a chance to fulfill that commitment.

Go home and ask your constituents that question.

ALLIANCE FOR JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, in the past few months observers in this House may have noticed a lot of floor time being dedicated to attacks on our Subcommittee on Regulatory Relief, my character, and the character of the staff. These attacks have centered around a hearing that was held at the end of September in our subcommittee. The gentleman from Pennsylvania [Mr. CLINGER] addressed some of those issues in his 5-minute remarks earlier. I wanted to explain to the body today exactly what happened at that hearing so that each Member can decide what is at stake in this discussion.

For several months now, I have been working to enact a law that is designed to prevent the taxpayer subsidy for lobbyists here in Washington. For years it has been one of Washington's dirty little secrets that thousands and thousands of groups receive taxpayer grants. A small subset of them have become quite wealthy and use that money to hire their lobbyists to promote more and more spending here in Congress.

Now, along with the gentleman from Oklahoma, Mr. ISTOOK, and the gentleman from Maryland, Mr. EHRLICH, now Senator SIMPSON and Senator CRAIG, we have a bill that will put an end to that and put an end to an outrage of the taxpayer subsidizing the lobbyists here in Washington. But as President Reagan has said, it gets dangerous if you get between the hog and the bucket. So many of those lobbyists are now attacking us personally as we move forward with that effort.

The House Subcommittee on Regulatory Affairs, which I chair, has held four hearings into this, into the use of taxpayer funds by lobbying groups here in Washington. The last hearing was on September 28. At that hearing, the subcommittee invited one of those lobbyists, Nan Aron, who is President of the Alliance for Justice, to testify. The Alliance for Justice is a nonprofit charity that has annual revenues of about a million dollars.

The Alliance for Justice spends most of its time educating other nonprofit special interest groups on how to engage in lobbying.

The Alliance for Justice has about 30 members. Many of those members receive millions of dollars in Federal grant money and end up paying dues to the Alliance for Justice which end up funding their lobbying activity.

In many ways, this is a money laundering scheme in which the taxpayer dollars go out as grants to groups and end up subsidizing the efforts of lobbying by the Alliance for Justice.

Hillary Clinton's Children's Defense Fund, the American Arts Alliance, the Consumer Union, the Teachers Union and National Education Association, and the National Organization for Women's Legal Defense Fund are but a few of those members who contribute to the Alliance for Justice.

In preparing for this particular hearing, I asked the staff to prepare a series of questions for the Alliance. Where do they receive their money? Do they receive an indirect subsidy from members who receive Federal grants? The Alliance responded only in part to those questions and said they did not receive any Federal money themselves, but they declined to answer what type of subsidies their members received.

So I asked my staff to illustrate the point to prepare the following chart, which is a blowup of the letterhead of that group that shows that several of their members do indeed receive Federal grant moneys totaling over $7 million.

Now, the purpose for this blowup was to demonstrate how this money laundering scheme operates in this particular group. As we engaged in the hearing, we asked the chart to be available in the hearing room, and the committee staff also prepared a smaller 8-by-11 version of this chart to make available to the press and to the public who may not be able to see it.

The plan was that we would demonstrate the poster and then place the flier in the committee room so that anybody who was interested could have a copy.

Unfortunately, what happened was the fliers ended up out on the press

table in advance of the poster. This created some confusion because it was claimed by Ms. Aron and members of her group that it looked like it was their letterhead that was being used to make this point, because now that it was an 8-by-11 piece of paper, it looked like it was a Xerox of their letterhead. I think most people who will look at this document will know that this is not any type of alleged forgery but is in fact a demonstration of how this money laundering scheme works.

Now, my staff ended up answering questions about who prepared the document. We immediately told people when asked at the subcommittee hearing, this is a document that we have prepared, based on research in our subcommittee on how the taxpayer dollars are used. And I apologized later that night to Ms. Aron for any confusion with the use of their letterhead. But nonetheless, the attacks continue because they do not want the American taxpayer to see how their money is being used.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GIBBONS] is recognized for 5 minutes.

[Mr. GIBBONS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

[Mr. HAYWORTH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I have to say I was amazed to hear the gentleman from Michigan who previously spoke to actually admit that the Republican leadership is using the debt ceiling as leverage in a political way. The effect on the economy, as was mentioned previously by the gentlewoman from Connecticut, is incredible. To think that the Government might go into default in order to achieve a political purpose on the part of the Republican leadership is incredible to me.

I do not think that the voters last November, when they went to the polls, thought that they were voting to put the Federal Government in debt, into default. I was just reading from American history, remember when I was in grade school, how proud we are that over the history of the American Republic we have never defaulted on our debts and how important it was to just get our financial act together from the beginning of the United States to make sure that we would not default on our debts. Here is a Member of this body saying that the debt ceiling is being used as leverage in order to accomplish a political purpose. To me it is shocking. I cannot believe that he actually admitted that that is the case.

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

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

Mr. GEKAS. Mr. Speaker, is the stated goal of the gentleman from Michigan [Mr. SMITH] to bring about a balanced budget or to bring about political gain with the President of the United States? It is, in my judgment, to bring about a balanced budget. Nothing else has worked.

Mr. PALLONE. Mr. Speaker, reclaiming my time, the point of the matter is that the gentleman from Michigan admitted that he was using the debt ceiling and the possibility of default for political purposes. Even if that political purpose is that somehow he sees in the long run that he is going to balance the budget, the effect of the Government possibly going into default and what that would mean for the economy, what it would mean for the millions of people who would see their interest rates rise and their mortgages have to go up, to me it is just totally irresponsible.

I think that he points out the truth. That is exactly what the Speaker is threatening to do, to let the Government default in order to bully the President into signing his budget bill. I think it is totally uncalled for. At least the gentleman from Michigan was willing to admit it, but it is shocking to me that that is in fact the case.

I wanted to speak, if I could, about the budget bill. As a member of the conference, the bottom line is the House and the Senate, of course, passed different budget bills and now have to get together, and there is a conference for that purpose to try to get the two versions together.

☐ 1915

One of the things that I wanted to mention as a conferee, as a person who is going to be part of that conference, is that if is very possible and, I think to some extent, the Senate is already recognizing it is very possible, to essentially take this budget and minimize the tax cuts for the wealthy and the tax increases on the low- and middle-income working families in order to restore Medicare and Medicaid to programs that continue to provide quality health care. The problem I have right now is that this Republican budget bill essentially is destroying Medicare and Medicaid health care programs for the elderly and also for poor people in this country in order to pay for a tax cut for the wealthy. Medicare is cut $270 billion; Medicare, $270 billion. Medicaid, about $180 billion, and yet we have a tax cut that primarily goes to wealthy Americans that is $245 billion.

So, if in conference or if at some time later, after the President vetoes the bill, we actually were to decrease that tax cut and take back the tax cut from many of the wealthy Americans, we can put more money into Medicare and into Medicaid so that they are continually viable programs, and that is what needs to be done, that is what hopefully this conference will manage to do or ultimately will be accomplished when the President vetoes the bill and it comes back.

I wanted to mention two points, if I could, as part of this Medicare and Medicaid debate. There has already been an effort on the part of the Senate, and if you look at the Senate bill versus the House bill in two areas that I think are very beneficial if we can get these changes, one is that the Senate-passed provisions continue to apply Federal nursing home standards unlike the House bill, and secondly, the Senate-passed provisions require continued Medicaid coverage for low-income pregnant women and children and for disable persons.

One of the worst aspects of this House bill is that in fact what it does is to take away standards for nursing homes. Essentially what it means is that the nursing homes are up to the will of the State if the State, of New Jersey for example, decides that it does not want to have any kind of standards for nursing home care.

So I am hopeful that, when we get to conference, we can at least address those issues, trying to bring back the nursing home standards and trying to provide some guaranteed coverage for the disabled, for pregnant women, and also for children.

The SPEAKER pro tempore (Mr. ALLARD). Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

[Mr. DURBIN 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 Arizona [Mr. SHADEGG] is recognized for 5 minutes.

[Mr. SHADEGG 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 California [Mr. MILLER] is recognized for 5 minutes.

[Mr. MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

QUESTIONS FOR COLIN POWELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I say to my colleague, ''LINCOLN DIAZ-BALART,

my colleague from Florida, what a week; huh? What a day.''

Mr. Speaker, I only have 5 minutes tonight. I could have spoken about one of the greatest pro-life victories in the last 20 years, at least since I was sworn in on January 4, 1977. I could speak about this excellent victory, the very last vote tonight where we have locked in permanently a ban on any redefining of the American family. I could talk about some battles I have been having with the liberal press of late trying to distort my flying record in the Air Force. I wish I had flown helicopters, but Newsweek is wrong. I flew jet fighters, and I wish I had done both, but I did not, and I did not crash one airplane, let alone four, and we are working out some sort of an apology or retraction with Newsweek as we speak. The Hill, one of our little local papers here, accused me of an ethnic slur that is really disgusting. If it were not at the end of the year with every precious minute for legislative time on the House floor, I would take an hour. You freshmen should know this, Robert of Maryland. One-hour point of personal privilege, not if they attack you on radio or television; it is an old law, two centuries old If you are attacked in writing and it slurs your character, you can stand up at any point in the day and say, ''Mr. Speaker, I have a point of personal privilege.'' Everything comes to a screeching halt and you get 1 hour to defend your honor, and in an age devoid of heroes, when honor does not seem to count for much in many pursuits of life, honor is everything we have in public life.

But I am not going to talk about any of that. I want to talk about what Haley Barbour, chairman of the Republican Party, did. He sent me a free copy of U.S. News & World Report on top of the one the U.S. News puts in our office anyways. Thank you, Mort Zuckerman, and it says on the cover: Republican National Committee, Haley Barbour, chairman. Every time you start to worry about how we are doing, the Republicans, I want you to remember how they are doing.

So, I lifted up this little Haley card, and it says the Democrats, is the party over? They know they are in trouble, and it is even worse than they think. And here is a little donkey sitting on a gravestone. I remember when they did this to the Republican Party after Goldwater brought us down to 143 only on our side, the lowest since the Depression, and then Nixon, Lord rest his flawed career and wonderful soul, he brought us down to 143 the year I came, in 1977. We were 143, 144 2 years before that, and they wrote the Republican Party off.

So, is the party of Jefferson, the great American patriot who said, ''The least government is the best government,'' over? Is the party of Andy Jackson, who redefined the Presidency and is one of the most ignored great Presidents of our time, is his party over? I do not think so. Maybe the part of Franklin Delano Roosevelt and flirtation with socialism is over, but before we write off the Democrats, I have a way to save the Democratic Party and to save the two-party system, and here it is:

Mr. Speaker, did you read George Will's column in Sunday's paper, 22 questions for Colin Powell? Well, I have 22 more questions that I am going to submit for the RECORD tonight for Colin Powell because guess what? My pal, Colin, No I recommended him to George Bush in 1988 in writing—thank you, right in the nick of time—in writing that I want George Bush to pick Colin Powell. I did not know if Dan Quayle was on a short or a long list, but I wanted him to pick Colin Powell, and that was 7 years ago. And Colin knows I think well of him, but I found out from his strange answers to a lot of questions and volunteering that he is a Rockefeller Republican, he is a Democrat, and he would make a superb Democrat of character and integrity. If Colin Powell would declare as a Democrat against Bill Clinton In New Hampshire, he would whip him good. He would save the party of Jefferson and Jackson. The American people would have one wonderful choice 1 year from this week on the 5th of November in 1996, and the two-party system would be saved. But by Colin Powell, a moderate Democrat of great character, coming into the Republican process, mucking it up, he emboldens Pat Buchanan, he unleashes all these other multimillionaires, the billionaire Ross Perot gets energized and goes like a bull in the China closet destroying the whole process, and look what this very same article says:

Writing off the Democrats; is the party over? Powell counts the days and strokes the Democrats. He has already said he could be either one. It says that Richard Armitage, my pal and Colin Powell's close friend, called the Democratic Leadership Council, what is left of their moderate wing, to congratulate them on their approach to affirmative action.

What is going on here? Colin, if you are listening, and I understand you are watching some of the Presidential debates, I hope you are taking notes. Here are 22 questions for you, Colin. I will see how many I can get through before the hammer gets down.

The list of 22 questions for Colin Powell in its entirety is as follows:

TWENTY-TWO QUESTIONS FOR COLIN POWELL

1. General, do you oppose the use of U.S. ground troops in Bosnia?

2. Should the debt ceiling be raised without a specific plan to balance the federal budget?

3. Should the $500 child-tax credit be a part of this year's budgetary plans to help ease the financial pressures on the American family?

4. Should the Consumer Price Index be lowered in order to reduce payments to federal beneficiaries?

5. Should agricultural policy be fundamentally changed in order to adhere more to free market principles?

6. Should capital gains tax cuts be made?

7. Should U.S. troops ever be placed under foreign/U.N. command officers and NCOs and if yes, should Congress place strict limits on such command and control arrangements?

8. Should women be allowed into combat? Can they opt out on eve of deployment where raping and torture of POWs is common practice?

9. Why didn't you resign as Chairman of the JCS in protest over President Clinton's policy of lifting the ban against homosexuals in the military or the equally offensive cancellation of the regularly scheduled pay raise for active duty soldiers?

10. After supporting the Bush Base Force Plan, why did you then support the Clinton Botton-Up Review defense plan which, by some accounts, is under funded by as much as $150 billion?

11. What would you do with regards to the growing threat of ballistic missiles including specific programs such as Navy upper-tier and the 24 year old ABM Treaty with the melted down Evil Empire?

12. Should foreign aid to the former Soviet Union (including our DoD funding) be conditioned to ensure Russia actually dismantles offensive nuclear, biological, and chemical weapons programs?

13. Should dual-purpose technology be transferred to communist China while China proceeds with a dramatic military buildup?

14. Should human rights and democratic principles be heavily considered in granting Most-Favored-Nation trading status to totalitarian nations like China or Vietnam? Should we keep sanctions against Fidel Castro's oppressive regime in Cuba.

15. Should the United States have diplomatically recognized Vietnam while questions remain unanswered by the communists in Vietnam about what they know concerning Americans still listed as POW/MIA, such as extensive Politburo and Central Committee records?

16. Should Clinton have been allowed to financially bail-out Mexico without congressional approval or oversight?

17. Should the nations of Poland, Hungary, the Czech and Slovak Republics be allowed into NATO? If so, when? Why not Poland in 1996?

18. Should Chile be allowed to join as a member of NAFTA?

19. Should partial-birth abortions be outlawed? And except for life-of-the mother, what about banning all abortions in military facilities?

20. Should groups that receive federal money be allowed to lobby Congress for further funding, i.e. the AARP?

21. How should the U.S. better protect its sovereign borders to illegal immigration and enforce U.S. laws?

22. Should Hillary Clinton be subpoenaed to testify in regard to her phone conversations with Maggie Williams and Susan Thomases the morning of July 22, 1993 the day that Bernard Nussbaum blocked investigators from properly searching Vince Foster's office?

P.S. Can you tap your friends in the National Security Community for believable cost figures on Haiti and Bosnia through September 30, 1995?

Mr. Speaker, the others I submit for the RECORD, and I will take an hour special order tomorrow. Read all of George Will's 22, my 22, and hope that Colin Powell will give us some answers before the debate in Florida on the 18th where I hope the gentleman from Florida [Mr. DIAZ-BALART], will introduce me.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

[Mrs. SCHROEDER 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. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

[Mrs. COLLINS of Illinois 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. HORN] is recognized for 5 minutes.

[Mr. HORN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

[Mr. WISE addressed the House. His 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. KIM] is recognized for 5 minutes.

[Mr. KIM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

INNOCENT MISTAKE TRANSFORMED INTO AN ETHICS COMPLAINT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. EHRLICH] is recognized for 5 minutes.

Mr. EHRLICH. Mr. Speaker, I yield to the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. EHRLICH, I wanted to conclude my remarks from earlier and just to say that, regardless of these types of attacks on our subcommittee and the process there, we do not feel that that should be the type of debate we have in this Congress. What we are going to do is continue on the merits of our bill that will protect the taxpayer and end the taxpayer subsidy for lobbyists here in Washington, and I look forward to working with my colleague from Maryland in doing that.

Mr. EHRLICH. If the gentleman will stay right there, I hope the American people are watching this tonight, Mr. Speaker, and I would like the gentleman in very concise terms to go before me in 2 minutes the facts of what was set out earlier.

From my understanding, you have a hearing, you were the subcommittee chair, a mistake was made, a prop was made, a mistake was made by a staffer; correct?

Mr. MCINTOSH. We should have used the prop first and then distributed the smaller version.

Mr. EHRLICH. It was distributed prior to the time it should have been distributed; is that correct?

Mr. MCINTOSH. That is correct.

Mr. EHRLICH. When you found out about this mistake performed by the staffer, what did you do?

Mr. MCINTOSH. At the hearing I told people this is our document. We intended to make the point this way, and that evening I sent a letter of apology to Miss Erin saying, if there was any umbrage taken, it certainly was not our intent.

Mr. EHRLICH. And to my colleague how long was the offending piece of paper on the desk for public consumption? Do you know?

Mr. MCINTOSH. I am not sure exactly how long it was there. It did not take long before we were asked about it, and the staff withdrew the document and have since then reissued it with a disclaimer that this information about the grants comes from the subcommittee.

Mr. EHRLICH. The irrefutable facts, however, are once I found out the staffer had made a mistake, you ordered it off the table, you offered an immediate apology, at least you recognized a mistake had been made publicly; correct? And that evening you wrote a formal letter of apology; is that correct?

Mr. MCINTOSH. That is correct.

Mr. EHRLICH. Now, Mr. Speaker, a political culture that encourages this scenario to be transformed into an ethics complaint against my colleague from Indiana is not what the American people have a right to expect. A political culture that seeks to personalize innocent, innocuous mistakes and attacks a Member of this body personally not on the issues, not on political philosophy, not on political orientation, that is all fair, I would submit, to the general public and the Members of this body, but a political culture that requires even a personal attack against my colleague from Indiana on these facts is broken, and I thank my colleague from Indiana for his indulgence.

Mr. Speaker, the bottom line to this entire situation, as the chairman of the full committee stated, as the chairman of the subcommittee stated tonight, we were sent to Washington to change this culture, and if there is one thing I hope we can claim success on come November 1996, and I will direct this comment to my colleague from Indiana, it is that we change the culture that seeks to personalize innocent mistakes. Where I came from, in a State legislature, this is a nonevent.

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Here, it is an ethics complaint. I submit to the people of this country, this is not what they voted for November 8, 1994. I am making it my business, and I want the Members to know, and I want every Member of this body to know that this has to stop. I thank my colleague for his indulgence.

Mr. MCINTOSH. Mr. Speaker, if the gentleman will yield, let me say that I wholeheartedly agree, that we need to get to debating the facts. In this particular case, I think what is feared more than anything by these groups is that we will succeed in telling the American people about how their tax dollars are being used. In this case it was $7 million that indirectly went to benefit this lobbying group through a laundering scheme. Interestingly enough, when I asked Ms. Aron at the committee hearing to help us bring out those facts and to tell us if she did not agree with these dollar amounts, how much Federal subsidy there was, this was her response.

Mr. EHRLICH. Let me understand this now. This quote that you have produced was her response, and that is the reason the entire document was generated in the first place?

Mr. MCINTOSH. She said, ''We are not going to tell you, Members of Congress, how much taxpayer dollars go to our membership, how and whether that taxpayer dollar is being used to subsidize our lobbying effort.'' In a typical kind of arrogance that has grown up in this city of people who have gotten used to living off of the taxpayer dollars, she said, ''I will not. I will not go into the amounts of Federal monies that my members receive.'' To me, we owe it to the taxpayer to tell them that information.

Mr. EHRLICH. Mr. Speaker, if only our opponents would debate the issue on the merits.

THE VA-HUD-INDEPENDENT AGENCIES CONFERENCE REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

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

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

REGARDING ATTACKS ON MEMBERS AND THEIR REPRESENTATIVE DUTIES

Mr. DORNAN. Mr. Speaker, I want to say to my distinguished colleague, the gentleman from Pennsylvania, that I just went up and checked our own

House manual book, our rules manual. It is in every office. On page 360, you will read that an attack upon a Member about his representative duties is a bona fide point of personal privilege. I would recommend that you do what I said I would not do myself to correct some attacks on my honor. I will not waste the committee's time, because they were more personal. But that is an attack on the whole freshman class, on me, on all of us, on what we are trying to do. I would recommend you do it in the middle of the day tomorrow, or as soon as you can next week, check it with the Speaker, but not——

Mr. GEKAS. And not tonight.

Mr. DORNAN. And not tonight.

Mr. GEKAS. Thank you for yielding back my time.

Mr. Speaker, I am engaged in a small war of ''Dear Colleagues.'' My office sent out a ''Dear Colleague'' letter on the impending conference report and the vote we are going to take on the VA-HUD-Independent Agencies appropriations. That ''Dear Colleague'' was answered by another one, and now we have submitted a surrebuttal ''Dear Colleague.''

I would like to explain this to the House, because this information flowing back and forth is going to be very important in the decision that each Member of the House has to make on the appropriations for EPA under the Independent Agencies portion of the VA-HUD conference report that we are going to be debating.

First of all, Mr. Speaker, let us start from the beginning. This is important. When we passed the Clean Air Act, and all of us want clean air, for gosh sakes. Who can accuse anybody in the Congress or outside the Congress of not wanting to have clean air? Well, anyway, because of the language in the Clean Air Act and the authorization granted in there, the EPA had certain powers. One of them was to set auto emission standards for the 50 States.

What has happened is that the mandates issued out of the EPA for centralized emissions mechanisms in the various States were so draconian and so devoid of proper standards for clean air, and really devoid of the necessary information upon which proper testing could be accomplished, that 16 States had to throw up their hands and determine that it was impossible for them to comply with that kind of centralized emission mechanism called for by the EPA.

So what has happened is that, with a lot of intermediate history which I will not reiterate here, we came to the point where a rider, one of the 16 or 17 riders, is being inserted into these Independent Agency appropriations for the EPA which would say, very innocuously and reasonably, that we would like to see the EPA conduct a 2-year study of air sampling, shall we say, to determine what is an alternative to the centralized mechanism that they are mandating, because we do not think that 16 States, and perhaps others, will be able to safely and cost-effectively comply. That is all we wanted to do with this rider that is 1 of the 16 or 17 riders.

Now, when I sent out my letter, my ''Dear Colleague'' letter, I alerted everyone that we ought to vote no on the Stokes-Boehlert motion to instruct conferees, because we could be cutting out highway funds unless we supported this rider. If we supported Stokes-Boehlert, we could be cutting out highway funds for the 16 States. That is the essence of my ''Dear Colleague.''

What that was followed by was a ''Dear Colleague'' by the gentleman from New York, SHERWOOD BOEHLERT, and I guess the former chairman, the gentleman from Ohio, Mr. STOKES, that that was not true, that no State would be facing losing highway funds if they got rid of this rider and let the EPA do what it wanted to do.

So what did I do? I researched as fast as I could, and my staff did an excellent job to try to bring this into focus. We have learned that indeed the EPA sends out letter after letter to California, to Pennsylvania, to Virginia, threatening the loss of highway project funds and highway funds unless those States and others comply with this centralized version.

Then they say, ''We do not mandate centralized monitoring of auto emissions,'' but then if you do not, then if you implement something else, you could lose 50 percent of the credits that in themselves wind up costing highway funds to the States.

Mr. Speaker, I am trying to straighten this out. Let me repeat, the rider which is in the bill now, which I want to protect, is one that would put the EPA on hold on these mandates for this centralized system, put them on hold until we can test the air, get some samples, determine the best way to determine this auto emissions program, not to force this down our throats in an ineffective, cost-ineffective manner.

The SPEAKER pro tempore (Mr. ALLARD). Under a previous order of the House, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized for 5 minutes.

[Ms. ROS-LEHTINEN 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 Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

[Mr. SCARBOROUGH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DEMANDING INFORMATION ON THE WELFARE, WELL-BEING, AND WHEREABOUTS OF JOURNALIST DAVID ROHDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I rise tonight to express my serious concern over the welfare of an American journalist who has just been reported missing in Bosnia. I received a phone call from the father of David Rohde this morning indicating that—he was aged 28 and currently serving in the Balkans as a reporter, Eastern European correspondent for the Christian Science Monitor—I am advised that he has been reported missing as of last Saturday.

American embassies in Belgrade, Zagreb, and Sarajevo are all assisting in attempts to locate Mr. Rohde, along with the United Nations. It is believed that David is being held at Pale, and the Christian Science Monitor quoted a U.S. State Department spokesman as saying that ''All indications are that Mr. Rhode was traveling in an area under the control of the Bosnian Serbs, and we hold them responsible for his safety.''

I have to confess, Mr. Speaker, that I have a personal interest in this. Not only is Mr. Rohde's father a constituent, but barely 4 years ago I served in uniform as a member of the U.S. Marine Corps. My responsibility in the early days of the American incursion into northern Iraq was to work with the international press corps who are in that part of the world, in that godforsaken part of the world, attempting to cover the story.

I have nothing but profound admiration and respect for the courage and the integrity of the international press corps, particularly many of the brave American journalists who risk their lives on a daily basis to bring back to the American public information on critical crises around the world. Mr. Rohde is no exception to my observations.

I might also note for the record that on the issues of Bosnia and the difficult conflict in the Balkans, I have tried to be scrupulously neutral. At no time have I favored any one side over the other. I feel, and have felt for a long time, that our interest in the Balkans is to ensure that all three warring countries resolve their differences and they they live together in peace. But there is a certain irony that on the very day that the peace process is beginning, in Dayton, OH, and that the Presidents of Bosnia, Croatia, and Serbia have arrived in our country, it is ironic that Mr. Rohde has been reported missing in one of those areas, possibly in the Bosnian-Serb area.

I would say to the Presidents of those three countries and to the people of those three countries that your credibility is on the line. Whoever took David captive owes it to report immediately on his welfare and his well-being. We want an accounting of Mr. Rohde. We want his whereabouts disclosed, and we will hold you, whoever took this individual captive or is holding him against his will, we will hold you responsible for his safety.

Again, if peace means anything to the people of the Balkans or to the countries that are represented in Dayton, OH, this evening, and for the foreseeable future during this peace process, we want an immediate accounting of David Rohde. We want to know that he is in good condition, and that his safety and health are being respected. We want him released at the earliest possible moment.

KID-GLOVE TREATMENT OF FIDEL CASTRO; AND SHOCKING STATISTICS ON OUR NATION'S INCIDENCE OF KIDNAPINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DIAZ-BALART] is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Speaker, I want to briefly touch upon two subjects this evening.

One, there was a visit to the United States last week by the Cuban dictator, Castro. Unfortunately, he was received by many in New York as though he were something else than what he is. He was, unfortunately, received by some as though he were a democratically elected leader, or someone who was not a horrendous violator of human rights. That is more than unfortunate, because it is really degrading to those who receive someone like that, someone who is a murderer, someone who is responsible for the killing of tens of thousands of human beings, and for maintaining an oppressive system, denying all human rights and democratic possibilities for an entire Nation.

He was received, for example, by Dan Rather at CBS News, given a gift by Dan Rather. Mr. Bernard Shaw of the CNN network interviewed him in an hour, and asked absolutely no followup questions. When Castro was asked by Mr. Shaw, for example, why he did not permit political parties, and Castro said they were divisive, there was no followup question. When he was asked by Mr. Shaw with regard to why Castro's daughter calls the tyrant a murderer and a drug trafficker, the Cuban dictator simply says, ''That is personal,'' and there was no followup question.

I would assume that an appropriate follow-up question would be, ''I'm not asking you a personal question, I'm not asking you if you are a good father, I am asking you to react to the fact that your daughter says you are a drug trafficker and a murderer.'' Of course, there was no follow-up question. I was really sad to see a journalist of that reputation engage in an interview like that.

I guess the key is that there are names, there are hundreds and really thousands of names that we could list, I have no time to list them, but I simply want to name a few, because they are right now in dungeons in Cuba because of the Cuban tyrant, and they were in those dungeons last week while some of our colleagues in this House were receiving the Cuban tyrant, and some of them giving him gifts: Francis Chaviano. Omar del Pozo, a former colonel in Castro's own security force, is receiving electroshocks in a mental institution for demonstrating for democracy. Enrique Labrada. There is a 30-year old young woman, Carmen Arias, in a dungeon right now because she wrote a letter supporting democracy. Jose Miranda, a political prisoner with 72 days on a hunger strike, and for more than 6 months has been refused visits by his family.

That is at this very moment that is going on, and it was going on last week when Castro was being received in New York.

Orson Vila, a Baptist preacher, is in a dungeon now for preaching the word of Christ in Cuba. These are things I wanted to mention. I will continue mentioning them in the following weeks, Mr. Speaker.

I wanted to, very briefly, comment also on another subject, but very important as well, and commend my dear friend, the gentleman from Florida, PETER DEUTSCH, who in a few weeks will be holding a special order on the issue of kidnappings, and the fact that so many children in our country are abducted each year, and specifically remembering a constituent of his and child from our community who we do not forget, young Jimmy Ryce, who was kidnapped on September 11 of this year.

He remembers, and we remember others in our community who were also kidnapped, like Shannon Melendi, a college student at Emory, who we will not forget. We will continue not only to recall, but ask for all, all due efforts to be engaged in by the authorities.

I just want to bring out the fact, I have the figures from 1988, the last year I have: 3,200 to 4,600 children were abducted in our country, ages 4 through 11, and most of these attempts involved a car. What is happening in our society, Mr. Speaker? There can be no crime, obviously, that is more inhumane and simply unjustifiable than kidnapping children.

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I commend the gentleman from Florida [Mr. DIAZ-BALART] for bringing this subject out. We will continue talking about it. There can be no more important subject.

THREE GOALS OF THIS REPUBLICAN CONGRESS

The SPEAKER pro tempore (Mr. ALLARD). Under a previous order of the House, the gentleman from Connecticut (Mr. SHAYS) is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, would the gentleman from Connecticut [Mr. SHAYS] yield for 10 seconds?

Mr. SHAYS. Mr. Speaker, I will yield very briefly.

Mr. DORNAN. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I wanted to add, at the end of the remarks of the gentleman from Florida [Mr. DIAZ-BALART], this column on Fidel Castro from this week's Time magazine. The party at Mort Zuckerman's house with Mike Wallace, Dianne Sawyer, Peter Jennings, Barbara Walters, all sorts of other millionaires, and the guest in uncharacteristic civilian clothes is Fidel Castro. Unbelievable.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SHAYS. Mr. Speaker, I want to thank the gentleman from Florida [Mr. DIAZ-BALART] for the work he has done in trying to awaken us to the need to be very aggressive as we deal with Mr. Castro.

Mr. Speaker, I wanted to address the House for the 4 minutes I have remaining to respond very strongly to the fact that we have three basic goals in this Republican majority. One, we want to get our financial house in order and balance our budget. The second issue is that we want to save our trust funds, particularly Medicare, and in the process preserve and strengthen it. Also, just as importantly, we want to change this social and corporate welfare state into an opportunity society.

Now, in the process of doing this, I have heard tremendous reference to the fact that we are cutting certain programs that we are not cutting. Admittedly, discretionary spending is going down. There are real cuts in discretionary spending. Foreign aid is being cut. Defense is a hard freeze, but we are oversubscribed in defense programs, so there will be cuts in defense.

But when we come to the earned income tax credit, it is going up, it is not going down. It is going from $19.8 billion this year to $27.4 billion in 7 years. Only in this city, and where the virus has spread, when you go from $19.8 billion to $27.4 billion do people call it a cut.

The School Lunch Program, calling it a cut when it goes in 5 years from $6.3 billion to $7.8 billion. How can that be a cut? It is an increase any way you look at it.

Student loans, over a 5-year program it is going to go from $24 to $33 billion. I say again, only in this city when you go from $24 to $33 billion in student loans is it a cut. Now, what we are doing is saying students are going to pay the interest rate from the moment they graduate until that grace period ends. That will accrue to them. It will cost them, over the life of the program, $9 more a month if they borrowed $17,000.

Then, Medicaid. Medicaid is not being cut, it is going up. It is going up from $89 to $124 billion. We are going to spend over $329 billion more on Medicaid than we did in the last 7 years, we are going to spend in the next 7. That is a 73-percent increase.

Medicare is going to go from $178 to $278 billion, $178 to $278 billion over 7 years. That is a 54-percent increase. Or, in terms of what we spent in the last

7 years, we spent $926 billion, it is going to go up to $1.6 trillion.

That is a difference of $674 billion of new money, 73 percent more than we are going to put in Medicare in the next 7 years than we did in the last 7. Then if you want to know what it is on a per-beneficiary, it is going to go up 40 percent. Only in this city, when you spend more money like we are spending, do people call it a cut.

Now, why are we doing this? We are doing this because our national debt has gone up and up and up. It was about $375 billion around 1975. Democrats and Republicans can share the blame in why these deficits go up. A White House that was Republican, a Congress that was Democrat. That is the past and both fingers were on it. But we have an opportunity now to get our financial house in order and stop increasing our national debt.

I just want to say that I am absolutely determined that there is not a chance that I will vote to increase the national debt until this President agrees to a 7-year budget. I want to say, contrary to what my colleague from Connecticut said, we are not saying it has to be our budget, we are just simply saying it has to be a 7-year budget. We will work out our difference, some of what the President wants, some of what we want. The bottom line, we have to get our financial house in order in 7 years. That is the outer edge. It would be better if we did it in 4 or 5 years.

ACCOMPLISHMENTS OF THE 104TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 60 minutes as the designee of the majority leader.

TRIBUTE TO WALT CHACKER

Mr. FOX of Pennsylvania. Mr. Speaker, I am joined with my colleagues tonight to speak about many issues facing the Congress and America. Before I do, I wanted to spend at least a few moments regarding a very special person from my district recently who passed away, Walt Chacker. He was someone very special, recognized by the President of the United States as a Point of Light for his work in establishing the Zipper Club, which was a support group for those who have had open heart surgery or heart transplants.

He lived for a number of years after his surgery, and he was an inspiration to many other individuals who underwent the surgery and this kind of operation. He was a great support for many people in Pennsylvania and throughout the country, for that matter, and I hope that the great works that he has accomplished in his lifetime will be carried on by many others in States all across this country to help people live longer and better after their surgery and their heart ailment.

Mr. Speaker, at this time I would like to enter into a colloquy with my colleagues, the gentleman from Minnesota [Mr. GUTKNECHT], the gentleman from Iowa [Mr. LATHAM], the gentleman from Georgia [Mr. NORWOOD], and the gentleman from Georgia [Mr. CHAMBLISS], discussing, as we should, basically an assessment of where we are on the Contract With America, what we have already accomplished with the balanced budget amendment and the billion dollar budget for the first time since 1969, and as well about Medicare reform, and basically that has been happening in Congress in a positive way under the Republican leadership.

I would call on Congressman GUTKNECHT to really start our dialog tonight on an assessment of what accomplishments have been made and where you see us going from here. Congressman GUTKNECHT.

Mr. GUTKNECHT. Well, I do want to talk a little bit about our accomplishments and what has been accomplished. I am happy all of us are freshmen. We come to this debate with clean hands. We did not help create the problem. We were not here when the previous Congresses ran up 4.9 trillion dollars' worth of debt.

I have to tell you I am a little upset tonight, and I think the American people should be upset. Frankly, perhaps we have been too nice and too gentlemanly in this debate about the budget and what is happening, and what is happening especially from the administration relative to our efforts to balance this Federal budget.

As I said, we did not help create the problem, but we are trying to clean it up and we are trying to solve it. But I, for one, am really frustrated with the half truths, the distortions, and the bald-faced lies which are coming out and have been coming out and are seemingly getting worse.

I think it is time that we spend a little bit of time tonight clarifying the record and talking about the facts because, as the gentleman from Connecticut just mentioned a few minutes ago, we keep hearing this wornout expression that we are cutting Medicare, we are ending student loans, we have cut school lunch programs, and we are cutting other needed programs so that we can give our rich friends a tax cut.

Frankly, I think it is time we spend a little bit of time tonight piercing through that very thin bubble and exposing the bare truth about what we are really doing with this budget and who the real benefactors will be. It is not the rich. It is working people who get up every day, work hard. They are the glue that holds this society together, and I, for one, happen to believe that they are smart enough to understand exactly what is happening in Washington and what has been going on for too long.

What has been going on for too long is Congress would pass all of the appropriation bills and they would say, oh, gee whiz, once again we spent $250 billion more than we have taken in, and they would say, let us pass the bill on to our grandchildren. So at the last minute they would raise the debt ceiling. So the toughest vote any Congress had to take was to raise the debt ceiling. It is still a tough vote.

But frankly, I think if we continue down that path and just allow us to every year raise the debt ceiling, and the President says he does not like our budget, but the truth of the matter is he has not offered one that really balances the budget, not within 10 years. As a matter of fact, the original plan wouldn't balance the budget in 10 years. We had $200 billion deficits for as far as the eye could see.

He may not like the plan that we have put together, although frankly I think it is very defensible, but let us see his plan. I mean where is a real workable plan from the other side, and the truth of the matter is, there is none.

Earlier we heard one of the speakers from the other side of the aisle say this is the Gingrich budget and the blackmail attempt may force this country into default. But we had a meeting with some of the big bond houses, people who represent the bond houses earlier today, and I came away with a very clear conclusion. It is not whether we are going to default, it is when are we going to default, unless we really change course, are willing to meet the deficit head-on, and deal with it this year and begin down the path toward a balanced budget.

So, I am glad I had an opportunity to get some of this off my chest, but I really have become increasingly frustrated with the lies, the distortions, the half truths that are being foisted upon the American public, and I think it is up to us to help clear the record.

Mr. LATHAM. Mr. Speaker, if the gentleman would yield, I would just like to ask the gentleman from Minnesota [Mr. GUTKNECHT], is this not the same President that is worried about upheaval in the bond market and instability of the dollar? Is this not the same President that gave Mexico $20 billion to shore up the peso out of a fund that was meant to stabilize the American dollar and the American economy?

Mr. GUTKNECHT. Mr. Speaker, I think that is absolutely correct.

Mr. LATHAM. Mr. Speaker, if the gentleman would yield further, I think it is unbelievable that they would accuse us of somehow being irresponsible when that type of activity has taken place.

If I may continue, I would like to focus on a couple of things just in the whole reconciliation, and what this really means all together.

This reconciliation bill is huge, and it is going to affect everyone in the country. There are four basic things that we will accomplish when we get through reconciliation.

Number one, we will get to a balanced budget, and the way we do that

is not by taxing more, not by taking more money away from the American families themselves, but by actually cutting wasteful spending here in Washington and downsizing and streamlining this town and the bureaucracy.

We are saving Medicare, not only for now, for the people who are currently in the system, but we are saving it for the next generation until the year at least 2011, which is 6 years farther than the other plans that are here that basically will cost the same, but we are also giving seniors options and choice and better benefits.

We are finally, after spending over $5 trillion, and I always think it is ironic that we have spent over $5 trillion on the welfare system in this country, we are finally going to replace that, but is it not ironic that that is the same amount that we are asked now to raise the debt ceiling, over $5 trillion, and what we have done is destroyed the American family, opportunities for kids who are in poverty. We have more poverty today than since we started this great war on poverty.

The last thing that we will accomplish in reconciliation is that we will again let families keep their own money, that they do not have to send it to Washington and have people here try to decide what is the best way to have their money be spent.

One thing, too, we have talked about the big picture, but there are some smaller things in reconciliation that I think are important for the public to be aware of.

We have heard a lot in the past few years about pensions for Members of Congress, that somehow there is a real great deal that we get all of this additional money. Well, a lot of that was changed back in, I think it was 1987. But in this reconciliation we put Members of Congress, their staff, on the same basis that all Federal employees are as far as the pension programs.

That is something we have not talked about very much, But this Congress has been so dedicated to reforming the way this place does business, to making sure that we are responsible, we are subject to the same laws as everyone else, that we have actually cut down the size and scope of Congress itself, in reducing the number of committees and committee staff, cutting down the term limit on chairmen of subcommittees and committees.

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And actually, even the Speaker himself now is limited to 8 years. Tremendous reforms that we have done in this Congress, but I think a lot of people are not aware in this reconciliation we do away with any disparity as far as our pensions.

Mr. FOX of Pennsylvania. If the gentleman would yield, I think it is a case of this 104th Congress in a bipartisan fashion, even though it is a Republican leadership, it is a case of promises made, promises kept.

We said we that we would pass the line-item veto; we did. We said we would have reform of regulations in this country, and we did. We said that we would pass an accountability law for Congress, and we did. We said we would pass term limits, and we almost did, but we did not reach the constitutional limit.

We said we would pass a stronger crime bill, and we did. We said we would pass unfunded mandates legislation, and we did. And we said that we would actually balance the budget this year.

I would like to ask the gentleman from Georgia [Mr. NORWOOD] just what a balanced budget will mean to his constituents. After that, I will ask the other gentleman from Georgia [Mr. CHAMBLISS] what this means to the residents of Georgia and how important it is for the first time since 1969 that we are going to balance the budget, like the other governments do and families and small communities do all across the country.

Mr. NORWOOD. Mr. Speaker, I appreciate the gentleman yielding, and let us first say that I am delighted to join the freshman class Republican Party truth squad that has come to the floor tonight. If my colleagues want me to be perfectly honest, I have a markup tomorrow on Superfund and I need to be back in my office reading it, but I am here instead because we have an obligation to come in behind those that would tell half-truths, mistruths, and not tell the American people the facts, so that we can correct that.

We have to do this every night; come tell the truth. It must be very confusing for people back home to hear one thing from one side and another thing from another side. Who do they believe?

Earlier tonight, not 45 minutes ago, we had a Member here who stood up and said that the mean old Republicans wanted to have a tax cut for the wealthy. Well, I have tried to ask the question, I tried to interrupt. I am ready for somebody in this body to define for me what is wealthy? Who is rich?

Mr. Speaker, what I think we are doing is exactly what the people in the 10th District of Georgia said do. They said in 1993, when this very Democratic Congress and President Clinton decided to have the largest tax increase in history, and a retroactive tax, they said, ''We really do not like that. We do not like this government taking another $260 billion out of our pockets.''

What I am trying to do is what they asked me to do: Return it to them. Some people call it a tax cut. I call it a tax return. We are giving them their money back. They said go up there and balance that budget. Go up there and stop borrowing money. Go up there and have a business plan to pay off that $5 trillion worth of debt, but do it by cutting spending.

So, what are we doing? We are sending back $245 billion over the next 7 years to working people.

Now, I want to make it very clear that I do not consider everybody who has a job in this country wealthy. I know the President thinks in those terms and, certainly, this Democratic Congress thinks in those terms. But 90 percent of the tax credits that we are going send back to families at home go to families with income levels below $75,000 a year. That is families with mom and pop both working with two children. I do not believe they will come up here and tell us that they are wealthy.

Mr. Speaker, 75 percent of the capital gains tax that we are going to send back to people at home goes to people with incomes less than $50,000 a year. Tell me if my colleagues think that is wealthy; if they think that is rich.

We are returning their $245 billion tax increase that the Democrats put on us in 1993. Now we are going to balance this budget. We are going to balance it over a 7-year period and we are going to do it by reducing spending. I do not even think we are cutting spending. We are capping our expenses at the 1995 level and allowing that to grow by 3 percent. That is going to fuel the economy at home. It is going to do great things, in my personal view. The 21st century looks bright to me for the first time in a long, long time.

Mr. FOX of Pennsylvania. If the gentleman would yield, I wanted to say that the tax reform we are talking about is going to create jobs, it is going to increase savings, and it is going to allow people to have the position to start new businesses and really make a difference in their own lives.

The fact is it is not going to be anything but help for the working families, help for senior citizens, and help for families with children. It is going to cut across the board in helping everyone.

I first wanted to call on the gentleman from Georgia [Mr. CHAMBLISS] to give us his impressions of what these reforms mean to his district, and in a greater sense what he thinks it is going to do for the country, the pro-reform measures, the anti-tax measures, and the pro-job measures that the Republican Congress has been moving forward.

Mr. CHAMBLISS. Mr. Speaker, I thank the gentleman and I appreciate the gentleman putting this group together.

Mr. Speaker, as I look around here, the gentleman from Arizona [Mr. SHADEGG] has joined us to add a little western flavor, but the six of us here tonight come from different parts of the country. The gentleman from Georgia [Mr. NORWOOD] and I are pretty close, but we are at opposite ends of the State. We come from varied backgrounds. We come from probably different socioeconomic backgrounds. Certainly the gentleman from Iowa [Mr. LATHAM] comes from a much higher background than the rest of us.

But if those watching tonight would look at us, we mirror the freshman

class. One thing that we have in common is that is we were all sent here with a message that came forth on November 8, 1994, and that is to make changes, to change the way Washington does business.

Mr. Speaker, I think it is interesting when we look back at the presidential campaign of 1992, there was another guy that campaigned on change and making reforms, and that person was Bill Clinton. He campaigned on making a tax cut for the middle-class and campaigned on downsizing the Federal Government.

The classic difference and the major difference between Bill Clinton's campaign in 1992 and our campaign in 1994 is that we have produced. He did not produce. He could not provide the leadership, even with a totally Democratic House, or a majority Democratic House, and a majority Democratic Senate. He could not produce.

Well, we have come here and in 10 months now, it is hard to believe that we have been here 10 months now, but we have done exactly what we told the American people we were going to do.

Mr. Speaker, balancing the budget of this country was a cornerstone of my campaign and I dare say that the five of my colleagues here built their campaigns around that also, because it is just so crucial that we do that. I am sure that they all would agree with me that they thought this country was in terrible financial shape while they were campaigning, but when they got to Washington and became Members of this body, they found out it is much, much worse than what they ever imagined it to be, and it truly is.

Mr. Speaker, last Thursday was a very historic night. I sat on the floor with the gentleman from Georgia [Mr. NORWOOD] on January 26, on the night we passed the amendment to the Constitution requiring a balanced budget, and CHARLIE and I saw grown men stand up and cheer and holler and clap, because everybody came forth and worked together to pass that balanced budget amendment, which was certainly a key.

However, last Thursday night was a much more important night even than that night. Last Thursday we delivered on that promise to balance the budget of this country.

It has not been easy. It has been very, very difficult. The gentleman from Minnesota [Mr. GUTKNECHT] and the gentleman from Iowa [Mr. LATHAM] and I had some independent concerns that required us to do some soul searching and trying to figure out ways that things could be adjusted so that we could support the balanced budget amendment and the reconciliation package, and I am sure the gentleman from Pennsylvania [Mr. FOX] and the gentleman from Arizona [Mr. SHADEGG] may have had that concern also; that they had to answer some questions there.

Mr. Speaker, we all came together. We worked hard and were able to come up with a reconciliation package that, gee whiz, it has welfare reform in it, totally overhauling the welfare system in this country, and overhauling the Medicare system. It makes it stronger and preserves it not only for the seniors in this country that are now the beneficiaries of Medicare, but for those baby boomers, those of us who are going to be eligible for Medicare one of these days. We now know it is going to be there when those folks get there.

We have got tax reform in there. We have reform of agricultural programs. This is a huge, huge reform package that we have undertaken and put together over the last 10 months. It is something that our friends and colleagues on the Democratic side of the aisle simply would not do, or could not do, over the last 25 years. That is what is so really truly amazing about it.

Mr. Speaker, I can tell what it means to the folks in my district. We had a little Medicare special order, Mr. NORWOOD and myself, a couple of weeks ago, and it was a very exciting night to me. An hour before I came to the floor, I found out that I am going to be having my first grandchild. I said that night when that grandchild is born next spring, he or she is going to owe $187,000 in interest as his or her part of the interest on the national debt.

Well, by what we did last Thursday night, we are going to cut that back by $12,000 over the next 7 years. That is a start to moving us in the right direction of cutting back that huge interest payment that all of us are going to leave for our children and our grandchildren.

Mr. FOX of Pennsylvania. If the gentleman would yield, I would ask that the gentleman from Arizona [Mr. SHADEGG] who joined us, he is obviously one of the gentlemen at the forefront of the freshman class in trying to make sure that the public gets its money's worth and to make sure that the costs that we have in government programs go to the benefits, not to more paperwork and not to more bureaucracy and not to more waste.

Mr. Speaker, I would ask the gentleman from Arizona if he could tell us a little bit about what he thinks the effect of trying to balance this budget means to homeowners as far as lower housing costs and lower car expenses and lower college costs and lower taxes, and what it means to his district.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding, and would say that I am thrilled to be here with my colleagues tonight and to bring a western perspective. It is fun to come and bring that perspective. In the West, we are intense on these issues.

Mr. FOX asked the question: What does it mean if we can balance the budget? I harken back, looking at the gentleman from Connecticut [Mr. SHAYS] who serves on the Committee on the Budget, to the day when the gentleman and I sat on committee and Alan Greenspan came forward.

The gentleman from Ohio [Mr. KASICH] asked that question: What would it mean if we actually balanced the budget? Mr. Greenspan began answering that it would do this and this and this, and it causes long-term interest rates to do this, and short-term interest rates to do this. Mr. KASICH stopped him and said, ''Wait a minute. I want you to tell me what it would mean to real Americans, the average husband and wife at home raising their kids.''

Mr. Greenspan sat back and, and CHRIS, I am sure you remember this, and he said, ''It would mean that once again they could look forward to their children doing better than they do.'' That is, what he said was, if you gentlemen can balance the budget, you will restore for America the American dream. The dream that we all have for our children that they could do better.

I heard the gentleman from Georgia make a reference to last Thursday's vote and the passage of the reconciliation. To me, that was a thrilling night; the most thrilling night since we have been here. If you put aside the bunk and garbage that we hear about, ''We are cutting Medicare,'' which is just flat a lie, it ''ain't'' true. You don't raise spending from $4,800 per individual to $6,700 per individual and define that as a cut anywhere but inside the beltway that surrounds this city.

Mr. NORWOOD. If the gentleman would yield, go ahead and use the word. It is a lie. We are increasing Medicare by 54 percent over the next 7 years.

Mr. SHADEGG. Mr. Speaker, I want to talk about one of the phenomenons that characterizes this city and getting inside the Beltway, and I want to do it in the context of the tax cuts. The truth is that we have all heard this claim that we should not be cutting taxes and the garbage on the other side that we are making tax cuts for the rich. Well, it ''ain't'' so.

Mr. Speaker, I had this theory. The theory was that what we are hearing, and what maybe they are hearing, the people who show up at our town halls and the people who show up at Rotary Clubs and Kiwanis Clubs, and have the time to make it and have the time to go to those events, are the kinds of citizens that are concerned about the direction of the Nation. They say, I guess I can pay my taxes, but I am worried about the deficit. They are worried about their kids.

I had this theory that Mr. and Mrs. America, the people at home just barely struggling to pay their bills and get the kids dressed, and feed them a bowl full of Cheerios and get them off to school and then back home, for those people the tax bite is too much, and we are not hearing from them.

So, I went home a week ago Monday. I had my scheduler set aside 2 hours and I stood in front of a drug store. I had a staffer stand in front of a grocery store across the street. We were on the east side of my district. It is kind of the upper echelon of my district. Those

people are middle-class to upper middle-class families.

Mr. Speaker, I engaged people there on the street and I told them there was a debate going on on the floor of this House; a debate whether we needed tax cuts or whether we ought to be doing the conscientious thing and reducing the deficit. They said, on balance, ''Well, we are concerned about the deficit, but boy, we could use a tax cut because we are just barely getting by.''

On the east side of my district, we had about a 60/40 split; 60 percent said, ''We need deficit reduction, but we also need our taxes cut.'' About 40 percent said, ''You ought to be doing deficit reduction.''

Then, Mr. Speaker, we stopped and drove to the other side of my district, and we drove over to the working-class neighborhood where people are doing what I said. People that cannot afford to be a Kiwanis Club member and who do not have the time to come to JOHN SHADEGG's town hall meetings. Mr. Speaker, we talked to them.

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And we stood, I stood in front of Osco drug store, and I had a staffer stand in front of a Megafoods store. We each asked them. Do you know what it was? It was a blowout. The numbers were clear.

They said, you are killing us with your taxes. Sure we want to take care of the deficit, but you Republicans have been saying to us for 40 years that government does not need all this much money, that it spends too much, that it taxes too much and that it regulates too much. And if all you do now is take care of the deficit, if you ignore tax cuts, if you suddenly say, wait a minute, we got elected claiming that people are taxed too much but now that we are there all we are going to deal with is the deficit, why should we buy you, why should be believe you?

In a ratio of 11 to 1, they said to me in front of that drug store, I need a tax cut. Taxes in this country are killing me.

These were not greedy people. They were not selfish people. In front of the Megafoods across the street, which is a discount grocery store, they told my staffer in a ratio of 17 to 2 that they needed a tax cut.

Why did they need a tax cut? I will tell you why. Because taxes in this country have become oppressive and burdensome, and we are now going to do something about it. How burdensome? Let me tell you how burdensome.

In 1950, the year after I was born, when I was in a bassinet in my parents' bedroom on floors, in those days, that were concrete, we did not have wall to wall carpeting in 1950. The average American family with children paid $1 out of every 50 to the Federal Government in taxes, 1 out of 50. Earn a hundred dollar bill, send in $2. In 1993, that is the latest year for which we have figures, it is now 1 out of 5, it is not 2 out of every hundred dollar bill, it is $1 to the Federal Government in taxes for every $4 you earn. You do not earn a 5 dollar bill, you earn $4, send one to the Federal Government in taxes.

It is not to the government in taxes, it is 1 out of 4 to the Federal Government in taxes. How long is it going to be before we are taxing people at the rate of 50 percent? We are taking half of everything that they earn. That is an increase of 1200 percent.

And the people in my district, I asked them, when I tell them that statistic, are you getting 1200 percent more out of the Federal Government today than you were in 1950? You talk to them about the burden. A child born in America today will, in his or her lifetime, pay an average of $187,150 in taxes just to pay the interest on the national debt. Why? Because before last Thursday night we did not have the moral courage to stand on this floor and quit spending our children's and our grandchildren's and our great-grandchildren's money to satisfy our needs, our wants, to buy ourselves back onto the floor of this Congress. That is dead wrong, and last Thursday night we stopped it.

I will tell you, the American people want tax cuts. They want us to balance the budget. They want less government regulation. They want us to look at serious problems like a Medicare System that is going broke and to say to one side of the aisle that says, do not worry, you have got 7 years, no big deal, that that is stupid. A system that services the entire population and for whom it is vital that we preserve that, to say we can wait 7 years is no big deal. Let us solve it in the 6th or 7th year.

We are going to solve it and the plan we passed in that reconciliation bill solves it in a responsible way, a way that although the scare mongers say and they have my senior citizens worried that they are going to take away my Medicare. I heard you mention that these four experts from Wall Street came here yesterday or this morning. They all four said an important message. They all four said, if it comes down to defaulting on your debt or balancing the Federal budget, we do not like defaulting on your debt. But guess what? The market has already calculated for it and you better balance the budget, because that is what the Nation needs.

The last point I want to make is that one of them told a fascinating story, which is why we are on the floor here tonight. It is a story about disinformation.

This is a guy who is the major investor for a Wall Street investment firm. He controls a portfolio worth billions of dollars. He said, do you know what, in my office there are a whole lot of employees, top-level-paid executives, who came to me a few weeks ago. We had a quick little discussion. They said, this is a real serious problem because we are deeply worried about how America is going to survive if these Republicans dramatically cut Medicare the way they are proposing.

This guy listened to this discussion and everybody threw numbers around. This is awful. This Medicare is a vitally important system for America. How can the Republicans talk about dramatically cutting Medicare?

This guy listens to all of this. He finally turns to me and says, how much are they cutting it? Various number were thrown out. And he said, do you know what, you guys are wrong. They are not cutting it one dime. As a matter of fact, they are increasing spending on Medicare. This is inside an investment banking firm on Wall Street. And they did not know the facts. They did not know until he recited to them that spending on Medicare per beneficiary—a man that called my office last week and said I am worried about you taking away my Medicare benefits, did not understand because of the disinformation that we are going to give him not $4,800 to spend, as we do this year, but $6,700 for his medical care and $6,700 for his wife's. And this misinformation, the attempts to distort what we are doing are about what we have got to try to fight.

Mr. NORWOOD. Mr. Speaker, the gentleman has to slow down just a little bit. We have a lot of my folks from Georgia watching. We tend to talk a little slower.

Mr. FOX of Pennsylvania. I think the points the gentleman made are well taken. That is one of the reasons why as Congressman NORWOOD said about the truth squad is that we have to be out here tonight to explain what is really happening and hopefully that we will do it in such a manner that people will understand the facts as they really are.

The budget discussion, you talked about tax reform and how it is going to help all Americans, I yield to the Congressmen who is an honorary freshman, the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. I just want to thank the gentleman for yielding to me and say that I went to one of my colleagues and I asked, how long have you been here? And the good gentleman from Georgia reminded me, he, too, is a freshman. You all have had such an impact that it seems like we have known each other for years and years and years. You brought us over the top, not just in terms of being in the majority but in terms of getting our financial house in order and balancing our budget.

Mr. SHADEGG was mentioning Mr. Greenspan coming to one of our budget hearings. One of the other things that Mr. Greenspan said, our colleagues on the other side of the aisle were saying, are you not afraid that we will cut too much and that we will slow down the economy? And Mr. Greenspan responded, he said, Congressman, I do not go to sleep at night fearful that I will wake up the next morning and that Congress will have cut too much.

And we have to be very careful because we can give the impression that we are making these dramatic changes and some of them are, but we are still allowing our budget to grow. We have spending increases, and we have to be up front on that. It will grow significantly each year.

Some things we are cutting. Discretionary spending, there are not just real cuts but absolute cuts. Foreign aid, there are absolute reductions. Defense is going to stay basically the same. It is a freeze, but we are oversubscribed in programs. So we are going to see real cuts in defense programs. But when it comes to the entitlements, which are half of our budget, they are continuing to grow significantly and will continue to grow in the outer years.

And I think about it and then the tie-in somehow that some of our colleagues want to make with Medicare and the tax cut. We paid for our tax cut long ago in cuts in discretionary spending and in the increased benefit to or country by balancing our budget. That is called the fiscal dividend. I was not an advocate of the tax cuts. I would say that if we could balance the budget in 4 years, I would not be advocating any tax cut. But if it is going to take us 7 years to get our financial house in order, I am very enthusiastic on tax cuts.

The gentleman mentioned he was born in 1952. I was born in 1945. My parents, in the 1940's and 1950's raised four boys. I was the youngest of four. In today's dollars, they could take an equivalent of $8,200 per child off the bottom line of their income. They would have been able to take basically $32,800 off. So if they made $50,000, they would only be paying taxes on a small part of it.

A family today, if they could take that same benefit my parents did, my parents could take the equivalent in today of $8,200. We only allow families to take $2,500. That is why I am particularly enthusiastic for the $500 tax credit.

Mr. SHADEGG. I would like to ask the gentleman, one thing we keep hearing over and over again is how these tax cuts are for the rich. I had the impression in American that both wealthy and middle-income and poor have children.

Mr. SHAYS. And the way that someone who is listening tonight could decide if they fit the category of our colleagues, the other side of the aisle that say we are giving only to the wealthy, two-thirds of our tax cuts go for the $500 tax credit. So all you have to do is ask yourself, if you have two kids and you get $1,000 back next April, are you wealthy? Seventy-five percent of all families make less than $75,000. So I would just like to, if I could, just make this last point on Medicare and then, because there are so many of us here, I helped head the task force on the Committee on the Budget on health care, Medicare and Medicaid. And so I really got into this issue of Medicare.

I am so excited about our Medicare Program. I would debate anyone anywhere this issue. Bottomline to it is, it is going to go from $178 billion to $273 billion in the 7th year, as was alluded to, a 54-percent increase. We are going to spend $674 billion more in the next 7 years than we did in the last 7 years. We are going to spend 40 percent more per beneficiary. We are going to allow everyone to stay in their fee-for-service program or if they want they can get off and get private care. They do not have to leave.

If they leave, and they do not like it, they have 2 years every month to come back. In other words, during a 2-year window they can come back in. I know that there are so many of us that would like to contribute to this conversation, but I would just say, just knowing what I know about Medicare, we are going to spend so much more, and only in this city when you spend so much more do they call it a cut.

There is nothing courageous about voting for Medicare, what we have done, because we made it a better program. I cannot wait for our senior citizens to realize and finally have the opportunity—I will close this way, all my constituents have said, Congressman, you get Federal health care, I want the same choices you get. That is what we have done. We have given them the same choices we have. I pay 28 percent of my health care cost, and the Government pays 72 percent. We are allowing beneficiaries to now choose among a whole host of different health care plans. I just want to thank you for allowing me to join this.

Mr. SHADEGG. Let me just compliment the gentleman for his work on Medicare. I serve on the Committee on the Budget with you. I want to tell you, we went home and did a town hall on the Medicare System, which this Congress has created beginning with the work of your task force on the Committee on the Budget. And it was a fascinating process. And I do not think if we could go through this process for every American, that we would have anywhere near the concern in America that we have. Here is what we did, kind of an interesting idea because of the word ''choice,'' because we are giving senior citizens so many choices and the kind of choices that they had when they were in their productive years, we wanted to illustrate it for them.

So what we did is, as they walked in the door, we took one page of white paper and we summarized the current Medicare System for them, the benefits they get and the premiums they pay. We gave that to them as they came through the door. Then we got to the point in our program where we were describing what the Republican Medicare plan was going to be. We said, now we would like you to pull out the papers, and we gave them lots of papers, that we have given you when you came in the door and pull out this particular one. And we said to them, that is traditional fee-for-service Medicare. You have that now and we gave it to you as you came in the door because you have that now. And it has got all those benefits. When you leave here today, leave this town hall, you will have that white piece of paper with all that traditional benefit on it, exactly, unaltered.

But then we had people go up and down the rows and we passed out four additional pieces of paper, one pink, one green, one yellow, one blue. On each of those separate pieces of paper we outlined for them one of the four other alternatives they are going to have. So we asked them to pull out the green sheet and we said take a look at this green sheet. This is, and I do not remember which one it was, but let us say it was the Medisave plan. Then we went to patient-physician networks and we walked through each of the alternatives and explained it to them and said, you are now going to get, when our bill becomes law, the opportunity to choose one of those five programs.

Mr. SHAYS. Within those five programs, each of those programs can offer a whole wide range of different eyeglasses, dental care, rebates to your co-payment offer deduction.

Mr. NORWOOD. Mr. Speaker, I know we are coming to the end of our time. Do we have time for each of us to wrap up a minute?

Mr. FOX of Pennsylvania. Certainly, we have a little more time than that. As someone who has been in the medical field, I think that your impact on this discussion would be very fruitful.

Mr. NORWOOD. I was particularly pleased to hear Mr. SHAYS say how excited he is about the Medicare plan because I am, too. I have been involved in providing health care for 25 years. I think that if we can ever get past the distortions and the half-truths that we have to put up with here, the American public and the senior citizens are going to be absolutely delighted with that plan.

I will just conclude, if I could, by saying that it is a real pleasure for me to join with the truth squad.

☐ 2030

I think you know we are here every night trying to offset the misinformation, and I still cannot get over the speaker earlier tonight who keeps talking about that the money that we want to return to the American people in the form of what they call a tax cut; I say we are giving folks back their money. It is for the wealthy, and I would just like to make a couple of points. I want to talk about one constituent at home.

Mr. SHAYS. You do not mean the Speaker; you mean a speaker?

Mr. NORWOOD. That is right.

As my colleagues know, a family of four that is making $25,000 a year, a couple of children at home, $25,000 a year, they are going to have their tax liability reduced to zero.

Now who is rich and who is wealthy in that group? A family of four that is

making $30,000 a year is going to have their tax liability cut in half. Are we helping the rich? Are we helping the wealthy.

I think perhaps that has been misrepresented.

I have a constituent at home, a single parent with two children, and this lady makes $17,500 a year, and under our present system she gets returned to her $939 under our current tax rate, and that includes the earned income tax credit. Under our plan for next year, the Republican House plan, she is going to get back $2,214. That is $1,275 more for a low-income working person.

Is that a tax cut for the rich? I think not. Even Mr. Clinton's plan would only return to this young lady who is struggling, for pity's sake, $763. So I think maybe the mean old Republicans really are not trying to have a tax cut for the wealthy. I think we are trying to return to the hard-working American people some of their money, particularly some of that $260 billion that was passed in this Democratic Congress, in the 103d Congress, and then, SAXBY, we are going to stay here until we make sure your unborn grandchild and my 2-year-old grandson no longer owe that 187——

Mr. FOX of Pennsylvania. Mr. Speaker, I would ask the gentleman from Minnesota [Mr. GUTKNECHT] if he can speak about the Medicare situation and the fact that we are really going to do something positive, as the gentleman from Georgia [Mr. NORWOOD] just said, in the sense that we are going to increase, as the gentleman from Connecticut [Mr. SHAYS] said, $4,800 per year to $6,700 a year which also the gentleman from Arizona [Mr. SHADEGG] allued to, on how this is really going to be an increase, but also some of the parts of the bill I think that you are advocating working for are vary important to the discussion dealing with the Medicare savings lockbox and also going after the $30 billion a year in fraud, abuse, and waste. Would that not be a savings into the program itself, Congressman?

Mr. GUTKNECHT. Absolutely, and the system we have right now is in fact in sort of a system of perverse incentives which invites more waste, fraud, and abuse, and the system we are going to try and create, and I think we will create, and I agree with the gentleman from Georgia [Mr. NORWOOD], I think once seniors begin to understand exactly what we are talking about under our plan and the options that they will have, they are going to like it.

First of all, let me just debunk this myth that somehow we are going to use the savings from Medicare to give this tax cut. That is absolutely not true, and everyone who has said that on the House floor knows that it is not true because we put into the bill itself a lockbox so that any savings that we get from these new competitive models, this new market we are going to create for Medicare, all of those savings have to go back in the Medicare trust fund. They cannot be used for the tax cut, and they know that is true, and it is in the law, and they know that. So, when they come to the House floor and say we are going to use these Medicare cuts to give tax cuts, it just is not true.

As a matter of fact, with the rescission bill that we passed earlier this year and with the cuts, the targeted cuts that the gentleman from Connecticut [Mr. SHAYS] talked about, we will have cut almost $44 billion this year in spending. The tax cuts are about $35 billion. The tax cuts that we are talking about this year that will mostly benefit the middle class have been paid for out of other spending cuts, so the idea that we are using Medicare to do that is a bald-faced lie, and the people who say it know that it is a lie.

But let us talk a little about some of the other provisions we were able to get. One of the things we talked about was fraud, waste, and abuse. In fact, every one of us had town meetings, and I would suspect, and I dare say, that every one of us at every one of our town meetings had some senior who stood up, raised their hand, talked about some of the things that have happened in their own lives. I had one sweet person in one of my town meetings stand up and say that she had been billed $235 for a toothbrush. Well, what we are proposing in this is a very aggressive method to attack some of that waste, fraud, and abuse.

You used the term $30 billion a year. Some have said it is as much as $44 billion a year. Whatever the number is, we know it is out there, and it is partly because of the way the funding system works. But we are going to allow those senior citizens; in fact, we are going to encourage them; to study their own bills, and if there is a thousand dollars' worth of savings, they are going to get to keep some of those savings that they find in their bills.

So the program that we are offering I think aggressively attacks waste, fraud, and abuse. Will any of the savings we get from the changes we are making be used to keep the fund solvent? Finally, I want to make one other point on behalf of some of us who come from low-cost areas, rural areas of the country. We were able to get the formula changed in the last few days in the discussion so that the floor has said, no matter where you live, your area is going to get at least $3,600 if they set up a service network or a managed-care network in that particular area. That will encourage more competition for those Medicare dollars, and the most important word is fairness.

We are going to have a much more fair system. We are going to reverse some of those perverse incentives that are in the system today, we are going to aggressively attack waste, fraud, and abuse, and I think it is going to be a much better system for the seniors in this country, and we are not going to use the savings for a tax cut. The tax cuts are paid for out of other spending cuts that we made this year.

Mr. FOX of Pennsylvania. I think it is also important that we realize that this Republican-led Congress is very pro-seniors, not only with the Medicare form that you have outlined and others, but also we are the ones who had legislation that actually passed which raised the income eligibility from $11,028 to $30,000 a year over the next 5 years without a deduction in Social Security, and also the rollback of the very unfair 1993 increase of Social Security.

So I would like to ask the gentleman from Iowa [Mr. LATHAM] to join us now with some of his thoughts on this topic.

Mr. LATHAM. I thank the gentleman for yielding, and I think the American public should be aware of the fact that what we are letting American families, senior citizens, small business people to keep is about 40 percent of the tax increases that they have had since 1990, since the Bush tax increase and now the Clinton tax increase in 1993, the largest in history. Actually we are letting people keep 40 percent of the taxes that have been raised for them.

Mr. SHADEGG. If the gentleman would yield, do you mean to tell me that this outrageous tax cut that we are enacting only gives them back 40 percent of what we took from them in the last——

Mr. LATHAM. Five years.

Mr. GUTKNECHT. What previous Congresses took——

Mr. LATHAM. We are it, so——

Mr. GUTKNECHT. Come at this with clean hands——

Mr. SHADEGG. So we are cutting taxes in a draconian way that the Nation cannot survive by letting them have back just a small portion, less than half, of what we increased their taxes just in the last 5 years.

Mr. LATHAM. That is exactly right.

Mr. SHADEGG. I hope Mr. and Mrs. America and our colleagues think through that fact.

Mr. GUTKNECHT. Absolutely.

Mr. LATHAM. And there is a lot of disinformation in talking about capital gains tax reduction. I am just amazed when people believe that this goes to only rich people. I will tell you as a person from Iowa from a very rural district, the No. 1 reason that the average age of a farmer today in Iowa is 57 years old is the fact that he cannot afford to sell his equipment or his farm to the next generation and that farmer has not been rich 1 year in his life, but the 1 year when he tries to sell the investment that he has had, the hard work that he has had over a lifetime, to the next generation, he gets absolutely creamed by the capital gains tax, and those are dollars that he has already paid taxes on all his life. But this is a person who is medium- to low-income his entire life, is by some people's definition on the other side of the aisle rich for 1 year in their life, the

year that they try to carry on to the next generation, and it is no different with a farmer than it is with a small businessman on Main Street who has invested a lifetime of work.

That is who we are talking about, people who have worked all their lives, have paid their taxes, been responsible in this society, and we have a punitive tax system today to punish them for saving and working hard all their lives, and to me it is simply outrageous.

I think it is important too, and the gentleman from Georgia [Mr. CHAMBLISS] had talked earlier about the excitement back in January passing the balanced budget amendment in the House here, and it failed over in the Senate, and I keep going back to the scary thought that, because we do not have a balanced budget amendment to the Constitution in this country, that 2 years down the road, 4 years down the road, that the Republicans will lose one of the Houses up here. What will happen? Everything that we have worked for this year will be down the tubes because we will be back in the status quo——

Mr. FOX of Pennsylvania. If the gentleman will yield, I think there is a lot of hope for America, because frankly I think what the public may not know is that most Members of this House in a bipartisan fashion really joined the Republican lead on balancing the budget, of reducing Government wasteful spending, of the line-item veto, which will eliminate pork-barrel legislation, and also reforming regulations and therefore costing less for individuals and businesses. So I think there is great hope and I think it is a bipartisan effort that we may have led, but it is a bipartisan effort.

One of the items the gentleman from Georgia [Mr. CHAMBLISS] is involved with is the downsizing, privatizing, consolidation of Federal agencies will also reduce the costs, because there has been such a great deal of bureaucracy in Washington, and the gentleman from Georgia [Mr. CHAMBLISS] I know has been fighting for this as a champion to try to make sure we get every dollar worth for our constituents.

Mr. CHAMBLISS. You know again I alluded earlier that we all come from different backgrounds. Another thing that we do have in common though is the fact that all of us came out of small business backgrounds, whether it was farming, or real estate, or dentistry, and I know the gentleman from Arizona was in county government, but we all had to worry about finances, we had to worry about making sure that at the end of the month when we went to the bank we were in the black, and we had to tell that banker why we were not in the black if we were not in the black. And one way that we have gone about approaching the fact of getting the Federal Government's bottom line in the black at the end of our term in Congress is that we have looked at every single way that we can cut expenses, and we talked about cutting out departments, we have talked about the fact that the Federal bureaucracy is bloated, and it truly is. Again it is something you cannot really appreciate until you are here in the position that we are in. But again, President Clinton talked about this during his campaign in 1992, and what did he do about it? Nothing. We talked a lot about downsizing the Federal Government as one of the basic philosophies of the Republican Party. What did we do about it? In our budget reconciliation package we are going to completely cut out the Department of Commerce. We do not need it over there. We are going to cut it out. That is another way we are going to go about downsizing the Federal Government to make sure that at the end of our term in Congress that we are moving toward balancing the budget of this country so that in the year 2002 we will not have to worry about how much money we were spending in Congress, we know that is going to be taken care of because we are going to eliminate it, and it is just simply another way that we are moving toward balancing the budget of this country and being responsible and being reactive to why the people send us up here.

Mr. FOX of Pennsylvania. If the gentleman will yield, I would like to engage, if I could, the gentleman from Florida [Mr. SCARBOROUGH], who has been a deficit hawk and a budget hawk in making sure that his constituents in Florida as well as those who are here across the country, that, you know, we do not have waste here, let us bring some semblance of what the values of America are out there in our neighborhoods, and I would ask the gentleman from Florida [Mr. SCARBOROUGH] to give us his impressions of what he hears in his district.

Mr. SCARBOROUGH. It really started back during the August recess that I really began to get a good feeling of what the constituents in my district felt we needed to do, and the thing I heard time and time again from my constituents, and I held 25 town hall meetings over 30 days in August, despite all the rhetoric that they heard that we were being mean-spirited and going too far, everybody I talked to at those 25 townhall meetings told me the same thing. They said:

> You will not fail if you have the guts to step up to the plate and balance the budget. You will fail if you lack the courage, and if you come up short, and you decide to keep going on with business as usual. You need to stay true to your course. Do not be like everybody else in Washington over the past 40 years. You make sure that Washington lives by the same rules that all Americans have had to live by for the past 200 years where we take in only as much money and spend only as much money as we take in.

□ 2045

It is an absolute necessity. I have to tell you something, I have concerns about this budget. It is not a perfect budget, but let me tell you something, it does something that we have not done in Washington, DC, in a generation. It balances the budget. That is absolutely essential.

For those who think that it goes too far, I have to tell you this. How can we go beyond 7 years? How can we trust Congresses 10 or 20 years down the road to continue to have the guts to do what all Americans know we have to do today? As so many people testified before the Committee on the Budget, from talking to the gentleman from Arizona [Mr. SHADEGG] and others on the Committee on the Budget, and the gentleman from Connecticut [Mr. SHAYS], they have had an avalanche of witnesses who have said even though every American does not focus in on deficit issues, they will understand a few years down the road why this is so important, because if we follow through on the Republican plan to balance the budget in 7 years, Americans will see unprecedented growth, more growth than they have seen economically since World War II, since the ending of World War II.

What does that mean? That means interest rates on your car loan go down, that means interest rates on your house loan go down. It means that middle-class Americans get the break that they deserve, get the break that they have not had for the past 40 years, and we bring sanity back to the process.

Mr. SHADEGG. If the gentleman will continue to yield, Mr. Speaker, I just want to ask you quickly if you happened to hear the four Wall Street economists who came before the policy committee today and who testified that we had already, by what steps we have taken, brought interest rates in America down by 2 percent since we took office in January. They compared that 2 percent reduction in interest rates here in America with other comparable economies, where interest rates have come down 1 percent, and they said, ''The policies you have adopted have already had the effect of reducing the interest rate here in America by 1 extra percentage point below what it had been before you got here.'' That is a real savings in car loans and home mortgage loans across the board.

Now if we go the next step we will see a real dramatic impact, and they predicted 2 more percentage points' drop in the interest rates.

Mr. SCARBOROUGH. Reclaiming my time, it was a very interesting hearing today. I know everybody that was there had to feel good about what they were saying, because we were sending the signal across the world that we were finally going to get America's House in order. Interest rates have dropped. That has meant more money for middle-class Americans all across America.

They said, and this is the final point I will make before yielding back my time, they said, ''The danger lies in us not having the guts to finish what we

start. The danger does not lie in having a showdown with the President, if that is required, and possibly having government shut down for 12 hours or 24 hours.'' They said, ''The real danger in the market lies in us continuing to throw away money like we have thrown away for the past 40 years.''

Mr. FOX of Pennsylvania. Mr. Speaker, will the gentleman yield?

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

Mr. FOX of Pennsylvania. Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. I just wanted to make an observation while the distinguished gentleman from New York, BILL PAXON, is in the Chamber, what a great piece of work he helped to form on November 8 of last year, a year ago this coming week.

I know a fully matured lion, like the gentleman from Connecticut [Mr. SHAYS] will not mind an aging lion who came here out of the bicentennial election of 1976, to notice that we have Pennsylvania, we have Arizona, we have Iowa, a very important State, at least until Lincoln's Birthday, February 12, we have Minnesota, we have Georgia, we have the beautiful panhandle of Florida, the most beautiful beaches in America. And I am telling you, if this freshman class had not come along, there were some of us who would have turned in our spurs by now and said that there were other things to do, like enjoy our grandchildren.

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

Mr. FOX of Pennsylvania. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Speaker, I have to say that one of the unsung heroes in this Congress is the gentleman from New York [Mr. PAXON], because he has made all the difference in our having a Republican majority and the opportunity to save this country and to turn it from the direction it has headed. I would applaud, if I was allowed to.

Mr. DORNAN. He has made you a chairman, he has made me a chairman, but here is the point, if I may mention the House of Lords, the other body.

I just did a radio show in San Diego and a questioner of no known ideology said, ''What are you people accomplishing? Suppose you have a great freshman class. So what? It is all dying in the Senate, is it not? You are not going to get anything done.'' I think what we have to keep reminding our worthy colleague, including some old long-in-the-tooth lions over there, is that they enjoyed chairmanships and the chance to creatively write American history for 6 years, thanks to Ronald Reagan and the great election victory in 1980.

But in this Chamber, the people's House, the money House, the appropriations bill House, the first among equals by the writers of our Constitution, the Framers said that we were to be first among equals over the Senate, over the Supreme Court, and over the White House, and we have not had a chairmanship in this place for 40 years in the political desert.

So not only did all of you give me a chance over the last 10 months to sit on a Committee on Armed Services, a subcommittee chairmanship, and one on the Permanent Select on Intelligence, but you gave back to the U.S. Senate all of those chairmanships that they are enjoying, and they had better remember the gift that you have given them for some fulfillment in life, this opportunity to craft American history, and that you are going to keep the promises you made, and it is promises that the whole Republican Party is going to be held accountable for on November 5, in 1 year and 4 days from All Saints Day, today.

Mr. SCARBOROUGH. Mr. Speaker, the gentleman from California [Mr. DORNAN] obviously talked from a Republican standpoint, but what is exciting to me when I go home is that it is not a Republican issue, it is an issue that all Americans have united on, and it is something that I am extremely proud of. I am in a district that is 60 percent Democrat, and they love what we are doing up here.

Mr. FOX of Pennsylvania. Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Speaker, the gentleman talked about promises made, promises kept, and a Governor from Minnesota once observed that politics is a promising profession. In the last several years we have heard a lot of campaign promises.

I want to remind the gentleman of some which were made by a gentleman who was elected to the Presidency several years ago. He was elected promising to downsize the Federal Government, to end welfare as we know it, to reform welfare, to save the Medicare system, and to give a tax break to the middle class while balancing the budget within 5 years.

Those are the same kind of promises that we made, and the difference is that we kept our promises; he broke his. What makes me so angry is that now he is trying to keep us from keeping our promises to the American people. We are not going to stand for it, and neither are the American people.

Mr. FOX of Pennsylvania. I thank my colleagues.

JIMMY RYCE AND MISSING CHILDREN IN AMERICA

The SPEAKER pro tempore (Mr. ALLARD). Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. DEUTSCH] is recognized for 60 minutes as the designee of the minority leader.

Mr. DEUTSCH. Mr. Speaker, I rise today to share with you, this Congress, and those watching at home, about an endangered innocent, a constituent of mine, Jimmy Ryce. Jimmy is a 10-year-old boy from Miami, FL, who was abducted 51 days ago, on September 11, 1995. He was last seen getting off the school bus less than four blocks from his home in the Redlands, an agricultural, quite spacious community just southwest of Miami.

Jimmy is an A student enrolled in an honors-gifted program at his school. Everyone who knows him is attracted to his goodness, sweetness, and intelligence. He is a very trusting child. Jimmy loves to read. He has a habit of reading a couple of books at the same time, leaving the books scattered throughout the house with bookmarks in each of them.

Jimmy loves baseball and football. Some of the family's happiest memories are going together to Dolphins and Marlins games at Joe Robbie Stadium. If I may ask the cameras to just focus in on Jimmy, and I will talk about the picture in a couple of seconds, but if they can leave the focus on him. Since learning of Jimmy's kidnapping, the reaction in south Florida is one of outrage, anger, and shock. The response from authorities has been swift and professional. The media in south Florida have been exceptional. But where is Jimmy?

The television coverage has been extensive, over and above the magnitude of other such kidnapping incidents. Newsrooms and reporters have taken the Ryce case to heart and have made it their station's commitment to cover the case down to the latest findings. As we all know, when faced with adversity good things do tend to happen. People have volunteered tirelessly their time, services, and assistance, unconditionally. Wal-Mart is displaying Jimmy's posters in their 2,000 stores nationwide, as is Albertson's grocery outlet, and the list is endless.

Most of these efforts were something solicited from volunteers, unbeknownst to the Ryces. Not only have State officials, including Governor Chiles, been involved, but Federal officials, too, including the FBI and Attorney General Janet Reno. What we are hoping is that the more people who see Jimmy's face, the more likely it is someone who has seen him will recognize his face from these posters. This is not a city problem or a State problem, not the abduction of a child in a custodial battle or a runaway, but who, taken from his family by a stranger, is a national problem. As I said, let me ask the camera again to focus on the picture.

What I have learned in the last several weeks with the FBI missing persons, Missing Children Division, is that of the cases that have been solved, they are really solved by people in the community seeing these pictures, seeing the pictures on ''America's Most Wanted,'' seeing the pictures on milk cartons or on postcards.

The case that very recently got national publicity, I just found out today the way it was solved. Two young boys who were kidnapped in Minnesota and found in Louisiana, in New Orleans, it was just a chance sighting by someone in a restaurant, calling the FBI through the 800 number that I will give

in a second, and actually, several times, just a chance sighting.

The woman who saw the young boys was not sure, she thought she saw him, she did not remember where she had seen a picture, she was not sure, and even to this day she is not sure, but the FBI followed up on it and went to the location where the sighting occurred, interviewed the woman, and those two boys are back with their family today.

That clearly is what we are hoping will happen, and will happen very soon. As I said, this is a recent photo of Jimmy Ryce, and for people who are watching, hopefully they are watching, and hopefully, again, someone will have an opportunity to call maybe even this evening with the chance that maybe they have seen him in some location.

It seems so impossible that even with all the communication of media involved that a child could vanish without a trace. As a parent myself, I cannot imagine what kind of fear and pain Don and Claudine Ryce are going through today; in fact, right now. It is a parent's worst nightmare. The Ryces have had their own nightmares. No matter what is taking place, from the moment they finally fall asleep at night until the moment they wake up, the first thought that enters their minds is that their little boy, Jimmy, is not sleeping in his own bed.

Today is a good day for the Ryces. They are feeling optimistic. The Florida Department of Law Enforcement, the FBI, and Metro Dade police met today and released information that a witness has possibly seen Jimmy. If you have any information leading to the disappearance of Jimmy Ryce, please call the number on the poster, 1–800–361–9526.

According to the Department of Justice fact sheet on missing children, every year there are between 1,600 and 2,300 stranger abductions of children under the age of 12 in the United States of America. These children are the endangered innocents. Only 300 of these kidnappings last more than 24 hours, and the FBI has told me that you can extend the radius of the circle where they may be 300 miles from point of abduction for every day they are missing.

These missing children could have been deported or crossed borders, and may not even be in the United States. Jimmy Ryce is an endangered innocent. Typically the only way law enforcement ever finds these children is through information and leads called in by the police. On Monday, October 30, 1995, ADVO distributed over 50 million cards throughout the country with Jimmy's picture on it.

You have probably seen pictures before of missing children in the space contributed by ADVO on the left side front of postcards, which carry on the back advertisements for various services and products. Please look at these cards and etch Jimmy's fact in your memory. Be on the lookout for these warning signs: a new child in your neighborhood, a child acting strangely next door, has a child suddenly been enrolled in a class. As small as the chance is, it may be the only chance Jimmy has of getting home safely.

Jimmy's parents, Don and Claudine Ryce, have reached a celebrity status they never sought. Compassionate people embraced them and let them know that Jimmy is in their prayers. The more people know about Jimmy's disappearance, the better chance the Ryce's have of getting him back. Mr. Speaker, I ask you, the members of Congress, and the American public to give this family a happy ending. Bring Jimmy Ryce home safely to his parents.

A few weeks from now we will celebrate Thanksgiving, a time of love, sharing, and counting one's blessings. I want this Thanksgiving to be the best one the Ryce family has ever had, as the family is all together with Jimmy. I know several of my colleagues have been with me this evening, and I yield to the gentleman from California [Mr. DORNAN.]

☐ 2100

Mr. DORNAN. Mr. Speaker, first of all, I would like to thank the gentleman from Florida [Mr. DEUTSCH] for having this very touching special order, and thank him for stopping me in Cloakroom and asking me if I would join you. I have spoken so many times this afternoon, I do not want people to think that I do not have grandchildren at home that I would like to spend some time with, but this is important.

I would just like to give the gentleman a few thoughts from last night which was a very Halloween eve of today, All Saints Day, with children.

We went out last night, after we adjourned, after it was dark for about an hour and half, and I raced to a neighborhood out in Springfield, VA to be with five of our nine grandchildren. The youngest one, Robert K. Dornan, III, was dressed as Pooh, and it made me grit my teeth, he was so cute. Excuse me, it is our newest, Leam Dornan Penn, who was Winnie The Pooh. Last year it was Robert, III, and he was dressed as a phantom with a dark face.

I went around and looked at all of the princesses and all of these little children, and for some reason I thought how carefully the parents were shepherding them and the grandparents, that there was a little extra fear for the last 10 or so Halloweens not be let them get too far out of sight.

I remember I gave T-shirts with my grandchildren's first names on them to one of my daughters, and she said well, Dad, these will make nice pajams. I said no, no, they are T-shirts for outside, and she said, Dad, you do not put a child's name on a T-shirt. If you are in a mall and some evil person comes up and says Kevin, come here, quickly, your mother has just been hit by a car outside, they run following the person instantly.

I never thought that we had to live in fear of any name a child identifying them to make kidnapping that much easier.

What I thought about as the gentleman from Florida [Mr. DEUTSCH] was speaking, is my older son who is in his middle 30's. The other day I got one of these cards in the mail that has missing children's names on them, and I turned it over and I said to my son, this breaks my heart. I do not like to look at these faces, as you have made this large color blowup of this beautiful young boy, Jimmy.

And he said dad, you should not say that. I study these pictures. That is why they are here. That is why they are on milk cartons. You should study them for more than a few seconds, and it may be God's will that you cross the path of one of these children, and something you saw in that photograph earlier in the day will be sparked in your mind.

Well, when you raise a child to give you words of wisdom, albeit the wisdom of being 30-some years old, it makes you proud of your child, and I felt ashamed that I had averted my gaze from a lot of these missing posters because it hurts me so much as a grandparent to see this beautiful face of a child this age or younger, a beautiful little daughter this age or younger or a grandchild, and think of the heart-gripping pain that this brings to parents and grandparents, how they will never, ever be able to enjoy the birthday of that child ever again, a Thanksgiving, a Valentine's Day, a Christmas, an Easter, when they see all of the other children in the neighborhood or have a particularly enjoyable moment with a sibling, an older brother, a younger sister, and the pain that this must bring back.

As I was sitting here I was thinking, what kind of an original idea could I contribute to your special order tonight, and I did think one.

We see now with murdered children the agony of parents looking at a videotape and they show the videotape on the evening news, and again, your heart breaks for the parent that all they have left are these videotape images of this beautiful child. And then I thought in the case of missing persons and maybe one of your color pictures here, well, the bottom one looks like a portrait, but the one looks like he is in a baseball game, may have than excerpted from a video, a still color photograph worked up from a video.

And I thought every parent who has a small child today should take a videotape, and at some point when they are filming their child or a grandparent their grandchild, they should go in for a close-up and slowly pan around the child from every angle, film this child as an identification video tape and put it on a shelf somewhere. If you are a struggling parent, as I was in my early years, just worrying about grocery money, and you do not have a video camera, borrow one from a parent or grandparent and take a videotape of your child and put it on a closet shelf.

It will have great value years later for showing the child.

I tell parents to do what I never did. Take a videotape of their child on every single birthday with the same videotape and put it way up on a shelf, I learned this from ANDY JACOBS, our colleague from Indiana, and then bring it down and you can run that very same videotape without editing and watch a child quickly grow up in 20 years. It will go by so quickly it will tear your heart out. But I think parents who have a videotape camera should film their child and when that child was missing, particularly when I just listened to carefully about what you said, Peter, about each day, and repeat it, each day the child is missing is another how many miles added to the circle?

Mr. DEUTSCH. Three hundred miles.

Mr. DORNAN. Three hundred miles per day. So if you could get a videotape and give it to the television station instantly, and I am not talking about all of those terrible cases where parents get into custody fights, which mercifully is not a huge number, but the hundreds of gut-wrenching cases of pure kidnapping by evil strangers. Think of how a videotape of a child that is fairly current would assist law enforcement and great shows like John Walsh's show. He is from your State, is he not?

Mr. DEUTSCH. Actually, he is from my own community.

Mr. DORNAN. Every time I see John I shudder that all he had, as gruesome as it sounds, is the child's head, to remember him by. My wife was looking at him just this week and said, is he not a remarkable man? Look at the burden God gave him and now how it has turned out for him.

I said, Sally, he is an absolute hero of our time, that he took the pain of little Adam's disappearance and then murder and has turned it into a crime series of shows where it is not just missing children he helps with. He has broken some cases in this country that have lingered on for two decades, and brought people to justice.

So I really appreciate the gentleman taking this beautiful special order for our missing children in this beautiful country of ours on All Saints Day.

Mr. DEUTSCH. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, If I could again follow up, because it really was in some ways a good sign today when I spoke with several people from the FBI, from the missing and exploited children's branch, that the case which got a lot of publicity was two young boys, I think a 3-year-old and 11-year-old brother who got kidnapped in Minnesota, a guy in a stolen car. It really was luck, God's providence, whatever, that this woman who did not even remember where she saw their picture, based on the day she saw it, she might have seen it on America's Most Wanted. They specifically said that, because she kind of remembered seeing it on Saturday or Monday or whatever, but it does happen, and he is somewhere, and the question is hopefully someone is seeing him and is going to be able to call that 800 number.

Mr. DORNAN. Just one thought. As television channels expand and we are now going to these 18-inch dishes, as there are more and more and more channels, I think we ought to write Ted Turner and ask him on one of his outlets if he could have a designated point in each day where people as thoughtful as my son, Bob, Jr., who will take the time to study these faces, that they could run the current-most 10 agonizing disappearance cases. And people who are thoughtful will spend a few times to, as my son put it, study, those faces, and where there will be some videotapes you can study it in three dimension around the child and say, all right, I will study that, and we are going to end up with more happy endings and more children saved from a horrible fate.

Mr. DEUTSCH. They really are happy endings. In a little bit I will show the statistics of that. What they really have said to me, I have spent some time trying to understand, unfortunately, this tragedy, the more you learn about it, the more sickening it is, that the more publicity and the more people that know, the better it is.

I am really happy that my colleague from Florida joins us here today. I know it has been a long day for my colleague as well, but Congresswoman THURMAN.

Mrs. THURMAN. I thank the gentleman from Florida [Mr. DEUTSCH].

Mr. Speaker, I just would like to add a little bit about Jimmy Ryce at this point, and as a parent, to tell his parents that I do not think anybody will ever understand what it is like to go through what they must be going through. And for the American public to offer any kind of help is just imperative that we do that for our future and for what is our most and best resource that we have to offer to this country.

Mr. Speaker, I think that it is a good idea, and I agree with Mr. DORNAN and some of the things that he brought up, maybe we should talk about some of the things that we can remind people. You know, it has been a while, I think, that we have been reminded. Sometimes, you know, things get lost and forgotten and we forget that there are things that we can be doing to try to have these kinds of things not happen in our society.

I particularly think that there is another issue that is coming to this country, that I am somewhat very concerned about, in the fact that we now have what we call the information superhighway, a situation that for many, many folks with computers in their homes and information crossing, there are some things that I think parents and children need to understand that they need to be very, very careful with.

It is a new society out there, it is a new world, it is a new technology, and while there are exciting possibilities, and we want our children to be technologically advanced and ready to move into the 21st century. I think we also have to be aware of the access it gives to strangers to our children.

And I think we have to teach our children not to share personal information, like home phone numbers and addresses, with unknown and potentially threatening strangers. They do it all the time without really thinking much about it. I think kids need to be reminded that those computers do provide a lot of information and access from people all across this world that we need to be careful of.

I also would like to reiterate, and I think that the photo that you have up there of Jimmy reminds us all of some of the kinds of things and guidelines that help and assist police in their efforts to locate missing children. The national center actually has advised parents to take color photos. Without that photo there tonight, we might not have a picture that could be displayed, that could be used to go across this country, that is up-to-date picture. I think they recommend that this should be done about every six months to make sure that we have up-to-date.

I think Mr. DORNAN's idea of a video is an excellent idea. It is a quick replay, gives us characteristics that we cannot necessarily capture here in a picture. But if that is not available, at least we do have an opportunity to have an up-to-date photo of the child. They ask for us to keep recent dental records at our fingertips so that we can make sure that we have that available, as well.

There have been some national programs across this country in malls. Law enforcement agencies go into malls all the time, setting up fingerprinting so that we have fingerprints actually at the sheriff's office for identification purposes. These records will provide to police and investigators, will help expedite the process of locating missing children in the future.

I think we must be vigilant in our efforts to locate them, and we have to get involved and stay involved.

I actually have a number here that I would like to give tonight for people who have seen missing children and what they can do, because there is a national hotline. The hotline is for the Center for Missing Children. It is 800–843–5678, and I think that if anybody did not catch that number and calls any one of us, we certainly, or any of your officers, police officers, sheriffs, anybody locally can also provide you with these numbers.

We have to be that voice for missing children. When information is available to the public and the public is alert and concerned, we have a much, much better chance of helping our missing children find their way home.

The national tragedy of children being abducted from homes, schools and playgrounds demands a national

response. We will continue our efforts through the National Center for Missing Children and the FBI to encourage preventive measures, and to demand that all available resources are used to locate and recover missing children.

Mr. DEUTSCH, I do want to say to you tonight, and to all of our colleagues, that while we may not have been touched with it personally in our lives, unfortunately probably every one of us have at some time had a constituent who has had to face this kind of a situation.

□ 2115

I know in my own district, I remember a woman several years ago that had a grandchild that was abducted in Orlando in a parking lot. The child's face was, we actually did it at toll booths in Florida. We were able to do milk cartons and the kinds of things that we have tried to do to get these faces out there. The child has never been returned to my knowledge. It was heartbreaking. I cannot even begin to tell you the pain that she was going through in this.

I think there are some other things that we ought to be conscious of within America. We know the kind of things that are happening with abductions. We need to try to teach people as well, please do not do this to our children. Do not take our natural resource. Just think about all of this as you go through a working day and help any of us in trying to prevent this kind of a happening. I just think it is awful and I would hope that our conscience in America makes us understand how just heart wrenching this is and to the child.

I want Jimmy to know, if he is out there listening to us, we are looking for him, too, and do not give up hope and know that people do care about him and love him and we are going to try to get him back to his parents just as quickly as we can.

So, Mr. DEUTSCH, I really do appreciate what you have done tonight.

Mr. DEUTSCH. I thank you. You actually brought up an unfortunate sort of new avenue. When I spoke with, again, unfortunate people who are in the business of helping to find these children, the FBI officials involved, they actually have cases today of children in a sort of talk site on the Internet, where a child that could be not necessarily 5 but an 8-year-old, a 9-year-old, and a 10-year-old was on a talk site who thinks they are talking to another child somewhere but is talking to a very sick person who is asking them over the Internet about themselves. And they have actually, in saying why do you not meet me somewhere, something like that, there have actually been abductions that have occurred through cyberspace. It is sort of the ultimate sort of strange sickness, the technology being used that way.

One of the things they pointed out, at some point this evening we will go through a list, the list is not long enough, but what they specifically said is parents ought to know what their kids are doing on their computers. It sounds like a crazy request. It is a 1990s request in America, but if your kid is out there on the Internet and talking to people on a site, you better know who they are talking to because it really has happened.

I mean, what kind of mind does that, but unfortunately, there are some minds that do that. I think we need to do everything we can to stop it from happening, but I think that is a really unfortunate new point for parents to be worried about.

Mrs. THURMAN. I would say that we also have to move into that 21st century as parents to understand the new dangers that face our children. I think there were some great programs that started when we first all got involved in these issues and we all remember them. I have taught my children, I mean, how many times did I say to them, do not take candy from a stranger or do not talk to strangers or do not get into cars with strangers or if you are in a mall and somebody says something to you or takes your hand, what do you do. They knew the response to that. They understand that. They do not necessarily see the danger when they do not see somebody standing in front of them, somebody who can, is visual to them, who actually can do harm to them as they are there. But they, all they have to do is say, I go to this elementary school, I have blond hair, blue eyes, and I am going to be wearing such-and-such. I have got a new dress today or I got, whatever, somehow identifying that child and separating them out. They do not understand it because it is not something they can grab onto. It is not something they can really feel.

So I think as parents and as grandparents, as we do move in, we always need to continue to update our own files as to the kinds of things that can happen and be aware of those so that we can teach our children better ways of not getting themselves into these kinds of situations because not all old remedies are going to work for what new dangers are out there for these children.

Mr. DEUTSCH. I used a sort of example of a happy ending for these two boys in Minnesota, but obviously they have arrested the gentleman. Hopefully, I assume he will be convicted, he will spend a long time, the rest of his life in jail. But he told the young boys that he was a policeman. And I guess it is hard to put myself in the mind of a 10-year-old, but it was not unusual to get in a car with a policeman and drive for several days. How does he know what policemen do?

Mrs. THURMAN. And particularly because a child has been taught that that is supposed to be his friend. That is the person that they can go to most often if they are in trouble. But there are some very sick people out there that play on these very kinds of things. we need to be careful. I know the gentleman from Connecticut is here.

Mr. DEUTSCH. Mr. SHAYS wanted to join us.

Mr. SHAYS. I appreciate the gentleman yielding to me.

I was here at another special order, and I knew that you were going to talk about Jimmy Ryce. I think of that precious young man and his precious parents who are wrestling with where he is now. And I just felt inclined, wanted to hear what you had to say and to pay respect for Jimmy Ryce and the thousands of other young children that have been taken away from their parents. And then when I mentioned that to you, you asked me to read a statement from another of your colleagues from Florida, ILEANA ROS-LEHTINEN, who I would like at this time to read her statement. She cannot be here tonight, but I think it is important that her feelings about this case and others like it be put in the RECORD.

So I would just read her statement at this time.

It begins:

Mr. Speaker, one of the silent and most devastating crimes to which some in our society remain oblivious to is the large number of children and young adult persons who are kidnapped and reported as missing within our local communities every year.

Most recently in my local community is the case of ten year old little Jimmy Ryce, who, upon walking from his school bus stop to his home in the Redlands neighborhood of South Florida, was kidnapped and has yet to be found.

Another case which to some may tragically and foolishly believe is yesterday's news, is the case of Shannon Melendi, a young resident of my Congressional district, who while attending Emory University in Atlanta, Georgia, was kidnapped over a year and eight months ago and has yet to be found. All of us want answers to Shannon's mysterious and sad disappearance.

And as all of us in the local South Florida community presently suffer the pain and anguish of little Jimmy Ryce's parents, whose son was kidnapped 51 long days ago, and we join them in their search for Jimmy, I am more sure than ever that someone must be held accountable for the loss and uncertainty that they feel today.

As the extensive manhunt continues within South Florida for Jimmy, I feel that all of us, as parents and as legislators, must become aware of this inhuman and horrible act that today afflicts my local community, but tomorrow, could very well affect yours.

As I stated, another victim of this heinous crime is Miami resident Shannon Melendi, who, in spite of a national manhunt, has yet to have been found, a year and eight months later after she was seen at her place of work, the Softball Club, in Atlanta.

Shannon was not only an outstanding student and a presidential scholarship recipient while attending Miami Southwest High School, my alma mater, but also a dedicated member of her school community, who did her best to represent the junior and senior classes of which she was president.

Even though a suspect is now in prison, he has yet to confess to a crime, and Shannon remains missing.

Her family, from her grandparents to her younger sister, remain distraught and afflicted with a heavy emotional burden as they wait for Shannon to come home to them once again.

Is the FBI doing enough? Is the local police? I strongly believe that more must be done. As the mother of two young girls and a Florida certified teacher, I am very worried about any cases of abducted children.

Worse still is the fact that as the number of kidnappings increase, there are even more missing children who were yesterday's news and who perhaps will never be accounted for.

I ask you, Mr. Speaker, has our society become so evil that our children cannot even venture from their homes in order to attend school, without the fear of being kidnapped?

Have our communities become so unsafe and insecure that parents, such as those of Jimmy Ryce, cannot even allow their children to walk home after school from their bus stop? Have we come to the point when well meaning parents, such as the Melendi's, cannot send their child to a prominent university for fear that their children will be kidnapped?

Are the abductions of little Jimmy Ryce and Shannon Melendi rare occurrences? Or are they some of the ever increasing number of children who are kidnapped throughout the nation.

Something must be done so other children and their families do not suffer in the same manner.

I ask you, Mr. Speaker, what are we as legislators and the representatives of our local communities to do in order to deter this abhorrent crime?

We cannot merely sit back and wait for Jimmy or Shannon, and all other abducted children, to turn up.

We must take action and form a strong stance against this atrocious act so that your children, my children and our children's children, do not suffer the gut wrenching loss and uncertainty that the families of Jimmy Ryce and Shannon Melendi feel, as they search for leads and wait for a precious missing child.

I would just like to thank the gentleman from Florida and to let him know that your purpose, I think, is well-intended and I think serves a tremendous effort in helping Jimmy Ryce and others be found. I want to thank you for your special order and to just let you know that someone from Connecticut has taken a good look at that young man and I just hope there are so many others that we can be alert and make sure that Jimmy Ryce is returned to his parents well and safe and that they can hug him and caress him and just welcome him back into their family. I hope that day comes.

Mr. DEUTSCH. Mr. Speaker, I thank the gentleman. I thank Congresswoman ROS-LEHTINEN for preparing her statement and also I know that Congressman LINCOLN DIAZ-BALART spoke earlier under 5 minutes about Jimmy Ryce and his hope for his safe return to his parents.

I want to shift gears a little bit and just talk about missing children in this country in general. As Jimmy Ryce's abduction has really heightened the community in south Florida, I educated myself a little bit about what I have said just has to be one of the most disturbing statistics in this country, if not the most disturbing statistic in this country.

This chart shows from the National Center for Missing and Exploited Children numbers, numbers that are staggering. Nonfamily abductions, 1,524. And then some very unfortunate sobering statistics, I guess optimistic but sobering as well, of those 385 were located alive and close to 200 were located deceased. So there is reason for hope. But a number that is staggering, 1 would be depressing, but I cannot express in any way what 1,500 families in this country have gone through in this period of time.

The National Center for Missing and Exploited Children at least tries to advise parents and there has been, obviously, a national media campaign about things to do. And there is a national computer network that is linked via computer with 45 States, allowing the instant transmission of images and information on missing children.

There is Project ALERT, America's Law Enforcement Retiree Team uses retired police to provide free on-site assistance to local police in difficult missing or exploited child cases, photos and posters with private sector partners, imaging/identification, case management, leads. The 800 number, which has been mentioned by other Members as well, is 1–800–843–5678. Specifically for Jimmy Ryce, the number is 1–800–362–9526.

Let me also follow up, as several Members have mentioned, sort of what can parents do and some of it unfortunately cannot do enough. Tens of millions of children in America left their buses today after school, tens of millions walked home, maybe a block, maybe several blocks. And I hope all of them made it back home. But unfortunately I know that on occasion some do not, like Jimmy Ryce did not.

□ 2130

So, I do not think it is realistic to hope that every child, or we are at that point in our society, needs to be walked home from the bus station at school, but we can try to do some things, just knowing and just sort of a list of things: knowing where your children are at all times, being familiar with their friends and daily activities, being sensitive to changes in the child's behavior, that you should sit down and talk to your children about what causes changes, be alert to a teenager, be alert to a teenager who is paying an unusual amount of attention to the children or giving them inappropriate or expensive gifts, teach your children to trust their own feelings and assure them they have a right to say no to what they sense in wrong, listen carefully to your children's fears, support them in all your discussions with them, teach your children that no one should approach them or touch them in a way that makes them feel uncomfortable, and if someone does, they should tell the parents immediately, be careful about baby-sitters and other individuals who have custody of your children.

Now some people have also made suggestions and actually the National Center for Missing and Exploited Children talks about things, passwords that parents can use with their kids if someone does say that their parent is sick, or that they are a police officer, that there be a password that the child will know that that person would say. It is one of the techniques that has been suggested or that stop points. When a child is leaving a bus station, at a certain point they should be there by then, and if they are not, then someone needs to know about it, whether it is an older sibling, an older friend, or a trusted neighbor.

Let me talk about some children, and that happened unfortunately on some other children mentioned from Florida that are missing. Obviously I have talked about Jimmy Ryce, but I want to show another, the picture there, but it is just a picture. If the camera could try to focus in on it, I will try to hold it as steady as I can, and, as you can read, the child has a birthmark on his shoulder blade, was last seen wearing a white shirt and blue jean shorts. His nickname is Jimmy. And, as the circumstance, child was last seen getting off his school bus at his bus stop, which is three blocks from his home.

As I mentioned, all these are children from Florida. That was in Homestead, FL, my district. Walter Morales left his home in Miami, FL, with three males on October 27, 1993, and has not been heard from since. Child has a small scar near his right eye. He has two top teeth that are gold. He has a ''W'' on his left shoulder, and again, if the camera can focus in on that?

This is a picture of Andrea Gail Parsons, who was last seen July 11, 1993, in Port Salerno, FL. She was 10 when she disappeared. The child was last seen wearing blue jean shorts, a dark-colored shirt, clear plastic sandals. Child was last seen at 6 p.m. near Commerce and Seward Ave. in Port Salerno, FL.

As has been mentioned, those are cases of abductions, of nonfamily abductions. There are family abductions unfortunately, and I just—again these are in Florida. This is Malik Mike Tourbah, kidnapped by his father in Miami Lakes, FL, on June 22, 1990. Child has a scar on his right eye.

And this is Kaylee Nicole Lopez, kidnapped by her noncustodian grandparents on August 12, 1989, in Miami, and child has a birthmark on the right side of her chest and her upper right thigh. Her eyes are hazel green. Child's photo is shown age-progressed to 8 years.

And Andrea Durham from Fort Walton Beach, FL, she left her family's new home on February 1, 1990, and it is an age-progressed photo, actually to 18 years at this point.

Mr. Speaker, we have discussed something tonight that I wish I did not have to discuss. I think everyone in this country wishes we did not have to discuss this, but it does take place, and as a community of Americans, society, we clearly can do better in this area. We need to be vigilant as individuals, as parents, but as a society as well.

I mean there is no limit to the amount of resources we need to put in

to make sure that this does not happen to one child in this country. And law enforcement has resources, and they are doing everything they can, and are interviewing every person they possibly can, and following up thousands of leads as they come up in this case, and I know I appreciate it, and I know the Ryce family appreciates that as well, and hopefully for those people that are watching, because that is really what this special order is for, as I have learned more about this, the cases that are solved are solved because of people like the people watching an incident, a flash, a child in a restaurant, a face in a car passing, a child anywhere, and there are resources in this country, the 800 numbers we are talking. They follow up, they do follow up. The resources are there. We have put resources into it, and I am asking people, and I am praying and hoping people—I know the Ryce family is watching, too—that we will get a lead and that we will find Jimmy very, very shortly, and he will be with you and with our community again.

Let me just ask one last time if we can just ask the camera to focus in on Jimmy Ryce.

Ms. JACKSON-LEE. Mr. Speaker, I rise tonight to discuss the heartbreaking and devastating issue of missing children. As a mother of two beautiful children, I can think of few things as frightening for a parent than learning that your child is missing. Thus, it saddens me deeply to know that every day in this country parents, and families, are forced to face this fear.

In 1994, more than 800,000 children were reported missing to the police and the FBI's national crime information computer [NCIC]—more than 2,000 children every day. The largest number were runaways; followed by lost children; family abductions; and short-term sexually motivated non-family abductions There are approximately 300 serious child kidnapping cases each year—five or six children each week—cases in which the child is abducted by a stranger and murdered, ransomed, or taken with the intent to be kept.

In 1994, 99 percent of the reported missing children cases were resolved by local and state police. We have made progress since the Missing Children Act was signed into law in 1982. New resources and technology have been crucial in assisting searches and investigations. A national network exists with the National Center for Missing and Exploited Children [NCMEC] at the hub, transmitting images and information instantly around the country. The FBI's new Child Abduction and Serial Killers Unit ensures rapid, priority response in the most serious cases. And in 1994, Congress created the Morgan P. Hardiman Task Force on Missing and Exploited Children, with agents from seven Federal law enforcement agencies, headed by the FBI, working with the NCMEC in difficult cases.

The legacy of America's missing children can be seen in the new laws, heightened public awareness, improved response from law enforcement and unprecedented national attention to prevention and education which exist today. Progress has been made to better protect our Nation's children, but much remains to be done.

Most missing children do return home safely, but this face is of little comfort to the families of those children who are never found or who are found dead. We, in Congress, must work to reduce the numbers of missing, abducted, runaway, and thrown away—children who are thrown out of their homes—children.

There are a number of things which remain to be done to improve outcomes for missing and exploited children. The National Center for Missing and Exploited Children has suggested that:

Uniform reporting procedures should be implemented to improve monitoring of reports of crimes against children.

Each State should create a missing and exploited children clearinghouse.

States would establish policies and procedures to be followed in conducting missing child investigations to address initial response, information gathering, required NCIC and other database entries, interviews with family members, search procedures, supervisory responsibilities, and post-recovery interviews

The States should also establish procedures for law enforcement agencies for taking missing child reports that include immediate acceptance of a missing child report without a waiting period, and the immediate entry of all descriptive information into the NCIC and other relevant databases.

States should require specialized training in missing and exploited child issues as part of their basic law enforcement training programs.

States should establish policies and procedures to ensure the immediate coordination of information exchange on unidentified persons with missing child information on the NCIC.

Each State should mandate that healthcare facilities establish policies and procedures to promote the protection of infants and the reduction of infant abduction.

States should implement records-flagging procedures and require that new-school enrollment records be submitted to the State missing children clearinghouse to determine whether abducted or missing children are enrolled in schools.

States should adopt comprehensive policies and procedures to address family abduction issues including modifying existing criminal custodial interference statutes to make them uniformly state the potential criminal liability of abductors who conceal or remove a child in violation of the custody rights of the other parent.

It is also important that a parent's lack of resources do not hinder the reunification of the parent and the missing child. National, State, and local bar associations should encourage members to take family abduction and disputed custody cases pro bono or on a sliding fee scale.

Policies and laws on family abduction, domestic violence, and child abuse should be coordinated so that the focus is always on the best interest of the child. Similarly, encouraging resolution of custody disputes outside of the adversarial process will reduce the likelihood that abduction will occur.

States should adopt and implement a comprehensive criminal justice system response to the problem of sex offenders.

Every State should make the possession of child pornography a felony criminal offense.

State policies and procedures in dealing with juvenile prostitution should treat the issue as a form of child sexual victimization and focus criminal justice, legal, and social service resources on treating the child victim.

States should enact a child victim's bill of rights to incorporate basic protections into State law.

Each State should provide for, or support, research-based, comprehensive, age-appropriate personal safety curricula in its elementary and secondary schools.

Parents can also help prevent child abduction and exploitation. I urge parents to be sensitive to changes in your children's behavior, be alert to a teenager or adult who is paying an unusual amount of attention to your children or giving them inappropriate or expensive gifts, teach your children to trust their own feelings, and assure them that they have the right to say no to what they sense is wrong and tell your children that no one should approach them or touch them in a way that makes them feel uncomfortable.

The problem of child abduction and exploitation transcends politics, race and socioeconomic status. To Californians, it takes the face of Polly Klaas, in Florida, it is that of Adam Walsh, and in the country's heartland it comes as Jacob Wetterling. In the Northeast, it is seen in the pictures of Sara Anne Wood and Etan Patz. In the South, it is in the photographs of Yusef Bell and the 28 other children from Atlanta who were reported missing and found murdered from 1979 to 1980. To our Nation's seniors, the image of Charles and Anne Lindbergh pleading for their kidnapped baby is forever imprinted in our memories.

We must work together to protect our Nation's children so that they can grow up to become happy, healthy and productive adults. We owe it to the families of missing and exploited children and we owe it to the children of this Nation. Thank you.

FAITH AND POLITICS

The SPEAKER pro tempore (Mr. ALLARD). Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. POSHARD] is recognized for 60 minutes as the designee of the minority leader.

Mr. POSHARD. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. KENNELLY].

DEBT CEILING

Mrs. KENNELLY. Mr. Speaker, we keep hearing the debt ceiling and the need to extend it to prevent default. We also keep hearing about the need to balance the budget and the need to finish appropriations bills. I think all of this is very confusing to the American people.

Let's be clear. Appropriations, reconciliation and the debt are three separate issues although they are often thrown about together.

Appropriations is about keeping the Government open. The President has signed only 2 of the 13 appropriation bills despite the fact that the fiscal year started October 1. In the absence of 13 full year appropriation bills, we have been operating under a continuing resolution. This is a temporary stopgap measure designed to keep the Government open until we can complete

work on the remaining 11 full year appropriation. The continuing resolution expires on November 13. We must either complete work on the remaining appropriations or pass another continuing resolution by then in order to prevent a government shutdown. A Government shutdown means closing Government offices and national parks.

The reconciliation bill currently includes the majority's plan for balancing the budget and a permanent extension of the debt ceiling. The two are tied by tradition, rather than necessity. Balancing the budget is an important task and one Democrats and Republicans have been debating all year. We should balance budget and this member believes we will when all is said and done and both sides of the aisle sit down and negotiate. The problem is such negotiations take time. And time is something we simply don't have when it comes to the debt ceiling.

The debt ceiling is simply the limit the Treasury may borrow. Treasury Secretary Rubin has said that we are very close to that ceiling today and Treasury would exceed it sometime between November 6 and November 15 without congressional action. While it is clear that the debt ceiling will be raised in the long run, it is not clear that a reconciliation bill can be enacted before we hit the debt ceiling. The President has threatened to veto reconciliation in its current form due to policy concerns over Medicare, Medicaid and spending priorities.

It therefore makes sense for the Congress to pass a temporary debt ceiling as an interim measure to prevent default while a balanced budget agreement can be hammered out. Some have said that such a step isn't necessary because a default wouldn't cause serious problems in the economy. I strongly disagree.

Remember we have never exceeded the debt ceiling so no one really knows what will happen but we do know that exceeding the debt limit means that U.S. debt obligations come due and the United States refuses to pay. Given that U.S. Treasury securities are seen as the soundest investment in the world, this would be a very serious development. Much of the economy is based on confidence. Think about the effect on the stock market, the dollar, the bond market, not to mention the economy be if the United States even for a short time says ''no we can't pay our debt right now''.

At the very least, it would mean that the next time we go to sell bonds U.S. Treasury securities, purchasers are going to demand an interest rate higher than they otherwise would have because of the increased risk. Keep in mind that currently U.S. Treasury debt finances $4.9 trillion in debt. So even a risk premium of ten basis points—one tenth of one percent—will mean $3–$4 billion in added annual interest we must pay on all our debt for the future!

While the debt ceiling and a potential default are esoteric issues to most Americans, they do effect the lives of average families very directly. Fully 31 percent of American households have mutual funds, many of which are invested in Treasury securities or the stock market. Both credit cards and auto loans often are pegged to Treasury interest rates. And fully 9.5 million American families have adjustable rate mortgages, a majority of which are pegged to Treasury interest rates. Therefore, millions of American families would feel a direct impact of a default.

When all is all is said and done, the debt ceiling will be increased. We shouldn't hold the economy or average American families hostage to a partisan debate on a balanced budget. We should enact an extension in the debt ceiling immediately.

□ 2145

Mr. POSHARD. Mr. Speaker, I am very nervous about taking the floor tonight, because I want to talk about two topics which perhaps never should be discussed together. Those topics are faith and politics. I have listened over the past few years to the growing public cynicism of our own people toward our own government. I have listened to them, in one town meeting after another, proclaim their distrust, their lack of confidence in us, their sense that we have somehow abandoned ethical considerations in our deliberations.

Mr. Speaker, I listened very carefully this afternoon to the debate on abortion, and I was so grieved in my conscience about this issue because of the tone it has taken on as a point of division in our country. I always feel troubled in my spirit when I hear the shrill voices rising on this issue, both pro and con. The name of God was invoked today several times in the debate, and it caused me to think again about the role of my faith in the decisions that I have to make in this Congress and in this country. So I want to talk about that.

I ask your forgiveness in advance if I offend anyone here in the manner of my speaking or the words which I speak. I respect any person's faith. I am not taking the floor here to proselytize for my faith. I am not trying to advocate any religion. I have never considered myself to be a particularly religious person. I accepted both my faith and my politics when I was fairly young, I guess as most of us do. I was raised in a small, rural Baptist church. My father and mother were steeped in the beliefs and the traditions of the Democrat Party and the Christian faith. I accepted both along the way, and I have struggled with both my whole life.

It has been especially difficult to integrate the two at times, but let me talk about just a few beliefs or assumptions that I have encountered along the way in the political world that may speak at least in part to the ''why'' of the public distrust, and share with you a response from my own Christian faith that may remind us of a way to restore that confidence.

I know other faiths have similar responses that speak to these beliefs, but I can only speak out of my own faith. I remember when I first went to the Illinois State Senate, one of the leaders of my party, as the leaders of both parties do from time to time, took us in a little room during the orientation period, and I remember the gentleman saying, ''Now, here is the first and foremost thing that you need to remember. The most important thing that you can do here is to stay electable. Whatever you've got to do to remain electable, do it. The most important thing is that you get back here. And so if you have to take the floor and rail against Chicago, and show your downstate constituents that you are protecting their interests against the big, bad city, do it. You won't offend me.''

That troubled me. And sometimes when I go to meetings here, as I did then, the most important thing it seems that is shared is, what is the spin we can put on things to make sure that we stay electable?

I recall in my upbringing a story, a very important story in the scriptures, of the life of Christ. They were headed, he and his disciples, toward the cross. Just a few days before that, they stopped in the home of Mary and Martha and Lazarus. As they were sitting there discussing the events of the day, or perhaps what was to come down the road, all of a sudden there is this little slip of a girl sitting among them. Her name was Mary. And at some point in the discussion Mary took out a bottle of perfume, and the scriptures say it was worth a whole year's wages, very expensive. And she broke that bottle and she lavishly spread it upon Christ, and that evoked certain responses in the room. Judas immediately said, who represents the world in this scenario, ''Stop her. Why do you let her do that? We could have sold that and given it to the poor, and accomplished social objective.'' And the disciples, who represented the church in that scenario, said, the scripture said, ''they rebuked her severely.'' And then Martha, who represented the family there, came into the room and said to Christ, ''Get Mary up. I have lots of work to do in the kitchen. I need help. She should be in there helping me. Get her up.''

And the scripture Christ looked at Martha and said, ''Martha, Martha, you worry over so many things, but only one thing is most important, and Mary knows what this is: Just learning to love, to care about others, and being loved in return, in the way that God loves us, in an unconditional love, that is the important thing, and Mary knows that.''

And so I am reminded by that that the most important thing here is not to say electable, it is not to do whatever is necessary to make sure that we get back here. We all know who serve here what the most important thing of all really is.

I remember having heard several times a second notion peculiar to the political realm, and that notion is that once you get in this business, and once you get on the ladder, that you want to climb to the top. It said that ''everybody wants to be President,'' and so the notion is to climb as far as you can, and not to worry about the cost of that, if you have to climb over the bodies of your friends or whatever, just do it; achieve, get to the uppermost rung.

Again I am reminded of something that came out of my faith that speaks to that notion. Just a few days later Christ and his disciples are in the upper room, having the last supper together that they are going to have on this Earth. A few days before that the mother of James and John, two of the disciples, had come to Christ and said, ''When you come into your kingdom, I want you to seat one of my sons on your right and one of my sons on your left, so that they can share the power with you in this kingdom, this earthly kingdom that you are going to assume.''

The other disciples had gotten word of that, and they were irritated and seething underneath about in competition for power. It said that at this most intimate time of all, after spending 3 years together, when they should have been closer than they had ever been before, it said that they were so angry with each other that they even refused to engage in the Jewish custom of washing their feet before they came into the room. So Christ got up and took a towel and a bowl of water, and he proceeded to go around the room and wash their feet. And in doing that, he said to them, ''Look, don't be this way. If you want to be the greatest in the kingdom, you have to learn to be the least. If you want to be the ruler of all, you have to learn to be the servant of all.'' He said, ''The Pharisees seek the best seats in the synagogue so they can display their faith, and the Gentiles lord it over their people. That is not the way. Don't do that. Don't sit here in envy and pride and jealousy about wanting to be first.''

In the spiritual world, the way up is the way down. Yet, the political world tells us all the things that we have to do to climb the ladder. There is another thing that I have noted along the way in the political world. You hear it all the time. It says, ''In order to survive, you must be willing to compromise.'' We know that democracy depends upon our ability to compromise. No one gets everything they want in a democracy. That is the genius of a democracy. We are all searching for the middle ground between the extremes. That is the only way democracy can move forward. Yet, so much of the time in this business we almost treat compromise and principle as one and the same thing.

There is a wonderful little story in the Book of Kings, in the old scriptures, that reminds us of a response to this issue. The Syrians have a great warrior captain by the name of Naman. He has gone over into Israel and made a raid, and he has brought back some captives. One of those captives is a young Jewish girl that now serves in his household.

Naman is a great military leader, a great leader of his people, but he has one problem. He has leprosy, the most dreaded disease of his time. The little maidservant in his household said one day to Naman's wife, ''You know, if Naman would go over into Israel and meet with the prophet Elijah, he could heal his leprosy.''

□ 2200

The wife tells Naman, Naman tells his king, his king exchanges letters with the king from Israel, arrangements are made for Naman to go see the prohet, Elijah. He goes there and he proceeds to take a long train of wagon loads of gifts with him to give to the prohet who may heal him of this leprosy.

He comes up to Elijah's door, wanting to give him these gifts, and Elijah will not even meet with him. He says, through a messenger, to Naman, ''Naman, go down to the Jordan River and dip yourself 7 times in the river and you will be healed of the leprosy.''

Naman becomes very angry. He says, ''I am not going to humiliate myself by doing that,'' and he turned around and started to go back home, and one of his servants prevailed upon him to indeed go down to the Jordan and dip 7 times. He said, ''What do you have to lose? If he had asked some great thing out of you, would you not have done it?''

So Naman went down to the Jordan, dipped himself 7 times, and was miraculously healed of the leprosy. He comes back to the door of Elijah, and now he wants to give these gifts to Elijah, and Elijah again says, ''I will have none of them.''

So Naman says to Elijah, ''Well, Elijah, if you will not take the gifts, then just do this for me. Let me take two wagon loads of this earth back with me to my home, because I am a man under authority, and when I get back home, I know my king is going to call me to go down to the House of Reman where the false gods of Baal are, and I am going to have to accompany him there. All I want to be able to do is take a handful of dirt with me when I am compelled to go there and spread it before me so I can remember the one true God that healed me.''

Now, Elijah could have said to Naman, ''Naman, don't you dare. You have gone through a miraculous experience here. Don't you dare go back there and worship a false god of Baal.'' But he did not say that. Instead, he said to Naman, ''Naman, take the dirt and go in peace.''

Now, what is important about that to me is simply this: This is the greatest country in the history of the world in my judgment, America. This is the greatest government in the history of the world. And right here in this capital, in this city, is the seat of worldly power. Not just the seat of this Nation's government, but it is the government to which all governments of the world come to pay deference from time to time.

There are many false idols worshiped here. Position, power, wealth, all kinds of things, that it would be very easy for us to look at and feel so empowered with that we would forget who we are and think that we could compromise principle in the process of engaging in these kinds of pursuits. So we must be reminded in this midst of position and power and wealth and authority and all of the other things of who the one true God of the universe really is.

Now, today as I mentioned earlier, I sat and listened to the debate on abortion. Every time I hear that debate come up before this body, I am just torn asunder. I am a pro-life Democrat. It is just what I believe. But I want to talk about this for a moment along another line.

I have a little niece by the name of Rita, and she married a young man named David some years ago, and they are two kids that really loved each other. They were in their early 20's. They cared so much for each other, they wanted to build a life of their own. They got married and they had a child, and that little child, Jonathan, was born with Cystic Fibrosis. The doctor told them that Jonathan may never come home from the hospital. He did, but only a couple of times in the short 7 months that he lived.

The hospital bills were huge. For all the time that Jonathan was in the hospital, my niece and her husband were heartbroken over this experience, they were grieved to know that one of them was a carrier of the Cystic Fibrosis gene. They were warned by the doctors not to try to have another child.

I remember the day that my niece called me and she said, ''Uncle Glenn, the doctor tells us that Jonathan is probably not going to live through the day. Could you come over the hospital and be with us?'' I remember getting in my care and starting the drive some 50 miles away to the hospital where they were and saying to myself as I was driving along, dear God, how could you let this happen? How could you let this child which they so wanted, they so loved, how could you let these two kids who loved each other to much, how could you let this take place? How could this little baby be dying? I was really grieved in my spirit and in my conscience struggling with this.

Not in an audible voice, but in my own spirit it suddenly came to me. This came to me. It was like God saying, but you do not understand. I created Jonathan because I needed him. I am love, unconditional love, all forgiving love, and the nature of unconditional love is that it must have an object upon which to lavish itself. That is the nature of love.

You see, God being unconditional love, needed Jonathan in order that He

may love more, in order that He may love him. Jonathan was created as the object of this great love. Jonathan did not have to deserve God's love. He did not have to be worthy of God's love. He was the beloved, just by virtue of being created by God. The length of his life was utterly unimportant, whether it was 7 weeks or 7 months in the womb or 7 years or 70 years after birth, he was the beloved.

There are so many voices in our world today telling us that in order to be loved, in order to count for something, in order to be worthy, we have to be the right way. We have to make a certain salary or live in a certain community or associate with the right people or drive a certain car, wear certain clothes, attend a certain church. If we will just do all of these things, somehow we will be worthy, we will be deserving of love and appreciation. As Henry Nowan, a Christian writer says, we drown out that voice that calls us the beloved, just because we are created by God as the object of His love.

That is why those of us who are pro-life see this as a matter of principle, not just as an issue that can be compromised. We really do see this issue of abortion as a matter of life and death, as a matter of taking away a life that God has allowed to be created as the object of His love. But if we really believe that, then we must also believe that the lives of those caught up in the terrible circumstances of considering an abortion and all of the trauma that goes along with that, we must also believe that we have no right to further traumatize that person by self-righteous condemnation of their character. Only God must judge. If our faith teaches us anything, it is that we must have compassion and mercy, not judgment.

I do not expect to ever get to a time when I stop struggling with either my faith or my politics. Christ said, as Christians, we are to be in the world, but not of the world. Some days I think that I understand that distinction very clearly and other days, I am not so sure.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BISHOP (at the request of Mr. GEPHARDT) for Monday, October 30, on account of official business in the district.

Ms. HARMAN (at the request of Mr. GEPHARDT) for today after 3 p.m. for the balance of the day, on account of a family obligation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.
Mrs. KENNELLY, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mr. GIBBONS, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.
Mr. MILLER, for 5 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.
Mrs. COLLINS of Illinois, for 5 minutes, today.
Mr. WISE, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. SCARBOROUGH) to revise and extend their remarks and include extraneous material:)

Mr. LONGLEY, for 5 minutes, on November 2.
Mr. MCINTOSH, for 5 minutes, on November 2.
Mr. SHADEGG, for 5 minutes, today.
Mr. DORNAN, for 5 minutes, today.
Mr. RIGGS, for 5 minutes, today.
Mr. HORN, for 5 minutes, today.
Mr. KIM, for 5 minutes, today.
Mr. EHRLICH, for 5 minutes, today.
Mr. GEKAS, for 5 minutes, today.
Mr. CLINGER, for 5 minutes, today.
Mr. HAYWORTH, for 5 minutes, on November 2.
Mr. SCARBOROUGH, for 5 minutes, today.
Mr. SHAYS, 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. PALLONE) and to include extraneous matter:)

Mrs. MALONEY.
Ms. ROYBAL-ALLARD.
Mr. HAMILTON in two instances
Mr. CARDIN.
Mr. LIPINSKI in two instances.
Mr. TORRES.
Mr. TOWNS in five instances.
Mr. COLEMAN.
Mr. LEVIN.

(The following Members (at the request of Mr. SCARBOROUGH) and to include extraneous matter:)

Mr. SOLOMON in two instances.
Ms. MOLINARI in two instances.
Mr. COMBEST.
Mr. FRANKS of New Jersey.
Mr. PACKARD.
Mr. LINDER.
Mr. SMITH of New Jersey.
Mr. COOLEY.
Mr. HANSEN.
Mr. QUINN.
Mr. GILMAN.
Mr. PORTER.
Mr. MARTINI.

(The following Members (at the request of (Mr. POSHARD) and to include extraneous matter:)

Mr. CUNNINGHAM.
Mr. PETERSON of Florida.
Mr. JACOBS.
Mr. GILLMOR in two instances.
Mr. PASTOR in two instances.
Mr. FRANKS of New Jersey.
Mr. RAHALL.
Mr. CLEMENT.
Mr. DICKS.
Mr. LUTHER.
Mr. POMEROY.
Mr. HANSEN.
Mr. GILMAN.
Mr. MARTINI.
Ms. JACKSON-LEE.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 187. An act to provide for the safety of journeymen boxers, and for other purposes; to the Committee on Economic and Educational Opportunities and the Committee on Commerce.

ADJOURNMENT

Mr. POSHARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Thursday, November 2, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1582. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act by the Sacramento District, U.S. Army Corps of Engineers, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1583. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by Public Law 104–37, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Reform and Oversight.

1584. A letter from the Director, Office of Management and Budget, transmitting the Director's views regarding the ''Department of Commerce Dismantling Act''; to the Committee on Government Reform and Oversight.

1585. A letter from the Chairman, U.S. International Trade Commission, transmitting a copy of the 83d quarterly report on trade between the United States and China, the successor states to the former Soviet Union and other title IV countries during April-July 1995, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

1586. A letter from the Secretary of Health and Human Services, transmitting the Secretary's views regarding H.R. 4, the ''Personal Responsibility Act''; jointly, to the Committees on Ways and Means, Banking and Financial Services, Economic and Educational Opportunities, the Budget, Rules, Commerce, the Judiciary, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk

for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2149. A bill to reduce regulation, promote efficiencies, and encourage competition in the international ocean transportation system of the United States, to eliminate the Federal Maritime Commission, and for other purposes (Rept. 104–303). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE: Committee on Rules. House Resolution 253. Resolution waiving points of order against the further conference report to accompany the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–304). Referred to the House Calendar.

SUBSEQUENT ACTION ON REPORTED BILL SEQUENTIALLY REFERRED

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1816. Referral to the Committee on Commerce extended for a period ending not later than November 2, 1995.

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. CONDIT (for himself and Mr. MATSUI):

H.R. 2567. A bill to amend the Federal Water Pollution Control Act relating to standards for constructed water conveyances; to the Committee on Transportation and Infrastructure.

By Mr. COOLEY (for himself, Mrs. CHENOWETH, and Mr. NETHERCUTT):

H.R. 2568. A bill to require adopting of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Resources.

By Mr. HASTINGS of Washington:

H.R. 2569. A bill to require the Secretary of Energy to immediately begin returning the Fast Flux Test Facility to operational status, identify which missions will be given the highest priority, and prepare the facility to carry out those missions; to the Committee on Science, and in addition to the Committees on Commerce, and 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. CUNNINGHAM (for himself, Mr. GOODLING, Mr. GUNDERSON, Mr. CASTLE, Mr. SAM JOHNSON, Mr. GREENWOOD, Mr. RIGGS, Mr. WELDON of Florida, Mr. SOUDER, Mr. MCINTOSH, Mr. BALLENGER, and Mr. GRAHAM):

H.R. 2570. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997, 1998, 1999, 2000, and 2001, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. PETERSON of Florida (for himself, Mrs. MEEK of Florida, Mr. DELLUMS, Mr. JOHNSTON of Florida, and Mr. JEFFERSON):

H.R. 2571. A bill to establish a program to provide Federal payment to States for the operation of programs for long-term care services for needy individuals with disabilities, to amend the Internal Revenue Code of 1986 to revise the tax treatment of expenses for long-term care insurance and services, to reform standards for the long-term care insurance market, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Economic and Educational Opportunities, 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. RAHALL (for himself, Mr. BOUCHER, Miss COLLINS of Michigan, Mr. EVANS, Mr. FILNER, Mr. KLINK, Ms. LOFGREN, Ms. NORTON, and Mr. STUPAK):

H.R. 2572. A bill to reinstate the emergency unemployment compensation program; to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions of fall within the jurisdiction of the committee concerned.

By Mr. REGULA:

H.R. 2573. A bill to amend the Federal Election Campaign Act of 1971 to eliminate PAC contributions to individual House of Representatives candidates, to provide a tax credit and tax deduction for contributions to such candidates, to provide for voluntary expenditure limitations in House of Representatives elections, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Ways and Means, and Commerce, 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. WYNN:

H.R. 2574. A bill to amend the provisions of title 5, United States Code, that provide for a 2-percent reduction in retirement benefits for each year that the employee is under age 55 at the time of retiring; to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 206: Mr. BARCIA of Michigan and Mr. LAUGHLIN.

H.R. 262: Mr. HORN.

H.R. 266: Mr. GENE GREEN of Texas.

H.R. 325: Mr. LOBIONDO.

H.R. 528: Mr. CANADY, Mr. GALLEGLY, Mr. CLYBURN, Mr. EMERSON, and Mr. MINGE.

H.R. 573: Mr. DEFAZIO.

H.R. 822: Mr. BARTON of Texas, Mr. PETE GEREN of Texas, and Mr. HASTERT.

H.R. 852: Mrs. SCHROEDER and Mr. COSTELLO.

H.R. 1024: Mr. FRANKS of New Jersey.

H.R. 1127: Mr. BLUTE and Mrs. LINCOLN.

H.R. 1202: Mr. BALLENGER, Mr. PETRI, Mr. FOGLIETTA, and Mr. CASTLE.

H.R. 1309: Mrs. SMITH of Washington, Mr. PASTOR, Miss COLLINS of Michigan, Ms. PELOSI, and Mr. YATES.

H.R. 1406: Mr. BROWDER and Mr. HOKE.

H.R. 1416: Mr. ABERCROMBIE, Mr. DEFAZIO, Mr. LEWIS of Georgia, and Mr. WYDEN.

H.R. 1484: Mr. DIAZ-BALART and Mr. DURBIN.

H.R. 1488: Mr. HAYWORTH and Mr. CLINGER.

H.R. 1540: Mr. SPENCE and Mr. MINGE.

H.R. 1687: Mr. HALL of Ohio, Mr. UPTON, Mr. MCHALE, Mr. SANFORD, and Mr. CASTLE.

H.R. 1856: Mr. HYDE, Mr. WICKER, Mr. DOOLEY, and Mr. GUNDERSON.

H.R. 1920: Mr. TORKILDSEN and Mr. BISHOP.

H.R. 2029: Mr. SPRATT.

H.R. 2039: Mrs. KENNELLY, Mr. CRAPO, Mr. FOX, Mr. RADANOVICH, Mr. BARTLETT of Maryland, Mrs. CHENOWETH, Ms. DANNER, and Mr. BARRETT of Wisconsin.

H.R. 2098: Mr. BLUTE, Mr. FOX, and Mr. HASTERT.

H.R. 2101: Ms. PELOSI, Mr. BROWN of California, Mr. FARR, Ms. NORTON, Mr. BERMAN, Mr. FOGLIETTA, Mr. WYDEN, Mr. KENNEDY of Massachusetts, Mr. LIPINSKI, Mr. BARRETT of Wisconsin, and Mr. TORRICELLI.

H.R. 2200: Mr. LINDER, Mr. BONO, Mr. QUINN, Mr. THOMAS, Mr. KLUG, Mr. CALLAHAN, Mr. BROWDER, and Mr. FAWELL.

H.R. 2276: Mr. BLUTE.

H.R. 2286: Mrs. SEASTRAND, Mr. COMBEST, Mr. CALVERT, Mr. RIGGS, and Mr. HASTINGS of Washington.

H.R. 2309: Mr. ROHRABACHER and Mr. CALVERT.

H.R. 2422: Mr. JEFFERSON.

H.R. 2434: Miss COLLINS of Michigan, Mr. FIELDS of Texas, Mr. CRAPO, and Mr. PAYNE of Virginia.

H.R. 2507: Mr. BARR and Mr. SOLOMON.

H.R. 2508: Mr. FUNDERBURK, Mr. FRAZER, Mr. HINCHEY, Mr. BARTON of Texas, and Mr. DEUTSCH.

H.R. 2519: Mr. BARTON of Texas, Mr. BENTSEN, and Mr. LEWIS of Georgia.

H.R. 2525: Mr. HUTCHINSON.

H.R. 2529: Mr. TRAFICANT, Mrs. MEEK of Florida, Mr. MCDERMOTT, Mr. FRAZER, Mr. FILNER, and Miss COLLINS of Michigan.

H.R. 2531: Mr. HASTERT.

H.R. 2550: Mr. CANADY, Mr. SKEEN, Mr. SCHAEFER, Mr. MICA, Mr. BARR, and Mr. TRAFICANT.

H. Con. Res. 26: Mr. OBERSTAR, Mr. LEVIN, Mr. GENE GREEN of Texas, Mr. HORN, and Mr. PETE GEREN of Texas.

H. Con. Res. 51: Mr. SOLOMON, Mr. FRANKS of New Jersey, and Mrs. LOWEY.

H. Con. Res. 63: Mr. GILMAN.

H. Con. Res. 73: Mr. FOLEY.

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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Allow the Psalmist to tune your heart to make this a day of praise.

Bless the Lord, O my soul; and all that is within me, bless his holy name.

Bless the Lord, O my soul, and forget not all his benefits.—Psalm 103:1–2.

Let us pray:

Almighty God, Sovereign of this Nation, we praise You for Your amazing grace. Your unlimited love casts out fear, Your unqualified forgiveness heals our memories, Your undeserved faithfulness gives us courage, Your unfailing guidance gives us clear direction, Your presence banishes our anxieties. You know our needs before we ask You, and Your spirit gives us the boldness to ask for what You are ready to give. You give us discernment of the needs of others so that we can be servant leaders. Your love for us frees us to love, forgive, uplift, and encourage people around us. We commit this day to be one in which we are initiative communicators of Your grace. We open ourselves to Your holy spirit. Gracious God, we are ready for a great day filled with Your grace. In the name of the Mighty Mediator. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader is recognized.

SCHEDULE

Mr. KYL. Mr. President, on behalf of the leader, leader time is reserved. There will be a period for morning business until 12 noon today. At noon, it is the leader's intention to turn to the House message to accompany the budget reconciliation bill to appoint conferees on the part of the Senate. Several motions may be made with respect to appointing conferees, and therefore rollcall votes can be expected on those motions.

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. DASCHLE. 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. DASCHLE. I wish the Presiding Officer a good morning.

INCREASING THE DEBT LIMIT

Mr. DASCHLE. Mr. President, yesterday, Treasury Secretary Robert Rubin sent a letter to the congressional leadership warning that a refusal to pass an increase in the debt limit by November 6 would force the Treasury Department to take extraordinary actions in the coming days, actions for which the American taxpayers would foot the bill.

The Secretary indicated that these moves might include not fully investing the Federal Employees Retirement System, the Government Securities Investment Fund, the G fund, calling back Treasury cash balances held in our depository banks, and suspending the issuance of savings bonds.

These defensive actions, regrettably, may become necessary under the circumstances.

Some weeks ago, the Speaker of the House suggested that congressional Republicans might find it acceptable for the U.S. Government to default on its obligations if it proves to be useful leverage in the coming budget battles. Unfortunately, these comments, once dismissed as political posturing, now could be prophetic.

Mr. President, Secretary Rubin's warnings ought to be heeded. Political considerations should not dictate congressional action on the debt ceiling.

The debt limit is serious economic business. It should not be a part of the budget debate. The reputation of this Nation throughout the world would be irrevocably damaged if the full faith and credit of the U.S. Government becomes shaky and suspect.

Because this is such a serious matter, I was disappointed to read in yesterday's papers the characterization by the majority leader that Secretary Rubin's credibility and integrity are somehow in question in this debate.

Nothing could be further from the truth.

Secretary Rubin is engaged in a critical effort to discharge his responsibilities to the taxpayers by preventing the U.S. Government from defaulting on its debt obligations for the first time in more than 200 years.

Moreover, Secretary Rubin has made repeated efforts to meet with the Republican leadership and to make other senior Treasury officials available to answer questions and clarify disputed numbers.

No one has credibly disputed what the Treasury has said. It seems to me clear that these attacks on Secretary Rubin represent a classic case of shooting the messenger.

Meanwhile, there seems to be an ongoing effort on the other side of the aisle to distract the public from the real issue in the debt limit debate—namely, that a default will cause taxpayers to pay for generations to come in higher interest rates on the trillions of dollars in public debt which this Nation must finance in national and international capital markets.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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It is my understanding that a meeting between President Clinton and Republican leaders has been scheduled today to discuss this very matter. I certainly hope that this can be the first step in an effort to resolve the dispute over the debt limit outside the political context in which we will debate our very real differences over the budget.

I ask unanimous consent that a copy of Secretary Rubin's letter to the Speaker be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, October 31, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In anticipation of our meeting tomorrow I want to provide information that you should have as background for your consideration of our request for a prompt increase in the debt limit.

First, I have set forth in an appendix both our current projections and a history of our projections over the past several months.

Second, I want to make clear that if Congress fails to act by Wednesday, November 1, it will disrupt our normal auction process and could force Treasury to take additional actions that involve the interests of federal retirees, commercial banks, and purchasers of savings bonds.

As you know from my letter of October 24, and as we discussed in detail with your staff yesterday, the Treasury Department's normal quarterly refunding auctions are scheduled to be announced tomorrow, November 1. The auctions themselves are scheduled to be held during the week of November 6, and settlement is scheduled for November 15 and 16.

There may well be significant costs of disrupting our usual Treasury auction schedule. If there has been no increase in the debt limit by tomorrow morning, our announcement must put prospective bidders on notice that the auctions might have to be delayed or even cancelled. After such a contingent announcement, ''when issued'' trading in the securities to be auctioned cannot occur. Dealers may be less able to pre-market securities, and their risk of participation in the auction may thus be increased, raising the costs of the borrowing.

Should Congress fail to take action to raise the debt ceiling by November 6, we will be required once again to depart from our best financial management practices by canceling the scheduled auctions, and may be forced to take further steps to ensure that outstanding debt remains within the limit and that we have cash available to pay the Government's obligations.

As I have indicated in my previous letters, there are a limited number of actions we may be forced to take many of which have legal and practical implications. One such example would include Treasury's action to stop reinvesting the so-called G-Fund (the Federal Employees Retirement System's Government Securities Investment Fund). Securities held in the G-Fund mature and are reinvested on a daily basis, and the governing law provides for an automatic restoration of any lost interest when reinvestment resumes. Because of the inherent volatility of financing flows, such action may be required even prior to the week of November 6th. Furthermore, it will be necessary to call back Treasury cash balances held in our depositary banks. This action will inconvenience those commercial banks with whom the Federal Government does business.

Also, should Congress fail to act, Treasury may be forced to suspend the issuance of Savings Bonds—an action that would not only require us to send notices to the 80,000 issuing agents, but also would disrupt millions of Americans' use of a safe and convenient investment for their savings.

While these actions can provide some very limited relief, at the cost of creating significant dislocations and anxieties, it should be clearly understood that they will not be sufficient to substitute fully for the funding that we would ordinarily raise through the regular mid-November refinancings and that should be announced tomorrow. Stated another way, these temporary actions will not satisfy the continuing need for cash to fund the obligations and operations of the Government after November 14. Absent extraordinary steps, Congress must increase the debt limit obligations maturing November 15 and 16.

Finally, you should know that there are various other measures Treasury has been reviewing to avoid default should Congress not increase the debt limit by November 15, including actions involving the Civil Service Retirement Fund, but all such measures present uncertainties involving serious legal and practical issues and have significant costs and other adverse consequences.

Furthermore, the U.S. government's need for financing will not end on November 15 and 16. The financing calendar we distributed last week, and discussed in detail with your staff yesterday, showed four auctions in the last two weeks of November, and additional cash management bills may be needed. Successful completion of those auctions is critical to raising cash to make vital benefit payments on December 1 and during the week of December 4. As we have mentioned before, the months of October, November and the first half of December traditionally have very large seasonal cash deficits due to the absence of any large tax payment dates.

You and other members of the leadership have raised the prospect that Congress might enact a temporary debt limit increase, and we have expressed our total availability to work toward that end. Last Friday, at the President's direction, I proposed that the debt limit be increased by $85 billion, to $4.985 trillion. I would hope to discuss this proposal, and any other approaches you might have, at our meeting tomorrow.

Sincerely,

ROBERT E. RUBIN,
Secretary of the Treasury.

MORNING BUSINESS

The PRESIDING OFFICER. The Chair announces that under the previous order the time from 9:30 until 10:30 shall be under the control of the Democratic leader or his designee, and under the previous order the time from 10:30 until 12 noon shall be under the control of the majority leader or his designee.

Mr. DASCHLE. Mr. President, 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.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask that I be recognized to speak in morning business.

The PRESIDING OFFICER. That is the Senator's right.

Mrs. FEINSTEIN. I thank the Chair very much.

OBSTRUCTION OF FOREIGN RELATIONS COMMITTEE BUSINESS

Mrs. FEINSTEIN. Mr. President, I wish to elaborate on some remarks I made yesterday about the objection pending against the short-term extension of the Middle East Peace Facilitation Act.

Yesterday, the distinguished majority leader came to the Senate floor and said that although he would like to pass the extension, it is being blocked by the chairman of the Foreign Relations Committee. The majority leader went on to say that the Senator from North Carolina is within his rights to block this legislation, and indeed he is because every Senator has that right.

I want this morning to ask the distinguished chairman of the Foreign Relations Committee to consider changing his mind about holding up the Middle East Peace Facilitation Act.

I spoke yesterday and indicated that in July a group of Members of this body joined together, Republican and Democrat, in cosponsoring a bill which would extend the Middle East Peace Facilitation Act for 18 months, and virtually every Member joined in expressing support for that course.

Here we are in November, and the act has been suspended as of last night, which means that economic aid to the Palestinians committed to by this Nation has stopped. The PLO office in Washington will be forced to close its doors. And as my colleagues know, this is because of an unrelated issue that is going on. That unrelated issue is the dispute over the State Department authorization bill.

Negotiations have been ongoing on that bill between Senator KERRY and Senator HELMS. It is my understanding that at present they are stalemated, but because of failure to reach an agreement, the Foreign Relations Committee has been virtually shut down. I think this is wrong in the interest of U.S. foreign policy and of the Senate weighing in on these issues.

We have been unable to take up any ambassadorial nominations in business meetings for a period of weeks, to report them out to the full Senate for confirmation. At the present time, there are at least 18 ambassadorial nominees waiting to have their nominations considered by the committee. They include nominees to serve in some of the most important countries in the world.

The nominee for China has had a hearing, but is pending action in the committee; the same is true for the nominees for Pakistan and Indonesia. These include Jim Sasser, Tom Simons and Stapleton Roy. Nominees for other countries are waiting. South Africa: James Joseph is waiting. Sri Lanka: Peter Burleigh is waiting. Thailand:

William Itoh is waiting. Cambodia: Kenneth Quinn is waiting. Malaysia: John Malott is waiting. Oman: Frances Cook is waiting. Lebanon: Richard Jones is waiting. The Cameroons: Carl Twining is waiting. The Marshall Islands: Joan Plaisted is waiting. Fiji: Don Gevirtz is waiting.

Also on hold are nominations for special adviser on the New Independent States, James Collins, and United States coordinator for Asia Pacific Economic Cooperation, Sandra Kristoff.

In addition, 273 Foreign Service officers who have been nominated for standard promotions are on hold. So we have 273 Foreign Service officers on hold. We have 18 ambassadorial appointments on hold, at least 5 of them considered to be critical, like those for Pakistan or China.

Now, when we do not have an Ambassador in the country, U.S. interests do not receive the attention that they deserve. In some countries, this is more critical than others. Probably the most critical at this time is China. And Senator Sasser, who could have been in New York this past week to participate in the summit between President Clinton and President Jiang Zemin of China—could have been—was not.

I think the American people deserve to have their interests represented abroad. So by failing to confirm Ambassadors, the Senate is not doing its job to help protect U.S. interests abroad. Not only do our interests suffer, but I think the lives of a number of hard-working and dedicated Americans are put on hold. These are people who, often at considerable personal risk, serve the American people with pride and distinction overseas.

Last night I had a phone call from one of them. He said, ''Can you just tell me when I might be confirmed?'' And I had to say, ''No, I'm sorry. I can't tell you.''

Earlier, I had another call from a nominee who had his house on the market and had received an offer on the home. Does he sell it or does he not sell it? ''Sorry. I can't help there.''

Mr. President, this is no way to run a railroad, let alone the Government of the most powerful country in the world.

There are also two extremely important arms control treaties that are awaiting Foreign Relations Committee action: The START II Treaty and the Chemical Weapons Convention.

Let me mention what Start II does. The START II Treaty, signed by the Bush administration and not yet ratified by this Congress, is the farthest reaching arms reduction treaty ever signed in the history of this Nation. It will require the United States and Russia to eliminate literally thousands of intercontinental ballistic missiles, including those which carry multiple warheads. The treaty would also eliminate missile silos and testing and training launchers.

The Foreign Relations Committee held extensive hearings on the START II Treaty both in this Congress and during the 103d Congress. We have heard from the administration, from military officers and from outside experts, virtually all urging that we ratify this treaty.

I know of no significant opposition to the ratification of the START II Treaty. Nevertheless, the committee is unable to begin consideration of it. This is wrong.

The same is true of the Chemical Weapons Convention. Let me tell you what the Chemical Weapons Convention does. The convention, also signed by the Bush administration, will ban an entire class of weapons of mass destruction. It will make it harder and more costly for proliferators and terrorists to acquire chemical weapons. It will create an intrusive monitoring regime that will make it very difficult for signatories to conceal violations of the convention.

The Chemical Weapons Convention has been signed by 159 countries and ratified by 38 to date, yet the U.S. Senate has still not had the opportunity to consider the treaty. The Foreign Relations Committee has had hearings on the convention, and it can be considered at any time. But, once again, the committee has been prevented from carrying out its duty.

Should this happen? As I said earlier, it is any Member's right to stop a piece of legislation, but when you have hundreds of Foreign Service officers, 18 Ambassadors, and two treaties held hostage to a piece of legislation that is not related, one has to begin to consider what effects this has.

Mr. President, one of the things that I learned in my brief stay here is that what goes around, comes around, and that it does not make good, logical, long-term sense to engage in holds when this can easily be replicated at another time but in the same place by the opposition party.

This committee, the Foreign Relations Committee, has been through some of the most painful and hotly contested foreign policy issues of our time: the Vietnam war, aid to Central American rebels and sanctions against South Africa. But never during all that time, to the best of my knowledge, has the committee been shut down and ceased to function. Now, on the basis of a dispute about the bureaucratic reorganization of our foreign policy institutions, the conduct of the U.S. foreign policy is being put on hold.

I believe this is wrong. I believe it is irresponsible. I believe it is a dereliction of our duties as U.S. Senators. There simply is no justification for curtailing the entire role of the Senate Foreign Relations Committee in the conduct of U.S. foreign policy over one single reorganizational issue.

Pursuant to the unanimous consent agreement of September 29, Senator HELMS and Senator KERRY have been engaging in serious negotiations to try to reach an agreement. Their staffs have met repeatedly over the last month. I am hopeful that progress can be made.

So at this time I would like, respectfully, and with a great deal of friendship, to call upon the chairman of the committee to withdraw his objection to consideration of a short-term extension of the Middle East Peace Facilitation Act, to allow the committee to take action on START II and the Chemical Weapons Convention, to report out the 18 ambassadorial nominations and 273 Foreign Service promotions, and to continue negotiating toward an agreement on the State Department authorization bill.

I thank the Chair. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

BUDGET RECONCILIATION

Mr. DORGAN. Mr. President, I yield myself such time as I may consume on the hour that has been allocated to the minority leader.

Mr. President, today the Senate will select conferees to go to conference on the reconciliation bill. Conferees from the Senate and conferees from the House will meet and debate and try to reach an agreement on what kind of a reconciliation bill will be passed from the Congress to the President.

This all does not mean very much to the American people, the words ''reconciliation,'' ''conferences.'' What means something to the American people will be what effect will it have on their lives, what effect will it have on their health care system, on Medicare, Medicaid, the ability to send their child to college, on young 3-, 4-, 5-year-old kids who are in Head Start—what effect will this have on all of those people. That is what means something to the American people.

The debate that people have heard coming from this Chamber is a debate not about one side of the aisle that wants to be obstructionist and the other side that wants to do something wrong, it is about people who have different views of what the priorities ought to be.

One thing that is certain about this Senate meeting this year is that 100 years from now, all the Members of this Senate will be dead and the only record we will have left that historians can evaluate from our service is to evaluate what we spent the public's money on and, therefore, what we felt was valuable and important and would advance the interests of this country. People can tell something about our value system by looking at the Federal budget. On what did we elect to spend the public's money? How did we invest it? How did we spend it? That is what historians will be able to use to view what we felt was important.

The priority in this reconciliation bill by the Republican Party is to say, ''Let's have a tax cut.'' I thought the priority when we started this year was one that said, ''Let's balance the budget.'' In fact, we had people on the floor

of the Senate saying we must change the U.S. Constitution to require us to balance the budget. Of course, the budget can be balanced without changing the Constitution.

We have people in this Chamber who call themselves conservatives who view the Constitution as merely a rough draft, something they can improve upon every single day. Although I do not see many Madisons, Masons, Jeffersons, Franklins, or Washingtons around to contribute to change this Constitution, we have had well over 100 proposals since the first of January in this year to change the U.S. Constitution.

The priority at the start of the year was we must eliminate the Federal budget deficit. In fact, we must ensure that happens by changing the U.S. Constitution. And then the act by which that happens, the budget and the reconciliation bill, comes to the floor of the Senate, and we discover that the priority is different than that. The priority is a tax cut, a substantial part of which will go to the wealthiest Americans.

The priority is to add money to the defense bill that the President and the Secretary of Defense and the chiefs of the branches of the services said they did not want. Those are the priorities, and that is what this debate is about.

Let me just put up a couple of charts to describe some of the elements of this debate.

The Head Start Program. We know the Head Start Program works. Anybody that has ever toured a Head Start center, and I have toured plenty, and sat on the little chairs and had lunch with 3-, 4-, 5-year-olds and watched them do their art projects, watched them learn about health, watched them begin to get a head start, because they come from homes of disadvantage and often poverty, watch them feel that this contributes to their lives and having us know it does, we understand this program works.

The priority now is to say, ''We're sorry, we can't afford the Head Start Program the way it is,'' so roughly 55,000 kids will be dropped from the program, and every single one of those kids has a name and has a hope and gets some advantage from this program. But we are told we cannot afford that. Instead, we are told, Let's pump nearly half a billion dollars into lead production for 20 more B–2 bombers that will cost us $31 billion, B–2 bombers, incidentally, that the Secretary of Defense has not asked for; B–2 bombers that the Department of Defense has not requested.

So we say Head Start does not quite matter as much; B–2 bombers, let us build them, even though those who would fly them and use them have not asked for them.

Job training for displaced workers. These are people who have lost jobs but want to find jobs and get new skills to do it, half a billion dollars cut from that, which means you will have more unemployment, not less. You will have less opportunity, not more, for people whom we want to put back on the payrolls. And at the same time we say we just cannot afford the kind of money that is necessary to get people ready to go back into a job, we say, By the way, let's gear up for a star wars program. It will cost about $48 billion. That has not been asked for by the Defense Department either. There is no demonstration that we need this program, but we are told, ''Let's stick $375 million in it this year and demand it be deployed in 1999,'' including a space-based component of a star wars program because we can afford that. Again, the Secretary of Defense and the armed services have not asked for it, but we can afford that, we are told.

Mr. President, $1.4 billion invested in kids and that goes to helping kids get to college, financial aid to help middle-income families send their kids to college, so we say we are going to make it more expensive for middle-income families to send their kids to school.

But we say when confronted with the question, shall we build an amphibious assault ship this year, the answer in this Congress was—some said no, we should not build one. Others said we should build two of them. Do you know what the answer was in this Congress? ''Let's build both. Let's build one for $900 million and one for $1.3 billion, because we're loaded, we've got all the money in the world when it comes to this. There is no sense being frugal here. Let's spend money like it is Saturday night and the town's opened up for us and we have the parent's checkbook here.'' We can buy all this, despite the fact no one asked for it, no one requested it.

And there is more. Mr. President, $989 million from veterans' health care, 1 million fewer outpatient visits, 46,000 fewer hospitalizations because we have to cut there, we are told. This is the second amphibious assault ship. We can order that. In fact, we can buy both of them, a billion dollars, an amphibious assault ship that was not ordered and a cutback on a promise made to veterans before they went to fight for this country's freedom.

Low-income home energy assistance. That does not sound like much, but that is what keeps people warm in the winter. Poor people who have no money, often poor elderly people with no money who live in the frigid climates of this country rely on this to keep their homes heated. We cannot afford that, but let us buy six more F–15's, despite the fact the Secretaries of Defense and Air Force have not asked for them. We now have 1,103. Let us stick that in. That is $311 million. It is more important to buy jet fighters nobody asked for than it is to help old people and poor people keep warm in the winter.

There is a $137 million cut for critical accounts dealing with Indian problems on reservations; $140 million spent for 14 Warrior helicopters. We now have 360. The Defense Department did not ask for these, but they were put back in the budget and they said we should buy 14 of these helicopters, $140 million. And then we are told we have to cut $137 million for these crucial services on Indian reservations and that deal with kids, mostly Indian children—education, health, and a whole range of other services for young children who want a chance and want a start.

Somebody is going to look at all this and say, That is a bunch of pointy-headed liberalism. It is not about liberalism, it is about making choices. We are told what we are going to spend in this Chamber. The question is what do we spend it on? Do you buy an amphibious assault ship that was not asked for? Or do you cut back, as a result of that, on veterans' health benefits? Do you decide to kick kids off Head Start and build B–2 bombers that nobody asked for? That is the priority in this reconciliation bill. That is what is wrong with it.

I want to read a list, just so that people can be disabused of who the big spenders are. We are told the big spenders are the Democrats, the folks who always want to spend money. This is a list of what is added to the defense bill, mostly by folks on that side of the aisle—things that were not asked for, requested, needed, or ordered by the Defense Department. I will read the list: 60 Blackhawk helicopters; Longbow helicopters; Kiowa Warrior helicopters; M109A6 howitzer modifications; Ml tank upgrades; heavy tactical vehicles, trucks that were not requested; AV–8B fighter aircraft; B–2 bombers; F/A–18C/D fighter aircraft; C–135 cargo aircraft modifications; Comanche helicopters' R&D; ship self-defense R&D; national missile defense, or star wars; T–39N trainer aircraft; EA–6 strike aircraft modifications; LPD–17 amphibious ship; F–16's, F–15's; WC–130 cargo aircraft; LHD amphibious assault ship.

None of these things was asked for, and all of them were ordered by this Congress—$5.2 billion to spend money on things we do not need, money we do not have on things we do not need. This by conservatives, by people who call others big spenders?

Well, this is all about priorities. It is about health care. It is about education. It is about agriculture. It is about the Head Start Program. We are going to have some votes today in the Senate on instructing conferees because the conferees will be appointed now to discuss the differences between the House bill and the Senate bill. It is between the far right and the extreme right. That is where the modification will be made. This will be a compromise between the far right and extreme right, and it will be sent to the President, and this will be vetoed, and then we will get some serious negotiations, I expect.

One vote we will have today is priorities with respect to Medicare. The

Medicare Program, I think, is an important program. We, on the Democratic side of the aisle, understand full well that the budget must be balanced. We understand that the credibility of Government is in serious question. We understand that, and we need to do the things that solve problems for this country and for the American people.

But we also understand there are some things we have done in this country that have been good, which advanced this country's interest. Medicare is one of them.

It is interesting to me that 97 percent of the Republicans voted against Medicare when initially proposed in the U.S. Senate. Now they are saying they are going to save Medicare. Generally, that would not be very believable, and it is probably less believable now because Speaker GINGRICH last week said:

> Now, we don't get rid of it in round 1 because we don't think that that's politically smart and we don't think that is the right way to go through a transition. But we believe it is going to wither on the vine because we think people are voluntarily going to leave it.

That is what is at work here. Some people say what they mean in an off-guarded moment, and that is what happened here. In a speech to a Blue Cross/Blue Shield audience, the Speaker told us what his impression of Medicare was.

We are going to offer an amendment on the instructions to conferees that says, look, why do we not decide on this reconciliation issue. If you are going to have a tax cut, some of us think we ought to balance the budget first and talk about tax cuts later. If you are going to insist on a tax cut, why do you not at least limit the tax cut?

We have offered proposals before. We can limit it to people whose incomes are under a quarter of a million dollars a year. At least limit it to that. And you can use the savings from that, about $50 billion over 7 years, to reduce the cut in the Medicare Program, much of which will hurt some of the lowest-income senior citizens in this country, who, as a result of this reconciliation bill, will pay more for Medicare and get less health care.

We will offer that motion today to at least limit the tax cut, at least limit it to working families. At least limit it so we are not giving very big tax cuts to people making $1 million or $5 million or $10 million a year, and use the savings from that to try to reduce the hit on the Medicare Program.

Someone will say, ''Well, why are you discriminating against somebody who makes $5 million a year?'' I am not. God bless them. I think it is wonderful. They have done very well in recent years. Their increases in income have been astronomical.

The upper 1 percent of the American income earners have had an enormously beneficial period. Most Americans have not. Sixty percent of the American families are now earning less money than they were 20 years ago. Not the top 1 percent, or 5 percent; they have had an astronomical increase in income. They have benefited substantially from this income system of ours.

While I think working families deserve a tax cut, I think we ought not to provide a tax cut at the moment. I think we ought to balance the budget first. Then I think working families deserve a tax cut. I see no compelling national need to cut benefits for the oldest and poorest citizens so we can provide a tax cut for some of the richest citizens in America.

We are going to provide another opportunity this afternoon to vote, and we will likely have a motion on instructing conferees on something that happened on the floor Friday that was just mindboggling. The last amendment passed by the Senate on reconciliation was an amendment that deals with the Social Security issue. It takes an amount of money on the Social Security issue—about $12 billion—that will be presumably saved by having a lower COLA, and uses that to fund a series of changes that was offered as a result of the Roth amendment.

Well, the $12 billion, it is clear, comes out of the savings in Social Security. By law, that cannot be used for other purposes in the unified budget. That is what the law requires.

We raised a point of order, and Senator GRAHAM inquired of the Chair whether the Social Security outlay reductions were used as offsets. The Chair responded that it was ''not in a position to answer that question.'' Everybody else in the Chamber was in a position to answer that question. Anybody who could read could answer that. But, from a parliamentary standpoint, the Chair said he was ''not in the position to answer that question.''

The Budget Committee chairman stated, ''I am satisfied with the ruling of the Chair.'' In other words, he was satisfied that the Chair is not in a position to answer that question. The result was that the Roth amendment took $12 billion from the Social Security accounts and brings it over so it funds the Roth amendment. That is what happened with that. We will likely have a motion to instruct this afternoon that will try to right that wrong.

I want, just for a couple of moments, to discuss in a broader context the issues that I think most concerns the American people. A lot of folks, as I said, do not spend day-to-day to understand reconciliation bills and budget bills and conference committees. What people in this country understand is whether the system in America works in their interest. Is this a tide that lifts all boats, an economic system that helps everybody? Or is this an economic system where the rich get richer and the poor get poorer and there is a distribution of income that is not fair?

The challenge and opportunity for all of us, I think, that lies ahead, is to try to find a mechanism by which this economic system works for everybody once again.

We have seen statistics about America's economic health. Every month, we are told the statistics on consumption describe that our economy is moving right along. Boy, if you take a look at consumption, consumption is up; therefore, America is doing better. It seems to me that a measure of economic health in our country is not whether or not we are consuming more or less, it is whether we are producing. Consumption, not production, is a barometer of economic health. Production relates to wages. If you have good jobs in the productive sector, productive jobs, especially manufacturing jobs that pay good wages, that means you advance the economic interests of everybody in this country.

Take a look at what is happening to wages in this country. We talk about GDP, which means nothing. Every quarter they trot out GDP figures, every month consumption figures, and it seems to me they are using barometers that mean very little to the economic circumstances of working families.

The GDP increases. The stock market goes up. Productivity is on the increase. Corporate profits are up. Guess what? American wages are down and have been down.

Some information from MBG Information Services, October 31: Compensation to all U.S. workers grew at its slowest pace on record in July to September. If you take a look at the bottom quadrant of workers, what you find is a circumstance where they are earning less money now than they were some 20 years ago.

There was a piece in the New Yorker done by John Cassidy recently that was very interesting and I think describes some of the problems in this country and some of the concerns that people have. He talks about the average American. He said if you were to line all Americans up in a row, put all Americans in one row, from the wealthiest over here to the poorest over here, and then pick right in the middle and say, ''You are Mr. and Mrs. Average, the middle person in America, you are right in the middle, you are middle-income, middle America,'' that person in September 1979 was earning $498 a week; in September 1995, when you adjust for inflation, that same person was earning $475 a week. In 16 years, that person has lost about $100 a month in real wages.

Now, that is the middle of the line. We know that 60 percent of the American families who sit down for supper tonight and start talking about their circumstance will understand they are working harder for less money than they did 20 years ago.

I talked about the middle of the line. After 16 years they have lost $100 a month in real wages. Now we will talk about the upper side of the line, the top

1 percent on that end of the people you have lined up—the top 1 percent.

Between 1977 and 1989, the years we have numbers for, their average incomes rose from $323,000 to $576,000 per person. That is the top 1 percent. They went, in about a 12-year period, from $323,000 to $576,000, or a 78-percent increase. It is the average working person who finds himself $100 a month worse off after 15 and 20 years, but the top people at the top 1 percent find themselves far better off with spectacular increases in income.

This is at a time when corporate profits are up, productivity is on the rise, the stock market reaches new gains, new highs, and wages keep falling.

Is it any wonder that the average American family is a little disaffected? The fact is, they find themselves working harder and getting less. One of the things I think is most interesting is we are talking a lot about the fiscal policy budget deficit, and we should. It ought to be balanced. We ought to deal with that. We ought to solve that problem.

Do many Americans know that the merchandise trade deficit in this history is higher this year than the fiscal policy deficit? You cannot find more than four people in the Senate that will come and talk about it.

Let me say that again: Our merchandise trade deficit is higher than our fiscal policy deficit in this coming year.

What does that mean when you have a trade deficit? It means you are shipping jobs overseas. We will hit nearly $190 to $200 billion merchandise trade deficit this year. What that means is American jobs are leaving. That means we are buying from foreign countries.

We have decided an economic strategy is fine as long as profits are on the way up. As long as productivity goes up and the stock market goes up, wages can go down and jobs can go overseas because we measure economic health by what we consume, not what we produce. We measure economic progress by what happened to the GDP, not what has happened to the American family.

I do not know how anyone in this country can view an economic system through the prism that says that when the American family is doing worse and losing money and working harder, but if the consumption figures are up and if the GDP figures are up, America is in better shape. That is simply not the case.

We need one of these days soon to bring legislation to the floor of the Senate and have an honest-to-goodness debate about the center pole of this tentative economic policy—that is trade and related issues—to try to determine what really advances American economic interests.

I will bring some legislation on the subject of NAFTA to the floor of the Senate at some point in the future. NAFTA is part of this trade deficit problem. Two years ago we had all of these economists flailing their arms around Washington, DC, saying if we would only pass a free-trade agreement with Mexico, we would have 270,000 new American jobs.

Well, we passed a free trade agreement with Mexico—not with my vote, but it was passed. We had a $2 billion trade surplus with Mexico at the time. Two years later, our trade deficit this year with Mexico will be around $17 billion. We went from a $2 billion surplus to a $17 billion deficit.

What does that mean? It means jobs are leaving this country. What are we importing from Mexico that causes that deficit? The very thing that represents the foundation for good jobs in this country—automobiles, automobile parts, electronics. The very thing that represents good jobs and good wages in our country are being exported out, transported out on a wholesale basis.

We have to construct a different economic system. It is not, in my judgment, in this country's interest to allow multinational corporations to describe their economic interests as consistent with the economic interests of the American family. It is their economic interest to produce in Sri Lanka, Bangladesh, Indonesia, and Malaysia and ship the product they produce to Pittsburgh, Fargo, Denver, and Los Angeles. That increases profits for them. It is not in our economic interest. It might be in the short-term interest of the consumer who can presumably—not necessarily factually, but presumably—buy some of those products for less. It is not in the interests of consumers who will lose their jobs because their jobs left this country as a result of a trade strategy that is bankrupting America.

We will have a lot of votes and a lot of debate about priorities on the floor of the Senate today and in the coming weeks with respect to the reconciliation bill—what do we spend money on, what do we not spend money on. That is fine. That is the way it should be. Those are legitimate areas of discussion between Republicans and Democrats.

My hope is at the end of the day, perhaps, we will have reached a compromise that we all think is good for the country, a fiscal policy that will lead to a balanced budget. But even if we do that, and even if we reach a compromise, and even if the President signs that compromise, we will not have achieved the job of setting things right in the economic order of this country.

We will do that only when we address the larger questions that cause this family, this family that is in the middle of the line of American earners, from the richest to the poorest, this family right in the middle that finds themselves working harder but after 15 years earning less, finds themselves after those years between 1979 and 1995, finds themselves after those years $100 a month behind where they started.

Balancing the budget will help, but it will not solve that problem. That problem relates to, I think, more endemic economic problems in this country. We have to, it seems to me, decide one of these days as Democrats and Republicans, to address these questions.

I have said previously there are two major challenges that I think most Americans now confront in this country. One is the economic challenge. That is the challenge to get America to grow again in which it provides opportunities to all Americans—not just the wealthiest, but to all Americans—so we are talking about an economic system that rewards all who seek those rewards and are willing to expend effort for those rewards.

Second is the issue of the diminution of values in this country. That relates to the coarseness we see on television that has been described by others recently, the violence on television that I have described recently, and a whole range of things.

Some of these problems, economic and values issues, can and should and must be addressed here in the Congress. It must be a product of debate in our country generally. Some of them cannot be addressed by Congress, cannot be addressed by public-sector debate in the House or the Senate, and must be addressed in the family, in the home, in the community, in the neighborhood. All of us, it seems to me, need to take responsibility to do that.

While we attempt to address the thorny issues of deficit reduction, a fiscal policy program that will work for the benefit of this country in the future, and while I hope we will attempt, following that, to address the issue of trade, fair trade, and the issue of trying to advance the economic interests of workers with good jobs and good wages in the future, while we do all that, it seems to me it would be helpful if all of us could call on the American people to join in our common interest.

As I said previously, we are going to have an Olympics next year in Atlanta. I bet we all are going to sit on the edge of our chairs cheering for the people wearing the red, white, and blue. We want American athletes to win. That is a wonderful thing: team spirit and nationalism and pride.

The fact is, the economic competition in the world is not unlike the Olympics in a lot of ways, except it is much more serious. There are winners and losers in economic competition. The losers are consigned to the British disease of long economic decline. The winners are given the opportunity of economic expansion and hope and better jobs and better wages.

I think soon, sooner rather than later, this country needs to decide to come together and develop an economic strategy that advances the economic interests of all Americans in a real way. We can no longer measure consumption as a barometer of economic health. It is what we produce in America that counts, because that is what creates the good jobs. We can no longer measure GDP on a quarterly

basis to determine whether America is moving ahead, because it alone does not determine that. We must, and I think can, do much better.

Mr. President, I notice the Senator from Wyoming is waiting for the floor.

I will yield the floor.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield to myself such time as required, under the previous order of morning business.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AARP AND SOCIAL SECURITY

Mr. SIMPSON. Mr. President, I came to the floor this morning to speak lightly about the AARP, which I will do in a moment. But, as my colleague from North Dakota is here, and I have listened to his comments today, or a portion of them, and also over the past weeks listened to a series of these presentations about the rich versus the poor, and various allusions about what sounds to me almost like class distinction, class warfare, and also discussions of things like Social Security.

My friend, the senior Senator from North Dakota asks: Why does someone not come to the floor and speak on the issue of trade? He relates that not four people will come to the floor to do that. I can tell you, not four people will come to the floor and tell the people honestly what is happening to Social Security either. It is going broke. And people here on this floor who speak a great deal will let it go broke. There is not any question about what will happen to it.

And there is not a single argument rendered in this debate on reconciliation, where we are talking about Republicans taking from Social Security, where the Democrats did not do exactly the same all these decades. There has not been a single budget in my presence here that did not do what was just done here with Social Security. It was done under Carter, it was done under Reagan, it was done under Bush, and it is being done under Clinton. The Senator from North Dakota knows that. I am on the Finance Committee. There is not a single one of us who does not know that the same ''masking process,'' the same chicanery, the same smoke and mirrors has been pulled off by the Democrats and the Republicans in my entire 17 years here. There is not any question about that.

The Senator's colleague from North Dakota is on the Finance Committee, and he would also share that information with the senior Senator from North Dakota. Without any question, if anyone believes that the Republicans are doing something different with Social Security than what the Democrats have done, the same way, the same years—or the Republicans—please be disabused.

I think we should at least remember one—everyone is entitled to their own opinion, but no one is entitled to their own facts. If Social Security is going to be used in this way, as some horrifying example of being ripped to shreds, then go read the Trustees' Report of Social Security, which was not prepared by the hobgoblins of the right or Ronald Reagan or George Bush. It was prepared by three of the President's Cabinet: Robert Rubin, Robert Reich, Donna Shalala, with the Commissioner Shirley Chater adding her dimension, and one Republican and one Democrat appointed from the general public.

What do they tell us? They tell us that the solvency of Social Security is ''unsustainable.'' We can get another word, we can use ''broke.'' It is unsustainable in 75 years, unsustainable in every way. We know it, the Senator from North Dakota knows it, but more importantly the trustees know it. If anyone wishes to have a copy of that document, I will be very pleased to share it, because it shows that in the year 2013 we will have to be trading in the old IOU's and getting the bonds cashed, which is then a double hit on Social Security.

Meanwhile—and I will get to my full theme a bit later—the AARP, this remarkable group of people, the American Association of Retired People, this extraordinary group of 33 million people bound together by a common love of airline discounts and automobile discounts and pharmacy discounts and every other discount known to man or woman, is a group of organized people who have already settled with the IRS on a claim of back taxes for $135 million.

They asked their executive director, ''How did you pay that?'' and he said, ''We just wrote a check.'' They have $314 million in the bank, in T-bills. They lease a little hut down here in downtown for $17 million a year; a 20-year lease at $17 million a year. That is your AARP, speaking for ''the little guy.''

Where we are is—if anyone cannot understand it yet, is who we are going to hear continually about the little guy, the poor, the downtrodden, the oppressed, the abused in society—and does anyone in America know how Social Security will be restored to solvency? There are only two ways. You reduce the benefits or you increase the payroll tax. And what do you think the senior groups are continually requesting? I can tell you, it is not reducing the benefits; it is increasing the payroll tax.

And who pays the payroll tax? You got it, the little guy pays the payroll tax. The little guy in America is the ''stick-ee'' of this remarkable process regarding Social Security.

If you will remember, our fine colleague from New York, Senator PAT MOYNIHAN, and a ''Blue Ribbon Commission,'' in the early 1980's, got together and honestly put this program ''on the table'' and got off the table all the tired babble about Social Security, about the poor and the wretched, the disabled and the infirm and so on—got that off the table and said, ''This program is going broke, absolutely broke.'' Senator MOYNIHAN and a remarkable group of Democrats and Republicans then came together. That is impossible in this atmosphere. The water in the well is so poisoned now on this issue, we could never address it again. You are not supposed to even touch it. My mail will fill the room and the phone system will bust down later in the day as I choose to address this remarkable issue of Social Security.

So you have the situation where it was going broke and the Commission made some sensible recommendations. The recommendations were made in a very conscientious, bipartisan manner, to reflect that, if these things were carried out—and remember what one of them was; it was increasing of the payroll tax; but we were ready for that then—that the Social Security system would be saved until the year 2069. I hope you will hear that, 2069.

That gave everyone a remarkable sense of a job well done. Except, since the early 1980's, through, now, the projections of the Social Security Administration and the trustees themselves keep moving up the doomsday date.

And guess what the date of insolvency is now for Social Security? It is not the year 2069 or 2063 or 2050 or 2040. It is 2029. So since the early 1980's, Social Security is still long-term unsustainable, and the doomsday date—in just 13 years—has been moved from 2069 to 2029—moved up 40 years. Next year it is very likely the trustees may present to us their report saying that it will not be sustained past the year 2025. What a tragedy. And here we sit—all of us just sitting. We know it. We all know it.

I am going to accept the word of those three fine Democratic Cabinet members, who I respect and know—each of them individually. They are able Americans. I like them personally. We have our differences politically. But these fine people are telling us that in the year 2012—stretch it to 2013, if you want to—that the IOU's will be cashed in. Bonds will be then sold, and the American people will take a hit that will take the Social Security system from the year 2013 completely to bankruptcy in the year 2029. Everybody knows it. There is not a soul that can come into this debate and tell me that is not true. They will not come to this Chamber and tell me that is not true. We all know it.

So we continue our process of these short-term fixes. Senator BOB KERREY and I, in a bipartisan effort, have presented seven bills to restore solvency to the Social Security system. If you really want to get aboard, we are looking for cosponsors. But it is a little difficult to pick up cosponsors when you mention the secret sinister dual phrase ''Social Security'' and necessity to restore its ''solvency'' because people do not believe it. But BOB KERREY and I believe it.

So, if we are going to be doing some positive things, why, take a look at the good thoughtful bipartisan approach of Senator BOB KERREY and myself and what we are doing to save the Social Security system—without any gimmickry whatsoever. We are going to phase up the retirement age. We are going to let people put in 2 percent of their payroll tax into a personal investment plan where they can call the shots on that themselves, 4½ percent would then still go to the Social Security system, which will reduce the size of the benefit and will also help to salvage the system.

If the American people understand nothing else—and the fortunate part of all this is that we have a year to tell them what really happened in reconciliation—if we had but just a few months or weeks, we would never be able to get it through the clatter, the flak, and the tinfoil that is being shot out over America to, I guess, divert truth. But we will have that opportunity for an entire year to tell the American people exactly what we are doing—such things as ''doing something'' with Medicare, which is going to go broke in the year 2002. You have heard that. You are thinking, there he goes again, and they are all nuts. They are just telling us that.

We all know what we did in the reconciliation by allowing Medicare to go up 6.4 percent per year, and so I want everyone to be absolutely cheered to know that Medicare will now not go broke in the year 2002. No, it will go broke in the year 2009. Everybody knows that. I know it. Those on the other side of the aisle know it. The President knows it.

Think of this. This is what is happening. These numbers are correct. No one can come and challenge these figures. Somebody will come in and say, ''He is terribly wrong. It will not go broke until the year 2012.'' That ought to cheer us all, too. It will not go broke in 2002. It will not go broke in 2009. It will go broke in 2012. That is pretty short rations in any form.

If we are continually trying to frighten ''the little guy,'' then there is a good way to really frighten the little guy. Tell him or that Medicare will not just be there going up 6.4 percent each and every year; it will be broke, flat busted, out of money. Tell them that. That will get a reaction out of them—probably a little more startling than being told it had been cut. ''Cut schmut!'' How can you say ''cut'' when you go up 6.4 percent? That is exactly what we are doing. So if you like to frighten the little guy, let us do it right.

Let us just get down to the political reality because we live in that arena. Let us say that we fail to tell our story in a year. There is not a question in my mind but that we will, and the American people know that finally a responsible political party decided to do something responsible.

Let us say we fail, and they take up a pitchfork on November 6, 1996, and just pitch us all out in the snow, which they have a way of doing in this country—recalling that ''Get out before they throw you out'' is a great phrase in our line of work.

Let us say they do that. And I guess the campaign then to that date to have done that would be a simple one. It will be that ''We saw what those rascals, the ragamuffin Republicans, did to you, and we are going to get it all back for you. We are not going to let Medicare go up only 6.4 percent, which is the horrible thing they did to you. No, we are going to let it go up 10 percent and 12 percent a year just like it did before. We are not going to let them get away with letting Medicaid go up only 4.8 percent. We are going to let it go up 9 just like it did before. We are not going to let them talk about phasing up the retirement age of Medicare so that it matches that same increment of Social Security, which we have already done.''

If that all happens then any figures that I have given you from the trustees or other sources—just accelerate them up 100 percent, and all of the systems will go broke even faster. Each and every one of them will go broke faster.

Ladies and gentlemen, if we can also get away from the travesty of pretending that there really is a Social Security trust fund and that somehow we politicians on both sides of the aisle dabble in it and mix around in it with our hands as if it were something from the cauldron in the first act of Macbeth, as we draw it out of there and wildly spend it. Remember there is no Social Security trust fund. And we have never ''dipped into it.'' I take it back. One time we did. But that lasted only about 2 days. We spanked our own hands so vigorously the redness is still there. We never did that again, and cannot, and will not by law.

So, these funds are all in IOU's because the law on Social Security says whenever there are surpluses in Social Security—and there are huge surpluses right now, and they will become ever more magnificent. They could reach $2 trillion before 2012 when the big decline, the final fall off, the ultimate drawdown, begins to take place.

So here we are knowing these things—all of us. All of us know it, and we all know, too, that the surplus cannot be used except to be placed in securities of the United States of America, secured by the full faith and credit of the United States. So every single penny of reserves of Social Security is, by law, used to purchase T-bills, savings bonds, whatever, backed by the full faith and credit of the United States and purchased by your bank, and purchased by individuals and other nations' too. The interest on those securities is not paid from any Social Security trust fund or funds. It is paid from the general Treasury of the United States of America. No one can come to the floor and say that is not the case.

So, when the time comes—and it is coming soon—for when I was a freshman at the University of Wyoming, there were 16 people paying into the Social Security system and one person taking benefits out. Today, there are three people paying into the Social Security system and one person taking out, and in 20 years there will be two people paying into the Social Security system and one taking out. How long do you think that the younger generation then is going to sit and put up $10,500 each, two people, to sustain a person at $21,000 a year or $20,000 or similar amount on Social Security?

The saddest part of the debate in the last 3 years was that this President, President Clinton, put in his first budget—and I commend him sincerely and heartily for it—an entire section called ''intergenerational accounting.'' It was powerful stuff. It was real. It was true. It talked about what is going to happen—the program is unsustainable, what will occur to the young people, and how it has to be adjusted. Yet this time in his budget presentation there was not one single word about ''intergenerational accounting,'' not a word.

I find through my less-than-positive sources, since I labor in minority status there on Pennsylvania Avenue, that the good, thoughtful people on the President's cabinet and staff wanted to include that statement again, Secretary Reich, Dr. Alice Rivlin, several there—but that the ''political types'' in the White House said: Do not touch that one again. You touched it the first time and it was so true it even leaked down and people could understand what was going to happen to those systems. But do not touch it this time.

So we did not touch it. He did not touch it. And then he appointed this fine commission to look into these entitlements, with BOB KERREY and JACK DANFORTH as chair and co-chair. They did a beautiful job. Read their report. I commend that to anyone. Then soon after that appointment we did another little statute that said we owe it to ourselves to examine into these various programs, and somehow we left off the word and the entire program of ''Medicare.'' We will not address the word ''Medicare.'' The word ''Medicare'' is left out, and that is the one that is really eating our lunch. That is the one that is going to go broke, and that is the one we all know will go broke.

Now, if we can wade through this type of garbled activity in these next days and weeks, we may be able to get there. If we can wade through it in the next year, we may be able to get there.

And who did this? Who visited this sinful pile of debt upon us? Well, let me tell you. I hope the American people understand who did this. We did this. This was not done by Ronald Reagan or Jimmy Carter or George Bush or President Clinton. We in the Congress did this. The Presidents of the United

States get not a single vote on this. They can veto it, yes. But no votes . I have watched this game for 17 years. Wire up a budget, ship it to the President, see if it will blow up under their chair. It is a great trick. Democrats are highly skilled at it. Republicans, it will take us a little longer to learn. Put it together, roll it back and forth up and down Pennsylvania Avenue, and see if it will detonate under whose chair. And that will not solve much for the people of America.

But we did this. There is not a one of us in this Chamber, including your loyal scrivener and correspondent of the moment, who did not ''hire on'' in some way to bring home the bacon. Bring home the bacon: Go get the HUD program; go get this center; this building; go get the farm money; go get this; go get the dam; go get that; all accompanied with a press release.

Who do you think did it? Nobody but us. I do not have the courage I used to, to do the press release anymore saying, ''Senator SIMPSON announced today more bucks for his State.'' It is a good way to get reelected forever, I guess. People I know who have been here have done just that. Bring home the bacon.

I would love to share with you the outlay of Federal expenditures per capita to the various States of the Union, and then you might know who represents those people in this Chamber of the Senate. You would be very intrigued to see who brings home the most bacon, who burdens the taxpayers—burdens the taxpayers most.

Mr. President, $3.6 billion goes to one State with only 0.2 percent of the population of the United States. How about that, $3.6 billion in Federal outlays to a State with a population of 638,800. That is a per capita spending of almost $6,000 of taxpayers' money per person. It is No. 6 in the country per capita.

Those things need to be known, and they are not known. It is time they were known if we have to get into this kind of a continual ritual that somehow this is abject trickery or somehow it is ''the rich versus the poor.''

Ladies and gentlemen, I know this is shocking, but I have a theory about what we might do with the rich. Oh yes. Instead of taxing them more, we might well confiscate everything they have. Just take it all. Take every stock certificate, every yacht, every ranch, every villa or home, every trust, and just snatch it, take it. Go down through the Forbe's 400 and the Fortune 500—I am talking about individual wealth now—and just snake it off the table, every penny. And guess what? It will run the country for about 7 months. Got it. It is a figure of about $800 billion. Yes I am talking about the Wal-Mart money; I am talking about every family in America that we look upon as ''the rich.'' Take it all and it will run the country for 7 months because, ladies and gentlemen, the budget of the United States this year is $1.506 trillion. Got it? One year.

Does anyone believe that we are not ''doing something'' for Americans? Can anyone believe in their heart and mind and soul that we are doing nothing for our country and its men and women and children when we are spending $1.506 trillion this year—1 year—1 year to run the United States of America?

I know it is painful to go through these figures again, but it is very true that 1 percent of these ''rich'' pay 27.4 percent of all taxes in the United States of America. Oh I know I should not even have said it. And the top 5 percent pay 45.9 percent of all taxes in America, and the top 10 percent pay 57.5 percent of all taxes into the Federal Treasury of America. The bottom 50 percent pay only 1.5 percent, ladies and gentlemen. Those are figures from the Census Bureau, figures from the IRS, figures from the GAO report, and that is that.

So when you give tax relief, which the President desperately wants to do too—the President of the United States has decided that he wants to give people a tax cut. We in the Republican faith have decided that we want to give people a tax cut. The President of the United States has said that he would like to see Medicare go up only 7.1 percent. We are saying that we would like to see it go up only 6.4 percent. So we are not that far away.

Obviously, the President and this Republican majority are right on track with Medicare, but you would never know that. Oh, no, a serious ''cut'' is taking place. What is it then that the President is doing? Is that not a cut? You either cut or you cut or you slow an increase or you slow an increase. A rose is a rose is a rose. So if the 6.4 percent increase of the Republicans is a cut, then the 7.1 percent increase of the President is a cut, and we and the public should both use the same vocabulary on that. We will get there somehow. If we dull the rhetoric and the warfare, we will get there.

So I just think it is always appropriate to talk about Social Security. And when people come to the floor and say let us leave it off, we ought to leave off the table Social Security, well yes we all did that. It was a magnificent flight from reality. How do you leave out of the equation something that is worth $360 billion? Social Security, ladies and gentlemen, is $360 billion a year.

As we scratch around for money on this floor, where we are looking for something for my State or something for the State of the Senator from North Dakota, looking for only $100,000 or $2 million or $3 million, I can tell you where we could have found a ton of it. You just saw a cost-of-living allowance go out to Social Security recipients regardless of their net worth or their income. It was $8.7 billion.

Mr. President, $8.7 billion went out to all of the recipients of Social Security on a 2.6 percent COLA, judged by the CPI, Consumer Price Index, and all of it with no means testing, no affluence testing, nothing, some of it going to people who have gotten all of their Social Security taxes back in the first 5 years. You know that, I know that. To some people the difference is not the cost of living but the cost of living it up. And we make no means test. No affluence test of any kind.

You have the issue of part B premiums. If we are really talking about the little guy now, I want to hear much more about the little guy when we talk about part B premiums because, ladies and gentlemen, part B premiums are totally voluntary. Part B is totally voluntary. It was never part of any contract with anyone, certainly not with the seniors, because you step up, and they say, ''Do you want part B? If you do, you are going to pay $46.10 a month.'' And $46.10 a month is 30 percent of the premium.

So, ladies and gentlemen, if you really want to talk about the little guy, then remember that the wealthiest people in America who have voluntarily chosen part B coverage are paying 30 percent of the premium, and the people that maintain this building at night when we shut down the action in this ''cave of the winds,'' the people who are working hard here, are paying 70 percent of the premium for the wealthiest people in America. Got that? Not one person can refute that. I want to hear from anyone on that one, if we have any rebuttal at all on that one. There will be none. So, 70 percent of all the premiums on part B, which is voluntary and which is an income transfer program, are paid by the general taxpayers of the United States.

Let me conclude. I have here in my hand the most fascinating and intriguing mailing sent out to me by ''the mother of all mailers'' in the United States. This is the AARP I speak of again. The mother of all nonprofit mailers. And 1.5 percent of all mail in the United States under their particular permit class is by the AARP, ladies and gentlemen. And a larger percent of the mail men and mail women all over America get hernias carrying their good works and telling of the unselfish efforts of the AARP—applications for credit cards, insurance, investment advice, and even tax counseling, which is a dazzling array of services. I think they do need tax counseling because, you see, they settled with the IRS for $136 million that they had not paid in taxes because of unrelated business income. But remember, they just wrote a check. That is your poor, beleaguered AARP.

But, anyway, they sent this. It came to the mother of one of our colleagues. Of course, the AARP is, as I say, the mother of all nonprofit mailers. You might remember them. We sent that group $86 million in Federal—that is, taxpayers'—money last year.

This is also the noble group that rakes in more than $110 million—million—annually in insurance premiums and does not pay any taxes on that.

Prudential, New York Life, RV Insurance, no; remember they get 3 percent of every premium paid—from Prudential Life Insurance Co. And this is also the group that has over $300 million in T-bills just ''sitting around,'' lying around.

But one clear use they have found for all their vast money is to use it in what I call ''astroturf'' lobbying, which is different from ''grassroots'' lobbying. Surely you know that. You know what astroturf is. It is fake grass, phony, a synthetic facsimile. And ''fakery'' is a pretty darn appropriate word to describe the tactics that they employ in this piece of correspondence.

I honestly, for the life of me, cannot figure out how an organization of this size, power and clout cannot afford to hire some poor soul to get their facts straight. Maybe they do not care to. Perhaps deception is the intention. For starters, they say that the Senate ''will vote on a proposal to cut Medicare spending by $276 billion over the next 7 years.''

There is that word ''cut'' again. We will want to see it again when they describe the President's proposal on Medicare, which is a 7.1 percent increase in Medicare. We will see if they use that word ''cut'' again. They used it again when they say ''this level of 'cuts' is unprecedented,'' even though they all know full well that under this plan Medicare will go up 6.4 percent per year, faster than any other major spending category in the budget. And, ladies and gentlemen, does anyone in this Chamber or in this country believe that if we are able to do this—and we will—that 7 years from now we will say a 6.4-percent increase was not enough, so we should raise it, or say 6.4 percent was too much, and we will now let it go up by only 2 percent a year?

By then nobody is going to let it go up only 2 percent a year. No, we will always, from now to eternity, let it go up 6.4 percent or more per year because that is the figure we picked. And then tack 20 or 30 years onto that percentage increase and you will really see an unsustainable program, totally, totally, hideously unsustainable.

Here is another one for you from this AARP mailing. It is a real chuckler. A headline that says, ''No Medicare Coverage Until 67.'' They usually have a block wreath around that or extra emphasis on the ink in the title. ''No Medicare Coverage Until Age 67.'' Is that not funny? Because I thought the current AARP members were sucked into this gargantuan operation when they were 50 years old—and they are. You can be a member of the AARP at the age of 50 by paying your $8 or picking up a copy of their magazine, usually a 4- or 5-year-old magazine, perhaps at the dentist's office. They include that as a membership. If there are magazines laying in these places, that is a ''member,'' I think, to them. So you can be 50 years old and be a member—whether retired or not.

The plan before the Senate last week would have gradually increased the eligibility age to 67 over a span of 24 years, and never faster than 2 months per year and, thus, not fully phased in until the year 2027. Guess why we did that? Yet it was taken out. I hope the people of America will realize what will happen by taking it out. We did it that way to match what we have already done with the Social Security Program, which is already on the track for this kind of a phaseup. Hear that.

So in this deception how old will the youngest current AARP member be then in the year 2027? Well, they would be 82 years old. They will have been collecting Medicare for more than a decade by the time this proposed eligibility age increase was fully ''phased in.''

In other words, not a single person who is an intended recipient of this mailing would be affected by the full impact of that, not a single person. In fact, no current AARP member would see their eligibility age postponed by more than 1 year—more than 1 year—no current member of the AARP.

Now, that is a real slick organization. They also say that ''only $110 billion'' in cuts are actually necessary to restore solvency to Medicare. And for how long, I might ask? And they then say to the next decade. ''Through the next decade,'' they retort. Great. So up through the year 2005 then, only 3 years later than the current crash date. What chicanery. What bald-faced balderdash.

Actuarial solvency is measured by the trustees over a 75-year period, and it is unsustainable. They know it and you know it and I know it. But the good old AARP is content to let the system go belly up in 10 years. It strikes me as quaintly odd that the AARP can get so agitated over eligibility ages that will not even be fully effective for three decades and do not care a wit about Medicare solvency beyond the year 2005. What a group.

Here is another intriguing one for you. They express outrage that under our plan ''beneficiaries with incomes above $50,000 would pay a much higher monthly premium. How long,'' they ask, ''will it be before Congress lowers this to $40,000 or even $30,000,'' implying, of course, that any attempt—any attempt at all—at means testing or affluence testing of anything is dangerous and dastardly oppressing.

Oh, I wish I could tell you how many times AARP representatives have come through my door, along with ''Edna the Enforcer.'' You have seen that wonderful cartoon by Jim Borgman of the Cincinnati Enquirer; ''Edna the Enforcer'' making her rounds for the AARP in the dark of night. She is a husky one. She comes in, and they have a caricature of me in the most emaciated form, actually—most shocking! I am saying, ''Don't pull the phone tree, Edna, not the phone tree!'' and then she gives you ''the word.'' Well, those are clever, and Jim Borgmann is one of the best. I met him many years ago. Go look at it. Its a kick. See it.

So they have come to my door, the AARP, and visited with me and my staff, and they say this. Here is what they say: ''Oh, Senator, you are not correct, but we do support some kind of means testing or affluence testing. We would like to call it 'income relating' but not affluence testing. But we agree, it's the way to go. Of course, we can't come out too far in front of it, but we understand you're on the right track.''

That is the word you get in your office. That's what they tell me. What their members are hearing is something quite, quite different.

Then ''income relating'' is the word they have now used, as they call it, and it is portrayed as a sinister precedent—a harbinger of evil things yet to come. What a courageous outfit.

Then, of course, another letter has gone out from them about the CPI. They are saying, ''Oh, for Heaven's sake, don't mess with the CPI.'' I am on the Finance Committee. Not a single person from Alan Greenspan to all the experts we saw said anything but that the CPI, the Consumer Price Index, was ''overstated.''

And get the rest of this latest letter to all of us. This is supposed to make you cringe and certainly your staff is supposed to cringe when you get this in your mailbox from the AARP dated October 23:

> If Congress adjusts the CPI in the absence of the Bureau of Labor Statistics findings, AARP would regard such action as ''a thinly disguised effort to cut COLA's and raise taxes.''

I also know what that is. That is a thinly disguised threat.

Then they go on to say, which they all do, and you know what they say, that the people who will be hurt the most will be ''the near poor, mostly single women permanently pushed into poverty,'' in addition, and so on and so on, not thinking that if they go broke, the poor in poverty will really be pushed into something grotesque.

So this is the kind of rubbish that I see spewed out from the AARP through Horace Deets, John Rother—and they are genial people—except when they are not, and also their full chorus and company of apologists, paid actuaries accountants, lawyers, trustees, and trustors. Their budget for staff is $60 million a year. Try digging down through various entities and the foundations of the AARP. It is like digging through the Pyramids of Egypt. They have the Andrus Foundation, this foundation, that foundation, and nobody knows the bucks that they have in each of the stack.

They have never come up with anything new, and everything they do can be refuted. Just as when they said to the IRS, ''We do not owe you any taxes, don't you understand,'' and then they paid 136 million bucks to ''settle up'' and wrote a check. When they said to

the Postal Service, ''But we're permitted to mail our insurance solicitations at nonprofit rates,'' and the Post Office said, ''No, you're not,'' and they had to cough up $2.4 million to get off the hook there, and that will be the eternal struggle for them and should be.

Remember, this is the group of worthies who clog your mailbox with 1.5 percent of all the nonprofit mailings in their class in the United States and this is evidence of the level of trust and reliability that they have in this country.

If everyone in Congress really likes to thump their chest and say that they always stand up to the special interests, well, the AARP is the biggest, toughest, canniest, most powerful slugger, the most ruthless and, I think, the most deceitful of them all.

So I trust my colleagues will show their true mettle and legendary courage in ''standing tall'' as we all deal with this remarkable 1,800-pound gorilla in the days and months to come.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is my understanding that we have 8 minutes remaining on our time.

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized, and they still have 8 minutes.

Mr. THOMAS. The time was to be from 10:30 to noon for the majority leader.

The PRESIDING OFFICER. There are 8 minutes remaining on the Democratic time of the designee for the Democratic leader, and he asks for recognition.

THE ECONOMY AND SOCIAL SECURITY

Mr. DORGAN. Mr. President, the Senator from Wyoming is now and always has been one of the most colorful presenters on the floor of the Senate. He has also been an excellent Senator. I occasionally find much to agree with him about. This morning, I found several areas in which we disagree. I always find it interesting that it upsets some when you come to the floor of the Senate and talk about the economic system in this country and who is doing well and who is not, because the implication of that, they say, is, if you point out who is doing well, it is class warfare.

I pointed out on the floor of the Senate this morning that the average worker in this country, if you had a line of all Americans from the richest to the poorest folks, the average person makes about $26,000 a year and in 15 years has lost $100 a month of income. That is what I pointed out. That is the truth.

I also pointed out that those in the top 1 percent in America are doing very well. I do not regret that. Good for them. The incomes of the top 1 percent have increased in a 16-year period by 79 percent to an average of $576,000 a year. I wish everyone could experience that. That is my point. I wish the fruits of this economy could be available to everyone.

It is not class warfare to point out who is benefiting and who is not. Our job is to try to figure out how we help those who are not.

The fact is, productivity in this country is going up, so the average workers out there are doing their part. Corporate profits are going up. The stock market is going up. But guess what? Wages are going down in real terms, and we better start caring about that as a country. We better start doing something about it.

When someone raises the question, we better stop saying class warfare. It is not constructive. Let us talk about this economy, who wins and who loses, who is rewarded and who is not and how do we lift the middle-income families in this country and give them opportunity, provide jobs with good wages.

What the middle-income people see is lower paychecks, lower wages, and their jobs being shipped overseas, all by the same people who in this upper 1 percent, by the way, are getting million-dollar increases a year in salary because they are downsizing and shipping their jobs out of this country. Can I provide the facts for that? You bet I can. I can tell you who is doing it, when and why and how much they are being rewarded for moving jobs overseas.

Well, enough about that. But I hope we can have a discussion one day on the floor of the Senate about this economic system and trade policy and what we ought to do to address these issues.

The Senator from Wyoming began by talking about Social Security and used the word ''bankrupt'' generously. The Social Security System is not going bankrupt. It does no service to the American people to try to scare people about the Social Security System and so-called bankruptcy.

In the year 2029, the Social Security system will be out of money. The Senator is correct about that. Between now and then, we will have yearly surpluses, until about the year 2013. So about 34 years from now, unless we make some adjustments, we will have a problem. We will make adjustments. We have in the past and will in the future. The fact is that our responsibility is to make adjustments.

The Senator from Wyoming said the Republicans are doing what has always been done—that is, using the Social Security surpluses as part of the revenue of the operating budget. The best I can say is that the Senator says this is business as usual. I guess it is. I thought this was about reform and change. The Senator says this is business as usual. It has always been done, so we are going to keep doing it.

In 1983, I say to the Senator from Wyoming, I was on the Ways and Means Committee. I voted on and worked on that Social Security reform package. If the Senator will go back to the markup form, I offered an amendment that day. It was on the same thing I speak about today—that is, you should not collect payroll taxes, which are, by nature, regressive, promise people it is going to go into a trust fund and then pull it over into the operating budget and use it. That is dishonest, and I said that 12 years ago; dishonest, I say again on the floor of the Senate today. Am I a Johnny-come-lately on this issue? You better believe I am not. I have talked about this for 12 years.

This is dishonest budgeting. It was by Democrats, and it is by Republicans. It is dishonest and it ought to stop. The Senator said we have always done these things. But nobody ever did what was done last Friday. I hope, and will wait today for somebody to put in the RECORD what was done late Friday night, taking $12 billion out of the Social Security accounts in the reconciliation bill in order to fund other parts of the bill. It has never been done. It is a violation of the law, and the only reason it was done was because of the language we used, ''notwithstanding any other provision of law.''

I challenge anybody on the floor of the Senate today to come demonstrate that this has been done before. It has never been done before. It should not have been done on Friday, and it represents phony budgeting. Everybody in this Chamber knows it. So when people say, we are just doing what has always been done—not true. Not true.

There is plenty to talk about on Medicare and Social Security. I happen to think both of these programs have advanced this country's interests. Both programs need adjustments. There is no question about that. I am willing to work with the Senator from Wyoming, and others, in sensible ways to think through in the long-term what we do about these issues. But I do not think it is wrong or unreasonable for us to ask questions about the priorities of cutting $270 billion from what is needed in Medicare in the next 7 years and then deciding to cut taxes, especially after we say to you, well, at least limit the tax cut to those below a quarter-million dollars a year and back off on the adjustments you intend to make for some of the poorest of the poor, who rely on Medicaid and Medicare. If we are told we cannot do that because that is not our priority, then we understand we have very different priorities.

I am not alleging that you all do not care about Social Security or Medicare. I think there are some who do not. I think there are some who never believed in it, who never wanted it and, even today, if given a chance, would vote, probably in secret, to get rid of both. The fact is, I happen to think

both have advanced this country's interests and helped us to be a better country. I think when we, as Democrats and Republicans, are required to make adjustments in these programs, we would be well to make adjustments without putting them in a vehicle where we have decided, also, before we balance the budget, to provide a significant tax cut. I understand there is even reason to disagree on the tax cut. I think working families deserve a lower tax burden. I would like to see us do the first job first: Balance the budget, and decide after we have done that job how we change the Tax Code and provide relief for working families.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I think the time until 12 o'clock is set aside for discussion on this side of the aisle, to talk a little bit about what we have been doing over the last couple weeks, to talk about some of the heavy lifting going on—balancing the budget, strengthening Medicare, reforming welfare, and doing something to reduce the tax burden on middle-class Americans. We want to talk a little about moving to the negotiation table, so that what is being done here can be done to affect the American public.

I yield 10 minutes to the Senator from Georgia.

PROTECTING MEDICARE

Mr. COVERDELL. I thank my colleague from Wyoming. I, of course, take some issue with the Senator from North Dakota. He quoted the statistics—to digress a moment—that indicated that Social Security was solvent until 2029, or something like that. The same people that he is quoting have told him, also, that Medicare is bankrupt in 6 years. They seem to forget that. Those trustees are really credible when they talk about Social Security, but they are not credible when they talk about Medicare.

Those same people that he is quoting are the ones that are telling the other side of the aisle that we better get serious about doing something about Medicare. The proposal that we voted on the other night should make everybody who is a beneficiary, or potential beneficiary, very comfortable, because that proposal guarantees a quarter-century of solvency. It takes it out just like Social Security. The proposal that we got from the other side of the aisle gives us a Band-Aid that would give us 24 additional months. I do not think there is a senior citizen in this country that is comforted by somebody making—I think he referred to it as ''adjustments,'' that give you 24 months of survival.

I think one of the strongest things that we have done is to effectively modify this program so that it is intact, it is secure, and there are more choices, and it is solvent for a quarter-century.

He also stated—reluctantly, I would say, after badgering the idea that we brought forward—that taxes ought to be lowered on the working families of America. He reluctantly, at the end, indicated that, well, maybe that is all right.

Let me tell you, it is more than all right. The other day on the floor, I mentioned that when Ozzie and Harriet were the quintessential family in America, Ozzie sent 2 cents of every dollar he earned to Washington. Today, that average family sends 24 cents out of every dollar to Washington, so that we can set the priorities for those families.

We have marginalized middle America. The Senator from North Dakota referred to the 1 percent that are wealthy. I might say that you could take this 1 percent and the 15 percent that are poor and on Government programs, and they are not terribly affected by this policy. They are either so wealthy that it does not matter to them, or they are in the Government program. But it is the vast middle class that bears the burden of what has been happening in Washington for the last 25 years. More and more has been extracted from that family and, as a result, they are less and less able to care for the housing and the education and health of that family. We have all acknowledged that the family is the core unit for maintaining the health of the country. But the Government has been pounding and pounding on that family for a quarter-century.

Today, half of their wages are consumed by one Government or another—a quarter in Washington, and the other quarter is divided between State and local government. An average family today earns $40,000 a year. I guess that is supposed to be rich, if you listen to the other side of the aisle.

Mr. President, $40,000—and by the end of the day they have somewhere between $20,000 and $25,000 to take care of all the needs of that average family.

If what was passed here this past Friday finally becomes law, we should talk about what that means, Mr. President, to this average family. It means that their interest payments on their mortgage is going to drop, and if that average mortgage is $50,000, they will save $1,081 a year in interest payments on their mortgage. They are going to save $180 a year on the interest payments on their car. They are going to save $220 a year in interest payments on auxiliary loans, whether it is for a student loan or refurbishing of their home. That comes up to almost $1,500 or $1,600 a year net on their kitchen table.

On top of that, that average family has two children. They are going to get a $500 credit for each child; $1,000, Mr. President, on the kitchen table.

So we have put $2,000 to $3,000 back in the account of every average family in America. That is an increase of anywhere from 10 to 20 percent of their disposable income. Tell me when middle America would have received either in salary increases or any other benefit of that significance, 10 to 20 percent more disposable income.

The people that have been paying these bills, that have been paying the bills for Medicare and for Medicaid and for Federal retirement and the interest on our debt deserve relief, they deserve it, because we depend on them to educate, to house, clothe and keep healthy the future of America. That is what these proposals do—they return resources to the average working family in America.

Now, Mr. President, just an hour ago there was a joint session of the policy committees on the House side and we heard from major economists on Wall Street about these budget proposals. It was amazing. To the person they said, ''Stick to it. America has got to have balanced budgets.''

If we achieve these balanced budgets, everybody will prosper, interest rates will drop. They already give us credit, this new Congress, from lowering it from 8 percent to 6 percent. They say if we actually pass this, and only 3 out of 10 Americans think we have the guts to do it, it will drop another percentage point. Interest rates will drop, inflation will drop, and the economy will expand. This family will put $2,000 more into its own welfare and the people in that family that are looking for a new job will be standing in shorter lines and there will be fewer pink slips.

The fact that America would seize control of its destiny and manage its financial affairs, as any family in business has to do, will be a boon to America. Every one of these people said to us, ''Don't blink, don't retreat. Get this done and the real beneficiaries are middle America.''

They passed out this chart, Mr. President. It is hard to see, but it shows the relationship to the growth in spending to inflation. When we are irresponsible as caretakers of our financial affairs in the Congress, and we spend too much—more than we have—we cause inflation to go up, we cause interest rates to go up, and then there is less available for expansion, and we cause people to lose their jobs.

Given what we are looking at, it is mindboggling to me that the other side of the aisle is not right at the table trying to find a way to support change in the way Washington has been operating.

Mr. President, we have been told that unless the United States does something very quickly, that within 10 years all U.S. revenues, all of our wealth, will be consumed by five things: Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And nothing is left.

That was presented to a group the other day in my home State and a woman stood up and said, ''How in the world would we defend ourselves?'' Good question. We could not. World rogues would love it if we stumbled

into the next century, crippled financially and unable to maintain the status of the superpower that we are. Five expenditures, and it is all gone.

Last April the trustees of Medicare came forward and said, ''Look, it is bankrupt. Congress and Mr. President, do something about it.''

I yield the floor.

Mr. THOMAS. Mr. President, I yield 10 minutes to the Senator from Minnesota.

THE $500-PER-CHILD TAX CREDIT

Mr. GRAMS. I want to thank Senator THOMAS, my good friend from Wyoming, for setting aside this time on the floor today for my freshmen colleagues and I to share our perspective on the Second American Revolution.

There may be 11 freshmen new to the Senate this year, but we speak with a single voice when we talk about the mandate handed to us by the voters last November.

Beginning last Wednesday morning and continuing for 20 hours, this Senate undertook a historic debate. For 20 hours, as we outlined the Balanced Budget Reconciliation Act, we had the opportunity to outline for the American people a new vision for this country.

Our vision is about standing up for taxpayers and their families. It is about reining in the big government that has inserted itself more and more deeply into their lives over the last 40 years.

Our vision—this new approach to governing—begins with balancing the budget, preserving Medicare, redefining welfare, and letting the people keep more of their own money, through our $245 billion package of tax relief.

Forty years of backroom wheeling and dealing by my colleagues across the aisle have dealt the American people nothing but a string of losing hands.

The big spenders may have had a long run, but they never played by the rules. Instead of using their own money, they demanded—over and over again—that the taxpayers be the ones to ante up.

With this Congress, however, it is a whole different game.

We are no longer going to let the Government gamble away the taxpayers' hard-earned dollars. In fact, we are going to keep those dollars out of the Government's hands in the first place.

As you know, the centerpiece of our tax relief package is the $500-per-child tax credit, and I am proud that my colleagues stood with me to ensure that this desperately needed provision remains at the heart of our reconciliation bill.

The $500-per-child tax credit will return $23 billion nationwide every year to working-class families, and those families have been vocal in sharing their thoughts on what kind of difference the child tax credit would make in their lives.

Since I began working on the $500-per-child tax credit 3 years ago, as a Member of the U.S. House, I have been receiving letters urging Congress to follow through on our promise of middle-class tax relief.

The letters have come from Minnesotans and from concerned Americans across this country, as well.

I hope they do not mind if I share parts of their letters with my colleagues.

Just a few: From Alabama, where the $500-per-child tax credit would return $354 million annually, I received this note on the very same day we began debating the reconciliation legislation.

The letter said:

> Please continue your work toward Medicare reform, a balanced budget over 7 years, and tax cuts. The people of this country are with you and waiting for this to happen.

From California, where the $500-per-child tax credit would return $2.6 billion annually:

> Our families desperately need tax relief, and our government needs to stop spending so wastefully.

Another letter, signed a ''California Democrat,'' read in part:

> Thank you for your support of the family tax credit. As a parent of three, I know parents need the help.

From Florida, where the $500-per-child tax credit would return $973 million annually:

> Thanks for your efforts this past year in supporting tax relief for families!

From Georgia, where the $500-per-child tax credit would return $570 million annually:

> I am writing to thank you for proposing the budget plan that would cut federal spending more than President Clinton's, and for supporting tax relief for families. We can use all the help we get!

From Illinois, where the $500-per-child tax credit would return $1.1 billion every year:

> We are a one-paycheck family struggling to keep our heads above water. Two of our children are in a private school. The burden of paying for the public and private systems is great for us.
>
> Nonetheless, we must do what we know to be best for our children. It is encouraging to know there are members of the government who understand our struggle and are working on our behalf.

From Minnesota's neighbor to the south, Iowa, where the $500-per-child tax credit would return $326 million annually:

> Thank you for supporting tax relief for families. Keep up the great job!

From Kentucky, where the $500-per-child tax credit would return $300 million annually:

> We realize you are fighting a tough battle and we fully support you on this issue. Keep fighting!

From Michigan, home State of Senator SPENCER ABRAHAM, who has been one of the Senate's most vocal advocates on behalf of family tax relief, and where the $500-per-child tax credit would return $977 million annually:

> I want to commend and thank you for remembering and supporting the needs of families at tax time. Specifically, I want to thank you for spending the past year arguing for the $500 per-child tax credit.
>
> There aren't very many people in Washington who remember the pro-family community in our country—and even fewer people in Washington who will support the family.

From Montana, where the $500-per-child tax credit would return $46 million annually:

> We just wanted to take the time to say thank you for supporting tax relief for families. We appreciate your stand for us parents.

From Nevada, where the $500-per-child tax credit would return $95 million annually:

> Tax relief is really needed. We know—we have four children, one income.

From New Hampshire, where the $500-per-child tax credit would return $102 million annually:

> My reason for this letter is to thank each of you for supporting tax relief for families and to ask you to continue to do so until the tax relief becomes reality.

From New York, where the $500-per-child tax credit would return $1.4 billion annually:

> Thanks for your work to try to get President Clinton to make good on his promise to give tax relief to families.

From Oklahoma, where the $500-per-child tax credit would return $269 million annually:

> As a concerned citizen, a voter, and a taxpayer, I want to let you know there are a lot of us middle-income, family-heads-of-households who support you firmly.

For the Presiding Officer in the chair, the Senator from Pennsylvania, where the $500-per-child tax credit would return $1 billion annually:

> Please continue to keep the profamily community in mind. The family network, its strength, is what keeps this Nation strong.

From South Carolina, where the $500-per-child tax credit would return $320 million annually:

> Thank you for supporting tax relief for families. Keep up the good work!

From Tennessee, where the $500-per-child tax credit would return $446 million annually:

> Thank you for supporting tax relief for families. Also, please continue to work for the deficit and keep it a point of public awareness.

From Texas, where the $500-per-child credit would return $1.6 billion annually:

> I am in favor of a tax cut for families.
>
> I believe that is one reason many people do not have more children these days—the Government taxes us so much, and tries to tell us how we should live and raise our children. I have three children of my own.

From Washington State, where the $500-per-child tax credit would return $537 million annually:

> Thank you for your work this term to get tax relief for families. It is such a hard fight.

From Wisconsin, Minnesota's neighbor to the east, where the $500-per-child tax credit would return $505 million annually:

> Thanks for your efforts to give families tax cuts.

And finally, Mr. President, the letters have poured in from my home

State of Minnesota, where the $500-per-child tax credit would return $477 million annually, completely eliminating the tax liability for nearly 46,000 Minnesotans: This letter came from Northfield, MN:

I'm encouraging you to support passage of a $500 per-child tax credit that goes to all tax-paying families with children under 18. Let's start strengthening society by supporting the backbone of the society—families!

Then there is this letter from a family in Roseville, MN:

A $500 Federal tax credit for each dependent is not a Federal hand-out, but would allow parents to keep more of the money that they make, and to use it to care for their own children.

A $500 Federal tax credit for each dependent would unquestionably strengthen many families—especially middle-class and economically-disadvantaged families.

And finally, a family in Minnetrista, MN, took the time to share these insights with me:

As the mother of seven children with one income, I am especially interested in the $500 per child tax credit. We refuse to accept aid from Federal or State programs that we qualify for.

We believe this country was built with hard work and sacrifice, not sympathy and handouts. We also believe that we can spend this money more effectively than the Government, who has only succeeded in creating a permanent, dependent welfare class with our money over the last 40 years.

Let's get back to basics.

Getting back to basics is what our budget plan is all about, Mr. President. That is why we are balancing the budget, protecting Medicare for the next generation, fixing a broken welfare system.

That is why we are cutting taxes, too. And if these letters are any indication, the American people are solidly behind our back-to-basics approach.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank my friend from Minnesota. Those of us on this side of the aisle are excited about the opportunities that are here. We are excited that we have worked for 8 or 9 months now toward this time, toward the time to have actually passed the kinds of changes that we bring with us from the election last year. These are the freshmen and sophomores. These are the Senators who are relatively new to this body and are really wound up about what we are able to do here and want to keep moving. So I am delighted they are here.

I yield now 10 minutes to the Senator from Tennessee.

BALANCING THE BUDGET

Mr. THOMPSON. Mr. President, first of all I commend the Senator from Minnesota for his excellent presentation. After listening to those who are always for higher taxes and will use any means to fight any kind of tax cut on the basis that it is just a giveaway to the rich, it is refreshing to hear actually what this tax cut would do, the $500-per-child tax cut the Senator from Minnesota has fought so long and so hard for. The letters coming from people who work hard, pay their taxes, raise their kids and obey the law, and find it tougher and tougher to get by—that is obviously who this tax credit will go to benefit. It belies the accusations on the other side that, of course, this is just a tax cut for those who do not need it.

Our friends on the other side of the aisle have made a profession of trying to decide who in America deserves to keep more of the money they are earning and who deserves to have it sent to Washington for those enlightened Members of this body to spend for them.

So I think we are making substantial progress when we are obviously getting our message across to the American people as to exactly what this tax cut is all about. It goes to help those people who everybody in this body says they are concerned about. We are hearing all this rhetoric about the rich, the rich, the rich, and how everybody is for the working person and the working family. If everybody was for the working family and everybody is concentrating on doing something for the working family, why is it the working family feels they are getting worse and worse off every year? As I said, those people who work hard, raise their kids and pay their taxes—this, finally, will do something to reach the people that everybody says they are trying to reach in this country. This will actually serve that purpose.

Mr. DOMENICI. Will the Senator yield?

Mr. THOMPSON. I will be happy to yield.

Mr. DOMENICI. Just for 30 seconds.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I commend the Senator from Wyoming, Senator Thomas, and all those who are helping him. I think it is imperative that we respond when the other side comes to the floor making statements that are half truths and irresponsible. I commend him for it. I hope he does it every time they come to the floor. Across this land, the real facts of what we are trying to do are getting lost in the plethora of facts that are coming out that have very little to do with what we have done.

I hope the Senator does one on Medicare. Just put a chart here and show what we did, so the American public will see it. We know when the people see what we have done they favor what we are doing. It is when they are told things we are doing that we are not doing that they begin to wonder about this balanced budget.

So I commend my colleague for it, and those who are helping him, very much. I am hopeful they will continue to do it.

I yield the floor.

Mr. THOMPSON. Mr. President, I commend the Senator from New Mexico who has been a leader with regard to responsible budgeting in this country. It is always easier to give somebody something. It is always easier to maintain the status quo and to tell people they can continue on indefinitely the way we have been going and hold yourself up to accusations of hurting those in need, of not caring for the elderly.

Some Member on the other side of the aisle said, apparently, the only elderly that you know live in Beverly Hills. Those kinds of tactics are designed to scare people and appeal to the greedy side of people's nature, the implication being that as long as we can get ours today we do not care about our children, and we certainly do not care about our grandchildren.

We heard the statement earlier, ''Social Security is not in trouble. Social Security is not going bankrupt. Of course, in about 30 years it is going to run out of money.'' But the implication is, we do not have to worry about that because most of us will have gotten ours by then.

I am concerned, not only about today and my own mother who is dependent on it, I am concerned about my children and my grandchildren, as we all should be. That is what we are talking about here. That is the difference, I think, in the debate nowadays from what it has been in times past. That is the reason that many of us ran for political office for the first time in our lives, because people are sick and tired and fed up with business as usual. We see the results of it. We see in many respects our country is going downhill.

So we passed a reconciliation package to do something about that. People said they wanted a balanced budget. We are on our way to a balanced budget, to save Medicare—not to destroy it, but to increase spending for Medicare, but at a reduced rate of growth; to change a failed welfare system from something that was supposed to do good for people that has changed into something that has done an immeasurable disservice to many, many people in this country; to give more back to people who are earning hard-earned dollars to keep in their pockets.

The President, I thought, pretty much agreed with those concepts. We have come a long way, because some time ago the advisers to the President were saying we really did not need a balanced budget; and then, yes, maybe we need one but in 10 years; then, yes, maybe we need one and then OK, maybe 7 years.

The President pledged to reform welfare as we knew it back during the campaign. He acknowledged that Medicare was going bankrupt, and that we had to do something about it. He has proposed increasing Medicare spending by 7.1 percent a year. We have proposed increasing spending by 6.4 percent a year. It seems pretty close to me. It looks to me like we are fairly close together, at least on some of these basic concepts. And, yet, what does the

President do when we passed the reconciliation package? He says he will veto it, and basically he is not willing to negotiate—that we are destroying Medicare: that his 7.1 percent is a responsible percentage of growth but our 6.4 percent would destroy Medicare. These are scare tactics, even though we are spending twice the rate of inflation under our proposal; appeals to greed; appeals to grandparents. And there is the implication that, if you are making $100,000 a year, or if you are retired, you do not have to make any kind of incremental adjustment, we can continue on not only just increasing spending, which we are all saying that we will do, but increase spending at the rate that we are increasing now or closer to it.

So people must be confused as to what the President's position is. Is he for a balanced budget? Is he for changing welfare as we know it? Is he for doing something about Medicare, or not? He says he is. Yet, he seems to not be willing to even sit down at the table to work out these differences that some might interpret as being not all that great, that we might be able to work out.

I think the answer is clear that we are in the era now of political posturing, that the President feels he must come into this process feeling strong, feeling tough—and that is OK—delivering the message, and posturing himself. That is OK. A deal will be worked out of some kind, and, if it is not, that will be up to the President. But I think probably even more important than this particular resolution is that we will get by somehow. Even more important than that is the question of whether or not we have a commitment to these basic things. We can argue and fight over the details. That is why we have two branches of Government. That is why we have separation of powers, and checks and balances in this country. That is fine.

But the real question we have to face up to is whether or not we as a people, as a Congress, and a President are committed to the underlying propositions, for example, of a balanced budget because, if we are not, we are going through all of this for nothing. We are going to have to do so much more for so long. If we cannot pass this first hurdle, we will never make it past the others because we are making the initial downpayment on the balanced budget. We are going to have to own up to our responsibilities year after year after year. If we cannot solve these problems that merely have to do with numbers, how are we going to address the other major problems that are facing our country—with the problems of the world economy where wages are stagnating, especially among our younger people; the problems of the inner city where we see youth violence skyrocketing, youth drug use skyrocketing, illegitimacy skyrocketing; all of these social problems. If we cannot solve these numbers problems, how in the world are we going to address those? How are we going to address the underlying problem, probably that overshadows the rest of them? And, that is the cynicism that some of the American people have in this country toward their own Government, toward their own Government's ability to get things done.

Those are the underlying questions. Those are the more serious ones. I think that we can make a statement to the American people as we have tried to do in Congress by taking the tough votes, taking the tough measures, saying we cannot have everything exactly the way we have always had it, and we are going to speak the plain truth. We can tell the American people that we can do this, and because we did do this we can address these other problems that lie down the road before us.

So I urge the President, if he is serious about balancing the budget, changing welfare as we know it, saving Medicare, if he is serious about the statement that he made that he raised taxes too much, if he is serious about the position that, yes, we should have a tax cut, then I would urge him to sit down at the table and let us talk about those details. Because I think the message that I would like to deliver—and there are a lot of the new Members here who would like to deliver it, along with some of the maybe not-so-new Members—is that regardless of what the policies that have been around here in times past, things are different now, and we are not going to continue to roll over these problems to the next generation.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, thank you.

THE REPUBLICAN TAX PLAN

Mrs. HUTCHISON. Mr. President, I appreciate hearing from my friend, Senator THOMPSON from Tennessee, who differentiates between the new Members and the not-so-new Members. And I do not know in which category I fall. But I am pleased to be on the same side of this issue because I think some of the new Members are standing up and trying to talk the way people are talking back home.

I was really struck the other day when I was listening to C-SPAN in one of the call-in programs, and a woman called in with a very simple question. She said, ''My husband and I are working two jobs, and we make $25,000 a year. How is this going to help us?'' I think what Americans are saying is that it is the way Americans are talking. They are saying it is a legitimate question, simple and to the point. And we can answer her question, and we can give her a good answer.

What happens to her? Under the new budget, a single mother with one child working two jobs making $15,000 a year will have more money to feed her family and make ends meet. Instead of an EITC check of $864, which is what she would get this year, next year under the Republican plan she will get a check for $1,425. If she has two children, that will go up to $2,488. So she is not going to pay taxes at all. It is going to be how much she gets as an incentive for doing what she is doing, and that is working two jobs instead of being on welfare. She is going to have the incentive of getting a check back from the Government, and not paying taxes, if she is a working mother with one or two children.

What about the married couple? This is the woman who called into C-SPAN the other day. For this year, a married couple with two children and an income of $25,000 will pay $929 in income tax. That is this year. With the new Republican budget, next year that couple will not pay taxes at all. Instead, they will get an EITC check of $171.

So we are going to eliminate taxes on 3.5 million families that would pay taxes today, that will pay taxes for 1995—3.5 million families in America that are paying taxes this year under our plan will not pay taxes at all next year.

That is what it means in real terms. This is what we are trying to do.

In 1974, families spent 33 percent of their income on the necessities of housing, health care, and utilities. In 1995, that is 46 percent of a person's income, a family's income. We have heard people talking on the floor about what the real income is. People are making more. But they do not feel like their quality of life is as good. They do not feel like they are able to buy as much for their families, or go out to eat once a week anymore, or go to a movie once a week like they used to be able to do. Yet, they are earning more. What is wrong? That is what is wrong. Instead of 33 percent of their income going to necessities, it is 46 percent. That does not count clothes or food.

So what we are trying to do is put the money back into the pockets of our families, and we are putting money into the pockets of our working poor.

Let us talk for a minute about the marriage penalty. Right now in our country, unfortunately, we have a marriage penalty. We should be encouraging young couples to get married. But, instead, we discourage them with a marriage penalty.

I heard someone on the floor say, ''Oh, if we can do away with the marriage penalty, it will cost the Treasury $25 billion.'' Well, the Wall Street Journal, I think, puts it in perspective. They said wait a minute. To do away with the marriage penalty will save the taxpayers of America $25 billion.

This is money that belongs to the person who worked for it. It does not belong to the Treasury. It belongs to the person who worked for it.

Now, everyone in our country is here because we want to pay our fair share.

We want to participate in paying taxes for the things that we cannot do ourselves. Everybody has that attitude. It is when the taxes encroach so much on the quality of life and when the family does not really see what that does for them that we start getting people saying, ''Wait a minute. I am paying 39 percent; I am paying 27 percent; I am paying 15 percent,'' whatever it is, ''and I do not see the results. And I don't feel that my taxpayer dollars are being spent wisely.'' That is when people step up and say, ''Let's put this in perspective.'' And that is what we are trying to do.

Under the Republican plan, we increase the standard deduction for married couples that are filing jointly. By the year 2005, the marriage penalty will be eliminated for couples that do not itemize their deductions. That is the right approach. That is encouraging families.

Also encouraging families is homemaker IRA's. This is something that I and other women Members on both sides of the aisle have been very active in pursuing, and that is because we are saying we value the American family unit. The family unit is the core of our society. And yet, if you are a homemaker working inside the home, doing your part to strengthen society, you cannot set aside $2,000 a year in an IRA for your retirement security. If you work outside the home, you can. But if you work inside the home, you cannot.

We are going to change that with the budget reconciliation package that has passed both Houses of this Congress. We are saying the homemaker makes a contribution to the strength of our country that is every bit as important, if not more so, than the contribution made by people who work outside the home.

So we are going to correct an inequity that has been in our system. That helps the one-income working family. Many people sacrifice for the homemaker to stay home with the children. And when they sacrifice, they also are going to have to make a sacrifice for retirement security, and I think that is wrong and so did a majority of both Houses of Congress.

Then there is the homemaker who becomes displaced after 25 years of marriage; she becomes divorced or she loses her husband. She, too, is discriminated against in retirement security because she does not have that nest egg to build up for her retirement, which she is entitled to. This is in the bill that has passed both Houses.

We also add to other investment savings opportunities. America has one of the lowest savings rates of any industrialized country of the world. Why is that? One reason is we tax it twice. We tax savings when you earn it, and we tax it while it is in a savings account. It is taxed twice. Most industrialized countries do not do that.

We are going to provide more savings alternatives in this bill so people can put money into an account and the savings will mount tax free, so that when they need it, when their income levels are such that they need it, they are going to be able to pull it out tax free. Or, if they do not wait until retirement because they have an emergency need such as education for children, or first home or health care emergency, that is going to be provided for as well.

So it gives people an incentive to save because they know they can draw it out for an emergency and yet they are going to be able to earn money tax free either for their retirement security or for their emergency needs. This is going to be a savings incentive bill that is also, besides helping the family that is trying to take care of its retirement needs or emergency needs, going to spur economic activity which creates new jobs for people coming into our system.

So this is a new approach. That is for sure. And many times when you have something new, people are scared. They do not know what to expect, and so they wonder: what is all of this new action going to produce? We are trying to have some simple and basic themes. We are trying to help to encourage the American family. We are trying to encourage the working families that are having a hard time making ends meet but they are not on welfare. They are working to make ends meet, and we are encouraging them by taking more of them, 3.5 million more of them off the tax rolls completely. We are going to do away with the marriage penalty. We are going to try to spur investment to create new jobs in this country. It is very simple. We are trying to save Medicare for our citizens that are on Medicare now as well as for the future.

The Medicare trust fund is going broke. The President's own Cabinet people say it is going broke. Our plan is going to save it—not by cutting it but by slowing the rate of growth from 10 percent per year to 6.4 percent per year. Even 6.4 percent per year growth is more than we have in the private sector health care industry now. That is why we think it is reasonable. We are going to save the system. But we are going to do it over a 7-year period so that we can grow gradually rather than having a meat-ax approach. We are doing the responsible thing for this country. We are also keeping a promise. We are doing what we said we would do. We told the people in the 1994 election: Here is what you can expect if you vote for me. The people did vote for us, and now we are giving them what they expected and what they asked for.

Did we make a few mistakes? Probably. Do I agree with everything in the bill? No. Probably no one on this floor does either. But we can afford to come back again and correct mistakes that we might have made. What we cannot afford to do is nothing. That is the only mistake that we cannot afford to make. We cannot afford not to fix the Medicare problem. We cannot afford not to balance this budget. And we cannot refuse to keep the promises that we made—for tax cuts, for encouraging the American family, for encouraging the working families of our country. It is going to help the working people of our country and the elderly as we save the Medicare system.

I thank the Chair. I thank him for his leadership, and the Senator from Wyoming and others who are speaking to try to set the record straight. It is scary. There is no question that people not knowing what to expect are afraid. We have to let people know exactly what we are doing and hope that their common sense makes them understand that this is going to be good in the long term for our children and grandchildren so that we do not give them this $5 trillion debt that we are bumping up against in 2 weeks in this country.

I thank the Chair.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank the Senator from Texas.

I think it is extremely important that we walk through this bill; it is a large bill; it covers lots of things; but to talk about how it will affect each of us as citizens of this country. And so I congratulate the Senator on doing that.

Let me just observe that one of the principal things we are doing is thinking about young people, is talking about what kind of shape we want this country to be in when we go into a new century. We have maxed out on our credit card. We charged it to the young people who are coming, and it is time we do something about that.

I now yield our time remaining to the Senator from Washington State.

Mr. GORTON. Mr. President, I have been informed by the Senator from Missouri that he has a brief interruption which he would like to make. I yield to him for that purpose.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

VISIT TO THE SENATE BY PETER DUGULESCU, MEMBER OF THE ROMANIAN PARLIAMENT

Mr. ASHCROFT. Mr. President, I am pleased to be able to introduce to Members of the Senate Peter Dugulescu, a Member of the Romanian Parliament. Peter is a friend of mine of some time, and was influential in bringing much greater levels of democracy to Romania.

As a matter of fact, when the revolution in Romania began, he was part of a crowd in the city of Timisoara where 100,000 people had gathered one day to protest the lack of religious freedom there. They had called for a pastor to come to speak to the crowd. And no one felt confident enough in the regime to come and speak to the crowd. And Peter finally offered himself to the crowd.

This was during the days of President Ceausescu. When Peter went to speak to the crowd and lead them in prayer, it was a turning point in the revolution of Romania. He now serves in the Romanian Parliament and is a testimony to the kind of courage that real patriots exhibit.

It is my pleasure to have him accompany me to the floor today. And I just wanted to thank the Senate for the opportunity to allow me to commend him, not only for the example he has set for his fellow citizens in Romania, but to commend him for the kind of example he sets, his dedication of principle and commitment to strong ideals and values and commitment to his God and recommend him to citizens around the world.

I thank the Senator from Washington for allowing me to make this interruption. And I hope that someday I have a chance to return the favor. Thank you very much.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. What is the state of business, Mr. President?

The PRESIDING OFFICER. Does the Senator seek to extend the period of time for the transaction of morning business?

Mr. GORTON. In the absence of such a request, what would take place?

The PRESIDING OFFICER. The regular order would be to close morning business.

EXTENSION OF MORNING BUSINESS

Mr. GORTON. I ask unanimous consent that morning business be extended for a period of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECONCILIATION BILL AND THE BUDGET

Mr. GORTON. Mr. President, I have heard many of the comments of my eloquent and thoughtful Republican colleagues about the reconciliation bill and the budget which has just been passed, their thoughtfulness with respect to the way we have caused the Medicare system to be preserved, protected, and strengthened, the fact that in doing so the percentage of the premium which individuals will pay for their Medicare part B coverage will not be increased, except for those who are wealthy enough to be able to afford and who, for that matter, ought to pay for a greater portion of the cost of their health care rather than passing that cost onto the backs of working Americans.

I have heard, particularly, the references of my colleagues to the long-sought and most welcomed reductions in the tax burdens on the American people. But, Mr. President, I want to emphasize one aspect of those tax reductions which have frequently before been overlooked. While there is in total almost $250 billion in tax relief for the American people in the reconciliation bill this body passed early last Saturday morning, the overwhelming bulk of those tax reductions, 80 percent of them, in fact, comes from two sources: The closing of certain corporate and business tax loopholes amounting to about 10 percent of the gross tax reductions and a $170 billion dividend which the Congressional Budget Office has told us will be the benefit to the Federal Treasury of passing a budget which clearly will be balanced by the year 2002.

Mr. President, I think that is a vitally important concept. The tangible dividend to the American people of our balancing the budget will be $170 billion in lower interest payments on the Federal debt and an increased tax collection under the present system because of greater prosperity, more opportunity, more employment, a better lifestyle that a balanced budget will give to the people of the United States.

Mr. President, that is the overwhelming source of the tax reductions that are included in this bill. We, as Republicans, believe that if we balance the budget, that dividend ought to go to the American people, not to further or for additional spending programs. And that profoundly differentiates ourselves from our opponents in this battle who consistently have demanded more spending on the part of the Federal Government.

Now, Mr. President, perhaps the most remarkable illustration of the differences between two of the three sides of this battle is the fact that the President of the United States claims that he has presented a balanced budget when, in fact, he has not done so but has simply estimated the deficit out of existence.

The Congressional Budget Office, the agreed upon arbiter of the fiscal direction in which this country is proceeding, has offered us no dividend in connection with President Clinton's budget proposals. Not $170 billion, not $150 billion, not $10 billion have they offered us should we pass the President's budget. Why? Because, of course, under Congressional Budget Office figures, it does not balance in the year 2002. In fact, it barely gets below $200 billion at any time between now and that year. That is perhaps the greatest single illustration of the proposition that the White House offers us stones for bread, that it gives us nothing that will ever lead us to a balanced budget and does nothing in the way of a fiscal dividend to the American people and thus no source for tax relief for the people of the United States.

That $170 billion dividend, I wish to emphasize, is only the dividend that a balanced budget provides for the Treasury of the United States. It is perhaps one-quarter to one-third of the overall benefit to the American people. If we pass a law which will cause the budget to be balanced, in addition to that $170 billion in a return of lower taxes, the American people will benefit to the tune of $300, $400, $500 billion in higher wages, in greater income, in broader opportunities, in economic growth in the country as a whole.

So, what we have done, Mr. President, is that we have passed a set of proposals which will improve the condition of the American economy and the American people by close to $1 trillion between now and the year 2002. If only we can get the White House to agree to it or to agree to a budget which has the same impact.

That is a magnificent triumph, Mr. President. I believe it is unprecedented at any time in the last two or three decades. And in addition to all of the other dividenda that come from a smaller Government, less control and influence on the part of the Government over our lives, a reform of the welfare system, the preservation of Medicare, in addition to all of these other dividends, is this potential for a better and a more prosperous America. And that, Mr. President, is the justification for what we propose to do, and what we passed in this body late last Friday night or early last Saturday morning.

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. DOLE. 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. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. LUGAR, Mr. DOLE, and Mr. CRAIG pertaining to the introduction of S. 1373 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

RURAL LOCAL INITIATIVES SUPPORT CORPORATION

Mr. BOND. Mr. President, earlier this morning I joined my good friends of the Local Initiatives Support Corp. to kick off LISC's new rural LISC initiative. I was pleased to be joined by Roger Young, the commissioner for the Eastern District of Audrain County, MO; David Thayer of Central Missouri Counties HDC; and David Stanley, chairman and CEO of Payless Cashways, Inc., who support this initiative. I thank them for their tireless efforts in support of finding new ways to leverage funding through public-private partnerships for addressing the housing and economic needs of rural, distressed communities.

I emphasize that rural communities face an economic decline of substantial

magnitude. Nearly 17 percent of rural Americans live below the poverty level, and across all major racial, ethnic, and age groups, these residents are poorer than those in metropolitan areas and have less opportunity. While most of the rural poor are working, their wages are at or below minimum wage. The rural poor also face a bleak housing situation—one in four poor rural families live in substandard housing, and nearly half pay over 50 percent of their income for rent. A lack of human and financial capital, as well as an inadequate physical and communications infrastructure, compound the economic and housing difficulties that face the rural poor.

Earlier this month, I chaired a hearing before the Senate Committee on Small Business which focused on proposals to revitalize rural and urban communities and Paul Grogan, president of LISC, provided insightful testimony at that time. At this hearing, we had the opportunity to discuss legislation I am drafting to target Federal contracts to small businesses that locate in economically distressed communities, which I call HUBZones. To be eligible, small businesses would need to hire at least 35 percent of its work force from the HUBZone to receive valuable preference in bidding on Government contracts. I believe this is one way the Federal Government can provide a significant incentive to encourage small businesses to provide a value added in terms of jobs and investment to economically distressed rural communities.

I applaud the efforts and commitment of LISC for establishing the rural LISC initiative which will be responsible for a public-private partnership that will commit over $300 million to 68 nonprofits in 39 States and Puerto Rico for community revitalization efforts in rural areas. LISC has a longstanding commitment to finding new approaches and strategies to address the problems of distressed communities through public-private partnerships. Moreover, LISC has long operated as a linchpin to successful community-based investment in urban areas through community development corporations. I emphasize that I support the need to develop public-private partnerships as the primary vehicle to implement positive and community-based policies to address distressed communities, in both urban and rural areas. For too long, the Federal Government has acted as a ''Mother-May-I'' that has lost touch with the individual needs of individual communities. Most of the current housing reform legislation, whether in through the appropriation or authorization process, recognizes the need to consolidate housing and community development programs and to redirect the responsibility for decisionmaking from the Federal Government to State and local governments.

In particular, like many urban areas, the Federal Government has been unable to establish effective policies to meet the many and unique needs of rural areas. LISC deserves particular praise for taking a leadership role in organizing and focusing its expertise, resources, and the marshalling of public and private sector capital on the unique and individual needs of rural areas. Rural LISC represents a major and significant new public-private partnership which will direct critical new investment to rural CDC's. I emphasize these CDC's are committed to transforming rural distressed communities from the grassroots up.

Finally, the Federal Government has failed to understand the needed dynamic to solve local problems in distressed communities. Instead of mandating one-size-fits-all policies at the Federal level, Congress and the Federal Government need to refocus the decisionmaking for local communities from the Federal Government back to States and localities. LISC brings to the table expertise and a history of commitment of listening and responding to local needs. I expect the rural LISC public/private partnership approach to provide a powerful tool and model for how best to address the needs of rural areas effectively and efficiently.

HHS REPORT ON THE SENATE AND HOUSE WELFARE BILLS

Mr. MOYNIHAN. Mr. President, a September 14, 1995, report by the Department of Health and Human Services concludes that the Senate welfare bill would push 1,100,000 children into poverty, and that the House bill would force 2 million children below the poverty line. The report, which has not been officially released by HHS, was the subject of a front-page news story in the Los Angeles Times on Friday, October 27. The New York Times and Washington Post ran their own stories about the report the next day.

I first learned of the existence of this report 2 weeks ago, but was unable to obtain a copy until last Friday. The administration had previously refused to acknowledge that any such report existed.

Mr. President, over the years Congress has on occasion missed opportunities to help our Nation's dependent children, but never before in our history have we calculatedly set out to injure them. The administration's own analysis shows that this is precisely what will occur under either bill now before the conference committee on welfare. Surely we will not permit this to happen. Surely the President will not permit this to happen.

I urge all Senators to read the administration's report, and I ask unanimous consent that it be printed in RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE PRELIMINARY IMPACT OF THE SENATE REPUBLICAN WELFARE PROPOSAL ON CHILDREN (THE WORK OPPORTUNITY ACT OF 1995 (S. 1120))

THE IMPACT ON POVERTY AND INCOME DISTRIBUTION

On Child Poverty:

S. 1120 will push 1.1 million more children into poverty, an increase of almost 11 percent in the number of children living below the poverty line.

The child poverty rate will rise from 14.5 percent to 16.1 percent. (See methodology for a description of the poverty measure used.)

On Poverty in Families:

An additional 1.9 million persons in families with children will fall below the poverty line.

The poverty gap for families with children will increase $4.1 billion, or 25 percent. As a result, a total of $4.1 billion in additional income will be required to bring these families up to the poverty threshold.

On Income Distribution:

The poorest families will face the largest program cuts under S. 1120. In families with children, those in the lowest income quintile will lose an average of almost $800 of their annual income, or 6 percent.

Eleven percent of families with children in the lowest income quintile will face significant losses in annual income of 15 percent or more. For families in the lowest quintile, who have an average income of $13,400, this represents a loss of more than $2,000 in annual income.

The severity of the impact of S. 1120 on poor families exacerbates the deteriorating economic situation for these families who have lost a greater share of their income in the past 15 years than families with higher income. Income for families with children in the lowest income quintile has declined by 20.7 percent over the period 1979–1990, compared to 24 percent growth for families in the highest income quintile.

TABLE 1.—THE IMPACT OF THE SENATE WELFARE REFORM PROPOSAL ON CHILD POVERTY

[Simulates effects of full implementation in 1993 dollars]

	Current law	Senate proposal	Change current
CHILDREN UNDER 18			
Number of people in poverty (in millions)	10.1	11.2	1.1
Poverty rate (in percent)	14.5	16.1	1.6
FAMILIES WITH CHILDREN			
Number of people in poverty (in millions)	17.1	19.0	1.9
Poverty rate (in percent)	11.8	13.2	1.5
Poverty gap (in billions)	$16.3	$20.4	$4.1
ALL PERSONS			
Number of people in poverty (in millions)	29.2	30.5	2.3
Poverty rate (in percent)	10.9	11.7	0.8
Poverty gap (in billions)	$45.9	$52.0	$5.1

85tes: Senate Republican welfare reform proposal simulations include the impact of S. 1120, as amended, on AFDC, SSI, and Food Stamps. Model incorporates a labor supply and state response.

This definition of poverty utilizes a measure of income that includes case income plus the value of food stamps, schools lunches, housing programs, and EITC, less federal taxes to compare to the poverty thresholds.

Source: TRIM2 model based on data from the March 1994 Current Population Survey. Prepared on Sept. 14, 1995.

TABLE 2.—THE IMPACT OF THE SENATE WELFARE REFORM PROPOSAL ON FAMILY INCOME

[By Income Quintiles and Family Type Stimulates effects of full implementation in 1996 dollars]

	Total reduction in income (in billions)	Average income under current law	Average income reduction per family	Percent change	Percent of families losing 15% or more of their income
FAMILIES WITH CHILDREN					
Lowest	−$6.0	$13,441	−$798	−5.9	10.9
Second	−3.2	21,838	−422	−1.9	4.2

TABLE 2.—THE IMPACT OF THE SENATE WELFARE REFORM PROPOSAL ON FAMILY INCOME—Continued

[By Income Quintiles and Family Type Stimulates effects of full implementation in 1996 dollars]

	Total reduction in income (in billions)	Average income under current law	Average income reduction per family	Percent change	Percent of families losing 15% or more of their income
Third	−1.1	32,016	−150	−0.5	0.9
Fourth	−0.4	45,868	−50	−0.1	0
Highest	−0.4	79,154	−52	−0.1	0
Total	−11.2	38,735	−292	−0.8	3.2

Notes: The comparison shown is between the Senate Republican Leadership welfare reform proposal and current law. The simulations include the impact of the provisions in S. 1120, as amended, on AFDC, SSI, and Food Stamps. Model incorporates a labor supply and state response.

The definition of quintile in this analysis uses adjusted family income and sorts an equal number of persons into each quintile. Adjusted family income is derived by dividing family income by the poverty level for the appropriate family size.

Source: TRIM2 model based on data from the March 1994 Current Population Survey.

METHODOLOGY

These preliminary results are based on the TRIM2 microsimulation model, using data from the March 1994 Current Population Survey. Overall, these estimates tend to be a conservative measure of the impact of S. 1120 on poverty and income distribution. The analysis assumes that states will continue to operate the program like the current AFDC program (i.e., they will service all families eligible for assistance); that states will maintain their 1994 spending levels; and that recipients are not cut off from benefits prior to the five year limit. Additionally, the results are conservative because not all provisions are included and because the data do not identify all persons who would potentially be affected by the program cuts. The model also assumes dynamic change in the labor supply response for those affected by the time limit provision, based on the best academic estimates of labor supply response.

The results compare the impact of the Senate Republican welfare reform proposal with current law. The computer simulations include the impact of the fully implemented provisions in S. 1120, as amended, on AFDC, SSI, and the Food Stamp Program in 1996 dollars and population. S. 1120 will decrease spending on AFDC-related programs by $8.8 billion, in 1996 dollars. Spending on children formerly eligible for SSI will decline by $1.5 billion. The Food Stamp Program will be reduced by $1.5 billion.

The poverty analysis is displayed in 1993 dollars. The definition of poverty in this analysis utilities a measure of income that includes cash income plus the value of food stamps, school lunches, housing programs, and the EITC less federal taxes. This income is then compared to the Census Bureau's poverty thresholds, adjusted for family size. For example, a family of three today (1995), is living in poverty with the income below $12,183; a family of four with income below $15,610.

The following are the specific provisions of S. 1120 that were modeled (these provisions may not reflect the final version of the Senate welfare reform bill):

AFDC

Reduce AFDC spending as a result of the block grant; Limit receipt of AFDC benefits to five years with a 15 percent hardship exemption; Deny benefits to immigrants; and Eliminate $50 child support disregard.

Deny benefits to immigrants; and Deny benefits to some children formerly eligible because of changes in the definition of disabilities.

STAMPS

Reduce the standard deduction; Reduce benefits to eligible households from 103 percent of the cost of the Thrifty Food Plan to 100 percent; include energy assistance as income in determining a household's eligibility and benefits; Eliminate indexing for one- and two-person households; and Lower age cutoff for disregard of students' earned income from 21 to 15 years; Require single, childless adults to work.

TABLE 1.—THE IMPACT OF CONGRESSIONAL PROPOSALS ON CHILD POVERTY

[Simulates effects of full implementation in 1993 dollars]

	Current law	House proposals	Change from current law
CHILDREN UNDER 18			
Number of people in poverty (in millions)	10.1	12.1	2.0
Poverty rate (in percent)	14.5	17.4	2.9
FAMILIES WITH CHILDREN			
Number of people in poverty (in millions)	17.1	20.6	3.5
Poverty rate (in percent)	11.8	14.2	2.4
Poverty gap (in billions)	16.3	24.5	8.1
ALL PERSONS			
Number of people in poverty (in millions)	28.2	32.2	4.0
Poverty rate (in percent)	10.9	12.4	1.5
Poverty gap (in billions)	46.9	55.8	9.9

Notes: The comparison shown is between Congressional House Republicans proposals and current law. Simulations include the impact of the House of Representatives welfare plan, HR 4 on AFDC, SSI, food stamps, and housing programs; the EITC proposal adopted by the Committee on Ways and Means; the House of Representatives proposal affecting LIHEAP appropriations; and the Budget Resolution proposal concerning federal employee pension contributions. Model incorporates a labor supply and state response to the welfare block grant.

This definition of poverty utilizes a measure of income that includes cash, the EITC, less federal taxes, to compare the poverty threshold.

Source: TRIM2 model based on data from the March 1994 Current Population Survey. Dated on Oct. 2, 1995.

EXPENDITURE LIMIT TOOL

Mr. CONRAD. Mr. President, I rise in strong opposition to the budget expenditure limit tool, known as the BELT, that would place artificial price caps on Medicare and jeopardize the quality of the health care received by millions of senior citizens. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks several letters of support for the motion I had planned to make to strike the BELT. It is imperative that the Senate strike this ill-advised provision in order to preserve Medicare beneficiaries' ability to choose their own doctor and health plan.

The PRESIDING OFFICER. Without objection, it is so ordered

(See exhibit 1c)

Mr. CONRAD. In the interest of time, the point-of-order I had planned to make against the BELT provision has been included in the omnibus Byrd rule point of order being made by Senator EXON. However, I believe it is important to highlight the impact of the BELT, because it is a potential disaster for the Medicare Program and has not received anywhere near the attention it deserves.

The BELT amounts to what many of us have called a noose around the necks of older Americans. The BELT imposes artificial price caps on Medicare for the first time in history. And rather than work in a balanced fashion, the BELT only attacks fee-for-service Medicare. It cuts fee for service and ultimately forces seniors to use health plans they don't want and doctors they don't know.

The reconciliation bill allows seniors to choose coverage options other than traditional Medicare fee-for-service. I support that. But I only support it as an option. Seniors should not be forced into managed care. Unfortunately, the BELT could ultimately make managed care the only option for Medicare beneficiaries.

The BELT renders the so-called choice under Medicare an illusion. There will be more choice for a short time. But then the noose will tighten. It will slowly bleed fee-for-service Medicare dry. And if we learned anything from last year's health care debate, it is that health plans with insufficient resources will wither on the vine. And given yesterday's remarks by the Speaker of the House, that seems to be what some of my Republican colleagues have in mind for the Medicare Program.

The BELT promises to make even more draconian cuts in Medicare fee-for-service than the Republicans have already proposed. As the BELT tightens, Medicare will have fewer resources to provide needed health care to our parents and grandparents. The quality of Medicare fee-for-service will deteriorate and seniors will have little choice but to move into managed care. Medicare fee-for-service will wither on the vine.

During last year's health debate, we heard a great deal about artificial government cost controls. Harry and Louise told the Nation that arbitrary cost controls could bankrupt the insurance plans on which millions of Americans depend, leaving people without adequate insurance coverage.

The BELT provision does to Medicare what Harry and Louise said artificial cost controls would do to the national health care system. It inflicts arbitrary cost controls on Medicare at a moment's notice, and without congressional oversight. And it will force seniors into health care plans that may not meet their needs.

The letters I have entered into the RECORD expressed the concern of beneficiaries and providers, alike, that the BELT will erode the integrity of Medicare. The American Association of Retired Persons, National Council of Seniors Citizens, American College of Physicians, Healthcare Association of New York State, and North Dakota Hospital Association are only a handful of those who have expressed opposition to the BELT. The Congressional Budget Office has also said the BELT is unworkable and unwise, and I ask unanimous consent that CBO's analysis also be included in the RECORD.

Mr. President, the BELT has no place in this bill. It promises to erode and eventually destroy the integrity of Medicare fee-for-service. I hope my colleagues will support the point of order and strike the BELT provision from the bill.

EXHIBIT 1

NORTH DAKOTA HOSPITAL ASSOCIATION,
Bismarck, ND, October 25, 1995.

Senator KENT CONRAD,
Hart Senate Office Building,
Washington, DC.

DEAR KENT: The members of North Dakota Hospital Association are in strong support of your amendment to strike the Medicare Budget Enforcement Limiting Tool (BELT) from the Senate Reconciliation Bill.

It is our understanding that the proposed Senate Republican Medicare legislation to reach $270 billion in Medicare cuts reduces payments to hospitals by more than $86 billion over seven years. On top of that, legislation has been proposed to also reduce Medicaid funds to hospitals by $182 billion during that same amount of time. The magnitude of these reductions causes great concern for North Dakota, which has a large and growing population of citizens over 65 years of age.

In visiting with our administrators, they are hard pressed to understand how they can cut budget or plan to serve this population and others, when the BELT provision would entail additional reductions based on whether or not certain savings are achieved.

A number of our facilities, Cavalier County Memorial Hospital in Langdon; Jamestown Hospital in Jamestown, Tioga Medical Center in Tioga and Carrington Medical Center in Carrington have all publicly expressed concerns that the amount of proposed reductions, with lookbacks added, will mean that in seven years they cannot guarantee that their doors will be open.

Half of our facilities are co-located with and include long-term care facilities. Those that care for a large percentage of Medicare patients in their hospital and mostly Medicaid supported residents in their nursing homes will receive a double hit from which they also might not be able to recover. In a rural state like ours, you can imagine that access becomes a critical issue if a void is left in an area where distances can mean the difference between life and death.

It seems grossly unfair to single out healthcare providers as the group responsible for obtaining savings not achieved. It also seems grossly unfair to ask a particular segment of the business world in our country to operate with a system in which orderly business operations would be interrupted based on a compliance order not determined until the very last minute.

Our facilities are operating as cost-efficiently as possible, while still maintaining the quality expected of them by their patients. We feel it is imperative to the solvency and survivability of many of our providers that the BELT provision be excluded. NDHA supports your efforts and hopes your fellow legislators will understand how detrimental this provision would be to the healthcare facilities in our state and also support you in this effort.

Sincerely,

ARNOLD R. THOMAS,
President.

HEALTHCARE ASSOCIATION OF NEW YORK STATE,
Washington, DC, October 24, 1995.

Senator KENT CONRAD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CONRAD: On behalf of the Healthcare Association of New York State, representing over 400 hospitals and health care providers, I would like to take this opportunity to express our support for your amendment to the Senate Budget Reconciliation Bill that would strike the Medicare Budget Enforcement Limiting Tool (BELT).

The Senate Republican Medicare legislation currently under consideration will be devastating to the health care delivery system. The $270 billion of Medicare cuts that would be required by the legislation would reduce Medicare hospital payments by more than $86 billion over the next seven years. Reductions of this magnitude, combined with $182 billion in proposed Medicaid cuts, would jeopardize the ability of health care providers to adequately care for our nation's senior citizens.

The Medicare BELT provision could exacerbate these already tremendous reductions. By placing absolute Medicare spending limits in the statute, health care providers that will already be receiving payment updates that do not keep pace with inflation could be faced with additional reductions—even if cost overruns are due to conditions beyond providers control.

There are many factors that contribute to increases in Medicare spending that can not be predicted in advance with absolute certainty. Placing the weight of a Medicare global budget on the backs of health care providers could mean absolute rate cuts and threaten the solvency of many hospitals, nursing facilities, home-health agencies, and other health care providers. It is critical that the BELT provision be dropped from Senate Medicare legislation and HANYS supports your efforts.

Sincerely,

STEVEN KROLL,
Director of Federal Relations.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, October 25, 1995.

Senator KENT CONRAD,
Senate Hart Building, Washington, DC.

DEAR SENATOR CONRAD: We are pleased to lend our strong support for your amendment to strike the budget expenditure limiting tool (BELT) from the budget reconciliation bill.

As you know, the bill calls for reductions of $86 billion in hospital services over seven years. This unprecedented level of reductions in the Medicare program will have a dramatic impact on the ability of hospitals across the nation to continue to provide high quality care, not only to Medicare beneficiaries but to all our patients. If the BELT remains part of the bill, providers could be exposed to unlimited additional payment reductions beyond the deep cuts already proposed.

We are not only concerned about potential additional reductions, but also that these reductions would be made for reasons beyond hospitals' control. For example, if certain reforms not related to hospital behavior do not achieve the level of savings estimated by the Congressional Budget Office, then hospital payments would be arbitrarily cut. That's simply unfair given the $86 billion cut we are already being asked to absorb.

Even CBO, in a letter to Chairman Roth dated October 20, 1995, states that the ''use of the BELT would not be necessary.''

Thank you for your leadership on this important issue.

Sincerely,

RICK POLLACK,
Executive Vice President.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, October 26, 1995.

Hon. KENT CONRAD,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR CONRAD: The National Council of Senior Citizens supports your motion to strike from the Medicare section of the Reconciliation bill the ''BELT'' provision. This provision would severely cut resources from the traditional Medicare fee-for-service program and would restrict the range of ''choices'' generated by the ''reformed'' Medicare program. Average-to-lower income Medicare beneficiaries would be forced from fee-for-service into cut-rate, managed care programs.

Senator, a ''choice'' you can't afford is no choice at all.

We support your motion.

Sincerely,

DANIEL J. SCHULDER,
Director, Department of Legislation.

AARP,
Washington, DC, October 26, 1995.

Hon. KENT CONRAD,
U.S. Senate,
Washington, DC

DEAR SENATOR CONRAD: I am writing to express AARP's appreciation for the amendment you are planning to offer to strike the Budget Enforcement Limiting Tool (BELT) from the Medicare provisions of the Senate budget reconciliation bill. The BELT proposal would reduce traditional Medicare Fee-for-Service (FFS) provider reimbursements if Medicare spending in a fiscal year is projected to exceed an arbitrary amount set in the bill. The Congressional Budget Office (CBO) estimates that the provisions contained in the bill would meet the budget resolution target of saving $270 billion over the period between 1996 and 2002 and that the BELT would not be required. However, the CBO estimate assumes that the plan works, that is, that there is sufficient migration into managed care, that the provider reductions and increased premiums and deductibles control Medicare spending and that CBO's baseline assumptions are correct.

If any of these variables are incorrect, then the formula-driven BELT would reduce FFS spending to meet the targets set in the bill. Formula-driven approaches to budget cutting have always concerned AARP, in part, because of the rigidities they build into the system and their inherent potential for error and misestimation. This bureaucratic mechanism is one of many in the huge 2,000 page budget bill that the public knows nothing about. Older Americans will only find out about in after the Senate acts.

Congress has structured this bill to create incentives for beneficiaries to move into commercial health insurance plans and has capped the growth of premiums paid into those plans. The BELT provision would then cap the FFS part of the program. AARP is concerned about what kind of coverage will be available at the turn of the century. Will providers still be willing to see patients in a FFS setting? Will commercial health plans be willing to offer comprehensive coverage without huge out-of-pocket costs for beneficiaries? Will Medicare still be able to meet the health needs of older Americans?

In addition, we believe the current structure of the BELT contains silent beneficiary costs. For instance, under the Senate bill the Part B premium is expected to cover 31.5 percent of Part B annual spending. However, because the Senate writes the dollar amount of the premiums into law, rather than the percentage, and if the BELT is tightened and program spending is lowered, these stated premiums would account for more than 31.5 percent of annual spending. This silently shifts more costs onto beneficiaries.

The same problem occurs with the Part A hospital deductible. The deductible is based, in part, on Medicare's payment to hospitals. If the deductible is calculated before the BELT reduces Part A spending, it would be based on a higher payment amount and would, in turn, shift more costs onto Medicare beneficiaries.

AARP supports your amendment to strike the BELT provision from the Medicare Reconciliation bill. We feel that the long-term

risks to the program and the silent costs it imposes on beneficiaries would be unfair. Older Americans already pay a lot out of their own pockets for medical care—$2,750 on average in 1995 alone—not including the costs associated with long-term. The Senate bill already increases Part B premiums and deductibles and includes a new income-related premium. Adding hidden costs would add to this out-of-pocket burden.

Thank you, again, for your leadership on this amendment. Please feel free to contact me (434–3750) or Tricia Smith (434–3770) if you would like to discuss this amendment further.

Sincerely,

MARTIN CORRY,
Director, Federal Affairs.

AMERICAN COLLEGE OF PHYSICIANS,
Washington, DC, October 26, 1995.

Hon. KENT CONRAD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CONRAD: As the Director of Public Policy for the American College of Physicians (ACP), I am writing to express the ACP's support for your amendment to eliminate the budget expenditure limit tool (BELT) from the Medicare reform legislation currently pending before the Senate.

The ACP is the nation's largest medical specialty society and has more than 85,000 members who practice internal medicine and its subspecialties. The College has consistently objected to the BELT provisions in the legislation because they establish arbitrary budget limits that dictate future payment amounts and impose price controls. These provisions make the simplistic and incorrect assumption that spending increases, regardless of cause, should be recouped by lowering payments to hospitals, physicians, and other providers.

Rather than arbitrary price controls, the College believes that the more effective way to achieve cost containment in the Medicare program, is to address the long-term factors that contribute to excess capacity and inappropriate utilization of services.

Thank you for your attention to this important matter.

Sincerely,

HOWARD B. SHAPIRO,
Director, Public Policy.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for the Medicare reconciliation language reported by the Senate Committee on Finance on October 17, 1995.

The estimate shows the budgetary effects of the committee's proposals over the 1996–2002 period. CBO understands that the Committee on the Budget will be responsible for interpreting how these proposals compare with the reconciliation instructions in the budget resolution.

This estimate assumes the reconciliation bill will be enacted by November 15, 1995; the estimate could change if the bill is enacted later.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

FAIL-SAFE MECHANISM (BUDGET EXPENDITURE LIMITING TOOL)

The proposal incorporates a complex mechanism designed to ensure that Medicare outlays in a given two year period would not exceed the Medicare outlays specified in the bill for that period. The budget expenditure limiting tool (BELT) would operate both prospectively and retrospectively to control fee-for-service expenditures. Expenditures in the Choice market would not be directly affected because they would be determined by the updates to capitation rates specified in the bill.

Overview of the BELT

The BELT would reduce fee-for-service payment rates in order to eliminate any estimated Medicare ''outlay deficit''. A Medicare outlay deficit would occur if spending in fee-for-service Medicare for the current year and preceding one exceeded the combined outlays for those years specified in the bill. On October 15 of each year, the Office of Management and Budget (OMB) would report whether a Medicare outlay deficit was projected for that fiscal year. If so, a compliance order would be issued that would first require all automatic payment-rate updates to be frozen or reduced. If a freeze was insufficient to keep projected spending within the budget targets, proportional reductions would be made in payment rates for all providers.

The following March, OMB would release a report comparing current estimates of Medicare spending with the estimates released in October. If a compliance order was in effect for the year and the March projection continued to show a Medicare outlay deficit through the end of the year (despite previous rate reductions), the Administration would order further reductions in provider payment rates for the remainder of the fiscal year. Conversely, if the March projection indicates that current payment rates would more than eliminate the Medicare outlay deficit, those rates would be raised for the remainder of the fiscal year.

Following the release of OMB's October and March reports, the Congress would have a limited time in which to seek modifications to compliance orders. At least 60 percent of the members of each House would be required to approve provisions that would either lower the target reduction in spending or reduce the proposed payment reductions to less than the amounts necessary to eliminate the projected excess spending.

After fiscal year 1999, the Secretary of Health and Human Services could vary the adjustments in payment rates—in a budget-neutral way—to take geographical differences into account. The Secretary would be required to relate such variations to the contributions of different areas to excess Medicare expenditures.

Effects of the BELT

CBO's estimates assume that the specific policies to reduce Medicare spending in the bill would be sufficient to meet budget targets, and that use of the BELT would not be necessary through 2002. If the BELT was triggered, however, it probably would not be effective in controlling Medicare expenditures.

Uniform, across-the-board payment rate reductions that would be required by the BELT to meet a dollar savings target would not have uniform impacts on all providers, and would be extremely difficult to implement. A given percentage reduction in payment rates might be more or less stringent depending on the ability of different providers to adjust by increasing the volume and intensity of services they provide. Determining appropriate across-the-board reductions in payment rates to meet the budget targets would be complex, because estimators would have to take into account the variation in behavioral responses from different provider groups when faced with the same proportional reductions in payment rates. Allowing geographic variation in payment rate adjustments would add another layer of complexity to the whole process.

Rate adjustments under the BELT could be both frequent and inaccurate, and could increase uncertainty among providers. The October adjustment would be based on incomplete data for the previous fiscal year, and no data for the current year. Although more complete data would be available for the March adjustment, it would still include less than six months of data from the current year. Even minor discrepancies between the October and March projections would lead to payment rate adjustments under the BELT. Frequent, unpredictable changes in payment rates could interfere with the orderly business operations of providers.

The proposal also raises other issues of implementation. Compliance orders issued in October and March are intended to be effective immediately. Even if formal public notification requirements were waived, however, carriers and fiscal intermediaries would presumably require some advance notice. Moreover, the first steps in a compliance order would be to freeze or reduce automatic payment updates. But those updates do not generally occur at the beginning of the federal fiscal year. Updates for Part B payment rates, for example, are made on a calendar year basis while those for inpatient hospital operating payments are made at the beginning of each hospital's fiscal year. How across-the-board cuts in payment rates from the BELT would be integrated with the existing update policy is unclear.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the impression will not go away: The $4.9 trillion Federal debt stands today as a sort of grotesque parallel to television's energizer bunny that appears and appears and appears in precisely the same way that the Federal debt keeps going up and up and up.

Politicians like to talk a good game—and talk is the operative word—about reducing the Federal deficit and bringing the Federal debt under control. But watch how they vote. Control, Mr. President. As of Tuesday, October 31 at the close of business, the total Federal debt stood at exactly $4,985,262,110,021.06 or $18,924.14 per man, woman, child on a per capita basis. Res ipsa loquitur.

Some control.

TRANSPORTATION APPROPRIATIONS

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Mr. SPECTER. Mr. President, as a member of the Senate Subcommittee on Transportation Appropriations, I am pleased to speak in support of the fiscal year 1996 Transportation appropriations conference report. This is an important piece of legislation, providing $37.5 billion for purposes including funding our Nation's highway, rail, and air transportation infrastructure, mass transit, Amtrak, and pipeline safety. This legislation will keep Americans on the move, create jobs, and improve our infrastructure, resulting in additional environmental and energy benefits.

I commend Chairman HATFIELD and our ranking minority member, Senator

LAUTENBERG, for their efforts in negotiating this comprehensive bill and for recognizing the particular importance of some provisions to Pennsylvania, including highway and transit funding levels.

Given the difficult budget constraints faced by the subcommittee, I am particularly pleased that the bill provides $750 million for Amtrak, including improvements to the Northeast corridor. Amtrak service is essential to Pennsylvanians and I have long stressed the importance of ensuring the viability of a truly national passenger rail service.

The conference report has also adopted a $1.45 billion funding level for airport construction grants-in-aid, $200 million more than the Senate version of the bill. The statement of managers directs the Federal Aviation Administration to fairly consider a letter of intent application from Philadelphia International Airport, which has sought funding for construction of a new runway.

Given the significance to Pittsburgh of the airport busway project, I am very pleased that the conference report provides $31.6 million for fiscal year 1996 to continue construction. I urged our subcommittee to provide this level of funding because this project will ease traffic congestion between downtown and the Pittsburgh International Airport and will mitigate the impact of the Fort Pitt Bridge closing, which would otherwise create a monumental headache for Pittsburgh residents. With spending cutbacks in so many areas, we are fortunate to get this substantial amount of funds for the busway, which means so much to people who live in the Pittsburgh area.

I remain disappointed that the conference report only provides $400 million for mass transit operating assistance, which will lead to cuts of as much as 40 percent for some transit systems. In fiscal year 1995, transit systems received $710 million in Federal operating assistance, which they used to keep fares down and maintain service. On August 9, my distinguished colleague from Pennsylvania, Senator SANTORUM, and I offered an amendment to restore $40 million to the $400 million provided in this bill for mass transit operating assistance. Unfortunately, our amendment was defeated by 68 to 30.

As always, I remain committed to the millions of Pennsylvanians and other Americans who rely on public transit to commute to work, shop, and carry on their lives. Mass transit operating assistance keeps the Nation moving by keeping fares lower and maintaining existing routes. Pennsylvania's citizens and communities depend on good public transportation for mobility, access to jobs, environmental control, and economic stability. It lets the elderly visit their health care providers, shops, or friends. In rural areas, buses are essential to reduce isolation and ensure economic development. And, children use public transportation to go to school in some areas. Without affordable mass transit people in America's inner cities can't get to work. Congress has been considering welfare reform and requirements that people have jobs. If they can't afford to get to work, or bus routes are cut, we are just making it that much harder for lower income Americans to get off welfare.

Although I am troubled by the extent of the mass transit assistance cuts, on balance the Transportation appropriations bill is a good bill, containing much else of importance to Pennsylvania and the Nation, and that is why I supported the conference report as a conferee. However, I intend to keep up my efforts next year to preserve funding for mass transit, and to work with our chairman to ensure that Congress does not go too far, too fast in reducing assistance to transit agencies throughout the Nation.

In closing, Mr. President, I would note that the conference report contains a provision on telecommuting that I authored, section 345, which requires the Secretary of Transportation to study successful private and public sector telecommuting programs and to disseminate to the general public and to Congress information about the benefits and costs of telecommuting. As my colleagues are aware, telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to their home during their normal working hours, substituting telecommunications services, either partially or fully, for transportation to the traditional workplace. I believe that it is in the national interest to encourage the use of telecommuting because it can enable flexible family-friendly employment, reduce air pollution, and conserve energy. Further, as a Senator from Pennsylvania, with major urban areas such as Pittsburgh and Philadelphia, I recognize there is a real need to improve the quality of life in and around America's cities.

According to a July, 1994 Office of Technology Assessment report, between 2 to 8 million American workers already telecommute at least part time. A 1994 survey by the Conference Board found, however, that in 155 businesses nationwide, only 1 percent of employees telecommute, although 72 percent of the businesses had such an option. According to the Office of Technology Assessment, the most significant barriers to telecommuting are business and worker acceptance and costs. My provision responds to the need to broaden public awareness of the benefits and costs of telecommuting, and to identify and highlight successful programs that can be duplicated.

Mr. President, the fiscal year 1996 Transportation appropriations conference report is worthwhile legislation and deserves to be signed into law by the President.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate to my colleagues that we are not going to proceed on the instructions to conferees at this point on the so-called reconciliation package. We may do it the next day. We may do it next week, but not today. It seems to me that we need to first talk to the President of the United States. Hopefully, we will get to do that this afternoon.

One of the things the President complained about is that we are not passing appropriations bills. I would like to now turn to the conference report to accompany the foreign operations appropriations bill, if there is no objection.

Mr. DASCHLE. Mr. President, Senator DOLE, the majority leader, and I had the opportunity to talk yesterday. It was my understanding that we were going to go to the conference. I understand his reasons for delaying the consideration of the conference matters until a later time, subject to discussion with the President.

I am disappointed that we have not had the opportunity to talk about this until this very moment. But I would hope that if we would go to the foreign operations and work through it in good faith, there is no reason why—I know there are some difficult issues out there that we are going to have to address, but I know the majority leader is cognizant of our schedule this evening. I hope we can accommodate that schedule. I will work with him to see that we can work through this bill and deal with the issues that we must confront prior to the time we resolve this matter.

This is one of the bills that the President has indicated that he ought to be able to support and sign. But, obviously, there are some troubling issues that we have to work through, and we will do that.

With that understanding, I have no objection to moving to the foreign operations legislation.

Mr. DOLE. I appreciate the Democratic leader, Senator DASCHLE's cooperation. I was not aware of the other until about 11:50. I will talk to the Senator privately about it. Senator DOMENICI came to my office, and he feels that, at least as far as today is concerned, there is something else that is more important than discussing a motion to instruct conferees. So we do now have consent to go to the foreign operations appropriations bill. There is one amendment in disagreement.

We will accommodate the schedule this evening, whatever happens.

Mr. DASCHLE. I thank the majority leader.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

Mr. DOLE. Mr. President, I submit a report of the committee of conference

on H.R. 1868 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 26, 1995.)

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent to proceed as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

Mr. BURNS. Mr. President, I would like to talk about yet another example of Federal bureaucratic actions made without regard for the will of the people, the will of the Congress, the good of the country and basic common sense. We need to restore a degree of sensibility and sanity to the manner in which this country gradually converts to the metric system.

The 1988 trade bill contained language which established the metric system as the preferred system of measurement for the United States. Why was the language on the trade bill? The rationale was that it would improve the ability of American companies to export goods to metric-based countries if American firms could be moved to produce those goods in metric versions.

The principal tool for urging American companies to switch to the metric system has been to use government procurement policy. The trade bill included language ''to require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurement, grants, and other business-related acdtivities * * *.''

The problem I am addressing today arises from the unfortunate fact that the Federal agencies responsible for implementing the metric policy either forgot to read or are completely ignoring the remainder of the above sentence: ''* * * except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to U.S. firms, such as when foreign competitors are producing competing products in nonmetric units;''

Congress never intended for the switch to metrication to be forced at any cost or without regard to its impact on people and industry. Issues such as impracticality and the loss of markets to U.S. firms were paramount in the minds of everyone aware of this language. Without these important considerations, the metric language would not have remained in the bill to become law.

Yet, we see today that Federal construction procurement policy for the various departments and agencies is completely ignoring this language and pushing ahead with metrication policies without any formalized plans for avoiding the pitfalls. In fact, they are going far beyond the level of metrication called for in the trade bills, and that is causing staggering problems for some industries. These problems are compounded by Federal procurement policies that hinder industry rather than promote trade.

Simply converting an industry to metric units of measurement is usually not a major problem. Converting the numbers from inches and pounds to millimeters and kilograms is a difference on paper which can be made by editing the marketing literature and computer design programs. The physical size of the product remains the same. This is known as a soft-metric conversion, and does little to interfere with efficient and well-established production practices or costs. The Government is allowing a soft conversion for most construction industries.

The problem is that some industries have been targeted to do more than use metric units of measurement; they are being required to change the size of their products as well. This is called a hard-metric conversion, and it can throw existing production practices into an uproar. At this point, industry is forced to change production practices. Even a minute change in size required by the Federal Government can force a business to completely retool and deal with all the problems with managing a second, hard-metric inventory of goods. This is Federal bureaucracy run amok.

And who picks up the tab for this intrusive Government policy? The taxpayer, that is who. Converting to hard-metric will add to the cost of Federal contracting jobs. And the industry will be forced to pass along the conversion costs to the Government and on down to the taxpayer. Under hard-metrication, the taxpayers are forced to pay a hefty ''metric premium,'' whether they want to or not.

Mr. President, it is time to pass legislation that will take away the ability of the Government in Washington DC, to send whole established industries into a tailspin, to put small businesses out of the running for Federal contracts, and force the taxpayers to foot the bill for a warped view of metric purity.

There does not need to be a wholesale attack on the metric system. It is true that many industries can convert to the metric system with little or no trouble or expense, and that is fine. However, there are those cases where there are substantial, compelling industry-specific economic, trade or production factors that call for a soft-metric conversion. Industries that would bear unreasonable burdens in switching to hard-metric should instead be allowed to convert to soft-metric.

The Federal Government should refrain from developing or using designs, or requiring bids for hard-metric products when a soft-metric conversion is technologically feasible and certain other criteria relating to specific small business, trade and economic criteria are present:

The product is not available from at least 50 percent of the production sites, or hard-metric product does not constitute at least 50 percent of the total domestic production, and;

A hard-metric conversion would require small manufacturers of a product to spend more than $25,000 to purchase new equipment, and;

The economics and customs of the industry are such that any offsetting trade benefits would be negligible, or that hard-metric conversion would either substantially reduce competition for federally assisted contracts or would increase the per-unit cost to the taxpayers, or that hard-metric conversion would place small domestic producers at a competitive disadvantage to foreign competitors.

Mr. President, metrication may well have merit on paper and may have some positive impact on American business generally. Gut it is difficult to say how much, if any, impact it is having on business. Business is usually good at making decisions based on sound-business sense. Which is more than I can say for the Federal Government in this case.

We need to move legislation quickly, since I am aware that several Federal agencies are actively pursuing the development of hard-metric designs to be used on federally assisted construction. Federal agencies should strongly consider putting their design and bidding efforts on hold if they involve hard-metric product.

I ask unanimous consent to have a letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL CONCRETE MASONRY ASSOCIATION,
Herndon, VA, October 26, 1995.

Hon. CONRAD BURNS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BURNS: I am very pleased to learn that you have taken note of the plight the concrete masonry (C/M) industry is facing with regard to the hard-metric conversion the federal government is forcing on our producers. I would like to take this opportunity to explain why hard-metric conversion is terrible public policy, why it is so bad for the C/M industry, for the federal procurement agents and for the taxpayers, and why a soft-metric alternative is absolutely imperative.

Concrete masonry is the industry term for concrete brick and block. It is a very common, basic building component and is essentially a commodity. It is made by pouring concrete into molds of various shapes and sizes, and then drying the product for the requisite amount of time. Over the course of decades, the industry has developed uniform shapes and sizes that are common throughout the construction industry. All C/M manufacturers have purchased and maintain complete sets of molds to make the product, and they maintain inventories of various shapes and sizes.

Virtually all the producers in the country make product based on the English foot-pounds system. That is because virtually the entire American market uses English-based block. The standard concrete block everyone knows is 8″ x 8″ x 16″.

Even though the long history of the C/M industry is based on the English system, it would be fairly simple to convert to the metric system of measurement—if that were all that Federal procurement officers required. The C/M industry has made it very clear that it can convert to the metric system immediately if that will satisfy the government's requirement for metrication. All our producers have to do is express the standard concrete block in metric dimensions, 194mm x 194mm x 397mm. That only requires a change in our sales materials and some basic changes in our computer design programs. Changing the unit of measurement without changing the physical size is referred to as a soft-metric conversion.

However, the C/M industry is being told by federal contracting agents that converting to metric is not enough, that they want the industry to actually change the size of its product to achieve metrication and round numbers. Changing the physical size of the product in addition to changing the unit of measurement is called a hard-metric conversion.

There is nothing whatsoever in any legislation requiring a hard-metric conversion of any product. The words do not appear in any bill or any statement of policy by Congress. There is no legislative history showing any desire by any elected official to force any industry to change the size of its products or to radically change their production practices. If anything, the legislative history of the 1988 Trade Bill and the metric language attached thereto clearly indicates that this kind of intrusion into industry activity was exactly what the Congress was trying to avoid.

According to publications issued by the Construction Metrication Council, a group of federal construction policy officials in various departments and agencies who are coordinating metrication in U.S. construction, some industries are being required to engage in hard-metric conversion even in cases where it will be extremely costly, inefficient, and impractical to do so. The large majority of products will be allowed to use a soft-metric conversion, which should be the policy for all products. But some unfortunate businesses like the C/M industry have been targeted for hard-metric conversion and are being thrown into turmoil as a result.

The hard-metric block that the Council has defined is 190mm x 190mm x 390mm. This is roughly one-eighth of an inch smaller than the soft-metric version that the industry could produce today at minimal or no additional cost. However, that one-eighth of an inch difference for hard-metric would require C/M manufacturers to purchase an entirely new set of hard-metric molds in order to produce hard-metric product.

Concrete block molds generally range in cost from $10,000 to $30,000 per mold, and it takes many types of shapes and sizes to complete a typical large, complex federal construction project. Individual C/M producers have told me it could cost between $250,000 and $300,000 per producer to buy a complete compliment of hard-metric molds. NCMA has estimated that if the entire domestic C/M industry shifted to hard-metric production, it would cost between $250 million and $500 million.

That makes the government's eighth of an inch for hard-metric the most expensive eighth of an inch in American history.

Let's keep in mind that a hard-metric block is not stronger, not safer, not more durable, not more resistant to fire nor more energy efficient nor more anything useful. Perhaps that is the reason why there is no demand whatsoever in the American private sector for hard-metric concrete block. Nobody wants it because there is no reason to want it. The only difference is that it is more expensive, hard to find and difficult to produce.

Requiring a business like the C/M industry to convert to hard-metric shows an amazing lack of knowledge about or concern for the industry itself. Let's keep in mind that the rationale behind the metric language in the Trade Bill was to promote the trade stance of American companies. It so turns out that concrete masonry is only rarely traded in international commerce and is nearly never transported overseas. In addition, this is an industry whose product is so much like a commodity that the average profit margin per unit is 2 cents. The economics of the industry are such that it isn't feasible to ship block to Europe or Japan or anywhere beyond the border regions of Canada and Mexico. Most block is used within 50 miles of the point of production. Any trade benefit that might offset initial costs for other industries is utterly negligible for the block industry.

But the consequences of this policy get even worse. The vast majority of C/M producers in America are small, often family-held businesses. In NCMA, 62 percent of all of our member companies have one block-making machine. These companies will immediately be pushed out of the market for federal government contracts, the first victims of an economically negligent metrication policy. There is no means by which many smaller businesses can hope to recoup the huge capital outlay required to start up an entirely new line of products merely to satisfy the hard-metric preferences of federal bureaucrats. There is virtually no private sector demand for hard-metric product, so any income to offset the capitalization cost would have to come from the occasional federally-assisted project. Federally-assisted construction is less than 5 percent of the entire domestic construction market. Such projects are vitally important to the bottom line of a successful bidder, but they are too infrequent in most cases to justify the investment and, indeed, the risk, of buying a new line of production molds and hoping enough business comes along to eventually recover the initial investment.

Is this how the 1988 Trade Bill was supposed to improve the ability of American firms to engage in foreign trade? Hard-metric conversion would work a trade burden on the domestic C/M industry, not a trade benefit. It would seem that this was exactly the unintended consequence that Congress sought to avoid in the 1988 Trade Bill.

Aside from the tremendous burdens it would place on the C/M industry, there would be increased construction costs to produce what amounts to a specialty product. I mentioned previously that there would be no way for a small block manufacturer to recoup its costs. Actually, there would be a way—by passing those additional costs on to the consumer, which in this case is the taxpayer. I understand that federal contracting agents are willing under the metrication policy to accept higher bids in order to obtain hard-metric product—a ''metric premium'' in the range of 1 to 5 percent. They have to because hard-metric product is often in very short supply or non-existent.

It gets worse. There are rumors that this metric premium may quietly but quickly get out of hand. During a June hearing before the House Science Subcommittee on Technology, chaired by the Honorable Connie Morella, Mrs. Morella told one of the witnesses that she had heard that a new advanced technology laboratory being constructed at NIST near Gaithersburg, Maryland is being built to hard metric specifications, and that GAO estimates the additional cost will be 20 or 25 percent. The witnesses did not deny that this was the case.

Just how serious is the issue of reduced competition for bids? NCMA recently sent a metrication questionnaire to the 798 C/M producers it knows to exist throughout the country. 398 responded, an astonishing response rate of 49 percent, which gives some idea of how important this issue is to the individual companies. Of those companies responding, I said it currently makes hard-metric block, 397 said they do not. Only two companies said they have hard-metric molds onsite to make the product. It is likely there are others who can make the product, but it is very clear that there is precious little availability of the product the government is asking for in the country today, and little capacity to make it.

Recently, I was contacted by a contracting agent for the Centers for Disease Control in Atlanta. He had a big hard-metrication problem of his own. It seems he had made calls to 32 block manufacturers to determine availability of concrete masonry. All 32 said they could provide all the block the CDC would need, and at competitive prices. But when the CDC agent asked whether the companies could supply hard-metric block, immediately all but 6 of the companies dropped out. Of the remaining six, 3 said they could provide soft-metric block. The last 3 companies indicated they might do whatever it takes to win the bid, but the agent believed that none of those companies presently have hard metric capability.

Clearly, the taxpayers will pay more per unit, enjoy less competition and have far fewer sources of product than can be had using a soft-metric conversion. Indeed, federal procurement policy staff have told me their design staff are currently designing projects in hard-metric block even though they have no idea where they will obtain the hard-metric material. It is entirely possible that there will be no responsive bidders in hard-metric, requiring the government to redraw plans and bid in soft-metric, all at increased costs to the taxpayers.

NCMA has gone to great lengths to persuade the federal contracting authorities on the basis of these considerations to relent on the hard-metric concrete block requirements.

We have thoroughly briefed the Construction Metrication Council on the problems we would face. We have provided position papers and fact sheets. We have met in small groups with the federal employees charged with developing agency procurement policy. We have invited CMC staff to speak directly with C/M producers. We have told federal construction representatives that there is only a relative handful of C/M producers in America that can produce hard-metric material. We have pleaded with CMC officials to reconsider the caveat language in the 1988 Trade Bill clearly showing that metrication is not meant to cause substantial inefficiencies and loss of markets to U.S. firms, but

our entreaties have fallen upon deaf ears. The end result is that we have had cordial, business-like meetings but the drive for hard-metric concrete block continues unabated. The federal procurement policy officials keep telling block manufacturers to make hard-metric block or they won't be adequately responding to federal solicitations.

We have been told point-blank that if companies have to go by the wayside in order to convert to hard-metric, so be it, that is the price of progress.

It is clear to me that the only solution at this point is a legislative solution.

On behalf of united C/M producers throughout the country, I would urge that you and your colleagues pass legislation to restore the original intent of Congress and prevent the terrible, ironic consequences that the hard-metric conversion of concrete masonry would create.

With best wishes.

Sincerely,

RANDALL G. PENCE,
Director of Government Relations.

Mr. BURNS. 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. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996 MIDDLE EAST FACILITATION ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MCCONNELL. Mr. President, we have before the Senate this morning the conference report on the foreign operations bill. This measure passed the House yesterday at 351 to 71.

I might just say before what I hope will be just a brief debate, I am not currently aware of any other Senators on this side of the aisle who wish to speak. Senator LEAHY should be here momentarily and it is our hope that we could have fairly early on here a rollcall vote on the conference report itself.

There is an amendment in disagreement related to the abortion issue which may take a little more debate and then a vote a little bit later. But it is our hope, and if there are no objections or problems with that, that we might be able to get to a vote on the conference report rather soon.

Let me say, although we had very limited resources, I believe this bill legislates our national priorities—it provides both security and flexibility.

The conferees produced legislation below our allocation, $1.5 billion below last year's levels and nearly $2.7 billion below what President Clinton requested. So clearly we have made a reduction in foreign assistance.

In spite of these reductions, our security interests have been clearly served by earmarking funds for our Camp David partners and extending the Middle East Peace Facilitation Act.

We also advance our national security priorities in the New Independent States by completing a shift in resources from Russia to Ukraine, Armenia, Georgia, and the other States that used to be part of the Soviet Union.

We have also linked aid to Russia to termination of the nuclear deal with Iran. In the interest of maximizing the administration's leverage, I suggested the restriction take effect 3 months after the date of enactment of this bill giving the Vice President the opportunity to negotiate a solution to this problem in his January meetings with Chernomydin.

We have served U.S. interests while affording the administration a great deal of flexibility.

There are three ways we have offered flexibility.

First, we have provided transfer authority between accounts. For example, NIS resources can be used to fund the Warsaw Initiative and Partnership for Peace programs. Second, we have consolidated various development aid accounts into one account with limited conditions; and, third, there are very few earmarks.

I think the House would have preferred to provide a blank check giving the administration the option to make all funding choices, but after 3 years of unfulfilled commitments, the conferees agreed upon the necessity to set funding levels for specific countries, which was, of course, the imprint of the Senate bill.

For my colleagues who are concerned about earmarking resources for specific projects, let me assure them we have avoided such action. We have funded countries and categories of activities such as programs to strengthen democracy, rule of law and independent media, but have not dedicated any resources for any organization or project within these broad accounts.

The conference report largely reflects the priorities identified by the Senate. The conferees agreed to the Senate's provisions on a range of issues from Pakistan to an amendment offered by Senator HELMS to ban AID's move to the Federal triangle.

One of the few items where the Senate position did not prevail concerns Mexico City and funding for abortion. We are reporting back an amendment in disagreement which I would like to take a moment to explain.

The House passed language which banned assistance to any organization which fails to certify that they are not performing abortions. In addition, the House banned assistance to the UNFPA unless the President certified programs in China had been terminated.

The Senate stripped out the language at the subcommittee level and substituted language requiring the same standards for determining eligibility for assistance be applied to both governments and to nongovernmental and multilateral organizations. The senate also required no funds be used to lobby on the question of abortion.

Unfortunately the conferees were unable to reach any agreement on this matter.

Fundamentally, let me just say that the Senate appears to be narrowly prochoice, as these terms generally describe positions Senators have taken. The House appears to be prolife. So we were unable to come together in the conference report.

The House has sent over a substitute measure which restricts assistance to organizations which provide abortions but makes exceptions where the life of the mother, rape or incest are involved—a solution which tracks the so-called Hyde standards. The compromise also includes language which requires the President to certify that the UNFPA will terminate programs in China compared with the previous language requiring the President to certify that UNFPA already has terminated China programs. My understanding is this distinction was drawn because UNFPA plans to cease China programs at the end of this calendar year, thus it is a standard the administration could meet.

I hope my colleagues will support the conference report as it is entirely consistent with the votes and views of the Senate expressed September 21. It is my intention to also support the compromise language proposed by the House in the amendment in disagreement since I believe it is consistent with language which the Congress has been able to support in the past. But, clearly, Mr. President, it is a statement of the obvious to say that is an issue upon which the Senate and the House are deeply divided.

With regard to the abortion issue, the vote, I would just report to my colleagues—I think I said earlier the vote on the full conference report in the House yesterday was 351 in favor, 71 against. On the abortion amendment in disagreement, in the House the vote was 231 in favor of the House position, which I have just outlined; 187 against.

So, at some point during the day we will have a vote on the conference report and then a vote on the amendment in disagreement. It is my hope, as I indicated earlier, that we can have a vote on the conference report sometime very soon. I believe Senator LEAHY is on his way and I did want to give notice to everyone there could well be a rollcall vote on the conference report sometime very soon.

Mr. STEVENS. Mr. President, I am grateful that the conferees have included my amendment to require the U.S. Agency for International Development to contract out mapping and surveying work to qualified U.S. companies when such work can be accomplished by the private sector. This provision was based on my concern that while AID requires mapping and surveying in countries that receive development assistance, this mapping and

surveying work is most often contracted out by AID to other government agencies. In many instances Federal agencies are aggressively marketing their mapping capabilities to foreign governments, and through AID, in direct competition with qualified U.S. companies. Despite language in previous committee reports, the amount of U.S. private sector contracting for such services has not increased.

The purpose of this amendment is to move the mapping and surveying requirements of AID to private U.S. firms. Under current Federal policy on such commercial activities, if an activity has not been justified by the provider agency—like the U.S. Geological Survey—for continued in-house performance, AID shall obtain the required services directly from a commercial source. No agency has performed the requisite commercial activities study to justify in-house performance in mapping and surveying, so this provision is a clarification to enforce the existing policy of the Federal Government to rely on, and not compete with, the private sector pursuant to the Office of Management and Budget circular A–76.

I would like to clarify one point with regard to the intent of this provision, and to ask my good friend from Kentucky and the Foreign Operations Subcommittee chairman, Senator MCCONNELL, if this is his understanding of this AID mapping and surveying amendment language? Specifically, it is not the intent of this provision to change Federal procurement law or the Federal Acquisition Regulations. Although the language in the amendment uses the word ''bidding,'' contracts for mapping and surveying services should be awarded to qualified U.S. firms in accordance with the standard and accepted procedure for such services found in 40 U.S.C. 541 et seq. and section 36.601–4(a)(4) of the Federal Acquisition Regulations. This amendment provides for increased contracting out of mapping and surveying services by AID, using the normal qualifications based selection process. Does the Senator from Kentucky concur with this clarification?

Mr. MCCONNELL. Senator Stevens, thank you for defining this wording of the AID mapping and surveying amendment, and, yes, I concur in this clarification.

Mr. STEVENS. I think the Senator from Kentucky.

Mr. MCCONNELL. 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. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, we have before us, as the distinguished chairman of the subcommittee has said, the foreign operations conference report. It is not the conference report I would have liked to have written as a bill. I suspect it is probably not precisely the conference report that the Senator from Kentucky would have liked to have written. It is, however, the best that we could do in not only a very difficult budget climate but one in which there are probably more tugs and pulls, philosophical, ideological, and policy, on the Committee on Foreign Operations than I have seen in many a year.

The bill, incidentally, is $130 million below the level that was passed overwhelmingly, by a 5-to-1 margin, in the Senate on September 21. I wish in this case we could have maintained the Senate level because it is a very small price to pay for American leadership abroad. We find we can easily spend billions and billions of dollars going in either as peacekeeping forces or military forces when there are troubles abroad, but we cannot spend a tiny, tiny fraction of that to help avoid those troubles beginning in the first place.

I do wish to commend Senator MCCONNELL for his efforts to get this bill through the conference and to the President's desk. We had a very lengthy meeting. I think we went to about midnight or so on our committee of conference ironing out all but the one issue, the issue that is before this body in true disagreement, and in fact in this case that is on international family planning. I will have an amendment to reinstate the Senate position. I will do that for myself and for Senator KASSEBAUM and for others, and to go back to the Senate position. I will do that after we pass the conference report, which I fully expect will be passed.

That amendment, which I will then offer, will simply reaffirm what the Senate is already on record doing. In fact, the President has made it very clear that he will veto this bill unless we fix this one provision, the item that is in disagreement.

So in this case we did the best we could. I feel that we are not meeting many of our international commitments, and I would just close with this thought. We all take great joy at seeing the cold war ending. Every one of us, if we travel abroad, like saying we are Americans, without saying it here at home. The fact is we are the most powerful nation history has ever known. We are the largest economy history has ever known. But with that comes certain responsibilities. Frankly, we have backed off on these responsibilities worldwide. Other countries have picked up on them.

Japan spends not only as part of their budget but more in actual dollars in areas of foreign aid than we do. That is not all done out of altruism. They have found that as they have helped the economies of a number of developing countries, these developing countries then buy goods from Japan; their exports go up while our exports are going down. They create more jobs in Japan while we lose jobs in America. Why? Because they are willing to invest in the future economies of some of these countries. We do not want to invest the pennies in the future economies of some of these countries even though it creates dollars and dollars and dollars here in the United States. We do not want to spend the pennies to create some of the jobs and the economic benefits in some of these developing countries even though we will create far more jobs in the United States, even though all of us know that as exports go up it is one of the single greatest boons to our economy here in the United States.

Instead, we let this export business go to other countries. We let these jobs go to other countries. We do not show that kind of leadership.

We are not doing enough to stop wars and internal struggles worldwide even though we know that we will get sucked into them eventually and spend a heck of a lot more after the fact. It is kind of like preventive medicine. We do not want to spend the money on preventive medicine but, by gosh, we come in with troops to take care of the costs in the emergency room afterward. Well, there are going to be a lot of emergency rooms worldwide, and the most powerful nation on Earth is going to be called upon. Maybe we ought to start doing a little preventive medicine. It is going to cost us a lot less in the long run. It is going to be far more important to our national security, and it is going to improve our own economy.

With that, Mr. President, I would ask for the regular order.

Mr. MCCONNELL. Mr. President, 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. DOMENICI. Mr. President, the Senate is now considering the conference report accompanying H.R. 1868, the foreign operations and export financing appropriations bill for fiscal year 1996.

The final bill provides $12.1 billion in budget authority and $5.9 billion in new outlays to finance the Nation's foreign assistance programs.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $12.2 billion in budget authority and $13.9 billion in outlays for fiscal year 1996.

The subcommittee is within its section 602(b) allocation for both budget authority and outlays. The bill is $84.4 million in budget authority under the subcommittee 602(b) allocation and at the outlay allocation.

I commend the conferees for supporting the North American Development Bank in the final bill.

Mr. President, I ask unanimous consent that a table displaying the budget

committee scoring of the final bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FOREIGN OPERATIONS SUBCOMMITTEE SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	68	7,950
H.R. 1868, conference report	12,060	5,892
Scorekeeping adjustment		
Subtotal nondefense discretionary	12,128	13,842
Mandatory:		
Outlays from prior-year BA and other actions completed		
H.R. 1868, conference report	44	44
Adjustment to conform mandatory programs with Budget Resolution assumptions	0	0
Subtotal mandatory	44	44
Adjusted bill total	12,172	13,886
Senate Subcommittee 602(b) allocation:		
Defense discretionary		
Nondefense discretionary	12,212	13,842
Violent crime reduction trust fund		
Mandatory	44	44
Total allocation	12,256	13,886
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary		
Nondefense discretionary	−84	−0
Violent crime reduction trust fund		
Mandatory		
Total allocation	−84	−0

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. PRESSLER. Mr. President, I intend to vote for passage of the conference report to H.R. 1868, the foreign operations appropriations bill. I do so because there are a number of vitally important provisions in this legislation, chief among them being the extension of the Middle East Peace Facilitation Act. I share the concerns of many of my colleagues regarding Palestinian compliance with the peace accords, and will continue to follow this issue with great interest. With this bill, the American taxpayer once again is investing in what all hope to be a historic and lasting peace in the Middle East. It is up to us here in Congress to be sure that it is a wise investment, and that the conditions that brought about it are met.

I must confess I will vote in favor of this bill with great reluctance. I am very disappointed that the House and Senate conferees agreed to keep in the bill Senate language that would repeal a portion of Federal law that prohibits United States aid to Pakistan as long as the President fails to certify that Pakistan is not in possession of a nuclear explosive device—a law otherwise known as the Pressler amendment. The provision in H.R. 1868 would allow nonmilitary aid to resume to Pakistan, and would authorize the President to transfer $370 million in military equipment sought by Pakistan but not delivered because of the Pressler sanctions. By including this provision, this Congress has put the American taxpayer back in the business of subsidizing a nuclear program that this Nation does not recognize under the Nuclear Non-Proliferation Treaty [NNPT]. Even worse, today the U.S. Congress has sent a chilling message: Nuclear proliferation pays.

This is a frustrating day, Mr. President. Ten years ago, the U.S. Congress passed the Pressler amendment. In so doing, we made it clear that the United States could not condone, through foreign aid, Pakistan's drive for the bomb. It was our hope that the leverage of foreign aid would deter Pakistan from developing nuclear weapons. If it did not, it was important from the standpoint of nonproliferation that the United States not subsidize Pakistan's nuclear program. That was the purpose behind the Pressler amendment.

By and large, the Pressler amendment has worked. First, though never verified, Pakistan claims it has ceased developing weapons grade enriched uranium. Second, the threat of Pressler sanctions has deterred a number of states that pursued active nuclear weapons research programs in the 1980's, including Argentina, Brazil, South Korea, Taiwan, and South Africa. This successful track record now risks being reversed.

I have expressed my strong concerns on this issue in this Chamber already in great detail. I will not repeat them here. The bottom line is clear: Our Nation's nonproliferation policy is in serious jeopardy, and it is not just with respect to the Pressler amendment. We have heard many reports that the communist Chinese have shipped M–11 related missile technology to both Pakistan and Iran in violation of the Missile Technology Control Regime. Under a law I drafted, the President has presumptive authority to impose sanctions against the responsible parties in China if he has reason to believe an MTCR violation has occurred. Yet, the President is unwilling to exercise that authority. Further, the current House and Senate versions of the intelligence authorization bill contain language that would give the President unprecedented discretion to waive U.S. nonproliferation laws.

Mr. President, just last year, the President stated that no foreign policy issue was more important to the security of all people than nuclear nonproliferation. Yet, the current administration is engineering an unprecedented rollback in U.S. nonproliferation laws and policies. The administration's actions do not match its rhetoric. This demonstration of doublethink would be very humorous if the issue was not so very serious.

For those of us in Congress who have devoted many years on nonproliferation issues, these recent developments are very disturbing. As the world's sole remaining superpower, the signatories of the NNPT look to us to set the example and enforce the rules. Yet, today, we are changing the rules of the nuclear nonproliferation game to benefit one proliferator. This is the worst possible message we could send to those nations who have played by the rules.

PAKISTAN PROVISION

Mrs. FEINSTEIN. Mr. President, I rise in support of the Foreign Operations Conference Report, but I do so with regret because of the provision in this bill relating to Pakistan.

There is much in this conference report that I support, and which I believe the conferees have every right to be proud of.

The bill maintains our assistance to Israel and Egypt, sending a message of the United States' firm support of our allies in the Middle East, and our encouragement of their efforts to achieve a comprehensive peace.

The bill extends the Middle East Peace Facilitation Act by 18 months, allowing the President to continue to provide assistance to the Palestinians and conduct relations with the PLO, while requiring strict compliance by the PLO and the Palestinian Authority with all of their commitments. This is a further demonstration of U.S. support for the peace process.

The bill provides assistance for Armenia, Ukraine, and other former Soviet republics to help ensure that democracy takes hold, and the assistance to Russia is appropriately conditioned on Russian cooperation with the United States in various areas.

The bill significantly increases the budget for international narcotics programs, demonstrating that controlling the scourge of the international drug trade is among our Nation's highest international priorities.

Unfortunately, included in the conference report with all these positive provisions is a provision that I think is extremely dangerous. The House conferees agreed to adopt the Senate language on Pakistan, which was added to the bill as a Brown amendment. Among other things, this provision allows the President to transfer to Pakistan some $368 million worth of sophisticated military equipment at a time when Pakistan is still committed to pursuing weapons of mass destruction.

I realize that we have debated this issue at length, but the objections to this provision bear repeating.

Sanctions were invoked against Pakistan in 1990 because President Bush could not certify that Pakistan did not possess a nuclear explosive device. Nothing has changed since that time. To this day, neither President Bush nor President Clinton has been able to make such a certification.

Pakistan's commitment to continuing its nuclear program makes it wholly inappropriate—even irresponsible—for the Congress to authorize the release to Pakistan of a significant package of sophisticated military equipment.

I realize that this provision has the support of the administration, but I must say that in advocating this proposal, the administration is also acting irresponsibly. An administration that says that nonproliferation is one of its

highest international priorities should not be transferring weapons to Pakistan until Pakistan has made vast improvements on the nonproliferation front.

There is a further concern about transferring these weapons. The package of equipment may not be significant enough to substantially alter the military balance in the region, but it is enough to exacerbate an unstable political situation. The political symbolism of the returning equipment will be handing a propaganda victory to the extremist Indian opposition heading in next spring's elections.

The Indian Government is already coming under intense domestic pressure to respond to the transfer of these weapons. I very much fear that India will respond by deploying their Prithvi missile, which could launch a bona fide ballistic missile race in South Asia. Pakistan might well respond by deploying the M–11s many believe they have acquired from China.

If this scenario plays itself out, the United States will be responsible for fueling an extremely dangerous arms race in one of the most unstable regions in the world.

Having said all this, I want to make two additional points. First, I want to urge the government and people of India not to overreact to this turn of events.

Indian politicians may exploit these weapons for their own gain and stoke the flames of paranoia in the pursuit of votes. But I want to urge the Government of India not to respond to this weapons transfer by significantly upgrading their military posture, and in particular, not to further escalate the arms race in South Asia.

Second, if we must transfer these weapons to Pakistan, we are entitled to expect something in return. As I have said in the past, I favor resuming nonmilitary assistance to Pakistan in order to expand our ability to cooperate on anti-terrorism activities, antinarcotics efforts, peacekeeping, environmental protection, and other areas. I consider those provisions of the Brown amendment to be helpful in enabling us to rebuild our troubled relationship with Pakistan.

But we have every right to expect improved cooperation from Pakistan, not only in these areas, but in nonproliferation as well. Pakistan's unfortunate record of developing nuclear weapons and seeking to acquire ballistic missile technology has exacerbated tensions and contributed to instability in South Asia. As we have in the past, I would urge Pakistan to reverse course and contribute to building a new, more stable South Asia.

Mr. President, I believe we have made a mistake with the passage of the entire Brown amendment. With the help of both India and Pakistan, we can help ensure that this mistake does not spawn other, even greater mistakes.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report. 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 Oregon [Mr. HATFIELD] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''yea.''

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 559 Leg.]

YEAS—90

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Heflin	Pressler
Burns	Helms	Pryor
Campbell	Hutchison	Reid
Chafee	Inhofe	Robb
Coats	Inouye	Rockefeller
Cochran	Jeffords	Roth
Cohen	Johnston	Santorum
Conrad	Kassebaum	Sarbanes
Coverdell	Kennedy	Shelby
D'Amato	Kerrey	Simon
Daschle	Kerry	Simpson
DeWine	Kohl	Snowe
Dodd	Kyl	Specter
Dole	Lautenberg	Thomas
Domenici	Leahy	Thompson
Dorgan	Levin	Thurmond
Exon	Lieberman	Warner
Feingold	Lott	Wellstone

NAYS—6

Byrd	Faircloth	Kempthorne
Craig	Hollings	Smith

NOT VOTING—3

Bradley	Hatfield	Stevens

So the conference report was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question before the Senate is the amendment in disagreement, which the clerk will report.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

: Provided, That none of the funds available under this Act may be used to lobby for or against abortion.

PROHIBITION ON FUNDING FOR ABORTION

SEC. 518A. (a) IN GENERAL.—(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the fetus were carried to term or in cases of forcible rape or incest.

(2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Notwithstanding any other provision of this Act, paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) Subsections (a) and (b) apply to funds made available for a foreign organization either directly or as a subcontractor or sub-grantee, and the required certifications apply to activities in which the organization engages either directly or through a subcontractor or sub-grantee.

(d) COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund will terminate all family planning activities in the People's Republic of China no later than March 1, 1996; or (2) during the 12 months preceding such certification, there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term ''coercion'' includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

AMENDMENT NO. 3041

Mr. LEAHY. Mr. President, I move to concur in the House amendment with an amendment that I send to the desk on behalf of myself and the Senator from Kansas [Mrs. KASSEBAUM].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 3041 to the amendment of the House to the amendment of the Senate No. 115.

Mr. LEAHY. 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:

In lieu of the matter proposed, insert the following: '': *Provided,* That in determining eligibility for assistance from funds appropriated to carry out section 104 of the Foreign Assistance Act of 1961, nongovernmental and multilateral organizations shall not be subjected to requirements more restrictive than the requirements applicable to

foreign governments for such assistance: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion.''

Mr. LEAHY. I will yield to the Senator from Arizona in a moment. Just so that colleagues will understand what is happening here, the amendment that the Senator from Kansas [Mrs. KASSEBAUM] and I have sent to the desk is an amendment on the one amendment in disagreement. We resolved 192 out of the 193 amendments in the committee of conference. This is the one so-called Mexico City policy of the 1980's, one in disagreement.

After having been reported, it is open to second-degree amendment, which I understand the Senator from Arizona is going to make on an entirely different issue. But for those who have been asking me about the Mexico City policy, my understanding is what we would then do is debate the amendment of the Senator from Arizona, there would be a vote on that, and then we would begin the debate on the Mexico City amendment.

AMENDMENT NO. 3042 TO AMENDMENT NO. 3041

(Purpose: To permit the continued provision of assistance to Burma only if certain conditions are satisfied)

Mr. MCCAIN. I have a second degree perfecting amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. KERRY, proposes an amendment numbered 3042 to amendment No. 3041.

Mr. MCCAIN. 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:

At the end of the pending amendment add the following:

SEC. . Notwithstanding any other provision of this Act, funds made available in this Act may be used for international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, directly for the Government of Burma if the Secretary of State certifies to the appropriate congressional committees that any such programs are fully consistent with United States human rights concerns in Burma and serve a vital United States national interest. The President shall include in each annual International Narcotics Control Strategy Report submitted under section 489(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a)) a description of the programs funded under this section.

Mr. MCCAIN. Mr. President, I have discussed this amendment with the distinguished Senator from Kentucky, the manager of the bill, and with the Senator from Vermont. I do not believe this should take very much time.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, this amendment would modify the provision in the conference report that prohibits funding for international narcotics control assistance in Burma. The amendment would modify that prohibition by permitting such assistance only if the Secretary of State certifies to Congress that such programs are fully consistent with the United States human rights concerns in Burma, and that they serve a vital United States national interest.

I emphasize that the secretary must certify that a program such as this serves a vital U.S. national security interest.

That vital national interest is obvious, Mr. President. Sixty percent of the heroin that comes to this country originates in Burma—60 percent. We have a compelling, urgent responsibility to do whatever we can to eliminate or at least reduce Burma's export of that dangerous narcotic. Without a strategy that addresses the heroin trade in Burma, we have no effective antinarcotic program at all.

I can well understand the Senate's desire to influence the Burmese regime's treatment of the Burmese people. That treatment has been abominable and well deserves our severe reproach. I visited Burma last March and was exposed to a pretty representative sampling of how abominable that treatment has been and continues to be.

Daw Aung San Kyi's release was a very welcome development. But in and of itself it does not represent evidence of political reform or even an indication of progress toward an objective standard of human rights in Burma. Burma has a very long way to go.

I feel very strongly that the United States must actively support the cause of human freedom in Burma, and make it unmistakably clear to Burma's State Law and Order Restoration Council, the SLORC, that the United States, indeed, all of the civilized world expect them to begin respecting the will and the rights of the Burmese people.

But what I have difficulty understanding is why we must refrain from acting in our own national interest while we attempt to act in the interest of the Burmese people. I could understand the objective of this provision if it stated that no funds for drug control could be made available directly to the SLORC. I would not support this assistance either if the State Department were proposing to simply provide money to the SLORC with the promise that the SLORC would use it to eradicate poppy fields. It is quite probable that such funds would be used by the SLORC to further oppress ethnic minorities in Burma, like the Wa.

But, Mr. President, that is not what the administration proposes to do with this assistance. First, it is a relatively small amount of money that we are talking about, with most of it going to the efforts of the United Nations Drug Control Program [UNDCP] in Burma. Two million dollars would be provided to the U.N. to work with ethnic minorities on crop substitution and other programs intended to begin making some, although admittedly small, progress in reducing poppy cultivation. None of that assistance would be funneled through the SLORC.

A limited—a very limited amount of assistance, $50,000, I believe—would be provided to train Burmese customs officials. But I fail to see the harm in that, given that the amount is so small, and the need for better Burmese control of drug smuggling at the borders so obvious.

Mr. President, $2 million isn't going to solve America's heroin problem. But I do not see how we begin to get any control over that problem absent some kind of program in Burma.

Opium production in Burma has skyrocketed in recent years. It is, by far, the largest heroin producing country in the world. Again, 60 percent of heroin in the United States originates in Burma.

The enormous increase in heroin production globally has substantially reduced the street price of heroin while simultaneously increasing the purity, and, consequently, the lethality of the drug. Overdoses—fatal overdoses—have increased rapidly in the United States.

Sadly, as long as there is demand for heroin, we will never be able to keep it out of all our children's hands. But if in Burma and elsewhere our efforts make some progress in restricting the flow of heroin to the United States, we will make the drug more expensive and less readily available on our streets that it is today.

Mr. President, before I conclude, I should also add that in meetings attended by American Embassy officials in Rangoon, Daw Aung San Suu Kyi, the Nobel Prize winner, clearly the leader of that nation, who has been a beacon of hope for freedom and democracy for the people of Burma and people of the world, whose stature is such that she was awarded the Nobel Peace Prize, and she, Daw Aung San Suu Kyi, expressed her support for counternarcotics assistance to Burma. In fact, she maintained such assistance would not directly or indirectly help the SLORC to retain power and, on the contrary, might encourage the SLORC to make additional human rights concessions. For my part, her opinion should be what drives the decisions made here in the U.S. Senate. I think it is clearly sufficient justification to approve of this very modest antidrug program.

I am convinced that the counternarcotics assistance envisioned for Burma is consistent with our human rights goals in Burma. But I repeat, to ensure that it remains so, this amendment requires the Secretary to certify that all the programs which our assistance would support are fully consistent with our human rights concerns in Burma.

Mr. President, I believe, as we have in many other countries, the United

States can advance its values and protect our national interests in Burma simultaneously. They are not mutually exclusive and should not be treated so.

I understand the committee's motive for this provision. I must disagree with the means by which it hopes to achieve its objective. I hope Senators also disagree with those means and support the amendment to help in some small way reduce the flow of heroin to the streets of America.

Mr. President, this amendment is supported by the administration. This amendment is supported by Daw Aung San Suu Kyi. I have no brief for the ruling junta of army officers that control Burma—their human rights record is despicable. If any of this money were going to help that organization, I would not be proposing it.

We started a war on drugs some years ago, and we have either declared unconditional surrender or we have forgotten about it. I do not know which. Whatever, there is an increase in the use of heroin in this country. There is an increase in the purity of that heroin. There are lethal overdoses that are being taken of that drug as we speak.

I believe that there are many ways to win the war on drugs. The primary one is to reduce the demand here at home. We also must attack the supply in whatever way we can.

I want to point out again, Mr. President, I probably would not have proposed this amendment if it had not been for the express support of this program by this remarkable, extraordinary woman, a woman who transcends human events, a woman who has suffered for her country, whose father was a martyr to an assassin's bullet as he was the leader of this poor country. Mr. President, if the person who clearly, if there were an election tomorrow, would win by an overwhelming majority, a landslide, were not in support of this amendment, I would not be proposing it, and I hope that the Members of this body will heed her words rather than anyone else's, including my own.

I yield the floor.

Mr. McCONNELL. Mr. President, 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. McCONNELL. 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. McCONNELL. Mr. President, in July, Suu Kyi was released after 6 years under house arrest. It was the first glimmer of hope for Burma since the military crackdown in 1988. As she has repeatedly and emphatically stated since her release, nothing else has happened. She has been released and that is it. Burma is not one step closer to implementing the results of the elections of 1990.

Burmese citizens are still suffering at the hands of one of the worst police states in the world. In fact, since Suu Kyi was released, there have been more arrests, more Burmese men, women, and children have been forced from their homes into concentration camps, more villages have been burned to the ground by the government troops.

In fact, a recent Amnesty International report asserted unequivocally that the situation has dramatically deteriorated inside Burma in the last 2 months. Let me be clear, the situation has gotten worse since Suu Kyi's release.

Yet this is the very government that the amendment of my good friend from Arizona would have us cooperate with. Reasonable people can differ about how best to handle this situation, but I must say with all due respect to my good friend from Arizona, I see it a little differently. A government guilty of arbitrary detentions, torture, forced relocations, and killings is, it seems to me, a questionable government with which to deal.

The Assistant Secretary of State for Asia, Win Lord, shares this view. When I asked him what were the major impediments to an effective counternarcotics effort he said, ''What is gong to solve the problem over the long run is a popular, representative open government—all other efforts are minuscule compared to whether you have an open system there.'' I could not agree more with Secretary Lord's statement. A military junta, with an army of 350,000, assembled exclusively to terrorize its own people—they have no external threats, this army is to terrorize Burmese people—a military junta about which Assistant Secretary of State for Asian affairs, Winston Lord, has testified, ''The only impediment to cooperation on narcotics is their lack of interest.'' Their, meaning the SLORC.

Secretary Lord has testified we can only expect to see real cooperation on narcotics if democracy is restored. They had an election in 1990. The SLORC did not honor the election. Suu Kyi had been under house arrest since 1988, until this July. The situation has deteriorated since then. The question I guess we have before us is whether cooperation with this regime will produce a positive result. I am as concerned about the fact that 60 percent of the heroin coming into this country is coming from Burma as anyone else. It seems to me reasonable people can differ as to how to approach this problem, but I think we should be moving to isolate the military junta, rather than pursuing the amendment of my good friend from Arizona. That is why we should support the restoration of democracy and implement the results of the 1990 election.

Let me just conclude by noting that Suu Kyi has urged all nations to suspend investment in Burma, to take all steps possible to isolate this pariah regime. She opposes any efforts to legitimize this repressive regime.

My good friend from Arizona has argued that his amendment is not about cooperating with SLORC, but that is precisely what the State Department budget materials recommend. That is what the State Department is in effect recommending here. So it seems to me that is exactly what the State Department has in mind. They are seeking funds to train SLORC in counternarcotics efforts.

My good friend from Arizona has indicated that he believes Suu Kyi supports this cooperation. I know that is what the administration has represented as her position. The administration said Suu Kyi supports this approach.

But I might point out to my colleagues, to members of the House International Relations Committee who met with her, and in interviews with the international media, she has explicitly and repeatedly said she does not support cooperation with SLORC.

In fact, when she was advised the assistance we have provided had been used to attack ethnic groups on the border, I was advised she was horrified. It is the administration's interpretation of Suu Kyi's wishes that my colleague is relying upon, and I can understand his relying on the administration, I suppose. But there is substantial evidence, it seems to this Senator, that the administration is not correctly relating Suu Kyi's position to us. They are incorrectly characterizing her position.

There are others, including the international press and members of the House International Relations Committee, who have met with Suu Kyi and come to a different conclusion. So reasonable people here can differ.

I know my friend from Arizona's intentions are the best. He has been to Burma. He knows a lot about Southeast Asia. But it just seems to this Senator that cooperation with SLORC is not in our best interests. It seems to this Senator there are a number of people, both reporters and House Members, who have spoken with Suu Kyi who reached the conclusion that she would not favor this approach.

I simply hope the Senate will not go on record supporting the amendment of the Senator from Arizona. The issue of Burma is not going to go away. He is extremely knowledgeable about Burma, has very strong opinions about Burma. There are others of us who are also interested in what we might be able to do to bring about the end of SLORC and the return of democracy.

I hope we could all kind of sit down together and, not using this particular bill as a vehicle, sit down together and figure out what our best approach to Burma ought to be. With all due respect to my friend from Arizona, it seems to me cooperation with SLORC on drugs would be like cooperating with Iran on counterterrorism. It seems to me highly unlikely that this would be a productive relationship.

So I hope the amendment of the Senator from Arizona will not be approved. I will make a motion to table when we

finish our debate. I understand we are going to be finishing up pretty quickly.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. Mr. President, I, like the distinguished chairman, cannot support the amendment and will join in his motion to table, not because I disagree with the Senator from Arizona in wanting to stop the flow of heroin from Burma. I totally agree with him in wanting to do that. I acknowledge his expertise in that part of the world. Anybody who has watched the evidence from the various law enforcement and international agencies knows of the tremendous flow of heroin from Burma. But I do not think this would stop it. In fact, I believe it will be money basically lost.

The SLORC itself is involved in the drug trade. They are an army that violates the human rights of their own people. They oppress their own people. They stop dissent in their own people. But, also, they take drug money themselves.

A U.N. program is not going to make any measurable difference. We are dealing with an outlaw government. We should not be doing something that might suggest that we accept this government in any way. These are drug dealers and thugs. They themselves are profiting from something we would be asking them to stop. So, while I will be happy to look at other areas when this bill next comes up, or any other bill, I will not support this.

I might also say I hope, having cleared 192 out of 193 amendments in disagreement, that we might be able to send back to the other body just one amendment in disagreement, something that will be debated and voted on following the debate and vote on the amendment of the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. McCAIN. Mr. President, a cable sent back from the State Department, which I have a copy of, concerned a long interview that took place with Aung San Suu Kyi on July 14 of this year. I quote:

Speaking to the Richardson-Rohrabacher amendment seeking to bar any USG drug control assistance to Burma, Aung San Suu Kyi disapproved, opining that, while the ''stick'' of impending trade sanctions had been useful in prompting her release, offering USG counternarcotics assistance to the SLORC would be a useful ''carrot'' to encourage additional progress.

The SLORC's desire to benefit from the political legitimacy accompanying USG drug control aid is well known, pointed out the NLD leader. She cited exchange of information and training as two specific types of counternarcotics assistance she could envision occurring now.

By the way, I ask unanimous consent the entire cable be printed in the RECORD.

There being no objection, the cable was ordered to be printed in the RECORD as follows:

SANCTIONS AND DRUG CONTROL AID DISCUSSED

NLD LEADER SEES DRUG CONTROL AID AS USEFUL ''CARROT''

11. Speaking to the Richardson-Rohrabacher amendment seeking to bar any USG drug control assistance to Burma, Aung San Suu Kyi disapproved, opining that, while the ''stick'' of impending trade sanctions had been useful in prompting her release, offering USG counternarcotics assistance to the SLORC would be a useful ''carrot'' to encourage additional progress.

The SLORC's desire to benefit from the political legitimacy accompanying USG drug control aid is well known, pointed out the NLD leader. She cited exchange of information and training as two specific types of counternarcotics assistance she could envision occurring now. While the SLORC would appreciate this aid, it would not improve the regime's staying power.

12. Berkowitz expressed concern that an exchange of information on drug traffickers and operations with the Burmese authorities might hurt the Wa, who are poor farmers with no alternative other than poppy cultivation. Suu Kyi clarified that the type of information she was taking about would not be that which could be used to attack harmless people. Rather, information on drug traffickers' movements would assist Burmese officials in locating and interdicting drug operations.

She turned to Tin 00, calling him an expert on the Wa, and asked him for expanded views on this issue. Tin 00 noted that poor Wa might be hurt, but added that the exchange of information on areas of poppy cultivation would be good, though the government may not take action against poppy cultivation in ethnic areas even when provided precise information on their location. Aung San Suu Kyi did not seem unduly worried when Berkowitz raised, the possibility that drug control efforts in the Wa area might alienate Wa farmers who depend on drug production for their sustenance.

Mr. MCCAIN. Mr. President, unless misinformation—and perhaps it is—is being conveyed from our Embassy in Burma, I think it is pretty clear what Aung San Suu Kyi's position is on this issue.

Also, let me point out, as I did in my opening statement, I do not support any money going through the Burmese Government known as SLORC. This money would not go through the Burmese Government known as SLORC. It specifically would be provided to the United Nations to work with ethnic minorities on crop substitution and other programs intended to begin making some, although admittedly small, progress in reducing poppy cultivation. None of that assistance would be funneled through the Government.

So I am sorry the Senator from Vermont either is misinformed or did not pay attention to what I had to say; perhaps both.

But the fact is that this money would not—I repeat, not—go through the settlement. If it would go through the Burmese Government, then I am convinced Aung San San Suu Kyi would not approve of it. After all, she is the one spent 4 years under house arrest and was a martyr who watched her countrymen be slaughtered by the same group of people. Everybody has their own opinion.

But let us not distort the facts here. The facts are that we have credible evidence from a cable sent to the United States State Department which clearly indicates her support of certain types of drug control programs. That is reality, and that is a fact.

The other fact that I think we ought to emphasize here is that the money would not go through the Burmese Government. And nobody—I mean nobody that I know of—would support funding through that government.

I would also suggest that perhaps the Senator from Vermont—Vermont is a little bit different from what it is in Arizona. Perhaps in Vermont he does not have kids overdosing on drugs in the streets of the capital of his State. Mr. President, I do. The Senator from Vermont said it will not do much good. Maybe it will not do much good. But I know that people are dying in my home State from overdoses of heroin, from lethal doses of heroin that come directly from Burma, because it is a proven fact that 60 percent of the heroin that comes into the United States comes from Burma.

So, in all due respect to the Senator from Vermont and the people in his State, it is a compelling, urgent, and terrible problem that we have to take every possible step to cure. One of them would be to reduce the cultivation of this drug where it originates which does not require the participation of the Burmese Government.

Mr. President, it is a $2 million program we are talking about here. I am a bit curious why we should have to take up so much time of the Senate in a very large multibillion-dollar piece of legislation. But I would be willing to vote on the motion of the Senator from Kentucky to table whenever he feels that we should.

I yield the floor.

Mr. MCCONNELL. Mr. President, by way of very brief response to my friend from Arizona, the cable to which he referred was prepared a few days after Suu Kyi's release back in July. She subsequently learned that we provided information to SLORC on an alleged drug caravan which turned out to be used to attack ethnic groups on the border. Her views 2 days after being totally isolated for 6 years has since been fully informed by facts, which are that the money in all likelihood will end up with SLORC. She has since repeatedly opposed this cooperation, and in interviews, both with the press and with Congressmen who have been there, believe that it may threaten Burmese citizens.

Again, let me say reasonable people can differ about this. I totally respect my friend from Arizona and his interest in involvement in this issue. Fundamentally, it seems to me, the question is whether we should be cooperating with the SLORC, one of the worst regimes in the world, if not the worst.

I think we have probably debated this amendment fully. I am not aware of anybody else who wishes to speak.

Mr. President, I move to table the McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. FRIST). 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 of the Senator from Kentucky to lay on the table the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''yea.''

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 560 Leg.]

YEAS—50

Akaka	Faircloth	McConnell
Bennett	Feingold	Mikulski
Biden	Gorton	Moseley-Braun
Boxer	Gregg	Moynihan
Brown	Harkin	Murkowski
Bryan	Heflin	Murray
Bumpers	Hollings	Pell
Burns	Inhofe	Pryor
Byrd	Inouye	Reid
Campbell	Jeffords	Robb
Chafee	Kassebaum	Rockefeller
Cochran	Kennedy	Santorum
Coverdell	Kohl	Sarbanes
D'Amato	Lautenberg	Shelby
Daschle	Leahy	Stevens
DeWine	Levin	Wellstone
Exon	Lott	

NAYS—47

Abraham	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Graham	Nickles
Bingaman	Gramm	Nunn
Bond	Grams	Pressler
Breaux	Grassley	Roth
Coats	Hatch	Simon
Cohen	Helms	Simpson
Conrad	Hutchison	Smith
Craig	Johnston	Snowe
Dodd	Kempthorne	Specter
Dole	Kerrey	Thomas
Domenici	Kerry	Thompson
Dorgan	Kyl	Thurmond
Feinstein	Lieberman	Warner
Ford	Lugar	

NOT VOTING—2

Bradley	Hatfield

So, the motion to lay on the table the amendment (No. 3042) was agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3041

Mr. LEAHY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The motion of the Senator from Vermont to concur in the House amendment with an amendment.

Mr. LEAHY. Thank you, Mr. President. Just so my colleagues understand, and I know there are a number of Senators on both sides who are going to want to speak, let me back up a bit.

First, the Senate has voted in favor of the conference report. The conference report reflected a conference that agreed on 192 out of 193 amendments. Now we have the 1 remaining amendment of those 193 which is in true disagreement, and we have received from the other body their proposal.

I have moved to amend their amendment in disagreement with an amendment by myself and the Senator from Kansas, Mrs. KASSEBAUM. What happened is the Senate conferees were not able to agree to a House provision that would reinstate the so-called Mexico City policy of the 1980's. As Senators may recall, the Mexico City policy caused much division in this country and picked up a lot of ridicule for this country abroad. It prohibits the U.S. Government from using its funds to support private family planning organizations that use their own funds to provide counseling and other services relating to abortion.

What my amendment does, it strikes the House provision and it replaces it with the identical Senate language that passed this body on September 21. Senator KASSEBAUM, who is the original author of this language, is a cosponsor of this amendment.

The amendment says that in determining eligibility for assistance, non-Government and multilateral organizations shall not be subjected to requirements more restrictive to requirements applicable to foreign governments for such assistance; provided further that none of the funds made available under this act may be used to lobby for or against abortion.

So no matter what your position is on abortion, U.S. money cannot be used to lobby for or against it. This has been very carefully thought out to give Senators who have strong views on the subject of abortion a common ground and be respectful of the views on both sides of this issue.

The sad thing about the House provision, which we are now seeking to amend and send back to the other body, is that it is not only totally and utterly unnecessary, but if it prevailed on this bill, it guarantees a veto, and the work of the Senator from Kentucky, Mr. MCCONNELL, and myself, as well as all the other Senators who joined with us in putting together the foreign aid bill, goes down the drain.

Our bill explicitly, and I wish Senators would listen to this, the Senate bill explicitly prohibits the use of any U.S. funds for abortion. Period. End of sentence. No qualifications.

It is the same prohibition that we have had for years. It is the same prohibition we had in the last Republican administration. It is the same prohibition we have in this administration. No funds in this bill can be used for abortion.

We are really ending up debating bumper-sticker slogans. We are ending up debating—I do not know—fundraising letters, whatever, but we are not debating the reality of the foreign aid bill.

The amendment I offered simply continues current law and practice, and at a time when support for voluntary family planning programs and women's reproductive health is growing around the world, it would be ridiculous for the United States to, once again, surrender its leadership in this area as we did back in the eighties.

Some have defended the House provision, because it only prohibits U.S. support for foreign organizations. That is precisely the problem. It is by supporting foreign organizations that we implement our family planning programs. We do not stop the population explosion in other parts of the country by saying we will send the money to Planned Parenthood of Winooski, VT. We do it by sending the money where family planning might help. In fact, let me give just one example of what the House provision would do.

A current program that uses United States funds to train Russian doctors in providing family planning services would have to shut down because it takes place in a Russian hospital. In that Russian hospital, Russian funds are used to perform legal abortions. In Russia, the average woman has seven abortions, something I find, and I hope most people would find, to be a terrible situation.

But in our program, which tries to help the Russian doctors teach family planning so they will not be having seven abortions, the House provision says you cannot do that. You cannot do that because in the place where they would teach that, somewhere else in that same building abortions might take place.

Well, come on, this is Alice in Wonderland. You teach alternatives to abortion at a place where people who are interested in that subject might be.

The whole point of this program is to promote contraceptives and alternatives to abortion. It does not ask for money for abortion, it seeks alternatives. Every dollar is for voluntary —voluntary—family planning. I say to my colleagues, if you vote against the amendment of the Senator from Kansas and myself, let there be no mistake, that opposes voluntary family planning if you vote against it.

The other point I want to emphasize is no funds in this bill can be used in China. I heard the debate earlier about people who are concerned about what happens in China. Well, I am concerned. I am appalled by forced sterilization. I am appalled by forced abortions. I am appalled by the Chinese

Government telling people, under pain of all kinds of strictures, how many children they can have. We all are, but do not knock down our ability to help the voluntary family planning in other countries by holding up as a straw man somehow the situation in China.

Chinese population policy should be condemned, but do not condemn the program. In fact, the House provision would prevent the United States from contributing to the U.N. population fund. It is the largest international family planning agency in the world. UNFPA does not fund abortion. It has an explicit policy against supporting abortion. It funds contraceptives, education and informs about family planning in 140 countries. It is absolutely vital the United States play a leading role in the U.N. agency at a time when the decisions we make today will determine if the world population doubles or even triples. The Chinese population policy should be condemned, but do not condemn an organization that seeks to demonstrate to the Chinese Government that they can achieve the same results with voluntary family planning.

As I said, we contain a prohibition against using U.S. funds in China. That is despite the fact U.N. programs in China promote voluntary family planning and human rights.

Mr. President, let us not go backwards, not when so many governments are finally seeking out and limiting rates of population growth. Many of these countries are already impoverished. We have the technology, the expertise and the interest in helping. The amendment in the House requires UNFPA to withdraw from China. That is a decision not for UNFPA but its governing board, which is made up of its donor governments. By attaching a condition UNFPA cannot meet, we cut off funding for programs in 139 other countries.

So just understand what is here. In the amendment of the Senator from Kansas and myself, no money for abortion, no money for child care, but money for voluntary family planning. If you are against voluntarily family planning, vote against it. But if you would like to see, as we do, the ability to give some of these countries alternatives to abortion, then vote with us. And also, with all the work that has gone into this bill, let us complete the bill so it can actually be signed into law by the President and not vetoed.

I see the cosponsor, my good friend from Kansas, on the floor. I yield to her.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Senator HATFIELD be made a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, the language that I am cosponsoring with my colleague from Vermont is, as he has said, identical language that was included in the Foreign Operations appropriations bill, which passed the Senate in September by a vote of 91–9.

It is also language similar to that which passed the Senate in 1984 and in 1989. At this time, as Senator LEAHY pointed out, House and Senate conferees were able to reconcile every other aspect of the legislation, except this issue. The House insisted upon their language, we insisted upon ours and, thus, the bill was reported out of conference with this language in disagreement. I think that if the House passed the language they passed and if we pass the language offered in this amendment, it is my understanding that a continuing resolution would continue for the bill with everything passed—the language of everything passed in a continuing resolution, except current language reporting the issue at stake in disagreement here.

The language that has been introduced does not change the current U.S. policy that prohibits funding for abortion activities. It simply ensures that foreign governments and nongovernmental organizations will be treated in the same way with respect to establishing eligibility for U.S. population assistance. If abortion is legal in a country and if a foreign government is engaged in population assistance programs, why should we tell a nongovernmental agency or organization working in that country that they cannot use U.S. funds? It seems to me they should be able to use them for population assistance, Mr. President. That is what this issue is about. It is not about abortion.

As I think all colleagues know, this issue first came about in 1984 at the International Conference on Population in Mexico City. The Reagan administration announced that any nongovernmental organization which used private or non-U.S. funds to contract abortion-related activities would be prohibited from receiving U.S. population assistance. If they use their own private, or if their own non-U.S. funds in any way are involved, as the Senator from Vermont pointed out, then they could not receive any U.S. funds for population assistance.

I just feel that it is far too limiting, Mr. President. It really cripples us in our ability to help other nations deal with population assistance initiatives.

Since 1973, the United States has prohibited the use of U.S. dollars by any recipient of U.S. population assistance to pay for abortions abroad. I support this.

However, Mr. President, this amendment, as I said before, is not about an abortion. As the Senator from Vermont pointed out, it would prohibit funds going to China. It would also prohibit funds which could be used for lobbying for or against abortion. So I think it is important to keep in mind exactly what it is about. It is about supporting nongovernmental organizations in creating safe, effective, comprehensive family planning programs—programs that are designed to prevent the need for abortion.

Mr. President, some of my colleagues have argued that the United States should not have a role in international population assistance programs. But while some contend that there is no relationship between world population and our national security, a closer look, I think, at all the factors involved make it clear that population stabilization is in our best interest. Without such an effort, the world's political, economic, and environmental forces balance precariously on the verge of chaos.

I think I came to realize this most clearly as I have spent a number of years on the Africa Subcommittee in the Foreign Relations Committee. It has shown me that arguments to the contrary are misinformed. The population assistance initiatives are important. There is no doubt in my mind, for example, that overpopulation played a major role in compounding famine in Africa. I do not think I need to point out to anyone here the tragedies that have resulted from that, or could result from that, and the importance of doing thoughtful, constructive population assistance initiatives. It is not easy. We have to be very sensitive to cultural differences as we work in other countries and support work in other countries. But, clearly, it seems to me that it does have merit and it is important.

I realize that many of my colleagues here are tired of this fight. But I continue to believe strongly in preventing the need for abortion by working to establish effective family planning programs. I hope my colleagues will similarly recognize the need to prevent what has been called the international gag rule from ever emerging as an obstacle to creating effective policy.

I urge my colleagues to vote in favor of this amendment. I suggest, Mr. President, it is not really an issue of the President vetoing this bill. In my mind, it is an issue of the merit or demerit of this amendment. I feel strongly that this amendment really says that we do care about working together with nongovernmental organizations, with other countries, being sensitive and constructive with family planning initiatives.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I rise in strong support of the Leahy-Kassebaum amendment. The Senator from Vermont and the Senator from Kansas have done more in the last few minutes to clarify this issue than I think has been done for some time—the very clear point that the Senate position on this in the past does not provide Federal funding for abortions through these organizations. That is the fact. For that reason, I stand in strong opposition, as well, to the House language.

The House language endangers our national interests. It is not simply an

antichoice or antiabortion, or a proabortion issue, as some of the proponents say. What it is is antifamily planning. The House position smacks of being against the interests of women and international development.

Population assistance is a critical component of our foreign aid program, and a worthy investment in bracing for the threats to U.S. national security that will arise throughout the 21st century.

Even President Nixon, who was not known as a prochoice activist, listed population growth ''among the most important issues we face * * * a world problem which no country can ignore, whether it is moved by the narrowest perception of national self-interest or the widest vision of common humanity.''

Indeed, President Nixon pledged full U.S. support and cooperation in supporting U.N. population and family planning programs at the same time the United States played an active role in founding the U.N. population fund known as the UNFPA.

If we were to enact the House language, Mr. President, we would cut off support for UNFPA as well as the crucial private organizations supporting family planning and women's rights and manageable population growth.

Mr. President, the world population today stands at 5.7 billion people, almost double what it was in 1960. It is growing by about 100 million people per year. Most of this growth is in the developing world in regions that cannot, of course, sustain their current populations.

The environmental and economic effects of this population program are very significant. The effect on women as a population is really disastrous. If development efforts are going to be successful, they have to include the full participation of women—at least 50 percent of the world population.

However, if women are not given control of their own bodies, or if they are compelled to carry and deliver unlimited numbers of children, then they cannot be full partners. They cannot be full partners politically, economically, or socially in the development of their country.

The U.S. population programs, in conjunction with international strategies, have actually yielded incredible results for our country and for the world. We have seen reductions in maternal mortality rates. We have seen improved child survival statistics. We have seen increased literacy among women. And we have seen healthier, burgeoning economies in many parts of the world.

Mr. President, this in turn strengthens U.S. efforts to promote food security, international trade, and improved public health, all of which improve our standard of living. And they also reduce the risk of disaster assistance or the deployment of U.S. troops, as the Senator from Kansas was alluding to in her previous remarks.

I have had the opportunity to work with the Senator on the Foreign Affairs Committee on the subcommittee concerning Africa where these problems can become very, very severe very quickly.

The provision of population assistance and family planning services is important to the United States. Mr. President, again, it is hardly support for abortion—although the House amendment infers this.

In fact, Mr. President, that is what I think is the fundamental misunderstanding in this debate, and I think we need to dispel that today. Abortion does not equal family planning; in fact, responsible and safe family planning reduces the need for and incidence of abortion. Nevertheless, somehow this debate always winds up being a bit of a red herring debate about abortion.

Mr. President, if the proponents of the House amendment were trying to prohibit U.S. funds from being used to pay for abortion, they already achieved that goal many years ago. U.S. foreign assistance cannot by law be used to pay for abortion. Let me repeat that: U.S. foreign assistance cannot by law—by current law—be used to pay for abortion. It says so throughout the foreign aid law, and it is reiterated in this conference report that we are considering right now.

Now, Mr. President, barring people from speaking about family planning, contraceptives, and abortion will not solve the problem, not to mention the fact that it is a blow for the concept of free speech that the United States worked so hard to promote throughout the world.

Similarly, cutting off private groups which use funds from other sources for their abortion activities is only going to hurt the pursuit of U.S. Government interests. As in the 1980's when we saw some of these regressive policies applied, most effective organizations turned down U.S. funding since they could not and would not agree to these conditions.

I commend them for their perseverance, but I think it was shameful that the United States did not contribute to programs designed to meet our own needs. These are the reasons that the House language on Mexico City policy and the gag rule have to be stripped from this conference report and why the Kassebaum language should be restored.

As for these counterproductive restrictions on UNFPA, I again submit, as I and others did before the Foreign Affairs Committee, that this is an attack on family planning. It is not a serious attempt to stop abortion, nor is it a serious attempt to do anything about the disgusting practice of coercive abortion.

Pulling out of the U.N. population fund is not going to stop coercive abortion in China, for the simple fact that UNFPA does not engage if any coercive abortion procedures in China now. UNFPA's mandate in every country, including China, is the provision of family planning services and maternal and child health care in 140 countries around the world. It has no mandate—it has no mandate—to engage in the provision of abortion or abortion-related services.

Mr. President, in reality, it is programs supported by the UNFPA that make abortion less likely. If I believe that withdrawing from the UNFPA would reduce the incidence of coercive abortion in China, I would wholeheartedly support such a move.

Human rights abuses such as this should be addressed at the United Nations and through diplomatic and economic levers such as the most-favored-nation status approach, which I have advocated and continue to advocate with regard to China.

In fact, this is one of the reasons why I introduced legislation this year with the chairman of the Foreign Relations Committee, Senator HELMS, to withdraw MFN from China.

Mr. President, prohibiting United States contributions unless the UNFPA pulls out of China is going to do nothing to solve this problem. UNFPA officials have already expressed their firm opposition to the practice of coercive abortion despite what some Members on this floor have said in what amounts to misquoting the organization.

I ask unanimous consent to have printed in the RECORD, Mr. President, a letter I received from the UNFPA on their perceptions on the China policy, which I hope will clear up the misunderstanding.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED NATIONS POPULATION FUND,
New York, NY, July 26, 1995.

Senator RUSSELL FEINGOLD,
Senate Russell Building, Washington, DC.

DEAR SENATOR FEINGOLD: It has just come to my attention that on June 28, 1995 during a debate on the House floor, Representative Chris Smith quoted Dr. Sadik, Executive Director of UNFPA, ''China has every reason to feel proud of and pleased with its remarkable achievements made in its family planning policy and control of its population growth over the past 10 years. Now the country could offer its experiences and special experts to help other countries.'' Senator Jesse Helms used the same quote in the Senate Foreign Relations Committee Report accompanying S–961.

I believe this quote comes from China Daily, an English language newspaper published in Beijing. I was with Dr. Sadik when she was interviewed for this article in 1991. This article was a terrible distortion of what she actually said. Dr. Sadik did say that China should be proud of its record of improving women's and children's health since 1949. She commended China's continuing efforts to improve maternal and child health by discussing a joint UNFPA and UNICEF project in 300 poor counties in China that especially focuses on improving children's health through training and supplies for treatment of acute respiratory infection and diarrhea, promotion of prenatal care and nutrition, breast-feeding, assisted deliveries and family planning that assured several contraceptive choices and informed consent.

She went on to say that this project was a model that could be replicated in other countries.

I have no idea why Dr. Sadik was misquoted. I tried unsuccessfully at the time to secure a retraction from China Daily. I remember during her visit being very proud of Dr. Sadik's tenacity and courage and my disappointment with the China Daily article which was not only wrong, but contradictory of her real position.

In fact, during this trip, Dr. Sadik attended a series of meetings that included: the Ministers of Family Planning and Health, the Head of the People's Congress and several of his colleagues and the General Secretary of the Communist Party of China. During these meetings she was very critical of new laws in several provinces requiring sterilization of the mentally retarded. She also successfully negotiated projects designed to increase training for informed consent and voluntary participation in family planning, and research that would examine the safety and efficacy of the Chinese steel ring IUD. The first project, currently ongoing, provides interpersonal counseling training and promotes contraceptive choices for grass-roots family planning workers in several provinces. The second resulted in a Chinese ban on steel ring IUD's in favor of copper based IUD's which in ten years will prevent 35.6 million abortions. It would also prevent 6,300 maternal deaths; 365,000 potential infant and 28,000 potential child deaths.

For 3-½ years I served as UNFPA's Country Director in China. I know first hand what we did and said in China and I can tell you that the way we are frequently portrayed, such as in the statement in question, is absolutely and unequivocally untrue.

UNFPA has always represented international norms and human rights standards as articulated in several U.N. documents including the Universal Declaration of Human Rights, the World Population Plan of Action and the Programme of Action of the International Conference on Population and Development. For example, Chapter VII, para. 12 of the Programme of Action which states ''. . . the principle of informed free choice is essential to the long-term success of family-planning programmes; that any form of coercion has no part of play; that governmental goals or family planning should be defined in terms of unmet needs for information and services; and that demographic goals, while legitimately the subject of government development strategies, should not be imposed on family-planning providers in the form of targets or quotes for the recruitment of clients''.

In particular, Dr. Sadik has been a champion of human rights, women's equality and reproductive rights. In the 14 years I have known her, I have never heard her use the phrase ''population control.''

We deeply appreciate your past and continuing support and hope you can help set the record straight regarding the quote used by Representative Smith and Senator Helms.

Sincerely,

STIRLING D. SCRUGGS,
Chief, Information and External Relations Division.

Mr. FEINGOLD. United States funds are already adequately and elaborately protected from being used in China at all. In reality, what the House amendment is trying to do is prohibit U.S. support for family planning in the 140 other countries that the UNFPA operates. It essentially punishes the United States and other countries of the international community for China's human rights violations which the UNFPA, again, is simply not responsible for.

As we look to the 21st century, we should have a post-Mexico City policy on population. The House amendment brings us backward—not forward. Family planning is too important for us to lose ground on. But that is exactly what the House amendment does. It causes us to lose ground on population control.

We cannot let this stand, Mr. President. I urge my colleagues to support the Leahy amendment and to strip this extreme amendment from the bill. I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Texas.

Mr. GRAMM. Mr. President, let me first say I intend to speak for just a moment on the budget and on the President's veto threat.

However, let me say about the pending amendment that the House of Representatives has taken a very clear position that maintains the position that Congress has historically taken—that is, there is a higher standard when you are spending the taxpayers' money.

In spending the taxpayers' money, the House has taken the position that we should not be spending the taxpayers' money either in the United States or around the world to fund abortion on demand, and we should not be spending the taxpayers' money to subsidize forced abortions in China.

I think we need to reject this amendment. I think we need to stay with the House position. I am confident that we will.

Mr. President, our leader, Senator DOLE, and the Speaker of the House, Congressman GINGRICH, are both down at the White House today meeting with the President about the growing confrontation concerning our budget.

I wanted to make some remarks about this confrontation because I think we are coming down to the moment of truth where each of us is going to have to decide what the 1994 elections were about, what we stand for, what we are willing to stand up and fight for, and what we are willing to compromise on.

I want to make just a few observations this afternoon on those subjects.

First of all, we have adopted in both the House and the Senate a budget that does what we promised to do in the election. It balances the budget over a 7-year period. It saves Medicare. It reforms welfare. It changes the relationship between the Government and the people.

In a very modest way, it begins to let working families keep more of what they earn to invest in their own children, their own families, and their own futures.

The President has said so many times that he is going to veto our budget bill, that I think people are beginning to believe him—not that repetition is always a guarantee. But I think we have to start thinking seriously about the possibility that the President might veto the budget bill that we have passed.

I think it is important for individual Members of the Senate to start making it clear where they stand on this issue. That is what I want to do this afternoon.

First of all, the President is asking us, by vetoing our budget, to continue to spend money we do not have on programs we cannot afford.

The President has sent not one but two budgets to Congress, and both of those budgets would increase the public debt by over $1 trillion in 5 years. Neither of those budgets would ever come into balance at any finite time in the future. Both of those budgets would give us a deficit that greatly exceeds $200 billion in the year that our budget would be in balance.

Now, the President says he is going to veto our budget to force us to spend more money. Let me make it clear that no matter what might be agreed to, I am not going to vote to bust the budget that we wrote here on the floor of the U.S. Senate. Under no circumstances am I going to vote to increase spending above the level we set out in our budget.

The President has every right, if he wants to enter legitimately into the debate by submitting a real budget that is balanced over a 7-year period, to negotiate with us about spending priorities. It is obvious his priorities are different, but I think those differences are legitimate, and I think they ought to be debated. But, unless the President is going to submit a budget to us which tell us how he would balance the Federal budget, I am not willing to allow him to force us to back away from our budget.

Our proposal to the President, as a precondition for our negotiation with him, ought to include the following items:

No. 1. Tell us how you would balance the budget over a 7-year period, not by wishing the problem away, but in terms that we can all understand and in terms that the Congressional Budget Office, which is the accountant for this process as designated by the President, can certify will really achieve a balanced budget. From that point we can then begin to compare the two budgets.

Second, it seems to me if the President is really committed to balancing the budget, he ought to endorse the balanced budget amendment to the Constitution, which has passed the House and which is only one vote short of the two-thirds vote needed to pass the Senate and send to the States. I want to call on the President, if he is serious about balancing the budget, to come out and endorse the balanced budget amendment to the Constitution, to help us get one additional Democrat to vote for it, and in the process allow us to send it to the States.

I believe it is high time that we let working people keep more of what they earn. In 1950, the average family with two children sent $1 out of every $50 to Washington. Today, that family is

sending $1 out of every $4 to Washington. I think our action of giving a $500 tax credit per child for every working family in America so they can spend their own money on their own children and on their own futures, is long overdue. There is no circumstance under which I am going to back away from our tax cut so that Bill Clinton can spend more money in Washington, DC.

This is not a debate about how much money we spend on children, but it is certainly a debate about who is going to do the spending. President Clinton and the Democrats want the Government to do the spending. We want the family to do the spending. We know the Government. We know the family. And we know the difference.

So, I think, to conclude and let the debate go back to the amendment before the Senate, for 40 years we have been running up bills in Washington, DC. For 40 years we have been borrowing more and more money. The President's argument to us is, ''We have run up these bills. Raise the debt ceiling and pay the bills.''

It reminds me of an argument that was made when I was a young Member of Congress, in my first year, the first debate I ever participated in. Then-majority leader of the House Jim Wright got up when we were getting ready to vote on the debt ceiling, and he said, ''It is as if your spouse has run up a big bill on the credit card and the bill collector is knocking at the door. You have to pay your bills.''

That is what the President is in essence saying to us.

My response is, let us look at what American families do under these circumstances. They do pay their bills. But they do something we have not done in 40 years. They sit down around the kitchen table, they get out a pad and pencil, they write down how much money they earn, they start adding up their expenses, they put together a budget, they get out their credit cards, they get out the butcher knife, they cut up their credit cards, and they resolve that, while they are going to pay their bills today, they are not going to put themselves in a position where every year the bill collector is pounding on the door.

I believe defaulting on the public debt would be irresponsible. I believe shutting the Government down to make a political point is unnecessary and unfair. But there is something worse than defaulting on the debt. There is something worse than shutting the Government down. And that is continuing a spending spree that will destroy the future of our children. That is worse than both shutting the Government down and defaulting on the debt. And I am not going to vote for a budget, and I am not going to vote for a compromise, that continues the spending spree in Washington, DC.

The American people in 1994 gave us a Republican majority in both Houses of Congress with a clear mandate: Stop the taxing, stop the spending, and stop the regulating. I, for one, am not willing to cut a deal in Washington, DC, with President Clinton, to undercut an election that sought to fundamentally change the way Government is run in Washington, DC.

So I think we ought to negotiate with the President. I think we ought to try to work with the President. But we ought to make it very clear to the President that we are not going to back away from our commitment to balance the budget. We are not going to spend money we do not have on programs we cannot afford. And there is no amount of threat and bluster that can be exercised by the President that is going to induce us to pull down our budget and continue the spending spree in Washington, DC.

I yield the floor.

Ms. MIKULSKI. Mr. President, I rise to support the Leahy-Kassebaum amendment on family planning.

The House has taken an extreme position on international family planning. If their position prevails, the world's poorest women will pay the price. I urge my colleagues to stick with the Senate position. The Senate bill prohibits funds from being used to perform abortions—or to do anything in China. But it does this while continuing to provide family planning services and maternal and children's health care to the poorest people in the world.

The House position is extreme because it would gut our international family planning programs. It would prohibit organizations that use their own funds for abortion services from receiving any U.S. funds. It would prohibit these organizations from offering any information on abortion—even factual information about mortality related to unsafe abortion. The House amendment would also limit U.S. participation in UNFPA—which has the infrastructure, the expertise, and the personnel to be the most effective program for providing family planning services around the world.

The effects of this House position on women's health would be disastrous. Over 100 million women throughout the world cannot obtain or are not using family planning because they are poor, uneducated, or lack access to care. Twenty million of these women will seek unsafe abortions. Some women will die, some will be disabled. Many of these women are very young; they are, in fact, still children themselves. When children have children, they often lose their chance to obtain schooling, a good job, and ultimately, self-sufficiency. If the House position prevails, women will not be able to fully participate in development and democratization.

In this bill, we seek to maintain our modest role in providing family planning to the world's poorest women. To this end, we should be clear about what is in the bill—and what is not.

This bill does not contain money for abortions or abortion lobbying. Federal funds cannot be used to fund abortions and this bill retains this prohibition. In fact, opponents of this amendment include Senators who strongly oppose abortion. They know that effective family planning actually reduces the number of abortions performed. And this bill does not contain money for China. No United States funds may currently be spent in China and the bill retains this policy as well.

This bill maintains current law. It continues to provide modest funding for the United Nations Population Fund [UNFPA]. Without this assistance, the influence of the United States in the UNFPA is cut off. We would have no say on how and where international family planning services are delivered.

This bill continues to provide funds to the most efficient and effective private and nongovernmental organization. It is these organizations who know best how to make a little funding go a long way.

Mr. President, I wish we could do more to ensure that all women have access to family planning. The Leahy-Kassebaum amendment—which reaffirms the bill passed by the Senate—ensures that we continue to do something to help the world's poorest women to control and improve their lives. I urge my colleagues to support this amendment.

Mr. JEFFORDS. Mr. President, we have debated the issue of restrictions on international family planning many times in this body, and I regret that at this stage in the process, this issue threatens to bring down an important foreign aid bill.

This body voted by a significant margin just 1 month ago to preserve a reasoned family planning policy—one that supports important family planning work in the most needy areas around the globe. Population growth is a crisis that cannot be ignored, that will not wait for attention at a later date. Unchecked population growth will ultimately threaten every corner of the globe. And a withdrawal on our part from our current active role in education and technical assistance to successful family planning programs worldwide would be devastating.

Experience has proven that it does not take a lot of money to have a large effect upon population growth. However, it does take efficient programming, consistency, and a commitment for the long term. We put that all at risk in this debate today if we back away from the longstanding position of this body, that restrictions on family planning funding to nongovernmental organizations overseas should be the same as those applied to U.S. organizations.

Mr. President, the stakes in this debate are even higher today than usual. This is the only issue in disagreement between the two bodies on a large and substantive bill; 192 differences have been resolved, resulting in a reasonable bill that, with the exception of this

issue alone, has broad support on both sides of the aisle in both bodies and is acceptable to the administration. Yet, failure to insist on the Senate position on this important issue, namely a continuation of current law, would doom this important legislation to a certain veto. We have enough issues in disagreement with the administration without adding this one to the list.

I thank the Senator from Kansas [Mrs. KASSEBAUM] for her consistent leadership on this issue and I urge support for the Leahy-Kassebaum amendment.

• Mr. HATFIELD. Mr. President, once again the Senate and the House face the prospect of holding up an important appropriations bill over the issue of abortion. I am dismayed that we find ourselves in this position especially because the bill before the Senate clearly and explicitly prohibits the use of U.S. funds to pay or lobby for abortion in our foreign aid programs. The programs at stake involve family planning—not abortion.

I am strongly pro-life and do not support abortion except in cases where the life of the mother is endangered. I am also strongly pro-family planning and have long been an outspoken supporter of our domestic and international family planning efforts. I support family planning because I believe if more couples have access to contraceptives and understand the consequences of the lack of family planning, we can make abortion a moot issue.

But beyond making abortion a moot issue, there are also development and environmental consequences of uncontrolled population growth. According to the United Nations, the 1990's will see the greatest increase in human numbers of any decade, as the world's population grows from 5.3 billion to 6.25 billion by the end of this century. We know that rapid population growth in the developing world can overwhelm the gains made in living standards.

According to the World Bank, in sub-Saharan Africa the 3.7-percent growth in gross domestic product will not be sufficient to offset the effects of skyrocketing population growth, and the number of poor will increase. On the environment front, when we look at ozone depletion, global warming, destruction of tropical rain forests, and the elimination of species diversity, we inevitably see the connection between those phenomena and the population explosion.

The international family planning programs that we fund through the U.S. Agency for International Development and the United Nations Population Fund [UNFPA] ensure that the United States will maintain a leadership role in addressing the population problem. The House limitations which were struck by the Senate would undermine our ability to continue to play this important role.

I would like to mention in particular our support of the UNFPA. The House amendment would prohibit the United States from participating in the UNFPA unless the President certifies that the UNFPA will withdraw its program from China. No one condones China's coercive abortion policy—I certainly do not. In fact, there are specific prohibitions already in law on the use of United States funds for UNFPA's program in China. And although there have been allegations that UNFPA funds were going to support coercive abortions in China, these allegations have never been substantiated. The problem is with China's family planning program, not the UNFPA's.

Despite the fact that the United States has been quite outspoken against the practices in China and has already prohibited the use of our funds there, those opposed to family planning continue to use it as a reason to withdraw all of our support for the UNFPA. This would mean that the U.S. could not participate in a program that has the ability to reach into areas where no single U.S. program can. The UNFPA currently provides voluntary family planning assistance to over 140 countries besides China; 90 of those nations have populations expected to double within the next 30 years. In addition, nearly half of UNFPA's assistance is used for family planning services and maternal and child health care in the poorest, most remote regions in the world. As a nation, we cannot afford to limit our participation in the UNFPA.

Therefore, I am pleased to say that I am a cosponsor of the Leahy-Kassebaum amendment to strike the House amendment and return to current law on lobbying for or against abortion which was so carefully crafted by our colleague from Kansas. I hope that the Senate will retain the position we had when we first passed this bill. Moreover, I hope those on both sides of the issue will take a closer look at what we are doing by polarizing the issue of abortion and using it to hold up these very important funding bills. Can we not come together to try to resolve the abortion question through the authorizing process? If not, I am afraid we are relegating ourselves to years of deadlock and further polarization.•

Mr. BINGAMAN. Mr. President, I rise today in strong support of the amendment to H.R. 1868, the Foreign Operations Appropriations Act of 1996 offered by my good friend from Kansas, Senator KASSEBAUM, and my good friend from Vermont, Senator LEAHY.

Mr. President, international population growth is a significant issue for foreign policy for the United States. It is a significant issue for domestic policy, for that matter. Of all the challenges facing our Nation and the world, none compares to that of increasing population growth.

Our efforts to protect the environment, to promote economic development around the world, and to raise the status of women, will be futile if we do not first address the staggering rate of global population growth.

How can we expect underdeveloped countries to pull themselves up when the world's population is growing at a rate of more than 10,000 people per hour? Today, there are more than 5.7 billion people on this Earth.

We simply must address these issues. We must acknowledge that we cannot talk about population growth without talking about the very real and very tragic effects of overpopulation:

First, the destruction of our environment; and

Second, the destruction of people—mostly women and young children who live in poverty and die from malnutrition, starvation, lack of access to basic health care, and botched illegal abortions.

We need to be working to address these issues instead of spending countless hours debating our philosophical differences on abortion. We have been over that issue more times than any of us care to count.

Mr. President, I believe direct, substantial, and long-term benefits flow to American families from our national investment in sustainable development and population efforts.

Today, as we approach the 21st century, we are facing a world that will be more economically competitive and more challenging than ever before. This is not the time to be weakening our role as the world leader in these areas.

Instead, I believe it is in the best interest of America's children and families for the Congress to reaffirm and solidify our commitment to population stabilization, reproductive choice, and other critical health and sustainable development programs.

For the past 12 years or so, I have spent a lot of my time here in the Senate focussing on the domestic and international high-technology industries. I have worked to develop strategies to strengthen the technology and manufacturing bases in this country and to secure higher wage jobs for Americans.

I have focussed on these issues because of my concern for the long-term economic viability of our Nation. I believe that to secure our economic future, the United States must be fully equipped to compete long term with Japan and other highly developed countries.

But at the same time, I believe we cannot have a successful economic strategy in this country if we do not devote serious attention to the economies of the developing world.

Over the past 10 years or so, growth in U.S. exports to the developing world has exploded; and today, developing countries account for about 40 percent of a growing U.S. export market.

In fact, trade with the developing world is growing at a rate that far exceeds the growth rate of U.S. exports to developed countries.

I believe a significant factor in this growth has been the modest U.S. commitment to development and population assistance in the developing countries.

Mr. President, funding for efforts such as those of the U.N. Population Fund and the UNFPA, are critical to addressing these issues which are among the most serious the world faces and is why I rise in strong support of the Kassebaum-Leahy amendment to the foreign operations appropriations bill and hope that we will once again send a strong message to the House that this funding must, and will, be preserved.

Mr. BIDEN. Mr. President, the Leahy-Kassebaum amendment puts me in a difficult position because it combines two separate issues.

On one hand, I have consistently supported efforts to reverse the so-called Mexico City or International Gag Rule policy and therefore support reinserting the Kassebaum language that overturns the Mexico City policy.

On the other hand, I have consistently opposed United States funding for the U.N. Population Fund while the organization continues to operate in China. The amendment before us would strike a restriction on UNFPA funding that I have supported.

Of course, I must vote yes or no on the entire amendment. I cannot vote for part and against part.

Therefore, upon reflection, I will vote in favor of the amendment. International family planning programs provide important services that lead to healthier families and help to prevent high population growth rates, environmental degradation, and the need for abortion.

We can and we should continue to prohibit U.S. tax dollars from being used for abortions. But, I believe that the U.S. Government should not be dictating what nongovernmental organizations do with their own funds in their work to provide family planning services around the globe, as long as they do not use any Federal funds for abortion.

Nevertheless, I would like to make it clear to my colleagues and constituents that my vote today does not represent a change in my position on U.S. funding for the U.N. Population Fund at this time. We must continue to do all that we can to pressure the Government of China to cease any program of forced abortion or sterilization as a means of population control.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise in support of the amendment that has been offered by Senator LEAHY and Senator KASSEBAUM. I ask unanimous consent to be included as cosponsor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, first of all I would like to correct a few of the statements that were made by the previous speaker, the Senator from Texas. He said that this position that is embraced in the amendment of Senator LEAHY and Senator KASSEBAUM has been rejected by the Congress in the past. That is not true. Back in 1989 both the House and the Senate, in fact, rejected the Mexico City policy.

In addition, he said this amendment before us today embraces coercive abortion. Nothing could be further from the truth. No one here supports coercive abortions. It is morally wrong, and, furthermore, it is illegal.

The fact is, our policy does not support abortions in terms of international family planning assistance. Unfortunately, this issue has been misrepresented so many times in the past. We have to get beyond those misrepresentations with respect to this issue.

The United States does not support, through its international family planning assistance, abortion. Those funds cannot even be commingled with an organization that may use its funds for abortion. The fact of the matter is, under the Mexico City policy, our funds could still go to a government that uses its own funds for abortion or abortion-related activities. Yet, on the other hand, we deny those organizations who are the most instrumental and the most effective in providing international family planning assistance, family planning money, if in fact they use their own private funds for abortion-related activities.

This amendment would overturn the Mexico City policy. That is what the Senate voted on, and, I might add, by a vote of 57 to 43—57 to 43.

Unfortunately, the House has chosen not to compromise at all on this issue. But I would urge the Senate to stay firm and committed to the position that we have taken—that not only do we reject the Mexico City policy, but that, yes, we continue to provide funds to UNFPA which we are also on record in support of.

I think it is unfortunate that we have so many different issues entangled. The issue is whether or not you support family planning. If you are against abortion, the most reasonable approach to take is to support international family planning programs. The United States has been the forerunner. We were a leader in international family planning assistance. We cofounded UNFPA. We sit on their governing board. Now we are saying, well, we are sorry. We will somehow untangle all of this family planning money under the notion of abortion when, in fact, our money does not go for that purpose. If we are truly serious about supporting family planning programs that are effective, then we have to provide the necessary funding. That is what this is all about. We are asking that we put into permanent law a nondiscriminatory policy on the funding of private organizations, that we treat them the same as we do foreign governments. It is a matter of simple fairness, and it should be preserved.

What we are talking about here today are the programs that are so essential that will make a difference in the developing countries. These include voluntary family planning services, contraceptive research, maternal health programs, and child survival programs.

That is what we are talking about. We are not talking about abortion. The fact is that this Congress back in 1973 passed the Helms amendment that prohibits the use of any U.S. funds for abortion-related activities. That is the law. That will continue to be the law. What we are supporting is assistance through international family planning programs, and to those private organizations that have been the most effective around the world.

So it is a matter of whether or not we want to assist those countries that have a truly difficult problem in controlling population growth, if we deny assistance as American assistance to these programs, such as the International Planned Parenthood Program that provides more than assistance to more than 160 countries. When the Mexico City policy that took effect that Senator KASSEBAUM referred to back in 1984, 50 of those affiliates around the world were denied assistance. This has impaired our ability to support the most capable family planning programs in countries such India, which has more births each year than do Nigeria, Pakistan, Bangladesh, Indonesia, Brazil, and Mexico combined.

I think it is a sad irony that by the time the Mexico City Conference 10 years ago embraced this policy that denial of additional American assistance to family planning programs came at a time when most developing countries had come to understand the importance of voluntary family planning programs to their own countries' development. It is interesting because it took that long for us to convince other countries what they needed to do, and the validity of those programs and the impact it would have in containing the growth in those countries. Now we are attempting to resume our leadership role, and some are asking us to turn our backs.

If we believe in voluntarism and family planning—and we do—and, if we believe that abortion should be avoided as a method of family planning—and we do—then we should maintain our leadership. We have unrivaled influence in setting standards for family planning programs. A great number of other donors and recipient countries adopted our own model in their own program.

And I would hope that we would reject the arguments in that tradition in the position taken by the House of Representatives with respect to this issue because it is taking us a step backward. We talk about UNFPA being a leader, an organization that has been

a leader in international family planning programs, and, in fact, provides a third of all of the assistance in delivering family planning programs around the world.

UNFPA does not support coercive abortions in China. No one does. We put a number of restrictions on our assistance to UNFPA because they still work in China. They are trying to prevent what is happening in China. But we put restrictions in any event so those who say our money is fungible can be transferred to one account to another. The United States did not contribute to UNFPA during the time of the Mexico City policy. We also denied assistance to UNFPA, but in 1993 the U.S. resumed contributions to the UNFPA organizations with four major limitations. One, that no United States funds could go to China; two, United States funds are prohibited from funding coercive abortions and involuntary sterilization; that United States funds to UNFPA must be held in a separate account from all other UNFPA funds so there is no comingling; and, that UNFPA funding for China could not increase for the 5 years once the United States resumes its contributions to UNFPA. In fact, the UNFPA program in China will end at the end of this year.

So we have enormous protection in the event that any money would be transferred indirectly—not indirectly because we have never provided funds in that regard—but even indirectly because of UNFPA's presence in China. So we have put all those protections into law.

But now people are saying we should not provide any assistance to UNFPA. That is the leading organization providing and supporting multilateral family planning programs throughout the developing world. I think that is a truly regrettable. We should be doing everything that we can to assist these countries in controlling their population problems because we know the implications that it has for global and economic instability.

So I think that we as a country should be a leader in that regard as we have been in the past. I hope we will resume that leadership role.

Mr. President, I urge Members of the Senate to adopt the amendment offered by Senator LEAHY and Senator KASSEBAUM. I think that there is no question that these countries need our assistance. They need our help. They need our leadership in international family planning—not only in our country and our own future, but for theirs as well.

I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, thank you.

Mr. President, I rise in support of the Leahy-Kassebaum amendment on funding for international family planning programs and against the House position to cut and restrict family planning aid.

I want to commend my colleague from Maine, Senator SNOWE, for the excellent statement which she just made on the subject.

The House position, which we should all vote to reject, is a wolf in sheep's clothing. It pretends to be anti-abortion. But in fact, it is anti-family planning and does not affect the question of abortion funding at all.

In addition, the House position pretends to address the horrendous problem of forced abortions in the People's Republic of China—in the guise of trying to solve that terrible problem by denying United States support for the United Nations Population Fund.

Mr. President, the debate surrounding UNFPA began over a decade ago during the Reagan administration. Foes of UNFPA claimed then, as they do today, that the United States should withdraw support for UNFPA because of the fund's presence in China, where there have been persistent reports of government sanctioned forced abortions.

Mr. President, there is no question that the Chinese do many things that I abhor. Forcing women to have abortions or forcing individuals to undergo sterilization is a gross violation of human rights and should be condemned by our Government at the highest level.

Likewise, the killing of female infants in China is widespread and repugnant—and appears to often go unpunished by Chinese officials.

But it would be illogical—and counterproductive—for the United States to pull out of those international agencies that give aid to children in China because the horrific practice of female infanticide plagues that nation.

So why should we ask UNFPA to carry the sins of China on its shoulders when it comes to the question of family planning?

The facts have never supported this approach.

When the question of UNFPA funding was first debated during the Reagan administration, officials under President Reagan investigated the issue and found—and I quote from an AID document from that time—that ''UNFPA is a benevolent factor in China which works to decrease the incidence of coercive abortion'' in China by providing effective family planning services. That same Reagan administration investigation found absolutely ''no evidence'' that UNFPA participated in or supported in any way China's coercive family planning practices.

Sadly, caught up in the pro-life politics of the time, UNFPA was nonetheless defunded by President Reagan. President Clinton has since resumed U.S. support for this agency, and therein lie the roots of today's debate.

Through all of this, however, the facts have been clear—that UNFPA has been part of the solution in China, by helping to reduce the incidence of abortion in that country and others by providing high quality voluntary family planning services.

UNFPA's goal is to eliminate the need for abortions. They do so by providing maternal and child health care and voluntary family planning services. These are the kinds of programs that are unquestionably the most effective means of preventing abortion. And the majority of UNFPA's assistance goes towards projects in these areas.

In addition to targeting UNFPA funding for elimination, the House position seeks to reinstate language similar to what used to be called the Mexico City policy.

The House-adopted language is broad and ambiguous. It will impose a gag rule on foreign nongovernmental family planning organizations—denying those organizations U.S. support if they provide certain services—not limited to abortion—with their non-U.S. funds.

For example, in Russia, where abortion is legal, the United States currently provides humanitarian aid to help local family planning clinics deliver better services to women. Years ago, the United States determined this to be a priority within our Russian aid program because of the tragically high abortion rate for Russian women who, lacking family planning services, often have as many as 10 or 12 abortions over their life time.

If, however, we adopt the House language, we may be prevented from helping Russian family planning clinics simply because those clinics are affiliated with Russian hospitals where abortions are performed.

This would be making a bad situation worse—pulling support from clinics that are doing their best with scarce resources to provide alternatives to abortion for so many desperate Russian women.

So the House language is double trouble—targeting UNFPA, the world's largest source of voluntary family planning services, as well as the hundreds of smaller local family planning providers around the developing world.

Ironically, by denying support for so many organizations that provide quality family planning services, the House language might well have the unintended effect of increasing the incidence of abortion in China and elsewhere.

As has been pointed out by others during this debate, the foreign operations conference report continues the longstanding policy of banning the use of U.S. funds for abortions overseas. That ban, commonly known as the Helms Amendment, has been a part of the permanent foreign aid statute since 1973 and remains unchanged in the committee's bill.

Further, the conference report prohibits the use of U.S. funds for abortion lobbying.

In addition, UNFPA's own position on abortion provides additional safeguards. UNFPA does not, and never has, supported abortions or abortion-related services in any country in which it operates.

According to the UNFPA's governing Council, it is ''the policy of the UNFPA . . . not to provide assistance for abortion, abortion services, or abortion-related equipment and supplies as a method of family planning.''

So the real question facing the Senate today is this: The conference report is already stringently anti-abortion. But if we adopt the House language, thereby disqualifying the most tried and true family planning organizations from receiving U.S. support, do we really want to make this bill anti-family planning as well?

Let me take a minute to review for my colleagues why U.S. support for voluntary family planning is so important.

While childbirth anywhere carries certain risks, in the developing world mothers face grave statistics. In Africa, for example, 1 out of every 21 women will die as a result of pregnancy or childbirth, making the African woman 200 times more likely to die as a result of bearing her children than a European woman.

The kinds of programs provided by UNFPA and other voluntary family planning organizations can prevent many of these maternal deaths.

So when we support family planning aid, we are supporting those women and families across the developing world who seek the means to space their births and avoid high-risk pregnancies.

Equally important, when we support family planning aid, we are increasing the chances that child survival rates will increase across the developing world.

We know that babies born in quick succession, to a mother whose body has not yet recovered from a previous birth, are the least likely to survive. Voluntary family planning programs seek to support child survival efforts, and help women understand the vital link between child survival and family planning.

So as I noted in my earlier remarks, the House language will do nothing to prevent abortions in China or elsewhere. But it will prevent vital health services from being delivered to women and children in the world's poorest nations.

I urge my colleagues to remember what is really at stake here. This is a public health issue, and an extremely serious one.

Family planning saves lives. Experts estimate that the lives of 5.6 million children and 200,000 women could be saved every year if all the women who wanted to limit their families had access to family planning.

I ask my colleagues to really think about those statistics—5.6 million children and 200,000 women each year.

So when we debate this issue of whether to support voluntary family planning programs like UNFPA and others, let us keep this debate focused squarely where it belongs—on the world's young women, who struggle against impossible odds to better their lives, and who desperately need reproductive health care services.

Let us keep this debate squarely focused on the young mothers around the world, who have small children or babies and need family planning assistance to ensure that they do not become pregnant again too quickly—endangering their own lives and that of their babies and young children.

Let us keep this debate squarely focused on the thousands of women in poor nations who, lacking access to reproductive health care, resort to self-induced abortions and, too often, tragically lose their lives. Experts estimate that at least half a million women will die from pregnancy-related causes, roughly 200,000 from illegal abortions which are prevented when women have family planning services.

The issues of refunding UNFPA and the Mexico City policy came before Congress again and again when Presidents Bush and Reagan were in office. Congress repeatedly voted for the United States to resume UNFPA funding, and to reject Mexico City-like restrictions on our family planning program.

So let us move on to the task of ensuring that women in the developing world have access to the kinds of reproductive health services they deserve. Let us adopt the Leahy-Kassebaum amendment.

I yield back the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, a number of Senators have spoken on this issue. And I also know that the Senate bipartisan leadership and the House bipartisan leadership are meeting with the President, so there will not be a rollcall vote immediately.

I urge Senators who wish to speak on this subject to come to the floor and speak. I see the distinguished Senator from California, and I ask the Senator if she wishes to speak.

Mrs. BOXER. About 7 minutes.

Mr. LEAHY. Whatever time the Senator wants.

Mr. President, I yield the floor so the distinguished Senator can, in her own right, have the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am very pleased to rise in support of the Leahy amendment. I think the Senate was right on this issue, and I think the Senate should hold its ground. The Senator from Kansas, Senator KASSEBAUM, worked hard to write language that makes sense. Senator LEAHY has worked with her.

We ought to be very clear in this body that we support family planning, certainly we do not want to see abortion, and we are not going to cut the legs out from under agencies that work to prevent abortion, that work to make sure there is family planning all over the globe.

These are nongovernmental entities that work hard to make sure that overpopulation is addressed by prevention. To punish—to punish—these nongovernmental entities in this bill, as the House wants to do, by restricting their funding and holding them to a standard that really has no rationale, to me, makes no sense. Then, of course, we have the attack on the U.N. Population Fund in this House amendment, which the Leahy-Kassebaum amendment would strike.

The United States was instrumental in creating the U.N. Population Fund in 1969 and, until 1985, provided nearly 30 percent of its funding. UNFPA is the largest internationally funded source of population assistance, directly managing one-third of the world's population assistance to developing countries. It is the principal multilateral organization providing worldwide family planning and population assistance to developing countries. It operates in over 140 countries in the poorest and the most remote regions of the world. Nearly half of the UNFPA assistance is used for family planning services and maternal and child health care. Another 18 percent is allocated for related population information, education, and communication.

I say to my friends who call themselves pro-life—and you have every right to call yourself whatever you want. And if that reflects your view on issues, fine. I feel I am for life, but I am pro-choice. And I feel I am for life because I am pro-choice, because I want to make sure that families have what they need to engage in sensible family planning so they are not faced with terrible choices.

Why on earth would the House of Representatives and some Members of the Senate want to punish an organization that helps people with family planning services, that educates them on how to prevent unwanted pregnancy, how to prevent sexually transmitted diseases such as AIDS and others? Why would we want to punish those organizations?

Well, I think it is clear why. Because when you strip it all away, there is punishment at work out here, punishment for organizations that believe it is very important to keep abortion safe and legal. And I do not think it is the job of the U.S. Senate or the House of Representatives to lash out at these people who are working in the most difficult conditions, in the most difficult areas of the world, and punish them for no other reason other than they believe, if abortion is legal, let us make it safe. That is what this amendment would do.

The fund that the House of Representatives and the Republicans over there want to stop provides support for population data collection and analysis, demographic and socioeconomic research, and population policy formulation and evaluation.

What does that mean? It means that we need to know statistically what is

going on in these countries. Is birth control working? Is family planning working? How is the infant mortality rate connected with runaway population growth? In 1993, UNFPA supported 1,560 projects in 141 countries, including 44 countries in sub-Saharan Africa, 33 countries in Latin America and the Caribbean, 39 countries in Asia and the Pacific, 25 countries in the Arab States, and in Europe.

Already we have a prohibition on U.S. dollars; they cannot be used for abortion. That is clear. And that has been in the law for a long time. But this is that long arm reach of big brother and the Contract With America that says, ''We are going to stop them from everything that they are doing, including family planning, even if they use their own funds for abortion-related activities.''

I find it incredible, my friends, that the Republican-led Congress that talks about States' rights and local control wants to take the long arm of Uncle Sam and put it in the middle of these countries, into nongovernmental organizations that are out in the worst circumstances, in the worst poverty, and stop these organizations from doing their good work by forcing them to say, ''You can never be involved, even with your own funds, in abortion-related activities, even if abortion is legal in the country.''

UNFPA programs contribute to improving the quality and safety of contraceptives, to reducing the incidence of abortion, and to improving reproductive health and strengthening the status of women. Well, I think we ought to be applauding the UNFPA. I think we ought to be applauding the work of the U.N. Population Fund, not saying, ''We're going to take away your funding, nongovernmental organizations in other countries, if you use your own funds to ensure that women get safe, legal abortions.''

You know, I was around this country when abortion was illegal, and I want to tell you what it was like because a lot of the younger people do not remember it, and some of the older, older people are beginning to forget.

But what it was like is the following: Abortions were illegal, but women still, in certain dire circumstances, chose to get them. They risked their lives. They had to go down back alleys. They had to beg, borrow, and steal the money. It was risky, and it was dangerous. Hundreds of women died every year. I do not understand how someone can call himself pro-life when they want to go back to those days.

Today we had a vote on the House side, an overwhelming vote, related to late-term abortions. To tell you how radical this group is over there, they did not even make an exception for the life of the mother.

So I say to the men in this country, think about what it would be like if your wife came home, they had found a cancer, she was in the mid-term of her pregnancy, and the doctor said, ''I cannot say that you will not die if you go ahead with this birth,'' and you and your wife and your family had to face a horrible decision, a terrible, terrible choice.

I ask you, why should Members of Congress climb into that living room with you and tell you what to do with your family? I am revolted by it. I am disgusted by it. And I am stunned that a party that says, ''We don't want to get in the middle of your life,'' would get right in the middle of your most personal decision.

What is going on here with the UNFPA is an outgrowth of that mentality. ''Oh, yeah, we want you to make your own decisions''—except if we disagree with it, then we are going to pass a law—''your most private, personal, difficult, agonizing choices that you should make as a family.'' And now we are going to reach in to nongovernmental organizations that operate in Latin America, in Africa, in Europe, and we are going to tell them as Members of Congress, because we are so important and we know so much about everything, that we are going to deny them funding even with their own funds, with their own privately raised funds—not our funds—they help a woman with a safe and legal abortion, rather than force her into some back alley and some butcher's knife.

I hope the Senate stands tall on this amendment. It is very important that we do. It is all interconnected. It is all about what we stand for as a nation. Do we stand for individual rights, or do we stand for Big Brother telling us how to make these private, agonizing, and difficult choices?

Let me tell you what the House did today in their vote. They said if there is a midterm or late abortion, it is illegal and the woman and the doctor can go to jail. Oh, yeah, they can defend themselves. The doctor can use as a defense, ''I thought her life would be threatened,'' but there is no presumption that the doctor can make that ruling, not even an exception for life of the mother.

In my opinion, what the House did today will lead to women dying if this Senate does not stand up against it. I have to tell you, I will stand on this floor as long as it takes—and people know me, they know I will—to stop that kind of legislation from becoming the law of the land, to stop an attack on women.

I have not read on this floor some of these cases and the agony of these cases where women are faced and their husbands are faced with the most difficult decisions of their lives. I, frankly, was not elected to be God, and I was not elected to be a doctor. They even made up a term called ''partial-birth abortions.'' There is no such scientific term. They made it up just to try to incite people's emotions.

Let me tell you, they are going too far. They are radical, and they are going too far. Just like they are radical in their budget when they take $270 billion out of Medicare and give a tax cut to the rich with it. Just like they are radical on their environmental policy where the Republican study group put out a bulletin—I am going to put it in the RECORD—that is a guide to Republicans in the House and says, ''Go home and plant a tree and visit your zoo and then they can never say you are against the environment.'' Go home and plant a tree and visit your zoo and give a report card out to the best environmentals and then, yes, you can vote against the Clean Air Act, the wetlands, forget the Endangered Species Act. Who needs the bald eagle anyway?

Well, it is a radical crowd. They have gone too far, and this is an example, UNFPA, an organization that does so much good out there.

UNFPA helps to promote male participation and responsibility in family planning programs; address adolescent reproductive health; reach isolated rural areas with high demands for family planning services.

They want you to believe in this amendment that it is about China. Let me be very clear. No United States funds made available to the UNFPA shall be made available for any activities in the People's Republic of China. Our funds are not being used for any activities in China. I do not want them to go to China because they have a policy, we know, that we do not agree with: forced abortion, particularly as it relates to females.

So the bottom line is, none of us is for that, but this has nothing to do with this amendment. UNFPA United States funds do not go to China and will never go to China. It is a backdoor way to hurt a very important program. It is about ending the U.S. participation in the U.N. family planning fund where we have been active since the sixties, and we should be proud of our activities there, because we are saving lives, we are giving health care to people who need it desperately, and we are not controlling the way people think. Why should we? It is their right in their country to support safe, legal abortions if they want. We should not try to gag them as a result of our participation in UNFPA.

So I hope the American people follow this debate, because there is a linkage here to what has gone on in the House today, their attack on a woman's right to choose. They basically ended Roe versus Wade today, because Roe versus Wade said, in the late terms of a pregnancy, after the first trimester, the State shall regulate. They stepped in and took over and reached the long arm of Uncle Sam into every doctor's office in America, disrespecting women, disrespecting families, disrespecting individual rights, disrespecting physicians.

They have gone too far, and now in this bill we face this fight. I hope that my colleagues will support the Leahy-Kassebaum language. It is the language we all agree with. We are not saying in

any way in this bill that Federal funds are going to be used in any way for abortion, but what we are saying with this amendment is that nongovernmental organizations—nongovernmental organizations—operating in other countries have a right to do what they will with their own funds.

As far as UNFPA, they are using this China argument and distorting it. They just want to get us to pull out of this family planning, this very important agency. I hope we will support PATRICK LEAHY on this one.

I ask unanimous consent that the think-globally-act-locally House Republican Agenda be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THINK GLOBALLY, ACT LOCALLY—A PRO-ACTIVE, PRO-ENVIRONMENT AGENDA FOR HOUSE REPUBLICANS

INTRODUCTION

As we all know, the environmentalist lobby and their extremist friends in the eco-terrorist underworld have been working overtime to define Republicans and their agenda as anti-environment, pro-polluter, and hostile to the survival of every cuddly critter roaming God's green earth.

While we all know that this characterization of Republicans is far from true, it will continue to be the drumbeat message of the left for as long as it helps them a) grab headlines, b) write fundraising letters, and c) energize people who consider themselves pro-environment.

The new Republican Congress is committed to updating environmental legislation written in the 1960s and 1970s to better address the problems of the 1990s and for the century to come. As we move this agenda based on sound science, results and real clean-up, better use of tax dollars, respect for property rights, and less reliance on lawyers, the establishment environmentalist community in Washington has begun its own fear campaign to preserve the status quo they make a living from.

Although Republicans and the vast majority of the American people believe you can't have a strong economy without a strong environment, and you can't have a strong environment without a strong economy, the extremist environmental movement will stop at nothing to distort the facts, lie about our legislative agenda, and paint you and your fellow Republicans as the insensitive extremists in this fight. And while we will never satisfy the most extreme in the environmental movement, to many in our growing Republican majority—especially suburban women and young people—the environment is an important issue.

In addition to the legislative battle the Conference will help you fight, and win, here in Washington to bring common sense reforms to environmental legislation such as the Endangered Species Act, Superfund, and Clean Water legislation, there are very real and very effective steps you can take in your districts to help further insulate yourself from the attacks of the green extremists.

As we are ''thinking globally'' about how to improve our nation's environmental laws here in Congress, the steps listed below will help you to ''act locally'' and get involved in your districts on the side of a cleaner environment.

By taking some time to get involved in a variety of pro-environment projects in your communities, you can go over the heads of the elitist environmental movement and work directly with the people who care most about the environment in your communities—your constituents.

The time to act is now. In order to build credibility you must engage this agenda before your opponents can label your efforts ''craven, election year gimmicks.'' Remember, as a famous frog once said, ''it ain't easy being green,'' your constituents will give you more credit for showing up on a Saturday to help clean up the local park or beach than they will give a press release from some Washington-based special interest group.

Think of it this way, the next time Bruce Babbit comes to your district and canoes down a river as a media stunt to tell the press how anti-environment their congressman is, if reporters have been to your boss' adopt-a-highway clean-up, two of his tree plantings, and his Congressional Task Force on Conservation hearings, they'll just laugh Babbit back to Washington.

ACTION ITEMS

I. Tree planting

Whether sponsoring tree planting programs in your district or participating in ongoing tree planting programs, this exercise provides Members with excellent earned media opportunities. When participating in tree planting programs you should include both children and seniors. In addition, while it is important to discuss the positive environmental aspects of planting trees, don't forget the symbolism that trees represent—i.e. roots in the community, family, and district.

Tree planting can occur at schools, parks, public buildings, and even senior centers. If the Member plans on sponsoring his/her own tree planting program, consider, contacting local nurseries who may donate trees for the cause. (Contact the ethics committee prior to undertaking this activity)

II. Special environmental days—Earth Day & Arbor Day

During the year there are at least two days when the ''environment'' is a major news story.

Earth Day—Usually third week in April.

Arbor Day—Proposed in 1996 for April 26th.

During these special environmental days, chances are good that the media will be writing an Earth Day or an Arbor Day story. In addition, chances are also good that somewhere in your district there will be a group sponsoring an event. Plan on participating in these events, or at a minimum, plan on releasing a statement of support. In your statement of support, make sure to include your positive environmental activities.

III. Adopt a highway, walking trail or bike path

While traveling your district, you will no doubt come across ''Adopt a Highway'' signs. This is an excellent program that embodies the Republican philosophy of volunteerism. To participate in this program you should contact your state, county road commission, or local roadway authorities.

In addition to participating in an ''Adopt a Highway'' program, you may also want to participate or initiate an ''Adopt a Walking Trail'' program or ''Adopt a Bike Path'' program. For these type of programs you should contact your local, county, or state parks authorities.

Once you decide to participate in any of these programs, make sure to announce your participation at the site. Stress community involvement in your remarks and have plenty of supporters on cite at the press conference.

IV. Environmental companies

Environmental high tech ''clean up related'' companies or companies that produce products from recycled materials are among the fastest growing industries in America. Through your local Chamber of Commerce or National Federation of Independent Businesses, do some investigative work to seek out environmental related companies in your district. If you have an environmental company in your district, contact the facility and arrange for a tour.

During the tour be sure to invite the media to participate (make sure you receive permission from the facility). Become briefed on the company's mission and offer your support. Chances are, the company will be happy to participate in this earned media opportunity which offers them positive media coverage.

V. Start a conservation task force

One of the best ways to keep informed regarding local environmental issues is to organize a local conservation task force in your district. In addition to keeping you informed on local environmental issues, this group can also assist you in developing an environmental legislative agenda. To set up such a group invite local environmentalists and sportsmen to join. Groups to contact include: garden club members, 4H representatives, Ducks Unlimited members, Audobon members, and other local or grass-roots organizations that are symphathetic to your common sense environmental agenda.

VI. Local conservation groups and boards

What types of environmental groups are already active in your district? Look for zoo boards, garden clubs, or other community conservation/environmental groups in your district. Become an active board member where possible.

VII. Local school participation

Many school curriculums include environmental issues or offer special environmental programs. Find out which schools offer these programs and become a guest lecturer. In your lecture be prepared to offer congressional environmental action highlights as well as a reaffirmation of your commitment to a clean environment.

VIII. Constituent letter data base

Undoubtedly, your office has received environmental related constituents letters. Hopefully, you have coded these letters in your data base. These are constituents who care enough about the environment to take the time to write you and in many cases will appreciate updates from you concerning your environmental agenda. These are also the same people that you can ask to participate in your conservation task force.

IX. Using recycled materials & initiating a recycling program in office

One of the best ways to show your concern about the environment is to lead by example. One way to show this is to announce an office policy which includes purchasing recycled materials and initiating a recycling program in your office. When announcing this new office policy be sure to include local environmentalists who will praise your actions.

X. Recycling facilities in district

Many municipalities and counties have ongoing recycling programs. Seek out those who have these programs and tour the facility or drop off area. If they don't currently have recycling programs, you might want to head up a task force with local officials to implement a municipal or county wide program.

XI. Teddy Roosevelt conservation award

Through his conservation efforts President Teddy Roosevelt is probably known as the Republican's most famous environmentalist. Using his name, consider establishing a yearly ''Teddy Roosevelt Conservation Award''

for someone in your district whose achievements exemplify President Roosevelt's conservation commitment. You can even recognize several award winners by establishing a youth award, a senior award, or a local business conservation award.

Be sure to contact your local media when you establish the award and when you award the winner. To facilitate the process of identifying potential winners. You can involve your local conservation task force and local schools in the decision process.

XII. Environmental PSAs

Members of Congress are important leaders. As such it is both appropriate and encouraged that you speak out on local environmental issues through the use of public service announcements (PSAs).

Suggested environmental PSAs could include:

Proper battery disposal.

Encouraging recycling at home.

Proper motor oil disposal when changing your car's oil.

Encouraging respect for nature when camping or hunting.

Keeping lakes, rivers, and beaches clean by putting garbage in its place.

These PSAs can air on both radio and cable stations. To produce a PSA first contact your local radio and cable stations to inquire if they will run your PSA. When producing PSAs, you can use studios at the radio and cable station or you can use the House Recording Studio.

XIII. Door to door-handing out tree saplings

If your current plans include door to door, consider passing out tree saplings with your door to door pamphlet. Some Members even design the pamphlet so that it is attached to the tree sapling.

This practice demonstrates your commitment to the environment by encouraging the planting of the trees and it provides you with an opportunity to use appropriate language tying your legislative agenda to the ''roots'' you are establishing or growing in your community.

XIV. River, lake, beach, or park clean ups

Through your conservation task force or through already established organizations, consider participating in local river, lake, beach, or park clean ups. Participating in these events will provide you with an opportunity to gain positive media exposure and further demonstrates your commitment to the environment.

XV. Local zoo

Become active in your local zoo. Go for a visit, participate in fundraising events, become active on its citizens advisory board, or help create enthusiasm for special projects it might be promoting.

CONCLUSION

Remember, the environment must be a proactive issue. Congressional staff in both the Washington office and the district office need to concentrate on seeking out environmental opportunities for their boss. Republicans should not be afraid of the environmental extremists—embrace our record and act to promote it.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the amendment offered by the distinguished Senator from Kansas, Senator KASSEBAUM, and supported by others, Senator LEAHY and Senator BOXER as well.

It seems to me a fundamental proposition that a private organization ought to be able to use its funds overseas for any purpose which it chooses. The Kassebaum amendment provides that there will be no U.S. dollars used to pay for abortion, and, in my view, that ought to take care of the objection of anybody who does not want to have U.S. taxpayer dollars spent on abortions.

But the factor of not limiting a private organization to a standard which is different than the laws of the host country seems to me to be fundamental. Were these moneys to be spent in another country, let the laws of those countries determine what is appropriate. To try to impose a limitation under the so-called Mexico City policy, the House language, which would prohibit United States dollars to organizations which are bilateral or multilateral, where those organizations use their own funds for whatever purposes, including abortion, seems to me to be a matter which is really within the purview of those private organizations. What concerns me, Mr. President, is that this controversy is part of a broader controversy which has engulfed the U.S. Senate and the House on the confirmation of Dr. Henry Foster, where he was not even given a vote on confirmation in the Senate because he performed medical procedures—abortions—permitted by the U.S. Constitution; a debate on an appropriations bill about whether women in prison would be able to have abortions at public expense, where they were necessary, in the judgment of the doctor, for medical purposes or where that woman might have been a victim of incest; even under the restrictive language of limiting the language of abortion to incest, rape, or the life of the mother. It is not just whether funds ought to be available if a woman in a Federal prison is unable to earn any money or to take care of her own medical needs, and she is denied a medical procedure—an abortion—if she is the victim of incest, or the issue about having medical procedures—abortions—available for women in overseas medical installations.

There is really a broad scale attack on a woman's right to choose, a constitutional right that is recognized by the Constitution of the United States, as interpreted by the Supreme Court of the United States—not going back to Roe versus Wade in 1973, but a decision handed down in Casey versus Planned Parenthood by the Supreme Court in 1992, an opinion written by three Justices appointed by Republican Presidents, Reagan and Bush, an opinion written by Justices Souter, O'Connor, and Anthony Kennedy.

So I hope that we will not further limit the right of a private organization to use their own funds for overseas purposes, even if they include abortion, simply because that U.S. organization may have U.S. funds for totally separate and collateral purposes.

MILITARY ACTION IN BOSNIA

Mr. SPECTER. Mr. President, this is a subject which has been spoken about on our floor and has been the subject of action by the House—that is, the subject of not having military action in Bosnia, which utilizes United States troops without prior consent by the Congress of the United States. This is a very, very important subject, Mr. President, for many reasons.

We have learned from the bitter experience of Vietnam that the United States cannot successfully wage a war which does not have public backing, and the first indicia of public backing is approval by the Congress of the United States.

We have deviated from the constitutional requirement that only the Congress can declare war. In Korea, we had a conflict, a war without a declaration of war and, again, in Vietnam. When a Republican President, President George Bush, wanted to act under Presidential authority to move into the gulf with military action, I was one of many Senators who stood on this floor and objected to that, because it was a matter that ought to have been initiated only with congressional action.

Finally, in January 1991, in a historic debate on this floor, the Congress of the United States authorized the use of force, and I supported that policy for the use of force. But the more important principle involved was that the President could not act unilaterally, could not act on his own.

Similarly, I think that is a mandatory consideration on the Bosnian situation. I have disagreed—many of us have—with the President's policy in Bosnia. On this floor, I have said on a number of occasions, as have others, that the arms embargo against the Bosnian Moslems was bad public policy, that the Bosnian Moslems ought to be able to defend themselves against Serbian atrocities.

After the Senate voted overwhelmingly to lift that embargo, and the House voted overwhelmingly to lift that embargo, only then did the President become involved in the Bosnian situation and effectuated a policy of United States airstrikes. And I, among many others, argued with the administration and the military leaders that we should have undertaken airstrikes to use U.S. military power in a way which did not put large numbers of our troops at risk.

We were told by the administration and by military leaders that air power without ground support would be ineffective. But, finally, when the administration was faced with no alternative, except to face a possible override on their veto of the legislation lifting the arms embargo, then, and only then, was air power employed, and very, very effectively. I believe that the use of U.S. air power is entirely appropriate, but the use of ground forces is not.

We have seen the policy in Somalia, where this administration went beyond

humanitarian purposes to nation building. It was up to the Congress of the United States to withhold funding. That might be necessary again, in a very unsatisfactory way, to have the constitutional mandate that only the Congress can declare war, enforced through the congressional power of the appropriations process. It is most unsatisfactory to have a Presidential commitment and to have U.S. troops involved and then to have it terminated only by the withholding of funds.

So it is my hope, Mr. President, that President Clinton will not act unilaterally, as he did in Haiti, against the overwhelming sense of the Senate and sense of the House that there not be an invasion of Haiti. Fortunately, it was done without bloodshed. But this is a constitutional issue of the highest import. If the President wishes to exercise the use of force in Bosnia, he ought to follow the constitutional doctrine, the precedent of the gulf war, and he ought to come to Congress for authorization. Then, and only then, will there be an appropriate opportunity to debate the matter and for Congress to exercise its will under the Constitution.

On the state of the record, my view is that there ought not to be an American commitment of troops. But, certainly, that ought not to be done by the President unilaterally. The matter ought to come before the Congress, and it ought to be a congressional decision one way or another, under the constitutional provision that only the Congress has the authority to declare war.

I yield the floor.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 3041

Mr. SIMPSON. Mr. President, I ask that I be added as a cosponsor of the Leahy-Kassebaum amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I want to show my support for this amendment, which, of course, includes U.S. funding for the U.N. Population Fund, UNFPA, as it is known. President Clinton had to resume funding for the population fund 2 years ago after a 7-year suspension during the Reagan and Bush administrations. I did not ascribe to that. I did not agree with the fine Presidents of my own party on that issue—either the wonderful Ronald Reagan or my fine, loyal friend, George Bush.

Last year, the Congress appropriated $40 million for the fund, and $50 million was appropriated for 1995. This year, we are looking at funding levels of $35 million.

I do understand that funding for all programs across the board needs to be reduced if we are to incur savings in this year's budget bill. However, I do not want to see population programs unfairly targeted for larger reductions than other foreign assistance programs.

The United States needs to keep its funding at an adequate level, or we will surely send exactly the wrong message to the rest of the developed nations across the world. Last year, the United States was seen as a world's leader of population and development assistance at the International Conference on Population and Development in Cairo. I was a congressional delegate at the conference, as was my friend, Senator John KERRY. There were not a lot of colleagues eager or seeking to go to that particular conference. I came away very impressed with the leadership and direction displayed there by Vice President GORE, and the assistance given him by the now Under Secretary of State, former Senator, Tim Wirth in guiding the conference and its delegates in developing a ''consensus document,'' on a broad range of short- and long-term recommendations concerning maternal and child health care, strengthening family planning programs, the promotion of educational opportunities for girls and women, and improving status and rights of women across the world.

We surely do not want to lose our moral leadership role and relinquish any momentum by abandoning or severely weakening our financial commitment to population and development assistance. The United States needs to continue its global efforts to achieve responsible and sustainable population levels, and to back that up with leadership with specific commitments to population planning activities.

In my mind, of all of the challenges facing this country—and there are surely plenty of them—and around the world—none compares to that of the increasing of the population growth of the world. All of our efforts to protect the environment, all the things we hear about what is going to happen, what will happen to this forest system, or this ecosystem, promoting economic development, jobs for those around the world, are compromised and severely injured by the staggering growth in the world's population.

I hope my colleagues realize, of course, that there are currently 5.7 billion people on the Earth. In 1950, when I was a freshman at the University of Wyoming—not that long ago, surely—there were 2.5 billion people on the face of the Earth. Mr. President, 2.5 billion people using the Earth's surface for sustenance and procreation in 1950. Today, 5.7 billion—double—more than double.

Since 1950 to today, the figure has doubled and it will double again if birth and death rates continue. The world's population will double again in 40 years. These are huge figures.

If you want to talk about food supply, want to talk about the environment, pollution, fish, timber, coal, resources, there is your figure. Nobody pays much attention to that because we allow this debate to slip over to abortion. It does not have anything to do with abortion or coercive practices.

That is why it is so important we show our support by funding this particular fund. It is supported entirely by voluntary contributions, not by the U.N. regular budget.

You do not have to get into this one because you hate the United Nations either. This is not about whether you like the United Nations or not. Many of us have great problems with the United Nations, and they have certainly failed in many endeavors, but this is not a ''U.N. caper.''

There were 88 donors to the fund in 1994, most of which were developing nations. Japan and the United States were the leading contributors to the fund with the Nordic countries not lagging far behind.

UNFPA assistance goes to support 150 countries and territories across the world. UNFPA total income in 1994 was $265.3 million, and it provides about one-fourth of the world's population assistance to all developing countries.

I think it would be a real shame if the United States were to back away from its commitment to the world's largest source of multilateral assistance for population programs.

I want to reiterate again what has been said already about U.S. participation in this fund. The U.S. contribution would be subject to all the restrictions which have been in place for many years. These restrictions are in place to address concerns specifically about U.S. funds being spent in China. I hear those concerns.

Under current appropriations law, foreign aid funding is denied to any organization or program that ''supports or participates in the management of a program of coerced abortion or involuntary sterilization'' in any country. That is pretty clear. I agree with that.

Furthermore, current appropriations law ensures that none of the United States contribution to UNFPA may be used in China—none. Listen carefully: The United States is not funding any of the population activities in China.

Furthermore, the U.N. Population Fund does not fund abortions or support coercive activities in any country including China. The UNFPA assistance goes toward family planning services and maternal and child health care across the developing world.

Finally, no U.S. funds may be commingled with other UNFPA funds and numerous penalties exist in law for any violation of this requirement.

I also have deep and serious concerns about China's coerced abortion policy, but forcing the U.N. Population Fund to withdraw from China will not affect that policy one whit. In fact, without

the careful monitoring that the fund performs, conditions in China would get very much worse. That is an important consideration. The world and the United States cannot turn its back on what is currently going on in China. Remove the funding and that great door will close ever further. No one will be able to participate or to change those policies.

Finally, this amendment would strike the House Mexico City language that denies United States population assistance to groups that are involved in dialog with foreign governments about abortion policy or even distribute literature on preventing unsafe abortions. This House amendment would ultimately deny family planning activities overseas. Since the House language applies to nongovernment organizations [NGO's] it would cut off funds to the most effective and dedicated providers of services, groups that best understand the needs of the people in the country they serve.

I urge my colleagues to vote for the Leahy-Kassebaum amendment so that the United States might continue its leadership role in addressing the global population issues which are wholly significant in the range of other issues that we confront from day-to-day, because all of it comes back to the simple fact, how many footprints will fit on the face of the Earth?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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.

Mr. McCONNELL. Mr. President, for the information of all Senators, Senator NICKLES is going to speak for a few moments and then we are prepared to vote. It is my understanding that if the Leahy amendment is agreed to, that will be the last vote of the evening.

I yield the floor.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. NICKLES. 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. NICKLES. Mr. President, I rise in opposition to Senator LEAHY's amendment. I will read it for my colleagues' information:

Provided, That in determining eligibility for assistance from funds appropriated to carry out section 104 of the Foreign Assistance Act of 1961, nongovernmental and multilateral organizations shall not be subjected to requirements more restrictive than requirements applicable to foreign governments for such assistance: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion.

It sounds kind of reasonable, until you realize we do not have restrictions on governments dealing with the prohibition of abortion. So this language is meaningless. It has no restriction whatsoever. That means that we would be funding international family planning groups that use abortion as a method of family planning. A lot of us really do not want to do that. It is troublesome to think that international groups, some of which support abortion as a method of family planning, would be receiving tax dollars to be used in that fashion. Maybe this amendment is a nice attempt to cover that up, as a substitute for the House language. I just hope that our colleagues will not agree to it, for a lot of different reasons.

One, I do not think we want to fund international groups that promote or support or fund abortions. I do not think U.S. taxpayers' dollars should be used for that purpose. We have restrictions in this country. We have restrictions in this country that prohibit the use of taxpayers' dollars to be used to fund abortions, except in necessary cases—to save the life of the mother, or in cases of rape or incest. That is really what the House language is trying to do.

The House language reinstates the so-called Mexico City policy, and it goes back to 1984 through January 1993, which includes the Reagan and Bush era. It says we do not want to fund international groups that support or fund abortion. That was the policy of this country for that period of time.

The Clinton administration, through an Executive order in January 1993, reversed that policy. So now we have a policy, and Tim Wirth who served in this body has been actively promoting it, where we actually have been involved in encouraging countries to change their laws on abortion. I think 95 countries have significant restrictions in their laws against abortion.

I think using U.S. taxpayers' funds to be telling other countries to change their laws is very offensive. Certainly to be contributing to organizations that use part of their money or some of their moneys for abortions is also offensive.

Again, our stated policy in this country is we do not want to support abortion. We do not want taxpayers' moneys used to subsidize abortion unless it is necessary to save the life of mother or in cases of rape or incest. To be giving money to international organizations that either support or use abortions as a method of family planning or to try to change Government laws for abortion, in my opinion, is wrong.

I looked at the House language and it basically says that money will not be used for organizations, nongovernmental or multilateral organizations, until the organization certifies it will not, during the period for which the funds are made available, perform abortions in any foreign country except if the life of the mother were in danger if the fetus were carried to term, or in cases of forcible rape or incest.

I think that is good language. I think that language mirrors the language that we have agreed to on this floor dealing with Labor-HHS, the so-called Hyde language. Why in the world would we be supporting and giving money to foreign organizations that do the opposite? I think that is a serious, serious mistake.

Also, I might mention this House language says that we do not want any money to be used to violate the laws of any foreign country concerning circumstances under which abortion is permitted, regulated or prohibited. We do not want U.S. taxpayers' dollars used to go into other countries to lobby, to encourage, to change laws that they may have dealing with abortion. Why in the world should we have the idea that we know best, and so we want to manipulate and make those laws basically more pro-abortion.

I want to touch for a second on the issue of the People's Republic of China. There had been restrictions under the Reagan and Bush eras that we did not give money to the UNFPA organization if they were giving money to the People's Republic of China, because they had a coercive abortion policy. The House language, likewise, says we would not give money to the U.N. family planning organization if they were still supporting the coercive policies or contributing to the policies in the People's Republic of China.

Mr. President, I remember when Mrs. Clinton addressed a large conference in Beijing earlier this year and she condemned forced abortion. Unfortunately, that happens to be the policy in the People's Republic of China today—a one-child policy, enforced by, in some cases, coercive abortion. That is unbelievable. It is also undeniable. Yet UNFPA has actually made supportive comments about some of the things that are going on in the PRC today concerning their family planning efforts.

It is reprehensible to think that we might be contributing to an organization that might be assisting in coercive abortion. That should not happen.

Mr. President, I look at the language that we have before the Senate in the so-called Leahy language. I do not find it acceptable. I find no restriction whatever on U.S. funds to international organizations, no restriction whatever. If it passes and if it became law, we will be giving money to international groups that use abortion as a method of family planning.

That is offensive to me as a taxpayer. It is offensive to me to think that the result of that is that U.S. tax dollars will be used in some way or another to subsidize the destruction of innocent, unborn human beings.

I look at the House language. The House language is basically reinstating the policy that we had from 1984 to January 1993. That policy saved

lives. Did it restrict use of family planning? No. Did family planning continue? Yes. Did family planning continue with funding from the United States? Yes.

Over 350 organizations signed up and said, ''We will take your money and use it for family planning, but we will not use abortion as a method of family planning.'' That means organizations all across the world. It worked. Some people said they would not sign up, but they did.

So we had family planning efforts, but we had family planning efforts separate from abortion. That is what we are trying to do with this House language.

I urge our colleagues to reject the Leahy amendment and support the House language.

I might mention, also, I think that the House language, which passed overwhelmingly, passed by a vote of 232–187. My guess is that if we do not have language similar to that, we will not have a bill. We will be looking at the foreign operations bill in a continuing resolution, in all likelihood, throughout the year.

Mr. President, I urge my colleagues to vote ''no'' on the Leahy amendment. I yield the floor.

Mr. LEAHY. Mr. President, very briefly, with all due respect to my friend from Oklahoma, his description of the Leahy-Kassebaum amendment is not accurate.

Mr. President, we debated the basic aspects of the Leahy-Kassebaum amendment less than a month ago. Mr. President, 57 Senators voted against what is in the House position, voted against the position we seek to replace. Nothing has changed since then.

The Leahy-Kassebaum amendment simply says that private family planning organizations like the foreign organizations supported by the International Planned Parenthood Federation should not be restricted to require more subjective requirements, more restrictive than those applicable to Government.

In other words, it permits us to support private organizations, provided U.S. Government funds are not used, are not used for abortion activities as we made funds available for family planning to governments in countries where abortion is legal, as it is in this country, just as we give foreign aid to countries where abortion is legal, as it is in this country.

This bill contains the same explicit prohibition of funding for abortion that has been the law for years. Not one dime in this bill could be spent on abortion or anything related to abortion. The bill already contains a prohibition against using any United States funds in China.

The House amendment would, nevertheless, prohibit a U.S. contribution to the U.N. population fund. I think that would be foolhardy. The question is whether we should accept the House position so that the bill might go forward.

I ask unanimous consent that a statement of administration policy from OMB be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 31, 1995.

Re H.R. 1868—Foreign operations, export financing and related programs appropriations bill, FY 1996 (Sponsors: Livingston, Louisiana; Callahan, Alabama).

STATEMENT OF ADMINISTRATION POLICY

[This statement has been coordinated by OMB with the concerned agencies]

This Statement of Administration Policy provides the Administration's views on the item reported in disagreement by the conference on H.R. 1868, the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 1996. Your consideration of the Administration's views would be appreciated.

The conferees have reported in disagreement provisions related to population assistance to non-governmental organizations. This is an issue of the highest importance to the Administration.

The Administration opposes coercion in family planning practices, and no U.S. assistance is used to pay for abortion as a method of family planning. The House provision, however, would prohibit any assistance from being provided to entities that fund abortions or lobby for abortions with private funds, thus ending U.S. support for many qualified and experienced non-governmental organizations providing vital voluntary family planning information and services. The provision would also end U.S. support for the United Nations Population Fund (UNFPA). This would sharply limit the availability of effective voluntary family planning programs abroad that are designed to reduce the incidence of unwanted pregnancy and thereby decrease the need for abortion. The Administration also has serious concerns about the constitutionality of the House provision. If the House language were included in the bill presented to the President, the Secretary of State would recommend to the President that he veto the bill.

Mr. LEAHY. I read the last sentence: ''If the House language were included in the bill presented to the President, the Secretary of State would recommend to the President he veto the bill.''

I think, Mr. President, we have heard debate for and against the Leahy-Kassebaum amendment. I know Senators are concerned about their schedule, and I am happy to go forward with a vote.

Mr. COVERDELL. I would like to thank the chairman for his leadership in crafting this foreign operation conference report. In light of the budgetary restriction placed upon all of these projects, I think the chairman has done a skillful job of handling many divergent interests.

Mr. MCCONNELL. I thank the Senator.

Mr. COVERDELL. I would also like to thank the Senator for his assistance in attempting to remedy funding difficulties we have experienced for International Narcotics Control. As the chairman knows, I am extremely concerned that funding for U.S. drug interdiction efforts has been drastically declining since 1992. During this time we have witnessed a proportionate increase in the use of drugs in America. For example:

After a steep drop in monthly cocaine use between 1988 and 1991 from 2.9 to 1.3 million users, and a similar drop in overall drug use between 1991 and 1992, from 14.5 to 11.4 million users, numbers released earlier this year revealed that youth drug use increased in 1994, for all surveyed grades for crack, cocaine, heroin, LSD, non-LSD hallucinogens, inhalants, and marijuana.

According to the Department of Health and Human Services, illegal drug use among the Nation's high school seniors has risen 44.6 percent in the last 2 years.

The resurgence of heroin in the United States borders on epidemic proportions. DEA Administrator Thomas Constantine recently noted that heroin is now available in more cities at lower prices and higher purities than ever before in our history. In addition, Administrator Constantine says: ''For the first time in our history, America's crime problem is being controlled by worldwide drug syndicates who operate their networks from places like Cali, Colombia * * *.''

Mr. MCCONNELL. I am in complete agreement with my colleague from Georgia, that we are at a crucial point in our war on drugs. Without the immediate commitment of resources to stop the flow of illegal narcotics across our borders, the United States will be facing the largest expansion of illicit drug supplies and the greatest increase in drug use in modern American history.

Mr. COVERDELL. The chairman has clearly summarized the problem that the Senate attempted to address by increasing funding for international drug control in the foreign operations appropriations bill. I know the chairman shares my concern that the conference report before us today severely undermines the Senate's commitment to drug interdiction by decreasing the direct funding from $150 to $115 million and replacing the $20 million mandatory transfer of funds with language merely allowing the transfer of funds from ''Development Assistance'' and/or the ''Economic Support Fund'' to ''International Narcotics Control.''

Mr. MCCONNELL. The Senator from Georgia is correct. It is my understanding, however, that the conference committee fully intended that the identified $20 million be transferred to International Narcotics Control.

Mr. COVERDELL. I appreciate the chairman's clarification and would ask if the chairman would be willing to assist the Senator from Georgia in securing these resources.

Mr. MCCONNELL. I would say to my colleague, that I strongly support the transfer of the funds, identified in the conference report, to International Narcotics Control for drug interdiction

activities and will work side-by-side with the Senator from Georgia to ensure these resources are committed to our war on drugs.

Mr. COVERDELL. I thank the chairman for his efforts to stop the flow of illegal narcotics into the United States.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the motion to concur in the House amendment with the Leahy-Kassebaum amendment.

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.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''yea.''

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 561 Leg.]

YEAS—53

Akaka
Baucus
Biden
Bingaman
Boxer
Brown
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Wellstone

NAYS—44

Abraham
Ashcroft
Bennett
Bond
Breaux
Burns
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Inhofe
Johnston
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Smith
Thompson
Thurmond
Warner

NOT VOTING—2

Bradley
Hatfield

So the motion was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I see the distinguished leader in the Chamber. And I just mention first that we have, so my colleagues will know——

The PRESIDING OFFICER. The Senator will suspend. The Senate will come to order, please.

Mr. LEAHY. So colleagues would know, we have passed the conference and sent one amendment back in disagreement.

Mr. DOLE. Let me thank the managers of the bill.

MORNING BUSINESS

Mr. DOLE. Mr. President, I now ask unanimous consent that there be a period for the transaction of morning business until 6:30 p.m. with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MESSAGES FROM THE HOUSE

At 12 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. 2492. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that the Speaker appoints the following Member as an additional conferee in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996:

From the Committee on Agriculture, for consideration of title I of the House bill, and subtitles A–C of title of the Senate amendment, and modifications committed to conference: Mr. BROWN of California.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for fiscal year ending September 30, 1996, and for other purposes; that the House recedes from its disagreement to an amendment of the Senate and concurs therein with an amendment in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bill, previously received from the House for the concurrence of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 1114. An act to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards; to the Committee on Labor and Human Resources.

H.R. 436. An act to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

S. 1372. A bill to amend the Social Security Act to increase the earnings limit, and for other purposes.

The following bill was ordered placed on the calendar:

H.R. 2492. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes.

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. DOLE (for himself, Mr. LUGAR, Mr. CRAIG, and Mr. GRASSLEY):

S. 1373. A bill to amend the Food Security Act of 1985 to minimize the regulatory burden on agricultural producers in the conservation of highly erodible land, wetland, and retired cropland, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 1374. A bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. CRAIG, Mr. GORTON, Mr. GRASSLEY, Mr. MCCONNELL, Mr. DASCHLE, Mr. HARKIN, Mr. KERREY, and Mr. KEMPTHORNE):

S. 1375. A bill to preserve and strengthen the foreign market development cooperator program of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, and Mr. COATS):

S. 1376. A bill to terminate unnecessary and inequitable Federal corporate subsidies; to the Committee on Governmental Affairs.

By Mr. LUGAR:

S. 1377. A bill to provide authority for the assessment of cane sugar produced in the Everglades Agricultural Area of Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself, Mr. BAUCUS, Mr. BENNETT, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Mr.

COHEN, Mr. CONRAD, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. NICKLES, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WELLSTONE):

S. Res. 191. A resolution designating the month of November 1995 as ''National American Indian Heritage Month,'' and for other purposes; considered and agreed to.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. LUGAR, Mr. CRAIG, and Mr. GRASSLEY):

S. 1373. A bill to amend the Food Security Act of 1985 to minimize the regulatory burden on agricultural producers in the conservation of highly erodible land, wetland, and retired cropland, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL RESOURCES ENHANCEMENT ACT OF 1995

Mr. LUGAR. Mr. President, I am very pleased to join Senators DOLE, GRASSLEY, and CRAIG today in introducing the Agricultural Resources Enhancement Act of 1995, which is our blueprint for the conservation title of the new farm bill. This legislation builds on agriculture's environmental successes over the past decade while also adding new flexibility for our farmers and ranchers as they enter the 21st century.

In May I advanced several concepts to improve the Conservation Reserve Program, our conservation land retirement initiative. I also introduced the new Environmental Quality Incentives Program, which I am proud to note was included in the budget reconciliation bill approved by the Senate last week. Meanwhile, Senators DOLE, GRASSLEY, and CRAIG developed several concepts for the CRP and for the conservation compliance and swampbuster programs. The bill we are introducing today combines the best of our recommendations into a single strategy that will protect both the environment and the property rights of our Nation's agricultural producers.

Our proposal improves the CRP by adding a new water quality emphasis and by targeting the program to the highly erodible land most in need of protection. There is land now in the CRP that can be brought back into production without harming the environment. At the same time, there is also valuable acreage not now in the reserve that deserves long-term protection. This legislation accomplishes both goals.

This bill also makes much needed changes to the swampbuster compliance program, including an exemption for frequently cropped farmland. In the conservation compliance program, farmers would gain significant new flexibility to adopt soil-saving techniques. Our goal is to make both programs effective in preserving valuable resources and workable in the field.

Finally, our legislation includes unprecedented provisions to improve wildlife habitat on agricultural lands. Frequently cropped wetlands would be eligible for the CRP. Habitat potential will be considered in evaluating offers to enroll land in the CRP and the Wetlands Reserve Program. Expiring water bank acres would be eligible for the WRP. And the Secretary is encouraged to maximize wildlife habitat benefits from all our conservation programs.

My cosponsors and I represent a broad range of agricultural interests and have diverse regional backgrounds. As such, I am optimistic the provisions we have included in our bill will be embraced by a majority in the the Agriculture Committee and in the Senate as a whole. I look forward to working with all my colleagues in developing a new farm bill with provisions as meaningful for the environment as those in the landmark farm bill we passed a decade ago.

Mr. President, I ask unanimous consent that the text 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. 1373

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 ''Agricultural Resources Enhancement Act of 1995''.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) restore respect for private property rights and the productive capacity of the agricultural sector;

(2) reduce unnecessary regulatory burdens on farmers while maintaining basic environmental objectives; and

(3) recognize that conservation and environmental objectives are best met with voluntary efforts.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) through (16) as paragraphs (3), (5), (6), (7), and (9) through (19), respectively;

(2) by inserting after paragraph (1) the following:

''(2) ALTERNATIVE CONSERVATION SYSTEM.—The term 'alternative conservation system' means a conservation system that achieves a substantial reduction in soil erosion from the level of erosion that existed prior to the application of the conservation measures and practices provided for under the system.'';

(3) by inserting after paragraph (3) (as so redesignated) the following:

''(4) CONSERVATION SYSTEM.—The term 'conservation system' means the conservation measures and practices that are approved for application by a producer to a highly erodible field and that provide for cost effective and practical erosion reduction on the field based on local resource conditions and standards contained in the Natural Resources Conservation Service field office technical guide.'';

(4) by inserting after paragraph (7) (as so redesignated) the following:

''(8) FREQUENTLY CROPPED AGRICULTURAL LAND.—The term 'frequently cropped agricultural land' means agricultural land that—

''(A) exhibits wetland characteristics, as determined by the Secretary; and

''(B) has been used for 6 of the 10 years prior to January 1, 1996, for agricultural production on the field, as determined by the Secretary, or production of an annual or perennial agricultural crop (including forage production or hay), an aquaculture product, a nursery product, or a wetland crop.''; and

(5) in paragraph (10) (as so redesignated), by adding at the end the following:

''(C) PRODUCER-INITIATED REVIEW OF HIGHLY ERODIBLE LAND DESIGNATION.—A designation of highly erodible land on agricultural land made under this title shall be valid until an owner or operator requests a new designation. The Secretary shall provide the designation on the request of the owner or operator.

''(D) SCIENCE AND TECHNOLOGY.—A designation of highly erodible land under this title may be based on the most contemporary science, method, or technology, as determined by the Secretary, for determining soil erodibility that accurately reflects the potential for soil loss.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) is amended by striking ''section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16))'' and inserting ''section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a))''.

(2) Section 1257(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking ''section 1201(4) of the Food Security Act of 1985 (16 U.S.C. 3801(4))'' and inserting ''section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a))''; and

(B) in paragraph (2), by striking ''section 1201(6) of the Food Security Act of 1985 (16 U.S.C. 3801(6))'' and inserting ''section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a))''.

SEC. 4. HIGHLY ERODIBLE LAND CONSERVATION.

(a) PROGRAM INELIGIBILITY.—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended to read as follows:

''SEC. 1211. PROGRAM INELIGIBILITY.

''(a) IN GENERAL.—Except as provided in section 1212 and notwithstanding any other provision of law, any person who participates in an annual program under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) after January 1, 1996, and who in any crop year after that date produces an agricultural commodity on a field on which highly erodible land is predominate, as determined by the Secretary, shall be—

''(1) in violation of this section; and

''(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation, taking into account the intent of the person and the frequency of the violations.

''(b) LOANS AND PAYMENTS.—If a person has been determined to have committed a violation during a crop year under subsection (a), the Secretary shall determine which, and the amount, of the following loans and payments for which the person shall be ineligible:

''(1) Any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

''(2) A farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

''(3) A loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to excessive erosion of highly erodible land.

''(4) A payment under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b and 714c) during the crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation.

''(5) During the crop year:

''(A) A payment under section 8, 12, or 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590*l*, and 590p(b)).

''(B) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

''(C) A payment under subchapter B or C of chapter 1 of subtitle D.

''(D) A payment under chapter 2 of subtitle D.

''(E) A payment under chapter 3 of subtitle D.

''(F) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).''.

(b) EXEMPTIONS.—Section 1212 of the Act (16 U.S.C. 3812) is amended—

(1) in subsection (a)(3), by striking ''shall, if'' and inserting ''shall—

''(A) be required to apply a conservation plan that is—

''(i)(I) based on and conforms to practices, technologies, and schedules contained in a local Natural Resources Conservation Service field office technical guide; or

''(II) based on an alternative conservation system that is not described in the technical guide but is determined by the Secretary to be an acceptable alternative;

''(ii) consistent with section 1214; and

''(iii) not based on a higher erodibility standard than other highly erodible land located within the same area, as determined by the Secretary; and

''(B) if'';

(2) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively;

(3) by inserting after subsection (e) the following:

''(f) EFFECT ON LANDLORDS.—Ineligibility of a tenant or sharecropper for benefits under section 1211 shall not cause a landlord to be ineligible for the benefits for which the landlord would otherwise be eligible with respect to a commodity produced on land other than the land operated by the tenant or sharecropper.''; and

(4) in subsection (g) (as so redesignated)—

(A) by striking ''(g)(1) Except to the extent provided in paragraph (2), no'' and inserting the following:

''(g) GOOD FAITH EXEMPTION.—

''(1) CONTINUED ELIGIBILITY.—No'';

(B) by striking ''has—'' and all that follows through ''(B) acted'' and inserting ''has acted'';

(C) in paragraph (2)—

(i) by striking ''Secretary shall, in lieu'' and all that follows through ''crop year'' and inserting ''person shall not be ineligible for loans or payments under section 1211''; and

(ii) by adding at the end the following: ''A person who the Secretary determines has acted in good faith and without intent to violate this subtitle shall be allowed a period of 1 year during which to implement the measures and practices necessary to be considered to be actively applying a conservation plan.'';

(D) by striking paragraph (3);

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

(F) by adding at the end the following:

''(4) FAILURE TO APPLY CONSERVATION PLAN.—If a person fails to actively apply a conservation plan that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules of the conservation plan by the date that is 1 year after the good faith violation, the Secretary shall make a determination concerning the ineligibility of the person under section 1211.''.

(c) DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND SYSTEMS.—Subtitle B of title XII of the Act (16 U.S.C. 3811 et seq.) is amended by adding at the end the following:

''SEC. 1214. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND SYSTEMS.

''(a) TECHNICAL REQUIREMENTS.—The Secretary shall ensure that the standards and guidelines contained in a local Natural Resources Conservation Service field office technical guide applicable to a conservation plan required under this subtitle—

''(1) allow a person to use an alternative conservation system as a means of meeting the requirements, and achieving the goals, of this subtitle with respect to a highly erodible field that has been used in the production of an agricultural commodity after December 23, 1985; and

''(2) provide for conservation measures and practices that—

''(A) are technically and economically feasible;

''(B) are based on local resource conditions and available conservation technology;

''(C) are cost-effective; and

''(D) do not cause undue economic hardship to the person applying the plan or system.

''(b) EROSION MEASUREMENT.—For the purpose of determining compliance with this subtitle, the measurement of erosion reduction achieved through a conservation plan shall be based on the level of erosion at the time of the measurement compared to the level of erosion that was present prior to the implementation of the conservation measures and practices provided for in the conservation plan.

''(c) CROP RESIDUE MEASUREMENTS.—

''(1) CERTIFICATION OF COMPLIANCE.—

''(A) IN GENERAL.—For the purpose of determining the compliance of a person with the conservation plan on a farm, a third party approved by the Secretary may certify that the person is in compliance if the person is actively applying an approved conservation system or alternative conservation system at the time application for the loans or payments specified in section 1211 is made.

''(B) STATUS REVIEWS.—If a person obtains a variance, the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied if the sole reason for the review is the fact that the person received the variance.

''(2) RESIDUE MEASUREMENTS PROVIDED BY PERSONS.—If a status review is carried out, annual crop residue measurements supplied by a person and certified by a third party approved by the Secretary shall be taken into consideration by the Secretary for the purpose of determining compliance if the measurements demonstrate that, on the basis of a 5-year average of the residue level on the field (as determined by the Secretary), the crop residue level for a field meets the level required under the conservation plan.

''(d) REVISIONS.—

''(1) CONSERVATION PLANS.—

''(A) REVISIONS BY PERSON OBTAINING CERTIFICATION.—A person that obtains a conservation plan under section 1212(a)(2) may revise the plan by substituting practices described in the local Natural Resources Conservation Service technical guide, if the revised plan achieves an equivalent amount of soil erosion reduction as the original plan, as determined by the Secretary.

''(B) NO REVISION BY THE SECRETARY.—The conservation plan of a person who obtains a certification under subsection (c) shall not be subject to revision by the Secretary, unless—

''(i) the person concurs with the revision; or

''(ii) the person has been determined by the Secretary, within the most recent 1-year period, to be ineligible under section 1211 for program loans and payments.

''(C) APPROVAL OF ALTERNATIVE CONSERVATION SYSTEM.—The Secretary shall approve or disapprove an alternative conservation system proposed by a producer not later than 30 days after the date the system is proposed.

''(D) LOCAL FIELD OFFICE TECHNICAL GUIDE.—If the alternative conservation system is approved by the Secretary and is appropriate to an area, the Secretary shall add the approved alternative conservation system to the local Natural Resources Conservation Service field office technical guide for the area.

''(2) CONSERVATION SYSTEMS.—The Secretary may revise under paragraph (1) the conservation system of a person who obtains a certification, subject to subsection (a), if there is substantial evidence as determined by the Secretary that a revision is necessary to carry out this subtitle.

''(3) UPDATING LOCAL FIELD OFFICE TECHNICAL GUIDES.—The Secretary shall regularly revise local Natural Resources Conservation Service field office technical guides to include new conservation systems that the Secretary determines will reduce soil erosion in a cost-effective manner.

''(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to a person throughout the development, revision, and application of a conservation plan or conservation system.

''(f) VIOLATIONS.—

''(1) NOTIFICATION.—An employee of the Natural Resources Conservation Service who observes a possible compliance deficiency or other violation of this subtitle while providing on-site technical assistance to a person shall—

''(A) not later than 45 days after making the observation, notify the person of any actions that are necessary to correct the deficiency or violation; and

''(B) permit the person to correct the deficiency or violation within the 1-year period beginning on the date of the notification.

''(2) CORRECTION OF COMPLIANCE DEFICIENCIES.—A person that receives a notification under paragraph (1) shall attempt to correct the deficiency as soon as practicable.

''(3) STATUS REVIEW.—Not later than 1 year after the date of a notification under paragraph (1), the Secretary shall carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

''(4) FAILURE TO CORRECT COMPLIANCE DEFICIENCY.—If a person fails to correct a deficiency or violation by the date that is 1 year after the date of a notification under paragraph (1), the Secretary shall make a determination concerning the ineligibility of the person under section 1211.

''(g) EXPEDITED VARIANCES.—

''(1) PROCEDURES.—The Secretary shall establish expedited procedures, in consultation with local conservation districts, for the consideration and granting of temporary variances to allow for the use of practices and measures to address problems related to pests, disease, nutrient management, and weather conditions (including drought, hail, and excessive moisture) or for such other purposes as the Secretary considers appropriate.

''(2) RESPONSE WITHIN 15 DAYS.—The Secretary shall grant or deny a request for a variance described in paragraph (1) not later than 15 days after receiving the request.''.

(d) AFFILIATED PERSONS.—Subtitle B of title XII of the Act (16 U.S.C. 3811 et seq.) (as amended by subsection (c)) is further amended by adding at the end the following:

''SEC. 1215. AFFILIATED PERSONS.

''If a person is affected by a reduction in benefits under section 1211 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1211 in proportion to the interest held by the affiliated person.''.

(e) APPLICABILITY.—Subtitle B of title XII of the Act (16 U.S.C. 3811 et seq.) (as amended by subsection (d)) is further amended by adding at the end the following:

''SEC. 1216. APPLICABILITY.

''This subtitle shall be effective during the period beginning January 1, 1996, and ending December 31, 2002.''.

SEC. 5. WETLANDS REFORM.

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

''SEC. 1221. PROGRAM INELIGIBILITY.

''(a) IN GENERAL.—Except as provided in section 1222 and notwithstanding any other provision of law, any person who participates in an annual program under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) after January 1, 1996, and who in any crop year after that date produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

''(1) in violation of this section; and

''(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

''(b) LOANS AND PAYMENTS.—If a person has been determined to have committed a violation during a crop year under subsection (a), the Secretary shall determine which, and the amount, of the following loans and payments for which the person shall be ineligible:

''(1) Any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

''(2) A farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

''(3) A loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

''(4) A payment under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b and 714c) during the crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation.

''(5) During the crop year:

''(A) A payment under section 8, 12, or 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590*l*, and 590p(b)).

''(B) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

''(C) A payment under subchapter B or C of chapter 1 of subtitle D.

''(D) A payment under chapter 2 of subtitle D.

''(E) A payment under chapter 3 of subtitle D.

''(F) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).''; and

(3) in subsection (c) (as so redesignated)—

(A) by striking ''Except'' and inserting ''WETLAND CONVERSION.—Except''; and

(B) by striking ''subsections (a) (1) through (3)'' and inserting ''subsection (b)''.

(b) DELINEATION OF WETLAND; EXEMPTIONS.—Section 1222 of the Act (16 U.S.C. 3822) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) DELINEATION BY THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall, subject to subsection (b), delineate, determine, and certify all wetlands located on subject land on a farm.

''(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of an owner or operator, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

''(3) CERTIFICATION.—

''(A) IN GENERAL.—On providing notice to affected owners or operators, the Secretary shall—

''(i) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

''(ii) provide an opportunity to appeal the certification prior to the certification becoming final.

''(B) REVIEW OF MAPPING.—In the case of an appeal, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated.

''(C) INSPECTION OF LAND.—Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.'';

(2) by redesignating subsections (b) through (j) as subsections (c) through (k), respectively;

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

''(b) REQUESTS FOR DELINEATION.—

''(1) IN GENERAL.—Any delineation or determination of the presence of wetland on subject land on a farm made under this subtitle shall be valid until such time as the owner or operator of the land requests a new delineation or determination.

''(2) CHANGE IN DELINEATION.—In the case of a change in a delineation or determination, the Secretary shall promptly notify the owner or operator of the subject land on a farm that is affected by the change.

''(3) RELIANCE ON PRIOR DELINEATION.—Any action taken with respect to subject land on a farm by an owner or operator in reliance on a prior wetland delineation or determination by the Secretary shall not be subject to a subsequent wetland delineation or determination by the Secretary.'';

(4) by striking subsection (c) (as so redesignated) and inserting the following:

''(c) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments—

''(1) as the result of the production of an agricultural commodity on land that—

''(A) was manipulated prior to December 23, 1985;

''(B) is a wetland that is less than 1 acre in size;

''(C) is a nontidal drainage or irrigation ditch excavated in upland;

''(D) is an artificially irrigated area that would revert to upland if the irrigation ceased;

''(E) is land in Alaska identified as having a high potential for agricultural development and with a predominance of permafrost soils;

''(F) is an artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond;

''(G) is a wetland that is temporarily or incidentally created as a result of adjacent development activity; or

''(H) is frequently cropped agricultural land; or

''(2) for the conversion of—

''(A) an artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond; or

''(B) a wetland that is temporarily or incidentally created as a result of adjacent development activity.'';

(5) in subsection (g)(2) (as so redesignated)—

(A) by striking ''where such restoration'' and inserting ''through the enhancement of an existing wetland or through the creation of a new wetland, and the restoration, enhancement, or creation'';

(B) in subparagraph (A), by inserting '', enhancement, or creation'' after ''restoration'';

(C) in subparagraph (D), by inserting ''in the case of enhancement and restoration of wetlands,'' after ''(D)'';

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

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

''(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;''; and

(F) in subparagraph (F)—

(i) by striking ''restored'' each place it appears and inserting ''restored, enhanced, or created''; and

(ii) by striking ''restoration'' and inserting ''restoration, enhancement, or creation'';

(6) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by striking ''December 23, 1985,'' and all that follows through the period at the end of the paragraph and inserting ''January 1, 1996, shall be waived by the Secretary if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.''; and

(B) by striking paragraphs (2) and (3) and inserting the following:

''(2) PERIOD FOR COMPLIANCE.—A person who the Secretary determines has acted in good faith and without intent to violate this subtitle shall be allowed a period of 1 year during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.'';

(7) in subsection (k) (as so redesignated)—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''and a representative of the Fish and Wildlife Service''; and

(ii) in the second sentence, by striking '', who in'' and all that follows through ''Service''; and

(B) in paragraph (2), by striking ''and a representative'' and all that follows through ''national offices'' and inserting ''shall report to the Natural Resources Conservation Service''; and

(8) by adding at the end the following:

''(l) MITIGATION BANKING.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program (to be carried out during a 1-year period) for mitigation banking of wetlands to assist owners and operators in complying with the wetland conservation requirements of this subtitle.

''(2) REPORT.—Not later than 1 year after the effective date of this paragraph, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the progress in carrying out the pilot program established under paragraph (1).''.

(c) CONSULTATION WITH THE SECRETARY OF THE INTERIOR.—Subtitle C of title XII of the Act is amended—

(1) by striking section 1223 (16 U.S.C. 3823); and

(2) by redesignating section 1224 (16 U.S.C. 3824) as section 1223.

(d) AFFILIATED PERSONS.—Subtitle C of title XII of the Act (as amended by subsection (c)) is further amended by adding at the end the following:

''SEC. 1224. AFFILIATED PERSONS.

''If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.''.

(e) APPLICABILITY.—Subtitle C of title XII of the Act (as amended by subsection (d)) is further amended by adding at the end the following:

''SEC. 1225. APPLICABILITY.

''This subtitle shall be effective during the period beginning January 1, 1996, and ending December 31, 2002.''.

(f) EASEMENTS ON INVENTORY PROPERTY.—Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended by striking subsection (g) and inserting the following:

''(g) EASEMENTS ON INVENTORY PROPERTY.—The Secretary may not place a permanent wetland conservation or floodplain easement on any farm property after January 1, 1996.''.

(g) AGRICULTURAL LAND.—Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended—

(1) in subsection (d), by striking ''The term'' and inserting ''Except as otherwise provided in this section, the term''; and

(2) by adding at the end the following:

''(u) AGRICULTURAL LAND.—

''(1) DEFINITION OF AGRICULTURAL LAND.—In this subsection, the term 'agricultural land' means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, an area that supports a wetland crop (including cranberries, taro, watercress, or rice), and any other land that is used to produce or support the production of an annual or perennial agricultural crop (including forage production or hay), an aquaculture product, a nursery product, or a wetland crop.

''(2) DETERMINATIONS ON AGRICULTURAL LAND.—The Secretary of Agriculture shall make all determinations concerning the presence of a wetland on agricultural land under this section and determinations regarding the discharge or dredge of fill material from normal farming and ranching activities, as provided in subsection (f)(1)(A). Determinations concerning the presence of a wetland, and normal farming and ranching practices, on agricultural land shall be made pursuant to this section.''.

SEC. 6. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

''SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as 'ECARP') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

''(2) MEANS.—The Secretary shall carry out the ECARP by—

''(A) providing for the long-term protection of environmentally sensitive land; and

''(B) providing technical and financial assistance to farmers and ranchers to—

''(i) improve the management and operation of the farms and ranches; and

''(ii) reconcile productivity and profitability with protection and enhancement of the environment.

''(3) PROGRAMS.—The ECARP shall consist of—

''(A) the conservation reserve program established under subchapter B;

''(B) the wetlands reserve program established under subchapter C; and

''(C) the environmental quality incentive program established under chapter 2.

''(b) ADMINISTRATION.—

''(1) IN GENERAL.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 2.

''(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the effective date of this paragraph shall be considered to be placed into the ECARP.

''(c) CONSERVATION PRIORITY AREAS.—

''(1) DESIGNATION.—

''(A) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay Region (consisting of Pennsylvania, Maryland, and Virginia), the Great Lakes Region, and the Long Island Sound Region, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 2.

''(B) APPLICATION.—A designation shall be made under this paragraph if agricultural practices on land within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary, and an application is made by—

''(i) a State agency in consultation with the State technical committee established under section 1261; or

''(ii) State agencies from several States that agree to form an interstate conservation priority area.

''(C) ASSISTANCE.—The Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area to assist, to the maximum extent practicable, agricultural producers within the watershed or region to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws.

''(2) APPLICABILITY.—The Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area in a manner that conforms, to the maximum extent practicable, to the functions and purposes of the conservation reserve, wetlands reserve, and environmental quality incentives programs, as applicable, if participation in the program or programs is likely to result in the resolution or amelioration of significant soil, water, and related natural resource problems related to agricultural production activities within the watershed or region.

''(3) TERMINATION.—A conservation priority area designation shall terminate on the date that is 5 years after the date of the designation, except that the Secretary may—

''(A) redesignate the area as a conservation priority area; or

''(B) withdraw the designation of a watershed or region if the Secretary determines the area is no longer affected by significant soil, water, and related natural resource impacts related to agricultural production activities.''.

SEC. 7. CONSERVATION RESERVE PROGRAM.

(a) PURPOSE AND GOALS.—Section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)) is amended—

(1) by striking ''(a) IN GENERAL.—Through'' and inserting the following:

''(a) IN GENERAL.—

''(1) PURPOSE.—Through'';

(2) by striking ''1995'' and inserting ''2002''; and

(3) by adding at the end the following:

''(2) GOALS.—The goals of the conservation reserve program shall be to—

''(A) idle land only on a voluntary basis;

''(B) conserve the environment, including soil, water, and air;

''(C) ensure respect for private property rights; and

''(D) enhance wildlife and wildlife habitat.''.

(b) ELIGIBLE LANDS.—Section 1231 of the Act (16 U.S.C. 3831) is amended by striking subsection (b) and inserting the following:

''(b) ELIGIBLE LANDS.—The Secretary may include in the program established under this subchapter—

''(1) highly erodible cropland that—

''(A) if permitted to remain untreated could substantially impair soil, water, or related natural resources;

''(B) cannot be farmed in accordance with a conservation plan established under section 1212; and

''(C) meets or exceeds an erodibility index of 8;

''(2) marginal pasture land converted to wetland;

''(3) cropland or pasture land in or near riparian areas that could enhance water quality;

''(4) frequently cropped agricultural land; and

''(5) cropland or pasture land to be devoted to windbreaks, shelterbelts, or wildlife corridors.''.

(c) ENROLLMENT PRIORITIES.—Section 1231 of the Act (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

''(d) ENROLLMENT.—

''(1) LIMITATIONS.—Enrollments in the conservation reserve (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990

(Public Law 101–624; 16 U.S.C. 3831 note)) during the 1986 through 2002 calendar years may not exceed 36,400,000 acres.

''(2) SPENDING LIMITATION.—Total spending for enrollments under paragraph (1) may not exceed the spending limitations established under section 1241(e).

''(3) PRIORITIES.—The Secretary shall, to the maximum extent practicable, with each periodic enrollment (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990), enroll acreage in the conservation reserve that meets the priority criteria for water quality, wetland, soil erosion, and wildlife habitat as provided in subsection (e) and, to the maximum extent practicable, maximize multiple environmental benefits.''.

(d) PRIORITY FUNCTIONS.—Section 1231 of the Act (7 U.S.C. 3831) is amended—

(1) by redesignating subsections (e) through (g) as subsections (f) through (h); respectively; and

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

''(e) PRIORITY FUNCTIONS.—

''(1) IN GENERAL.—During all periodic enrollments of acreage (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)), the Secretary shall evaluate all offers to enter into contracts under this subchapter in light of the priority criteria specified in paragraphs (2), (3), (4), and (5), and accept only the offers that meet the criteria specified in paragraph (2), (3), or (4), maximize the benefits specified in paragraph (5), and maximize environmental benefits per dollar expended. If an offer meets the criteria specified in paragraph (5) and paragraph (2), (3), or (4), the offer shall receive higher priority, as determined by the Secretary.

''(2) WATER QUALITY.—

''(A) TARGETED LAND.—Not later than December 31, 2000, the Secretary shall enroll in the conservation reserve program at least 1,500,000 acres of cropland or pasture land that are contiguous or proximate to—

''(i) permanent bodies of water;

''(ii) tributaries or smaller streams; or

''(iii) intermittent streams that the Secretary determines significantly contribute to downstream water quality degradation.

''(B) PURPOSES.—The land may be enrolled by the Secretary in the conservation reserve to establish—

''(i) filterstrips;

''(ii) contour grass strips;

''(iii) grassed waterways; and

''(iv) other equivalent conservation measures that have a high potential to ameliorate pollution from crop and livestock production.

''(C) PARTIAL AND WHOLE FIELDS.—Enrollments under this paragraph may include partial and whole fields, except that the Secretary shall provide a higher priority to partial field enrollments.

''(3) WETLANDS.—

''(A) IN GENERAL.—The Secretary shall accept offers to enroll up to 1,500,000 acres of frequently cropped agricultural land, including such land enrolled (as of the effective date of this subparagraph) in the conservation reserve and subsequently subject to a contract extension under section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note), as determined by the Secretary.

''(B) FUNCTIONS AND VALUES.—In enrolling land under subparagraph (A), the Secretary shall give a priority to enrolling frequently cropped agricultural land that the Secretary determines maximizes preservation of wetland functions and values.

''(4) SOIL EROSION.—

''(A) IN GENERAL.—The Secretary shall accept offers to enroll a field containing highly erodible land if—

''(i) a predominance of land on the field is qualifying highly erodible land that has an erodiblity index of at least 8;

''(ii) a predominance of at least 80 percent of the field consists of qualifying highly erodible land; and

''(iii) the part of the field that does not have an erodibility index of at least 8 cannot be cultivated in a cost-effective manner if separated from the qualifying highly erodible land, as determined by the Secretary.

''(B) PARTIAL FIELD ENROLLMENTS.—A portion of a field containing qualifying highly erodible land under this paragraph shall be eligible for enrollment if the partial field segment would provide a significant reduction in soil erosion.

''(5) WILDLIFE HABITAT BENEFITS.—

''(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, ensure that offers to enroll acreage under paragraph (2), (3), or (4) are accepted so as to maximize wildlife habitat benefits.

''(B) MAXIMIZING BENEFITS.—For purposes of this paragraph, the Secretary shall, to the maximum extent practicable, maximize wildlife habitat benefits by—

''(i) consulting with State technical committees established under section 1261 as to the relative habitat benefits of each offer, and accepting offers that maximize benefits; and

''(ii) providing higher priority to offers that would be contiguous to—

''(I) other enrolled acreage;

''(II) designated wildlife habitat; or

''(III) a wetland.

''(C) COVER CROP INFORMATION.—The Secretary shall provide information to owners or operators about cover crops that are best suited for area wildlife.''.

(e) DURATION OF CONTRACT.—Section 1231(f) of the Act (as so redesignated) is amended—

(1) in paragraph (1)—

(A) by inserting before the period at the end the following: '', as determined by the owner or operator of the land''; and

(B) by adding at the end the following: ''A contract extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note) may have a term of 5, 10, or 15 years, as determined by the owner or operator of the land.''; and

(2) by adding at the end the following:

''(3) EARLY OUT.—The Secretary shall allow an owner or operator who (on the effective date of this paragraph) is covered by a contract entered into under this subchapter to terminate the contract not later than April 15, 1996. Land subject to an early termination of a contract under this paragraph may not include filterstrips, waterways, strips adjacent to riparian areas, windbreaks, shelterbelts, and other areas of high environmental value as determined by the Secretary.''.

(f) CONFORMING AMENDMENTS.—Section 1231 of the Act (as amended by subsection (d)(1)) is further amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(g) INCIDENTAL GRAZING.—Section 1232(a)(7) of the Act (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking ''except that the Secretary may'' and inserting ''except that the Secretary—

''(A) may'';

(2) by striking ''emergency, and the Secretary may'' and inserting the following: ''emergency;

''(B) may'';

(3) by adding ''and'' after the semicolon at the end; and

(4) by adding at the end the following:

''(C) shall allow incidental grazing during the nongrowing season on filter strips and other partial field enrollments within the borders of an active field;''.

(h) ANNUAL RENTAL PAYMENTS.—Section 1234 of the Act (16 U.S.C. 3834) is amended by striking subsection (c) and inserting the following:

''(c) ANNUAL RENTAL PAYMENTS.—

''(1) IN GENERAL.—In determining the amount of annual rental payments to be paid to owners and operators for converting eligible cropland normally devoted to the production of an agricultural commodity to a less intensive use, the Secretary may consider, among other factors, the amount necessary to encourage owners or operators of eligible cropland to participate in the program established by this subchapter.

''(2) AMOUNT.—

''(A) IN GENERAL.—The amounts payable to owners or operators as rental payments under contracts entered into under this subchapter shall be determined by the Secretary through—

''(i) the submission of offers for the contracts by owners and operators in such manner as the Secretary may prescribe; and

''(ii) determination of the rental value for the land through a productivity adjustment formula established by the Secretary.

''(B) MAXIMUM RENTAL RATES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), rental rates may not exceed the productivity adjusted rental rate, as determined by the Secretary.

''(ii) PARTIAL FIELD ENROLLMENTS.—Rental rates for partial field enrollments for water quality, soil erosion, or wetland priority functions under section 1231(e) may not exceed 125 percent of the rental rate for the land, as determined by the Secretary based on a productivity adjustment formula.

''(iii) CONSERVATION PRIORITY AREAS.—Rental rates for partial field enrollments in conservation priority areas under section 1230(c) may not exceed 150 percent of the rental rate for the land, as determined by the Secretary based on a productivity adjustment formula.

''(C) MINIMUM RENTAL RATES.—Rental rates for land subject to a contract extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note) may not be less than 80 percent of the average rental rate for all contracts in force in the county at the time of the extension.

''(3) TREES.—In the case of acreage enrolled in the conservation reserve that is to be devoted to trees, the Secretary may consider offers for contracts under this subsection on a continuous basis.''.

(i) OWNERSHIP AND OPERATION REQUIREMENTS.—Section 1235(a) of the Act (16 U.S.C. 3835(a)) is amended—

(1) in paragraph (1)(B), by striking ''1985'' and inserting ''1996''; and

(2) in paragraph (2)(B)(i), by striking ''1985'' and inserting ''1996''.

(j) CONFORMING AMENDMENT.—Section 1235A(b)(2) of the Act (16 U.S.C. 3835a(b)(2)) is amended by striking ''or permanent''.

SEC. 8. WETLANDS RESERVE PROGRAM.

(a) PURPOSES.—Section 1237(a) of the Food Security Act of 1985 (16 U.S.C. 3837(a)) is amended by striking ''to assist owners of eligible lands in restoring and protecting wetlands'' and inserting ''to protect wetlands for purposes of enhancing water quality and providing wildlife benefits while recognizing landowner rights''.

(b) MINIMUM ENROLLMENT.—Section 1237(b) of the Act (16 U.S.C. 3837(b)) is amended by

striking ''program'' and all that follows through ''2000'' and inserting ''program a total of not more than 975,000 acres during the 1991 through 2002''.

(c) ELIGIBILITY.—Section 1237(c) of the Act (16 U.S.C. 3837(c)) is amended—

(1) by striking ''2000'' and inserting ''2002'';

(2) by striking ''Secretary of the Interior at the local level'' and inserting ''State technical committee'';

(3) by inserting ''the land maximizes wildlife benefits and wetland values and functions and'' after ''determines that'';

(4) in paragraph (1)—

(A) by striking ''December 23, 1985'' and inserting ''January 1, 1996''; and

(B) by striking ''and'' at the end;

(5) by redesignating paragraph (2) as paragraph (3);

(6) by inserting after paragraph (1) the following:

''(2) enrollment of the land meets water quality goals through—

''(A) creation of tailwater pits or settlement ponds; or

''(B) enrollment of land that was enrolled (on the day before the effective date of this subparagraph) in the water bank program established under the Water Bank Act (16 U.S.C. 1301 et seq.) at a rate not to exceed the rates in effect under the program;'';

(7) in paragraph (3) (as so redesignated), by striking the period at the end and inserting ''; and''; and

(8) by adding at the end the following:

''(4) enrollment of the land maintains or improves wildlife habitat.''.

(d) OTHER ELIGIBLE LANDS.—Section 1237(d) (16 U.S.C. 3837(d)) is amended by inserting after ''subsection (c)'' the following '', land that maximizes wildlife benefits and that is''.

(e) EASEMENTS.—Section 1237A of the Act (16 U.S.C. 3837a) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.'';

(2) by striking subsection (e) and inserting the following:

''(e) TYPE AND LENGTH OF EASEMENT.—A conservation easement granted under this section—

''(1) shall be in a recordable form;

''(2) shall be for 20 or 30 years; and

''(3) shall not exceed the maximum duration allowed under applicable State law.''; and

(3) in subsection (f), by striking the third sentence and inserting the following: ''Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary.''.

(f) DUTIES OF THE SECRETARY.—Section 1237C(d) of the Act (16 U.S.C. 3837c(d)) is amended by striking '', in consultation'' and all that follows through ''Interior,''.

SEC. 9. CONSERVATION FUNDING.

(a) IN GENERAL.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

''Subtitle E—Funding

''SEC. 1241. FUNDING.

''(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

''(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

''(2) subchapter C of chapter 1 of subtitle D; and

''(3) chapter 2 of subtitle D for practices related to livestock production.

''(b) ADVANCE APPROPRIATIONS TO CCC.—The Secretary may use the funds of the Commodity Credit Corporation to carry out chapter 3 of subtitle D, except that the Secretary may not use the funds of the Corporation unless the Corporation has received funds to cover the expenditures from appropriations made available to carry out chapter 3 of subtitle D.

''(c) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—For each of fiscal years 1996 through 2002, $100,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the environmental quality incentives program.

''(d) WETLANDS RESERVE PROGRAM.—Spending to carry out the wetlands reserve program under subchapter C of chapter 1 of subtitle D shall be not greater than $614,000,000 for fiscal years 1996 through 2002.

''(e) CONSERVATION RESERVE PROGRAM.—Spending for the conservation reserve program (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)) shall be not greater than—

''(1) $1,787,000,000 for fiscal year 1996;

''(2) $1,784,000,000 for fiscal year 1997;

''(3) $1,445,000,000 for fiscal year 1998;

''(4) $1,246,000,000 for fiscal year 1999;

''(5) $1,101,000,000 for fiscal year 2000;

''(6) $999,000,000 for fiscal year 2001; and

''(7) $974,000,000 for fiscal year 2002.

''SEC. 1242. ADMINISTRATION.

''(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

''(1) the conservation plans required for—

''(A) highly erodible land conservation under subtitle B;

''(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

''(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

''(2) the environmental quality incentives program plan established under chapter 2 of subtitle D.

''(b) ACREAGE LIMITATION.—

''(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

''(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

''(A) the action would not adversely affect the local economy of a county; and

''(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

''(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

''(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

''(d) REGULATIONS.—Not later than 90 days after the effective date of this subsection, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.''.

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of the matter under the heading ''COMMODITY CREDIT CORPORATION'' of Public Law 99–263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking '': *Provided further,*'' and all that follows through ''Acts''.

(2) Section 1232(a)(11) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(11)) is amended by striking ''in a county that has not reached the limitation established by section 1243(f)''.

SEC. 10. CONFORMING AMENDMENTS.

(a) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

(b) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(c) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

''(g) Carry out conservation functions and programs.''.

(d) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, F, G, and J of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1982 (7 U.S.C. 2272a), is repealed.

(e) ENVIRONMENTAL EASEMENT PROGRAM.—Section 1239(a) of the Food Security Act of 1985 (16 U.S.C. 3839(a)) is amended by striking ''1991 through 1995'' and inserting ''1996 through 2002''.

(f) RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.—Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking ''1991 through 1995'' and inserting ''1996 through 2002''.

SEC. 11. WILDLIFE BENEFITS.

In carrying out conservation programs, the Secretary of Agriculture is encouraged to promote wildlife benefits to the extent practicable and to the extent that the action does not conflict with the requirements or purposes of the programs.

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on the later of—

(1) the date of enactment of this Act; or

(2) January 1, 1996.

(b) TRANSITION PROVISIONS.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a program for any of the 1991 through 1995 calendar years under a provision of law in effect immediately before

the effective date required under subsection (a).

Mr. DOLE. Mr. President, when Republicans took control of Congress in January, we promised the American people that we would rein in the Federal Government, and shift power back where it belongs—to the States and to the people. The Senate has worked hard to fulfill that promise. We are tackling regulatory reform, tax reform, and private property rights—and we are just getting started.

Today, I am joined by Senator LUGAR, Senator CRAIG, and Senator GRASSLEY, to introduce the Resource Enhancement Act of 1995. This bill outlines practical and necessary reforms to the environmental provisions of the 1995 farm bill.

Mr. President, the 1985 farm bill included three environmental provisions which revolutionized farm policy. Swampbuster, sodbuster, and the Conservation Reserve Program provided the first link between the preservation of soil and wetlands, and farm program participation.

No doubt about it, these programs have been successful. But over the past decade, we have learned many valuable lessons. Now it is clear that substantive reform is needed. These provisions were not intended to put high-quality land in the CRP. They were not intended to allow the U.S. Fish and Wildlife Service or the Army Corps of Engineers to usurp the authority of the USDA.

In 1985, no one anticipated that a blanket ''highly erodible land'' designation—based on 1930's wind data—would reduce property values in 13 western Kansas counties. In 1985, no one expected that existing drainage ditches or tiles in farmed fields would be labeled ''abandoned'' and thus be prevented from repair.

In my view, this legislation achieves balanced reform by building on the intent of the original legislation. The primary focus of the 1985 farm bill was preventing soil erosion. We have made good progress toward that goal, but much remains to be done. Now we must expand our focus to include water quality and wildlife habitat improvements. Soil conservation and the Conservation Reserve Program are crucial to achieving those goals.

In the past, farm program participation was tied to conservation compliance. However, the trend in farm spending is clear. Since 1985, Commodity Credit Corporation spending on wheat has declined over 40 percent. Spending on milo has declined a staggering 69 percent. At this pace, any linkage will soon vanish. If we aim to fulfill the intent of conservation and wetlands laws—and we should—we must adjust to today's conditions.

Earlier this year, I spoke to the American Farm Bureau Federation's annual meeting. Farmers there told me that they are willing to accept less Government support—if the Government will stop interfering in their businesses.

Our bill is a prescription for judicious reform. In my view, it is a remedy desperately needed to save farmers from a terminal case of overregulation.

This legislation will accomplish three basic goals:

First, reduce unnecessary regulatory burdens, while maintaining basic environmental objectives;

Second, restore respect for basic private property rights;

Third, promote voluntary compliance of conservation and environmental objectives.

Further, this bill adds flexibility and uniformity to conservation and wetlands compliance.

Flexibility will be the guiding principle of conservation compliance. The current system of measuring erosion and regulating compliance will be clarified and codified.

The Conservation Reserve Program will be reauthorized and modified. In addition to protecting highly erodible land, the program will incorporate water quality goals, wetlands protection, and wildlife preservation.

Many farmers tell me that the current swampbuster regulations allow the Government to infringe on their property rights. However, the conservation community tells me that swampbuster is one of the most important wetlands protection laws ever enacted. In our bill, we address the need for deregulation by exempting frequently cropped and nuisance wetlands. At the same time, we aim to further wetlands protection by directing USDA to enroll wetlands in the CRP.

Mr. President, this bill is the result of months of hard work and cooperation among conservation, wildlife, and farm groups. I believe its impact will be good for the environment, good for wildlife preservation, and good for farmers. It is my hope that this legislation represents a new covenant between the environmental and farm communities. I urge my colleagues to join me in this effort to give the American people better, not bigger government.

Mr. CRAIG. Mr. President, I am very proud to introduce a bill today that I hope will serve as the framework for crafting the conservation title of the 1995 farm bill. The Resources Enhancement Act is a balanced approach to blending the successes of past policy with the changing scope of future needs.

The role of conservation programs in American agriculture are sometimes overlooked and underestimated. Farmers and ranchers are the original environmentalists and because of their dependence on the land they continue to implement voluntary practices that are in the best interests of those resources.

The Resources Enhancement Act will maximize the voluntary efforts of farmers and ranchers by extending the role of State and Federal agencies, as well as some private entities, as partners in that effort. This includes an extension of the immensely popular resource conservation and development districts through 2002.

However, it is of the utmost importance that Government agencies are not placed in the role of policing the actions of these farmers. This bill emphasizes technical advice and cost share of projects for our Nation's farmers, rather than enforcement and penalties.

The Conservation Reserve Program as currently implemented enjoys widespread support among Idaho farmers. CRP will be extended for at least another 10 years under the Resources Enhancement Act. The positive gains in soil conservation will be continued along with an increased focus on water quality and wildlife habitat.

Idaho farmers will now be able to enroll hill tops and filter strips, rather than entire fields of productive land. A premium of up to 125 percent of productivity adjusted rental rates will be paid for those partial field enrollments.

For those still submitting entire field bids, the enrollment criteria of an erodibility index of 8 is similar to the current program. To provide some stability to farmers and local economies, a floor will be established for reenrollments. That floor will be 80 percent of the average rental rate for other contracts in the same county.

Common sense must also prevail in other farm programs, especially those relating to compliance with conservation requirements on highly erodible lands. This bill will increase the flexibility of producers in meeting the requirements of their approved conservation plans.

For the first time, alternate conservation systems will be written into law and the use of on-farm research will be encouraged. Farmers from across the Nation will also benefit from expedited USDA decisions on requests for variances to their conservation compliance plans.

The issue of good faith and unintended violations is also addressed. From this bill forward, good-faith infractions by the farmer will be treated in good faith by the Department. Those good-faith violations will not be subject to a penalty. For any other violation, the size of the penalty will equate to the size of the violation. Currently, a small area of noncompliance on a farm can place an entire operation at risk. The commonsense provisions of the Resources Enhancement Act will rectify that situation.

Common sense also prevails in the sections of the bill that address reform of the swampbuster program. Improvements similar to the highly erodible section are made in swampbuster with regard to good faith violations and all penalties.

This bill will also place authority for ag wetlands in its natural place—the Department of Agriculture. The restoration and enhancement of existing wetlands and creation of new wetlands will be enhanced with an increased emphasis on mitigation banking.

The Resource Enhancement Act also ensures that the wetlands reserve program will be continued through 2002. This program allows for 20- or 30-year easements for wetlands or water quality to be placed on agricultural lands.

The broad scope of resource conservation needs are addressed in this bill while recognizing the ongoing voluntary efforts of farmers and ranchers and maintaining a respect for private property rights. These resource needs are best addressed by continued voluntary efforts in this time of declining Federal resources. It makes sense that the regulatory burdens on farmers and ranchers are decreasing, since the level of past farm program payments is also declining.

I commend Senators DOLE, GRASSLEY, and LUGAR for their efforts in crafting this bill and urge our other colleagues to join us in supporting the Resources Enhancement Act of 1995.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 1374. A bill to require adoptiion of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Energy and Natural Resources.

HELL'S CANYON NATIONAL RECREATION AREA BOATING AMENDMENTS LEGISLATION

Mr. CRAIG. Mr. President, public Law 94–199, designating the Hells Canyon National Recreation Area, was signed into law December 31, 1975.

Section 10 of the act instructs the Secretary to promulgate such rules and regulations as he deems necessary to accomplish the purposes of the act, including a ''provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area—''.

This language seems clear. However, the original intent of the act, the compromises and promises that allowed its passage, seem to have been forgotten or clouded with time. Assurances 20 years ago that long-established and traditional uses, such as motorized boating, are a valid use of the river and would be continued with the support of people who would otherwise have opposed the legislation. Yet, as the original participants disappear from the scene and new players arrive, these arrangements are being callously disregarded.

Throughout the process leading to designation and the ensuing management planning efforts, the USDA—Forest Service has exhibited a bias against motorized river craft. During hearings on the act, Assistant Secretary of Agriculture Long testified on a proposed amendment that would have authorized the Forest Service to prohibit jet boats. He noted that there were ''times when boating perhaps should be prohibited entirely''. Senator Church responded to that testimony unfavorably, explaining:

> . . . jet boats have been found to be the preferred method of travel by a great many people who have gone into the canyon. This is a matter of such importance that Congress itself should decide what the guidelines would be with respect to regulation of traffic on the river and that the discretion ought not to be left entirely to the administrative agencies.

In a clear indication of Congress' intentions, the jet boat ban was not adopted.

Later, in its first version of a comprehensive management plan in 1981, the Forest Service attempted to bypass congressional intent by eliminating power boating from the heart of Hells Canyon for the entire primary recreation season, granting exclusive use of the river from Wild Sheep Rapid to Rush Creek Rapid to those using nonmotorized river craft. Responding to public outrage, the Chief reconsidered his decision, and issued a new plan allowing access to the entire river for a very limited number of powered craft. On appeal, Assistant Secretary Crowell overturned this decision, allowing unlimited day use by powerboats and citing failure on the part of the Forest Service to demonstrate a need for such severe restrictions.

More recently, Wallowa-Whitman National Forest Supervisor Robert Richmond initiated a review and revision of the river management portion of the comprehensive management plan. Despite the lack of any demonstrable resource problems, and in the face of overwhelming public support for motorized river craft, the agency again decided to close part of the river to powerboats. The new river management plan adopted in November 1994 would have closed the heart of the canyon to motorized river craft for 3 days a week in July and August, the peak of the recreation season. In response to the many appeals received, a stay was granted by the regional Forester, avoiding a disastrous implementation of the new plan in 1995.

However, the regional forester's eventual decision on the substance of the appeals made clear that he supports the concept of a partial closure of the river to motorized river craft. The agency's intent to pursue a closure is quite evident. Even a partial closure is objectionable, as it is contrary to the intent of the law and the history of the river.

The Snake River is different from most rivers in the Wild and Scenic System. It is a high-volume river with a long and colorful history of use by motorized river craft. The first paying passengers to travel up through its rapids on a motor boat made their journey on the 110-foot *Colonel Wright* in 1865, and a memorable journey that was. Later, the 136-foot *Shoshone* made its plunge through the canyon from Boise to Lewiston in 1870 and was followed by the 165-foot *Norma* in 1895. Gasoline-powered craft began hauling people, produce, and supplies in and out of the canyon in 1910, and the first contract for regular mail delivery was signed in 1919, continuing today. The Corps of Engineers began blasting rocks and improving channels in 1903. They worked continuously until 1975 to make the river safer for navigation.

Today the vast majority of people—over 80 percent—who recreate in the Hells Canyon segment of the Snake River access it by motorized river craft. Some are private boaters, and others travel with commercial operators on scenic tours. This access is accomplished with a minimum of impact to the river, the land, or their resources. Most river users, motorized and nonmotorized, are willing to share the river. However, a small group of nonmotorized users objects to seeing powered craft. Those unwilling to share have a rich choice of alternatives in this geographic area, such as the Selway and Middle Fork of the Salmon rivers. Motorized users, however, don't have that luxury. The only other white water rivers open to them in the Wild and Scenic System are portions of the Rogue and Salmon rivers. Without a single doubt, the Hells Canyon portion of the Snake River is our Nation's premier white water power boating river.

Mr. President, as you can see, the use of motorized river craft is deeply interwoven in the history, traditions, and culture of Hells Canyon. That is why Congress deliberately created a nonwilderness corridor for the entire length of the river. That is why Congress tried to make it clear that use of both motorized and nonmotorized river craft are valid uses of the river within the recreation area—the entire river for the entire year. It was not the intent of Congress to allow the managing agency to decide that one valid use would prevail to the exclusive use over the other.

Quite clearly, the issue of power boating's validity will not be settled unless decided by the courts or unless Public Law 94–199 is clarified by Congress. The courts are already burdened by too many cases of this type, resulting in a waste of time, energy, and financial resources for both the United States and its citizens. The only practical and permanent resolution of this issue is to clarify congressional intent in a manner that will not allow any future misunderstanding. This is what I propose to do with this legislation.

By Mr. BURNS (for himself, Mr. CRAIG, Mr. GORTON, Mr. GRASSLEY, Mr. MCCONNELL, Mr. DASCHLE, Mr. HARKIN, Mr. KERREY, and Mr. KEMPTHORNE):

S. 1375. A bill to preserve and strengthen the Foreign Market Development Cooperator Program of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM ACT OF 1995

Mr. BURNS. Mr. President, I rise today together with Senators CRAIG,

GORTON, GRASSLEY, MCCONNELL, DASCHLE, HARKIN, and KERREY of Nebraska to introduce legislation that will preserve and strengthen the Foreign Market Development Cooperator Program of the Department of Agriculture.

In an effort to balance the budget by the year 2002, Congress has had to make some very difficult decisions. Whatever the final outcome of this process in budget reconciliation the fact remains that the American farmer will be asked to move into a market-oriented farm policy. Therefore it has become crystal clear that we must open up our thinking and provide our farmers access to international markets.

Changes that have resulted from the Uruguay round of GATT and the growing privatization of importing regimes in overseas markets demand that export programs be instituted that meet current needs and futures challenges. Such programs should reflect not only the successes we have had in the past, but they must also be dynamic and flexible enough to build on these gains.

One program that has stood the test of time is the Foreign Market Development Program, also known as the Cooperator Program. Amendments to the Agricultural Trade Development and Assistance Act of 1954 and the Agriculture and Food Act of 1981 authorized market development activities and the use of Federal funds to develop, maintain, and expand foreign markets for U.S. agriculture commodities. It was determined by the USDA's Foreign Agricultural Service that this could best be accomplished by private, nonprofit agricultural organizations. These organizations have been required to share in the financial expense of the market development activities.

In 1988, Congress stated,

It is the sense of Congress that the foreign market development Cooperator Program of the Service, and the activities of the individual foreign market development cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

While Congress has provided full funding through the regular appropriations process every year since the Cooperator Program's development in 1954, we have provided little statutory direction to the USDA and the Foreign Agricultural Service. Congress has simply established broad goals for market development programs. As a result, the Foreign Agricultural Service has been given wide discretion in establishing programs and funding.

Mr. President, this arrangement has been highly successful for a number of years. Unfortunately, in recent years the Cooperator Program has fallen victim to the intense competition within FAS for fewer discretionary funds. This has led to FAS requesting cuts in the program as a means of funding other FAS activities. Due to the success of this program, Congress has decided that these funds should continue and has stated such to the Foreign Agricultural Service. This year that administration proposed a budget that would have reduced the funding for the Cooperator Program by 20 percent.

A reduction of this magnitude would have meant a U.S. retreat from international markets at a time when the Foreign Agricultural Service has testified that the resources and staff of nonprofit commodity were less than adequate. This is to say that our nonprofit agricultural organizations were not able to meet the challenges and changes in the international market place. On the more meaningful level, this would have meant fewer opportunities for the producers in the world market.

As a member of the Agricultural Appropriations Subcommittee I can tell you what we took this seriously and restored full finding for the program this year. But we grow weary of the continued assault on such a successful program. It is a practice that must stop. This bill will stop this, by establishing a separate identity for the Foreign Market Development Cooperator Program from that of FAS.

The Foreign Market Development Cooperator Program is not only one of the oldest export programs, but it is also one of the most essential and effective. In fiscal year 1994, cooperators expended $29.8 million of FAS funds on the market development program. Cooperators reported additional contributions of $30 million. These cooperators conducted more than 1,000 individual market development activities in over 100 countries. The private sector funding assists in reducing the deficit while maintaining our presence in overseas markets. The involvement of the private sector also creates incentives for effective programs as it is their own producer dollars at stake. This has created an incentive-based program that FAS has stated that the combined cooperator and foreign third party contributions have exceeded the FAS contribution every year.

The cooperator program has been long regarded as a model of public-private sector cooperation. FAS has recently stated that the market development cooperator program has played an important role in increasing U.S. agricultural exports to the approximately $43.5 billion in fiscal year 1994.

According to a senior FAS official, the cooperator program is the mainstay of market development activities. Cooperators are by definition nonprofit, agricultural trade associations which represent farmers and farm-related interests. Cooperators participating include representatives from the feed grains, wheat, soybean, rice, cotton, poultry, meat, and forest products as well as many others.

High-volume commodities, like grains, rarely lend themselves to traditional consumer promotion programs, but rely instead on working directly with end-users and processors on a regular basis. Cooperator projects are suited to trade servicing activities such as the collection and dissemination of market facts; training programs; and demonstrations or technical seminars on product uses to producers, processors, manufacturers, and consumers. This focus requires a continual presence in the overseas market which is essential for the United States to remain competitive. Regular contact with the customer is necessary to follow shifts in the rapidly changing world market.

In my State of Montana, where we export up to 70 percent of the grain that we grow, programs of this nature are extremely important. In recent times when we have signed agreements with the world to place our family farmers in the world market it has become increasingly important that we provide them with tools to compete in these markets. I have stated many times that the American farmer is more than willing to compete with any and all farmers around the world. But we have placed them at a disadvantage by making them compete with the governments of other countries. This is a program that will provide them with a tool to use in the world market.

Throughout my time here in Washington I have fought for programs that will add dollars to the pockets of the small family farmers in Montana and the United States. This program in its design does this, whether it be a corn or soybean farmer in Iowa or a wheat and barley farmer in my state of Montana. Development of this type would also benefit the livestock producer in any area of our Nation. It might be a cotton producer in Mississippi or Texas, or maybe a rice farmer in Arkansas, or maybe even a small timber operator in Washington and Idaho. Whatever or wherever it is that they come from, by using their matching funds these cooperators have an investment and will see that they get a return on their funds. They will in turn see additional dollars for their products and will compete fully in the world market.

The future of this program is bright, and this legislation will make it only more of a reality. The unique resources that the nonprofit agriculture organizations bring to this cooperative program enhance the future of the exports we now have in agriculture. Recent developments in communications technologies hold promise for greatly enhancing the ability of cooperator organizations to communicate with their counterparts around the country and, for that matter, the rest of the world.

Mr. President, in light of the current trend of placing our family farmers on

the world market, and with the pressure to open the safety net which protects our food supply, I find it imperative that Congress act to give our rural families this tool to work within the world market. This one tool will send a message to the country and the world that we are working to keep our family farms strong and vital operations within our economic structure. This message will allow the Department of Agriculture to focus on the opportunities that these cooperative efforts between the public and private sector can and will produce.

Mr. President, I would like to take this opportunity to invite my colleagues to join me in this effort to provide an opportunity to the rural families in this country to meet the rest of the world on the field of grain and agriculture with the tools that will help them be successful.

Mr. CRAIG. Mr. President, the Cooperator Program Act exemplifies the export-based marketing that must occur if American agriculture is to lead the world into the 21st century. I am very proud to cosponsor this bill that will extend an extremely successful program. It is also my desire to lead the efforts on the Senate Agriculture Committee to include this bill as an important provision of the trade title of the 1995 farm bill.

The Cooperator Program is part of the Foreign Market Development Program as currently administered by the Foreign Agriculture Service of USDA. The cooperators in Foreign Market Development Program are regarded by many as a cost-effective and successful partnership that has expanded agriculture exports.

Idaho wheat producers especially rely on foreign market developments and the exports for their economic well-being. In fact, Idaho's wheat producers collectively export between 75 and 80 percent of their production every year. In 1994, the production, marketing and exportation of Idaho's wheat provided over 30,000 jobs and $1.09 billion in economic revenue in Idaho and the rest of the Pacific Northwest.

The Cooperator Program Act of 1995 will strengthen the foreign market development efforts of the past by creating a separate line-item authorization for future annual appropriations process.

I commend Senator BURNS for his efforts to introduce this legislation and urge my colleagues to support the bill.

Mr. GORTON. Mr. President, today I am pleased to join my colleagues Senators BURNS, CRAIG, GRASSLEY, MCCONNELL, DASCHLE, HARKIN, and KERREY, as an original cosponsor of the Cooperator Program Act of 1995.

The Foreign Market Development [FMD] Cooperator Program has been administered by USDA's Foreign Agriculture Service since 1954 without specific legislative authorization. Today we are introducing legislation that will provide the necessary authorization to maintain, preserve, and strengthen the FMD Cooperator Program. The FMD Cooperator Program has proven to be an effective, efficient, cost-shared program, providing trade service and technical assistance for U.S. agriculture commodities in overseas markets. This legislation will ensure that the FMD Cooperator Program is better able to compete for a limited number of discretionary dollars during the annual appropriations process.

Many important developments have taken place since the completion of the Uruguay Round of the General Agreement of Tariffs and Trade [GATT]. I believe that GATT will continue to open new world markets for the United States so programs like FMD are even more important to give U.S. agriculture the tools necessary to develop, maintain, and expand commercial export markets for U.S. agriculture commodities in this new post-GATT environment.

As a member of the Agriculture Appropriations Subcommittee, I have made funding for export programs my top priority. I am convinced that the Foreign Market Development Program, Market Promotion Program and the like are absolutely necessary if U.S. Agriculture is to remain competitive in the international marketplace. It is also in the best interest of the agriculture community specifically to authorize the FMD Cooperator Program. This kind of oversight will ensure that the agriculture community will continue to receive the full benefits of this program.

Since 1955, U.S. agriculture exports have increased from $3 billion to $43.5 billion in fiscal year 1994, and are projected to reach a record high of $51.1 billion during fiscal year 1995. USDA has stated that for each dollar of taxpayer money spent on the FMD, 7 dollars' worth of exports are generated, and this figure continues to grow. It is now every day that we appropriate Federal dollars and get a return on our investment as large and as significant as we do with the FMD.

In lieu of the reduction or phaseout of USDA's commodity price support programs, it seems only right to provide the agriculture community with the tools necessary to compete in the international marketplace. As I travel around my State of Washington I listen closely to the comments, suggestions, and concerns from my State's agriculture community.

The message has been clear: Strengthen, maintain, and preserve the tools necessary for us to export our products. In response to these comments, I believe that this legislation is the key to maintaining export programs important to so many in Washington State and across the Nation.

I would also like to acknowledge the overwhelming support we have received from the following State's wheat commissions. Washington, Idaho, Oregon, Nebraska, Kentucky, New Mexico, North Carolina, North Dakota, South Dakota, Ohio, Arizona, Arkansas, California, Colorado, Kansas, Maryland, Minnesota, Nebraska, Oklahoma, Texas, Virginia, and Wyoming. Among other associations we have received support from include: Washington Education Trade Economic Committee, National Association of Wheat Growers, U.S. Wheat Associates, USA Dry Pea and Lentil Council, National Barley Growers Association, National Council of Farmer Cooperatives, Western U.S. Agriculture Trade Association, National Corn Growers Association, National Dry Bean Council, American Seed Trade Association, USA Poultry and Egg Export Council, American Soybean Association, National Cotton Council, National Peanut Council of America, and National Sunflower Association. Clearly, Mr. President, this legislation has a tremendous amount of support from U.S. agriculture nationwide.

Mr. President, in closing I invite my colleagues to join me as cosponsors of this legislation and ask unanimous consent that a letter of support from the Washington State Wheat Commission be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON WHEAT COMMISSION,
Spokane, WA, October 12, 1995.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: Exports are the life blood of the Washington wheat industry. Approximately 85 percent of all Washington's wheat production finds it way into the export market. Wheat is the number one agricultural export commodity from our state, which results in a major contribution to our state's economy and a major supplier of employment. Due to the importance of wheat exports, I would like to ask your support for a continuation and strengthening of the Foreign Market Development Program (FMD) of the USDA.

Currently the FMD program is administered by the Foreign Agricultural Service (FAS), USDA, and as Congress has already stated, "the FMD program, and the activities of individual foreign market development Cooperator organizations, have been among the most successful and cost-effective means to expand United States' agricultural exports."

Unfortunately, in recent years the cooperator program has fallen victim to the intense competition within FAS for fewer and fewer discretionary dollars. The FAS, with direct responsibility over the operation and funding of the program, has requested cuts in the program arguing that the "savings" be used to fund certain FAS activities. For this reason, we are asking that you support a separate line item in the budget for the FMD program.

There is no question that the FMD program is one of the most successful joint government-private funded activities in existence. It is time to give FMD some sunlight and expose it to the annual budgetary process. We welcome the opportunity to tell its success stories during the budgetary debates, and, at the same time, protect it from the predatory measures FAS has employed. FAS is currently arguing against a special line item for FMD stating that it will inhibit flexibility in the program. The only flexibility that will be hurt by this measure is that FAS will no longer have access to the funds.

For the first few years on the new program, we ask that you support a minimum allocation of $40 million to the FMD program.

Thank you, in advance, for taking this issue under consideration. If you have any questions or need clarification on any issue concerning the request, please do not hesitate to contact me.

Sincerely,

JAMES R. WALESBY,
Chairman.

By Mr. MCCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, and Mr. COATS):

S. 1376. A bill to terminate unnecessary and inequitable Federal corporate subsidies; to the Committee on Governmental Affairs.

THE CORPORATE SUBSIDY REVIEW REFORM AND TERMINATION COMMISSION ACT OF 1995

Mr. MCCAIN. Mr. President, the Federal Government operates numerous programs which provide direct payments, services and other benefits to various sectors of private industry. Some of these may serve a valuable purpose. Others, however, have long outlived their usefulness and have no place in a budget wherein we are asking Americans across the board to sacrifice on behalf of deficit reduction. Congress can no longer delay taking action to correct this inequity.

Recently, the CATO Institute and the Progressive Policy Institute reported that the Federal Government spends as much as $85 billion per year on programs like these. The Progressive Policy Institute has identified an additional $30 billion per year in inequitable tax loopholes. Many here in Congress have identified still other sources of waste. Together, these programs and policies have rightfully earned the moniker ''corporate pork.''

Yet even when these programs have been consistently determined to provide little or no benefit to the taxpayer, Congress has found it exceedingly difficult to reduce or eliminate them.

Pressure to maintain the status quo can come in many forms: institutional pressure to maintain that which is considered consistent with the interests of one party or another; political pressure to maintain programs or policies that are favorable to particular constituencies; and special interest pressure that may come to bear in a variety of shapes and forms when a member or small group of members seeks to modify these programs.

In order to override these elusive yet firmly entrenched political obstacles, this amendment establishes a one-time, nonpartisan commission—styled along the lines of the successful Base Realignment and Closure Commission [BRAC]—charged with reforming corporate subsidies.

When all is said and done, the BRAC's work will yield billions of dollars in savings by identifying the waste in just one department. The American public will get to enjoy the fruit of BRAC's labors largely due to the fact that the Commission was able to operate in an environment completely devoid of the pressures I have just described.

By applying similar methods to examine the programs and policies of the entire Federal Government, Congress may be able to build on this record of success, saving even more for the taxpayers of this nation.

The structure and operations of this commission may seem quite familiar to those who followed the BRAC proceedings. Commissioners will be nominated, appointed, and confirmed in the same manner. They will begin their work in January 1997 and report to the President by July. The Commission will work closely with each Federal agency to identify programs and tax provisions which are no longer necessary to serve the purpose for which they were intended. They will also identify programs which unduly benefit a narrow corporate interest rather than providing clear and convincing public benefits. And, most importantly, they will operate as a nonpartisan, apolitical body—using only the guidelines we will establish with this amendment—to guide their actions.

By the summer of 1997, the Commission will provide the President and Congress recommendations for termination or specific modification of programs that satisfy these conditions.

I would like to emphasize that this bill's goals do not include increasing revenues or creating new taxes; the Commission will simply formulate recommendations to reform those programs or policies that result in inequitable financial advantages for special interest groups. Every dollar spent on an unnecessary program or lost through in inequitable tax loophole is one more that is not available for much needed broad-based tax relief.

Congress' role in this process will, however, differ somewhat from that which it plays under BRAC. In this case, enacting the Commission's recommendations may result in changes to Federal statute. Therefore, the Congress will be required to take positive action; a vote to accept or reject proposed changes in law—unlike BRAC which was accepted as law by default through Congress' inaction. Finally, in order to ensure that this stage of the process does not present opportunities for parochial interests to influence the process, disciplined and expedited procedures, similar to those used for congressional consideration of the budget, will be utilized.

It is evident that Congress has as much difficulty closing loopholes as it does closing unnecessary military bases. I, like many of my colleagues, have come to this floor on numerous occasions to offer arguments against the type of waste generated by the programs this amendment seeks to eliminate or reform. Like many of my colleagues, I have also been unsuccessful in the vast majority of these efforts. Regrettably, time, experience, and the lessons of history leave me highly skeptical that a spontaneous awakening is likely to occur here in Congress.

Therefore, despite my own reservations about passing along congressional responsibilities to outside commissions, I feel it is clearly time to institute alternative solutions. The taxpayers of this Nation do not deserve to wait any longer for us to get this right. For this reason, I think the most—or perhaps the least—we can expect from this body is that we collectively recognize this problem, and employ a logical and fair technique to help us solve it. The Commission proposed by this legislation provides an expedient opportunity to institute positive, meaningful change.

I am pleased and encouraged by the bipartisan cosponsorship of this bill, and am hopeful that the divergence of philosophies represented by this group is an indication of wide support within Congress for this measure.

I urge all of my colleagues to examine this legislation, consider the circumstances that have caused it to come about, and join myself and the cosponsors of this bill in giving life to a solution. I can see no rational reason to oppose this bill, and more reasons than we have time to present to support it.

Stand up for the American taxpayer, stand up for change, and stand in defiance of business as usual.

Mr. THOMPSON. Mr. President, the Corporate Subsidy Termination Commission Act which my colleagues and I are introducing today will take us one step further on the road to fairness in Government.

This Congress has done a thorough and, I believe, admirable job of examining thousands of items of Government spending. We have identified areas of spending which should be reformed because they don't work as they should. And we have identified those which should be terminated because their existence cannot be justified. Some areas, such as the Federal welfare program, have been completely transformed. In each case we have asked several questions: Does this spending promote a useful public purpose? if so, can Government afford it? Should the effort and the money for it be transferred to the State or local level, where it is closer to those it is supposed to benefit?

As part of this process we have examined some programs whose primary beneficiaries are profitmaking enterprises—businesses of all sizes. In several such cases we have made progress on incremental reforms. For instance, the Senate passed an amendment to restrict the Marketing Promotion Program through which $110 million is spent annually to underwrite advertising by some of our largest corporations in foreign countries. In addition, the program under which the Government leases mineral rights on public lands to private companies is being reformed to

allow the Government to charge fees more in line with real values.

But these efforts and others that are ongoing are necessarily piecemeal. We can cut or restrict a corporate subsidy here, and leave another one untouched.

Last week, as part of an effort to highlight the issue of Federal subsidies to profitmaking enterprises, a bipartisan group of colleagues and I proposed ending 12 specific items of corporate pork. These items were chosen from Federal spending programs which are characterized by some element of corporate subsidization. They affected areas including public resource management, energy development, export promotion, local construction, utility loans, sale of public airwaves, tourism promotion, defense construction, and aircraft design. They were only a sampling of all such programs—the Cato Institute recently identified 129 items characterized as corporate pork. Senator MCCAIN offered this package as an amendment to the reconciliation bill, where it received the support of only a fourth of this Body.

Clearly this problem needs to be attacked in a different way.

The bill we are introducing today also has bipartisan support. It establishes a Corporate Subsidy Termination Commission which is charged with identifying programs or tax policies which provide unnecessary benefits or inequitable tax advantages to profitmaking enterprises. The Commission is fashioned after the BRAC Commission, with expedited legislation procedures similar to those provided for the Congressional Budget Resolution. I ask unanimous consent that an overview of this Corporate Subsidy Termination Commission be printed in the RECORD.

Why establish a Commission and a new process to do what we could conceivably do directly?

First, and most important, this Commission will do what we cannot do well: make an overall assessment of all programs, on both the spending and revenue sides, at one time. Over the years we have created an intricate, interwoven system of subsidies, taxes and exemptions. As a rural Tennessee utility which would be affected by the spending cuts we proposed last week pointed out to me, they are competing against other energy providers who receive subsidies in the form of tax breaks.

Second, our experience last week demonstrated that voting hit or miss on individual items is not going to be successful. One person's pork is another's prize. And no one wants to give up their prize program if there isn't shared sacrifice. With the commission approach, we will know that all programs have been examined and those which provide unjustified subsidies have been exposed.

Third, the members of the Commission will be appointed specifically for this purpose by the President and the Congress. They will possess the expertise, authority and stature necessary to do the job.

Fourth, the commission's recommendations will not be buried in the corner of a Federal agency or a congressional committee. While the President and Congress will be able to amend or reject the Commission's recommendations, they must address them.

Mr. President, we should require no less of profitmaking enterprises than we ask of all Americans. It is a matter of fairness and shared sacrifice. At a time when the national debate is focused on getting control of the budget, now and in the future, we cannot afford to provide corporate subsidies which undermine our efforts and which send the wrong message to American taxpayers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CORPORATE SUBSIDY REVIEW, REFORM AND TERMINATION COMMISSION

''*The Termination Commission will do for Corporate Pork what BRAC did for military infrastructure; identify and terminate excess and waste!*''

The eight-members of the Commission would: be nominated by the President by January 31; have six members nominated by Congress; require Senate Confirmation for their appointments; and identify programs or tax policies that provide unnecessary benefits to for-profit enterprise, or serve the pecuniary interests of an enterprise but do not provide a public benefit, or; provide inequitable tax advantages to for-profit enterprise.

Federal Agencies would: Submit a list of programs which meet ''corporate pork'' definitional criteria no later than their budget request in January 1997; and submit recommendations to the commission for termination or reform of such programs.

Commission would: Review the agencies' recommendations, perform their own analysis; receive Comptroller General's analysis April 15, 1997; and submit a comprehensive reform proposal to the President by July 1, 1997.

President would: Have 15 days to review the Commission's recommendations; have the ability to suggest changes to the Commission's package; and forward the package directly if there are no changes.

Commission would: Have until August 15 to act upon the President's proposed changes; and have until August 15 to reject the President's changes.

President: Must forward Commission's revised proposal to Congress by September 1. Failure to do so terminates the entire process.

Congress will: Have 20 days for Committee review in both Houses; follow Budget Act expedited procedures; and have limited debate and amendments.

Mr. FEINGOLD. Mr. President, I am pleased to join with my friend, the senior Senator from Arizona [Mr. MCCAIN] in introducing this legislation. This is the most recent of several bipartisan reform efforts in which I have joined with Senator MCCAIN.

In many ways, this measure focuses on the downstream results of the other problems on which we have worked. Unjustified corporate subsidies, through direct appropriation or through the Tax Code, continue to prosper in part because of the influence of the special constituencies that benefit from those subsidies.

But, Mr. President, these subsidies also continue to exist through simple inattention, and the Corporate Subsidy Commission created by this legislation will bring some needed scrutiny to subsidies that, though they may have had some merit once, are no longer justified.

Targeting unjustified corporate subsidies would be appropriate at any time, but they are especially needed as we try to balance the Federal books. We absolutely must subject these kinds of corporate subsidies to tougher scrutiny than we have before.

As with the spending we provide to individuals, nonprofits, and State and local governments, if we are to eliminate the Federal budget deficit, we need to demand a higher level of justification for corporate programs.

There is no doubt that those of us who have cosponsored this legislation differ greatly on the total package of spending cuts we would propose to balance the Federal budget, as the reconciliation legislation this body passed dramatically demonstrates.

But we are all united in suggesting that much more needs to be done in the area of corporate subsidies.

This legislation continues the broader effort to reduce the deficit that I have made, and which began with an 82+ point plan to reduce the deficit I offered during my campaign for the U.S. Senate in 1992.

Many of the provisions of that plan eliminated or reduced corporate subsidies that are no longer justified, including both direct appropriations and tax expenditures.

Mr. President, I am particularly pleased that the Commission's mission will include the review of tax expenditures. They are a significant and growing portion of the Federal budget. In a June, 1994 report, the General Accounting Office, using data from the Joint Committee on Taxation, stated that spending for tax expenditures totaled about $400 billion in 1993.

As that report notes, spending done through tax expenditures moves immediately to the front of the budget line. Tax expenditures are, in effect, funded before the Federal Government pays for a single school lunch or an aircraft carrier because, under our budget process, tax expenditures must be funded as they are created, and with the exception of a few that must be reauthorized, they can grow in the absence of Congressional oversight.

Mr. President, some current tax expenditures are certainly justified. However, the system of tax expenditures itself lacks appropriate review and control mechanisms, and many individual expenditures are unjustified.

The result is a loss of overall economic efficiency for the Nation's economy, and scarce budget resources at a time when we are trying to balance the Federal books.

This Commission can provide needed review of inefficient and expensive corporate subsidies, requiring Congress to examine this spending in a timely manner.

By Mr. LUGAR:

S. 1377. A bill to provide authority for the assessment of cane sugar produced in the Everglades agricultural area of Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CANE SUGAR LEGISLATION

Mr. LUGAR. Mr. President, I am introducing legislation today to establish an Everglades restoration fund. The Everglades restoration fund would be financed by a 2-cent-per-pound assessment on all cane sugar produced in the Everglades agricultural area, Florida. It is estimated that a 2-cents-per-pound assessment would produce revenues of $70 million per year or approximately $350 million over a 5-year period. These funds will be used for land acquisition in the Everglades agricultural area.

An Everglades restoration plan has been devised in cooperation with the Corps of Engineers and the South Florida Water Management District. This plan calls for 131,000 acres of land within the southern Everglades agricultural area to be acquired at an estimated cost of $355 million, assuming an acre cost of $2,700 per acre.

I believe this plan is fair to Florida sugar producers. Because of the Federal sugar program, sugar prices in Florida are higher than they otherwise would be.

The sugar growers in the Everglades agricultural area are also beneficiaries of federally subsidized water projects which created agricultural lands in the Everglades agricultural area and which pump waters in and out of these lands as needed for sugar production. It is reasonable for these beneficiaries to help restore the unique ecosystem that these projects have degraded.

I am aware of the fact that the State of Florida has enacted the Everglades Forever Act, which imposes a tax of $25 to $35 per acre over 20 years to raise a total of $322 million to improve water quality.

Sugar producers have also agreed to take other steps designed to improve water quality. These steps include compliance with phosphorous discharge standards and the creation of stormwater treatment areas to help filter phosphorous discharges and for other purposes. However, these measures are primarily related to improving water quality in the Everglades. My proposal is designed to restore the ecosystem to a natural condition with regard to water flows.

No more important or complex ecosystem in need of restoration exists in our Nation than the Everglades in south Florida. It is a troubled system, on the brink of collapse, largely caused by federally supported drainage construction designed to promote and protect agriculture. This problem is exacerbated by the Federal sugar program. Failure to act will doom the Everglades to accelerated deterioration, a tragic and totally unacceptable fate.

Mr. President, I urge my colleagues to support this bill to restore the Everglades and to bring assurances to homeowners in Florida, to bring assurances to those who fear the end of the coral in the Keys, who are disturbed by the algae in the Florida Bay, and who, in fact, appreciate that a fine balance is created here between benefits given to the sugar producers and an assessment that will make all the difference in the restoration of the Everglades.

Mr. President, I ask unanimous consent that the text 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. 1377

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

SEC. 1 EVERGLADES AGRICULTURAL AREA.

Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

(a) in subsection (i)—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as (C);

(B) in subparagraph (A) by striking ''and'' after the semicolon; and

(C) by inserting ''and'' after the semicolon in subparagraph (B); and

(D) by inserting a new subparagraph (C) that reads as follows:

''(C) in the case of marketings from production from the Everglades Agricultural Area of Florida as determined by the Secretary, in addition to assessments under subparagraph B, the sum of 2 cents per pound of raw cane sugar for each of the 1996 through 2000 fiscal years;''

(b) redesignating subsection (j) as subsection (k); and

(c) by inserting a new subsection (j) that reads as follows:

''(j) EVERGLADES AGRICULTURAL AREA ACCOUNT—

(1) IN GENERAL.—

''(A) ACCOUNT.—The Secretary shall establish an Everglades Agricultural Area Account as an account of the Commodity Credit Corporation.''

''(B) AREA.—The Secretary shall determine the extent of the Everglades Agricultural Area of Florida for the purposes of subsection (i)(1)(C) and subparagraph (C).''

''(C) COMMODITY CREDIT CORPORATION.—The funds collected from the assessment provided in subsection (i)(1)(C) shall be paid into the Everglades Agricultural Area Account of the Commodity Credit Corporation, and shall be available until expended.''

''(D) PURPOSES.—The Secretary is authorized and directed to transfer funds from the Everglades Agricultural Area Account to the South Florida Water Management District or other appropriate public entities for the purpose of purchasing agricultural lands in the Everglades Agricultural Area of Florida and for other related purposes.''

ADDITIONAL COSPONSORS

S. 284

At the request of Mr. DOLE, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 284, a bill to restore the term of patents, and for other purposes.

S. 356

At the request of Mr. SHELBY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 607

At the request of Mr. WARNER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 881

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1316

At the request of Mr. KEMPTHORNE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1316, A bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act), and for other purposes.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Concurrent Resolution 11, A concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the names of the Senator from Michigan [Mr. LEVIN], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week,'' and for other purposes.

SENATE RESOLUTION 191—NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. MCCAIN (for himself, Mr. BAUCUS, Mr. BENNETT, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. NICKLES, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 191

Whereas American Indians were the original inhabitants of the land that now constitutes the United States of America;

Whereas American Indian governments developed the fundamental principles of freedom of speech and separation of powers in government, and these principles form the foundation of the United States Government today;

Whereas American Indian societies have exhibited a respect for the finiteness of natural resources through deep respect for the earth, and these values continue to be widely held today;

Whereas American Indian people have served with valor in all wars from the Revolutionary War to the conflict in the Persian Gulf, often in a percentage well above the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians have made distinct and important contributions to America and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians deserve to be recognized for their individual contributions to American society as artists, sculptors, musicians, authors, poets, artisans, scientists, and scholars;

Whereas a resolution and proclamation as requested in this resolution will encourage self-esteem, pride, and self-awareness in American Indians of all ages; and

Whereas November is traditionally the month when American Indians have harvested their crops and is generally a time of celebration and giving thanks: Now, therefore, be it

Resolved, That the Senate designates November 1995 as ''National American Indian Heritage Month'' and requests that the President issue a proclamation calling on Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

AMENDMENTS SUBMITTED

THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996 MIDDLE EAST PEACE FACILIATION ACT OF 1995

LEAHY (AND OTHERS) AMENDMENT NO. 3041

Mr. LEAHY (for himself, Mrs. KASSEBAUM, Mr. FEINGOLD, Ms. SNOWE, Mr. SIMPSON, Ms. MIKULSKI, and Mr. HATFIELD) proposed an amendment to the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes; as follows:

In lieu of the matter proposed, insert the following: *''; Provided,* That in determining eligibility for assistance from funds appropriated to carry out section 104 of the Foreign Assistance Act of 1961, nongovernmental and multilateral organizations shall not be subjected to requirements more restrictive than the requirements applicable to foreign governments for such assistance: *Provided further,* That none of the funds made available under this Act may be used to lobby for or against abortion.''

MCCAIN (AND KERRY) AMENDMENT NO. 3042

Mr. MCCAIN (for himself and Mr. KERRY) proposed an amendment to the bill H.R. 1868, supra; as follows:

At the end of the pending amendment add the following:

SEC. . Notwithstanding any other provision of this Act, funds made available in this Act may be used for international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961, or crop substitution assistance, directly for the Government of Buma if the Secretary of State certifies to the appropriate congressional committees that any such programs are fully consistent with the United States human rights concerns in Burma and serve a vital United States national interest. The President shall include in each annual International Narcotics Control Strategy Report submitted under section 489(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a)) a description of the programs funded under this section.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN, Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Wednesday, November 8, 1995, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on ''Oversight of Courthouse Construction Program.''

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Senate Committee on Small Business will hold a joint hearing with the House Committee on Small Business regarding ''Railroad Consolidation: Small Business Concerns'' on Wednesday, November 8, 1995, at 2 p.m., in room 2123 Rayburn House Office Building.

For further information, please contact Keith Cole at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, November 1, 1995, session of the Senate for the purpose of conducting a hearing on S. 1356, the Ocean Shipping Reform Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 1, 1995, at 10 a.m. to hold a hearing on ''The Aftermath of Waco: Changes in Federal Law Enforcement.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 1, 1995, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAR AIR, WETLANDS, PRIVATE PROPERTY, NUCLEAR SAFETY

Mr. LOTT. Mr. President. I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct a hearing Wednesday, November 1, at 9:30 a.m., hearing room (SD–406) on S. 851, the Wetlands Regulatory Reform Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. LOTT. Mr. President. I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, November 1, 1995, to hold hearings on ''Global Proliferation of Weapons of Mass Destruction.''

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RETURNING POWER TO THE STATES

• Mr. MCCAIN. Mr. President, as we are about to debate the appointment of conferees to the reconciliation bill, I

wanted to take this opportunity to address a relevant issue. Last Friday, the Senate passed landmark legislation to balance the budget within 7 years, and to restore power and trust in State and local government.

During consideration of that legislation, Senator GRAMM offered an amendment regarding whether the Federal Government would dictate to States that they provide health care to children and pregnant women.

I raise this issue because I am certain that this amendment and the vote will be subject to gross mischaracterization. The amendment, Mr. President, was not about whether poor children and pregnant women should receive health care services. We all agree that they should, as I'm quite certain does every Governor in this country.

The vote was about whether Congress, in its arrogance, is going to assume that Governors and State officials cannot be depended upon to protect their own constituents and, unless compelled to be compassionate by Congress, they would most certainly abandon the neediest in their States.

Mr. President, I categorically reject that Governors and State legislators care less about their people than Congress. That is why I voted for the Gramm amendment. We are returning power to the States because, to the detriment of our Nation, we have slowly abandoned Jefferson's time honored axiom that the Government closest to the people governs best.

In devolving power back to the States as we rightfully should, we must also devolve our trust. Members of Congress are not morally superior beings to State and local officials and it is time we stopped presuming that we are.●

TRIBUTE TO PETER ZUANICH, RETIRING PORT OF BELLINGHAM COMMISSIONER

● Mrs. MURRAY. Mr. President, it is with great pleasure that I rise today to pay tribute to Peter Zuanich, a man who has devoted 43 years of his life to serving as an elected commissioner of the Port of Bellingham, in my home State of Washington. His record of public service extends beyond his work as port commissioner; he has dedicated time and resources to building our community in so many other capacities.

During his tenure in this post, he has cultivated economic and trade relations both domestically and internationally. In particular, he has fostered economic relations between the states of Washington and Alaska. Under his leadership, the port was successful in its bid to become the southern ferry terminus for the Alaska Marine Highway System.

Throughout his entire career as commissioner, Mr. Zuanich did not spend any of the earnings he received. Instead, he invested them, believing they should eventually be spent on an important community project. He recently donated the entire amount—about $88,000—to a fund created to raise money for the construction of a local community swimming pool.

In addition to his many accomplishments as port commissioner, Mr. Zuanich has served as president of a variety of groups, including the board of directors of the Purse Seine Vessels Association, the executive board of the Commercial Fisherman's Inter-Insurance Agency, the Bellingham Jaycees, and the Washington Public Ports Association.

I admire the foresight Mr. Zuanich exhibited in his early involvement with the recycling industry. During the 1950's, he founded the first waste paper recycling facility in western Canada. His activism in this area has continued, through the establishment of recycling centers throughout our community, and I want to thank him for his efforts in this area.

He has been recognized in these professional and community involvements in many ways, winning the Bellingham Jaycees' Man of the Year Award, receiving the Master Mariner Award of the Propeller Club, accepting a Legislative Citation in 1993 from the Alaska State Legislature, and receiving a ''Citation of Merit'' award from the Washington Parks and Recreation Association.

Born in Bellingham, WA in 1916, he has worked tirelessly to promote the development of our community. Following his retirement, Mr. Zuanich will have more time to spend with his family, including his wife Marie and two sons, Robert and Peter, Jr.

I am proud to salute the leadership and dedication Mr. Zuanich has demonstrated throughout his life. Although he will be retiring on December 31, I am certain his record of selfless service will continue far into the years ahead. His hard work and philanthropy truly make him a role model for all. Mr. Zuanich, please accept my best wishes as you enter not only the conclusion of one of your careers, but the beginning of a new chapter of your life.●

STRIKER REPLACEMENT ISSUE

● Mr. NICKLES. Mr. President, I ask that the March 13, 1995, editorial from the Washington Post regarding President Clinton's Executive order prohibiting the use of permanent replacement workers during an economic strike if you do any business with the Federal Government be printed in the RECORD.

The editorial follows:

[From the Washington Post, Mar. 13, 1995]

THE STRIKER REPLACEMENT ISSUE

President Clinton and the filibustering Senate Democrats are wrong on the striker replacement issue. The Senate Republicans are right, and we hope a couple of Democrats can sooner or later be persuaded to switch sides. Then the filibuster can be broken.

The president has no particular history of commitment on this issue. The executive order he signed, disturbing and tilting settled labor law in labor's favor, was plainly an effort to propitiate a constituency that couldn't get its way through normal procedures. The resisting Senate Republicans think that in issuing the order, the president was trying to snatch what ought to be regarded as a legislative prerogative, and they are determined to take it back. If not on the current appropriations bill, you can expect them to do it on some other. In the long run the law seems unlikely to be changed; this is more a fight over symbols, the president who frustrated organized labor on other issues over the last two years trying now to look on the cheap like its friend.

The executive order would bar large federal contractors from hiring permanent replacements when workers strike over economic issues. That's the rule that labor had tried and failed to get Congress to apply to all employers. The unions argue that the ban has become necessary to protect what they depict as a threatened right to strike. But it isn't because of labor law that unions have lost membership and clout in recent years. Rather, it's because, in part by virtue of their own past actions, they find themselves in an increasingly weak competitive position in a world economy. The insulating change they seek in labor law would be much more likely over time to make that problem worse than to make it better.

The law is contradictory. The National labor Relations Act says strikers can't be fired; the Supreme Court has nonetheless ruled that they can be permanently replaced. The contradiction may be healthy. By leaving labor and management both at risk, the law gives each an incentive to agree. For most of modern labor history, management in fact has made little use of the replacement power, and labor hasn't much protested it.

The unions say that now that's changed. The replacement power has been used in a number of celebrated cases in recent years, and labor is doubtless right that in some of these cases it wasn't used as a last resort, but as a union-breaking device from the beginning. The problem is that situations also arise when strikers by their behavior forfeit the right of return and ought to be permanently replaced. This newspaper faced such a situation in dealing with one of its own unions in the 1970s. A ban on the hiring of permanent replacements goes too far. Rather than restore some lost balance in labor law, as its supporters suggest, it would throw the law out of balance and in the long run likely do great economic harm. Maybe there are some modest changes that can usefully be made in current law. But the president's order ought to be reversed. He should find some other way to pose as labor's champion.●

ZORA KRAMER BROWN'S ENERGETIC EXAMPLE

● Mr. HOLLINGS. Mr. President, I rise today to highlight the accomplishments of a Washington, DC, activist whom we should all emulate. If each American had 1 ounce of the intense commitment that Zora Kramer Brown brings to her mission of seeking real solutions to breast cancer, we would live in a stronger America.

Zora Brown, a native of Oklahoma City, OK, is founder and chairperson of Cancer Awareness Program Services [CAPS] and the Breast Cancer Resource Committee, both located in Washington, DC. With CAPS, which

was organized in 1992, Ms. Brown started a comprehensive program to build cancer awareness and education efforts among women. Three years earlier, she started the Breast Cancer Resource Committee to cut breast cancer mortality rates in half among African-Americans by the year 2000.

Ms. Brown also has been appointed to the National Cancer Advisory Board of the National Cancer Institute. Last year in my hometown, she brought unbounded energy to Charleston as she emceed the First Annual Race for the Cure. More importantly, she now is a member of the board of the Hollings Cancer Center at the Medical University of South Carolina where her leadership and enthusiasm is contagious.

On October 27, 1995, McDonald's recognized Ms. Brown's efforts in a large ad featuring ''Portraits of the City.'' Her story of hard work and zeal shows how one person can make a difference in improving the lives of Americans. She is most deserving of this honor and the dozens of others that have been bestowed on her.

Mr. President, we need more Zora Browns across the Nation. I hope as Americans recognize how successful Zora has been, we all will be motivated to follow in her footsteps.●

REUBEN COHEN

● Ms. SNOWE. Mr. President, last week I submitted for the RECORD my personal statement concerning Reuben Cohen—the father of my friend and colleague from Maine, Senator BILL COHEN—who passed away in Bangor, ME, earlier this month.

Today, I would like to submit for the RECORD several items that appeared in the Bangor Daily News following Ruby's death.

The first is an article about Ruby's life that appeared 2 days after his death.

The second is an editorial that pays tribute to Ruby's well-known and admired work ethic.

And the third is an article about funeral services that were held in Bangor which contains many appropriate statements from family and friends about this remarkable man.

I believe these items remember Ruby as he was—someone who brought a lot of life into his community, and a lot of love into his family:

The material follows:

[From the Bangor Daily News, Oct. 11, 1995]

RUBY COHEN DIES IN BANGOR

SENATOR'S FATHER RAN LOCAL BAKERY FOR NEARLY 70 YEARS

(By John Ripley)

BANGOR.—A few years ago, Oklahoma Sen. David Boren needed to talk with Maine Sen. William Cohen, his colleague on the Intelligence Committee who was home in Bangor. So he called Reuben Cohen, the senator's father.

''Well, if you're chairman of the Intelligence Committee,'' Cohen barked into the telephone, ''you should be able to find him yourself.''

And he hung up.

The story is vintage Cohen.

Cohen—baker, husband, father of three children—died late Monday. He was 86.

Reuben ''Ruby'' Cohen is survived by his wife of 58 years, Clara; two sons, William and Robert; a daughter, Marlene Beckwith; and seven grandchildren.

Those who knew Ruby Cohen agree that he died the way he would have wanted: He was found at 9:45 p.m. by a worker at his store, The Bangor Rye Bread Co., where he had been making the next day's batch of rolls and bagels.

To many, Cohen is known best as the father of Bill, now the state's senior U.S. senator. But as proud as he was of his eldest son and all of his children, Cohen enjoyed a reputation of his own as a man of ornery independence, who wasn't above a little mischief every now and then.

In 1974, when the U.S. House of Representatives was deciding whether to impeach President Nixon for his Watergate shenanigans, the press followed then-Rep. William Cohen to Maine, dogging him about how he would vote.

The young congressman shrugged off the questions with ''no comment.'' Then, from the rear of the pack, came a gravelly voice.

''Billy says he's guilty as hell!''

It was Ruby Cohen.

He was a throwback to the days of smoky pool halls, Saturday night fights and dollar haircuts, when Bangor was a cauldron of ethnic neighborhoods and when friends were friends for life. Like many men of his generation, Cohen was held in awe by those who watched him work 18 hours a day, six days a week, for nearly 70 years.

Hunched over and with hands like shoe leather at the end of his beefy baker's forearms, Cohen would start his day as everyone else's was ending.

Work would begin around 8:30 p.m., when he would prepare the dough for the bulkie rolls, rye bread, French bread, Italian sandwich rolls, and bagels. Surrounded by 100-pound sacks of flour, sugar and corn meal, he would work quietly through the night, guided by recipes long ago committed to memory.

Early the next morning, he would pile overflowing paper grocery bags into the back of his battered station wagon and head out on his rounds. He would shuffle into a client's store or restaurant, drop off his goods, occasionally sit down for a quick cup of piping-hot coffee, and then be on his way.

''I guess you could say he worked to live and lived to work,'' Sen. Cohen said Tuesday after flying home from Washington, D.C. ''He wanted to work until he died, and he did.''

With little prodding, Cohen could be lured into conversation, treating everyone to his unhesitating opinions on everything from the big bang theory to Celtics basketball to Workers' Compensation.

Despite the ravages of age and occasional illness, Cohen could never be kept from his work.

In April 1979, a train derailed near Cohen's shop on Hancock Street, leading police to block off the neighborhood. Cohen somehow was able to sneak in, grab some rolls, and head out as always.

When his son was sworn into the U.S. Senate, Cohen grudgingly flew down to Washington, watched the ceremony, then returned to work.

''That's the only time he ever went down,'' Sen. Cohen said.

Even on Tuesday, as family and friends grieved Cohen's passing, the rolls and breads were delivered.

''When you think of Bangor, you think of the standpipe, the Paul Bunyan statue, and Ruby Cohen,'' said U.S. Rep. John Baldaccis, a lifelong friend.

The Baldaccis, as with a handful of other families in town, go back more than half a century with the Cohens. Grandfathers knew grandfathers, fathers knew fathers, some know sons.

A lover of jazz, Cohen was known in his younger years as a sharp dresser who would dance the night away at the old Chateau ballroom, now the site of a renovation project across from City Hall. Though not a large man, he could be fearless—he once decked a man who later became a bodyguard for a California mobster.

It was at a dance hall that he met Clara, then a 16-year-old Irish girl. They courted, and then married in 1937—not a small thing for a Jewish man in those days.

''I guess he wasn't too much concerned about what anyone thought about it,'' Sen. Cohen said.

To Cohen, life was about devotion to work, family and friends.

For years, he and Clara would eat dinner at different restaurants with Abe and Frieda Miller, his childhood friends.

Like his own son, Bobby, Ruby followed in his father's flour-dusted footsteps. Born Jan. 8, 1909, in New York City, Ruby was essentially raised in Bangor, where his father, who emigrated from Russia, owned a bakery. As with Bangor Rye Bread, the New York Model Bakery was a family affair, where everyone chipped in to bake bread in an old, coal-fired oven.

''It's a family of hard workers,'' Frieda Miller said.

Cohen expected the same of his own children.

Bobby still works at the store, Marlene is married to another baker, and Bill is known to lend a hand when he's in town from Washington.

''Billy works here once in a while . . . when he's campaigning,'' Ruby once joked.

Sen. Cohen often tells of scoring 43 points in a high school basketball game at Bangor Auditorium. Expecting praise from his father, Ruby instead replied, ''If you hadn't missed those two foul shots, you'd've had 45!''

Over the years, the Cohen bakeries could be found on Essex Street and then on Hancock, not far from the current location. Through it all—the Depression, World War II, urban renewal, generations come and gone—Cohen was a fixture in the Queen City.

''I was bred on his bread,'' Bangor restaurateur Sonny Miller said Tuesday. ''Ruby was just one of a kind—just a real fine gentleman.''

At his father's 80th birthday party in 1989, Sen. Cohen arranged for video messages from President Reagan and President-elect George Bush, among other dignitaries. As much as he appreciated the attention, Cohen was a man who thought as little of pretension and ego as he did of frozen bagels.

''If you come out to Los Angeles and see the Dodgers,'' manager Tommy Lasorda said in a telephone call that day, ''I'd like to meet you.''

''I hope you can,'' Cohen replied.

If Cohen's work ethic and wit were the stuff of reputation, his driving habits were legend.

''There's an old Bangor saying that you don't know Ruby Cohen until he hits your car,'' U.S. Sen. Olympia Snowe once joked.

Cohen himself once told of being stopped by a Bangor police officer, who didn't know that the baker's old Ford station wagon could be found traveling the city streets at all hours of night and day.

Suspecting that Cohen might have been drinking, the cop asked the octogenarian to recite the alphabet. Cohen did—backward.

Only in recent months, as his health began to slip, did Cohen relent and allow someone else to drive on the morning rounds.

With their father's passing, Bobby and the others hope to follow tradition and keep the bakery open, Sen. Cohen said.

But Bangor, he said, has tasted the last of Ruby Cohen's rye bread.

''That was something that went with him.''

RUBY COHEN

For the high and mighty, the most dangerous man in Bangor was the baker at the wheel of the station wagon.

Making morning rounds with rolls and rye loaves, Ruby Cohen could cut to the core on issues and people, and often did. His insight, like his skill at the oven, was sharpened by constant use.

There is a fearlessness, a strength, a virtue that comes from devoting 18 hours a day, six days a week to labor. It's a license to speak your mind, with candor. It's courage that comes from character.

Cohen's outspokenness shocked the eavesdropper at the corner market. The man from the station wagon, arms wrapped around bags of bulkie rolls, would walk in at mid-conservation and unload on the counter and on a program or politician. Those close to him respected his power, and were in awe of it. One of his sons, Sen. William Cohen, a man not easily flustered or impressed, was visibly on guard in the presence of his father. Playing straight man to Ruby was a lifelong learning experience that involved some pain.

Beneath the crust, Cohen was a man of wit and profound work ethic. His weakness as a role model for finding purpose and dignity in labor is that in its pursuit he set an impossible pace. Few of his own generation could keep up. To his last day on the job he loved, he was an exemplar of the American dream.

Seventy years a baker, 58 years a husband and father of three, Cohen was the epitome of the individual who became a local institution. He could humble the powerful, charm the casual acquaintance and feed the hungry with the world's most perfect loaf of rye bread.

He helped give his city its character. He is missed.

RUBY'S FRIENDS OFFER FAREWELL

FUNERAL RECALLS A BANGOR LEGEND

(By John Ripley)

BANGOR.—Bangor bid a bittersweet farewell Thursday to the wryest Reuben in town.

Reuben Cohen, known to presidents and plebes alike as ''Ruby,'' died Monday night at the place he loved most, the small Bangor Rye Bread Co. bakery he had owned since 1929. He was 86.

''In the Jewish view, if this was his time, God allowed death to be a soft kiss rather than a prolonged suffering,'' Rabbi Joseph Schonberger said during Cohen's funeral Thursday afternoon.

Outside Bangor, Cohen was known best as the father of U.S. Sen. William S. Cohen. But within this small community, particularly within the dwindling company of his own generation, Cohen was cherished for his well-honed wit and his iron constitution.

On an Indian summer day, the Beth Israel Synagogue was filled with Ruby's people—Jews, gentiles, blacks, whites, the young, the old, the famous and the anonymous.

And with so many funerals for colorful people, those who attended Cohen's service came to weep, but left laughing, grateful to have shared a slice of such an encompassing life.

Outwardly, Cohen was a simple baker who loved dancing and the saxophone, his work and his family. But as Sen. Cohen pointed out, his father also was one to dismantle barriers. He broke with his faith to marry his Irish sweetheart, Clara, and he was well informed on the issues of the day.

The essence of Cohen, Schonberger said, was the essence of friendship itself; breaking bread together is older than the ages.

His work ethic was legendary—18 hours a day, six days a week, for nearly 70 years. When his son and fellow baker, Bobby, finally decided to take a vacation after 30 years at Bangor Rye, Cohen asked, ''What's he going to do with a week off?'' Sen. Cohen recalled.

But as the world about him whizzed by, Ruby Cohen kept true to his core; he was, Sen Cohen said, a man who knew no envy.

''He was an innocent in a world grown selfish and cynical,'' Sen. Cohen said in a eulogy marked by moving poetry and knee-slapping Rubyisms.

At times, Sen. Cohen pointed out, his father sometimes showed a knack for being a little too innocent.

If a person expressed pride for losing 20 pounds, Cohen thought nothing of suggesting a trim of 10 or 15 more. He once loudly complained that Boston Celtics games were fixed, even as coach Red Auerbach sat nearby, redder than ever.

And though an honest man, Cohen ''cheated the law in the little ways,'' Sen. Cohen said.

He would envelop his eldest son in a large wool overcoat and sneak him into basketball games at the old Bangor Auditorium. Or, he might simply mingle with the out-going crowd and walk in backward.

If one of Bangor's finest stopped him for erratic driving—an occurence about as common as sunrises—Cohen would admit to having two drinks. After the cop had set up a sobriety test, Cohen would come clean: ''I had two, two cups of coffee.''

''I loved him for his daring, and his wanting me to be with him,'' said Sen. Cohen.

His father's irreverence often was best expressed in his relished role as devil's advocate: alimony was ''all-the-money''; Jesus knew where the rocks were when he walked on water; and Moses probably waited for a drought before crossing the Red Sea.

Through it all, Sen. Cohen said, his father dedicated his life to two loves: his family and his work. When the cost of flour and yeast rose over the years, the increases rarely were reflected in the prices of Cohen's products.

''His concern was always for the welfare of his customers,'' Sen. Cohen said, suggesting that some of the customers could afford a price increase or two. ''And I would say, 'Sonny Miller is doing OK. Bill Zoidas is doing fine. Doug Brown, don't cry for him.' ''

The future of some of these products, known to at least three generations of Bangor residents, was buried with Cohen on Thursday afternoon.

Since Cohen's death Monday night, Rabbi Schonberger joked, the oft-heard question has been, ''Did he make the sourdough for the rye bread before he died?'' •

DIAMOND JUBILEE ANNIVERSARY OF THE TABERNACLE MISSIONARY BAPTIST CHURCH

• Mr. LEVIN. Mr. President, it is a distinct honor for me to acknowledge this milestone celebration—the Diamond Jubilee Anniversary of the Tabernacle Missionary Baptist Church in Detroit, MI, pastored by the Reverend Dr. Frederick G. Sampson.

The Tabernacle Missionary Baptist Church has been a cornerstone in Detroit for years having grown from its roots in Georgia and Mississippi. Not only did this church persevere in the face of change and hard times during the Depression years, but it has thrived and grown to become one of the largest and most prestigious churches in this great city.

I can only believe that the kind of growth and success many of its members have witnessed is a testament to the solid and unshakable faith of Mr. and Mrs. Alonzo Johnson who are known as The Founding Family and all those who followed in the belief of their mission which is to provide the community with spiritual guidance.

I thank Dr. Sampson, his predecessors, his ministers, and all those who have accepted the challenge of providing guidance and spiritual education to this community by establishing such services as adult education classes, child day care, meals on wheels, housing, and other community orientated programs. Your adoption and mentoring programs at neighborhood schools are commendable. They display the importance and positive impact that you have in the community. For we know that wisdom, knowledge, understanding, and all the academic education that anyone of us can muster is useless unless there is a solid moral foundation, which is what you have provided for the past 75 years.

I ask my colleagues to extend your sincerest congratulations to the entire Tabernacle Missionary Baptist Church family, and I extend my warmest wishes to them for another 75 years of success and service. •

CASINOS NOT SURE BET, OTHER STATES DISCOVER

• Mr. LUGAR. Mr. President, I ask unanimous consent that the attached article be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 6, 1995]

CASINOS NOT A SURE BET, OTHER STATES DISCOVER—ANALYSTS SAY AREA OFFICIALS COULD LEARN FROM SUCCESSES AND FAILURES ELSEWHERE

(By Charles Babington)

Anchored on the Mississippi River near downtown New Orleans are two massive, double-decker casino boats with the evocative names Crescent City Queen and Grand Palais.

There's nothing grand about them now, however. Both boats closed their doors last month, barely nine weeks after opening amid much hoopla and hope. The closings, forced by lower-than-expected revenue, left 1,800 people jobless and the City of New Orleans jockeying with other creditors to collect $3 million in unpaid taxes and fees.

The turn of events has been sobering—even on Bourbon Street—and may give pause to officials in Maryland, Virginia, the District and elsewhere who are contemplating legalizing casinos. Although some southern and midwestern towns are content with their riverboat revenue, others are finding that the reality does not always match the promise.

That's especially true in New Orleans, a city that bears watching by the likes of Baltimore and Washington, according to several analysts. Aside from the loss of the two riverboat casinos, New Orleans's ambitious land-based casino has needed only a third of its projected revenue since opening in May.

The picture is brighter in the Midwest. One reason, however, is that lawmakers quickly

relaxed regulations that had made casinos politically palatable in the first place. In Davenport, Iowa, a riverboat casino netted $14 million last year after legislators increased its operating hours and dropped a rule that had limited each gambler's loss to $200 a visit.

Those changes lured thousands of gamblers from a nearby casino boat in Rock Island, Ill. As a result, more than 200 people lost jobs there, and Rock Island now receives only a fraction of the $4 million in casino tax revenue that it got two years ago.

In Missouri, six riverboat casinos poured $79 million into state and local tax coffers last year. Again, looser regulations helped. Slot machines—initially banned in Missouri—were added to the table games.

A political cloud is looming, however. Missouri's attorney general alleges that the state House speaker broke the law by accepting thousands of dollars from casino companies and trying to influence licensing decisions. A grand jury is investigating.

Against this national backdrop, Maryland is preparing for a legislative decision on casinos this winter, a D.C. group has asked the elections board to place a casino initiative on the District's 1996 ballot, and an industry-backed coalition is still pushing for riverboat casinos in Virginia after three consecutive legislative setbacks.

Industry analysis conclude that under the right circumstances, casinos can boost local economies and government coffers, sometimes dramatically. But they say casinos are not a panacea for politicians hoping to revitalize a failing city or finance a state government while cutting taxes.

''Although casinos are spreading to more states, they have limited potential as a source of tax revenue,'' said Steven D. Gold, director of the Center for the Study of the States, in Albany, N.Y. Casinos take some money that otherwise would be spent on state lotteries or taxable goods and services, he said. Moreover, the growing number of casinos nationwide will result in smaller potential for new ones.

''There will never be another Nevada,'' Gold wrote recently. Nor, experts say, will there be another Atlantic City, where a dozen large casinos attract bus loads of betters to an otherwise blighted town.

Since 1990, six midwestern and southern states have legalized commercial, non-Indian casinos. (Federally recognized Indian tribes can operate casinos without state approval or tax assessments, and the casinos are highly successful in Connecticut and elsewhere.)

The six states are the guinea pigs now being scrutinized by cities and states trying to decide whether casinos are a good public bet. Among the groups conducting inquires are a government-appointed task force in Maryland and the Greater Washington Board of Trade. Casino companies are keen on the Washington area because it would help them crack the untapped mid-Atlantic region.

In Maryland, proposals range from a few small casinos, possibly at horse-racing tracks or in mountain counties, to large betting palaces in downtown Baltimore and the Port-America site in Prince George's County, near the Woodrow Wilson Bridge. If Baltimore and the D.C. suburbs are the ultimate targets, several analysis say, then New Orleans might be the most analogous site for scrutiny. Like Baltimore and the District, it is a city with a well established tourist trade but serious problems of crime and middle-class flight.

In 1991 and 1992, when Louisiana legislators approved 15 floating casinos throughout the state and one large land-based casino in New Orleans, boosters said gambling would be a sure-fire winner.

In the last four months, however, three of New Orlean's five floating casinos have closed, eliminating the jobs of hundreds of people who thought the boats would bring them a better life. Meanwhile, Harrah's temporary land-based casino has earned about $12 million a month, far short of the $33 million that was projected. The company is building a mammoth, permanent casino that officials hope will draw more gamblers when it opens next summer in the heart of the touristy French Quarter.

Some critics say the setbacks are the inevitable result of Louisiana's greed and haste in approving casinos, a process that enriched several friends of the high-stakes gambling governor, Edwin Edwards.

''It's the same scam going on worldwide'', said New Orleans lawyer C.B. Forgotson, Jr.

Forgotson said casino companies promise the moon without conducting realistic studies of who will come to gamble. Eventually, he said, ''they find out the only people coming to casinos are locals. So then you are cannibalizing your local businesses. . . . The same thing is going to happen in Detroit and Baltimore.''

Other analysts, however, say New Orleans is temporarily suffering from foolish decisions that other states can avoid.

''The root of the problem is that the wrong people were licensed, and they were licensed for political reasons,'' said Larry Pearson, publisher of the New Orleans-based Riverboat Gaming Report. He noted that river boat casinos in other parts of Louisiana are doing well.

Only a few states have been willing to try a non-Indian, land-based casino. In Mississippi and the four midwestern states with casinos, the facilities must be on boats, even though some never leave the dock.

Many analysis say ''riverboat gambling'' is a political ploy to ease the worries of some voters who associate land-based casinos with Las Vega's tackiness and Atlantic City's grit. ''State legislators think that a little cruise with a paddle wheel somehow makes it not gambling,'' said Brian Ford, a Philadelphia-based casino adviser for the accounting firm Ernst & Young.

Some analysts argue that if Washington and Baltimore want casinos, they should build big Vegas-like facilities that could lure tourists and large conventions.

''Scattering some riverboats around the Washington-Baltimore area would be a disaster,'' said Hunter Barrier, director of the Alexandria-based Gaming and Economic Development Institute. Most tourists would ignore such facilities, he said, ''so revenues will come from local residents. And that money would come from restaurants, theaters and other local businesses.''

It is just that scenario that has prompted Maryland's restaurant and thoroughbred racing industries to unite against casinos. They say casinos typically support bettors with cheap food and a fast-paced array of slot machines and card game that make horse races seem poky.

''Casinos would have a devastating impact on our industry,'' said Marcia Harris, of the Restaurant Association of Maryland.

Despite opposition to casinos from racing and restaurant interests, politicians in Maryland and elsewhere are tempted for a simple reason. Tax rates on casino earnings are typically about 20 percent, four times the level of Maryland's 5 percent sales tax. If a resident spends $100 in a casino rather than in a clothing store, the store suffers, but the state receives $20 rather than $5.

Barrier said most governments that are contemplating casinos focus on three concerns: crime, compulsive gambling and ''product substitution,'' or the losses to non-casino businesses when their customers gamble.

''I've come to the conclusion that crime is not a problem,'' Barrier said, an opinion supported by several studies and interviews with police officials in towns with riverboat casinos. But problem gambling, he said, is ''something that has to be looked at real carefully.''

Problem gambling is hard to measure, authorities say, and casino supporters note that most Americans already have ample opportunities to bet on lotteries and other ventures. However, a 1994 study of legalized gambling, funded by the Aspen Institute, a D.C. think tank, and the Ford Foundation, concluded: ''There is a direct increase in the numbers of people with pathological gambling problems as a result of increases in legalization.''

As for product substitution, a debate rages. Casino supporters say everyone in a community benefits if casinos hire new workers, attract tourist dollars and contribute to higher tax revenue.

There's not much hard data on the subject. In South Dakota, where Indian casinos operate, a 1991 state study found no appreciable drop in overall taxable retail sales. However, there were ''significant declines for selected activities such as clothing stores, recreation services, business services, auto dealers and service stations.''

When casinos open, ''existing vendors lose,'' said Jeff Finkle, executive director of the Washington-based National Council of Urban Economic Development. Nonetheless, he predicts that Maryland and Virginia officials will find it hard to withstand the lure of casino revenue, especially if Pennsylvania, West Virginia or Delaware threaten to strike first.

''Somebody in this area is going to do it,'' Finkle told a Greater Washington Board of Trade task force last week. ''It is inevitable, and when it happens it will hurt D.C.'' unless a revenue-sharing agreement is reached.●

THE PROFESSIONAL BOXING SAFETY ACT

● Mr. ROTH. Mr. President, the Senate's passage of the Professional Boxing Safety Act represents the culmination of nearly 4 years of working to make professional boxing a safer sport for the young men who choose to enter the ring. In large part, these efforts owe a great deal to a boxer from my home State of Delaware, whose misfortune and subsequent hard work made a lot of this possible. That boxer is Dave Tiberi and I believe that both the Senate and the American public owe a debt of gratitude to Dave for the legislation we have adopted.

On February 8, 1992, in a world title fight, Dave Tiberi lost a controversial split decision in Atlantic City to the International Boxing Federation's middleweight champion, James Toney. The ABC announcer described it as ''the most disgusting decision I have ever seen.'' As a result of that fight, I directed that the Permanent Subcommittee on Investigations undertake a comprehensive investigation of professional boxing, the first in the Senate in more than 30 years. Unfortunately, that investigation found that the sport's problems remained much as Senator Kefauver found them to be three decades earlier.

First and foremost among all the problems facing the sport today, none is more important that protecting the

health and safety of professional boxers. We work hard to protect our amateur boxers and take great pride in their accomplishments in the Olympics. Yet, when these and other young men step into the professional ranks, we deny them even the most basic health and safety protections such as minimum uniform national standards. Professional boxers are faced with a patchwork system of health and safety regulations that vary State by State, both by rule and enforcement.

Along with my colleague, Senator DORGAN, I have worked to ensure that the legislation we have adopted does include minimum uniform national health and safety standards. This will ensure that every professional boxing match in the United States is conducted under these standards. Every professional boxer will know that a physician must be at ringside; that an ambulance must be available; and that promoters must provide medical insurance. I commend Senator MCCAIN and Senator BRYAN, the sponsors of S. 187, for including these health and safety protections in this legislation.

Despite numerous lucrative offers, Dave Tiberi has never fought again. Instead, he has dedicated his efforts to reforming boxing and working with young people in Delaware. I believe that, in large part, without Dave Tiberi's work, we would not have passed this boxing reform legislation.

Professional boxing is important not only to its millions of fans, but also because the sport creates opportunities for many young men who have few opportunities. We owe these young men a system outside the ring that works as hard to protect them as they do inside the ring. That is why I have worked to reform professional boxing and I commend my colleagues for adopting this important legislation.●

THE PROFESSIONAL BOXING SAFETY ACT

● Mr. MCCAIN. Mr. President, I am very pleased the Senate passed S. 187, the Professional Boxing Safety Act, last night. This bill will make professional boxing a safer and better sport, and serve to protect the athletes who sustain this industry with their skill, dedication, and courage.

This legislation is the product of over 2 years of consultation with dozens of State boxing officials, professional boxers, and concerned industry members. S. 187 is an effective and practical measure that will strengthen and expand the health and safety precautions to protect the welfare of professional boxers. It will also go a long way toward enhancing the integrity of the sport.

I am deeply grateful for the strong support that Senator RICHARD BRYAN of Nevada has lent to this effort. As prime cosponsor of S. 187 and as a Senator representing America's premier boxing State, Senator BRYAN's assistance on this issue has been vital to its progress.

I would also like to thank Senators PRESSLER and Senator ROTH for cosponsoring this bill. Chairman PRESSLER helped move S. 187 through the Commerce Committee, and Senator ROTH has been a leader in bringing the issue of boxing reform before the Senate. Senator ROTH and Senator DORGAN helped strengthen the bill with additional health and safety provisions, as well.

I would like to speak for a moment on why the passage of boxing legislation is an important and necessary step for the Senate to take. Aptly described as ''the Red Light District of Sports'' some 70 years ago, professional boxing has continued to be an industry rife with controversy and scandal.

I have been an avid fan of boxing since I was a teenager, and I look back fondly on my days of painful mediocrity as a boxer at the U.S. Naval Academy. I idolized Sugar Ray Robinson, and have closely followed the many great champions and challengers who have followed in his wake. At its best, professional boxing can be a riveting and honorable contest between athletes.

Unfortunately, this standard of honorable competition is often ignored with respect to boxing in America today. Boxing continues to be corrupted by woefully inadequate safety precautions, fraudulent mismatches, and unethical business practices. The boxing industry has been justifiably tarnished in the public's eye due to individuals whose profit motives consistently outweigh their conscience.

Instead of the health and welfare of each boxer being paramount, many professional boxers are treated as sacrificial workhorses whose long-term interests do not count. This is especially true for the unknown club fighters who are the backbone of the sport. They live far out of the glare of the media spotlight, and box because it is the only way they know to make a living. A majority of professional boxers never make more than a few hundred dollars per bout during their entire careers.

Many boxers are routinely subjected to excessive punishment and injury in poorly supervised events. These bootleg shows feature dangerous mismatches and few if any health or safety precautions. Instead of being allowed to heal during a mandatory recuperation period, injured boxers are often lured to another State to avoid the suspension. Finally, when they are too old or debilitated to even attempt to compete, journeymen boxers are quickly dismissed from the sport.

There is no pension or medical assistance awaiting most boxers once they hang up their gloves. Indeed, their retirement often consists of nothing more than a steady and irreversible decline of their body and mind. This sad fate has faced literally thousands of boxers in America, and my overriding objective in introducing S. 187 is to prevent it from happening to future generations of boxers.

There are two major reasons these abuses have not been curbed. The first is the absence of a private governing body in the industry to mandate proper safety regulations and ethical guidelines. Second, the State-by-State nature of boxing regulation in America allows promoters to hold unsafe boxing shows in States with weak or nonexistent boxing regulations.

The Professional Boxing Safety Act will end this disturbing situation in an efficient and nonobtrusive manner. S. 187 will achieve the single most important step to make boxing safer: requiring State boxing officials to responsibly evaluate and supervise every professional boxing event held in the United States. Public oversight by State officials is absolutely essential to protect the health and safety of boxers.

We simply cannot allow the business interests which dominate the boxing industry to sanction and supervise events which they themselves organize and promote. The final authority for the content and conduct of each boxing event must rest with State athletic officials—not promoters or sanctioning bodies. State boxing officials are responsible for protecting both the welfare of the boxers and serving the public's interest, and S. 187 will greatly assist them in this important work.

Let me briefly describe the major provisions of this bill. First, all boxing events must be reviewed and officially approved by State boxing commissioners. If a State does not have a boxing commission—and currently six States in the United States do not—commissioners from a neighboring State must be brought in to supervise the event at the expense of the promoter.

Second, each boxer competing in the United States will receive an identification card which will be tied into the private boxing registries which serve the industry. This will assist State commissioners in evaluating the career record and medical condition of each boxer coming to their State to compete.

Furthermore, S. 187 requires all commissioners and promoters to honor the medical suspensions of boxers that have been ordered by other State commissions. This means no boxer can compete while suspended due to a recent knockout, injury, or need for a medical procedure. Commissioners will also be required to promptly share the results of the boxing shows they supervise with commissioners from other States.

Several additional health and safety provisions were added to S. 187 before it was passed by the full Senate. Licensed physicians must be continuously present at ringside for all boxing events, and an ambulance service must either be present at the site or have been notified of the event. Promoters are required to provide medical insurance for each boxer, as well. The

amount required will be left up to the discretion of each State.

These reasonable measures are already required by most State commissions, but establishing them as national standards will protect those boxers competing in less carefully regulated jurisdictions.

The U.S. attorneys in each State will enforce S. 187. The bill will empower U.S. attorneys to seek a temporary or permanent injunction against individuals violating this act. This will bolster State commissioners to resist the intimidation that results in dangerous and fraudulent professional boxing events.

Let me clearly emphasize what this legislation does not do. Unlike other boxing reform proposals that have been introduced in the Congress over the last decade, S. 187 requires no new Federal or State tax dollars; establishes no Federal boxing bureaucracy; and imposes no burdensome regulations upon State officials.

I am very pleased that S. 187 has received virtually unanimous support from every sector of the boxing industry. It has been enthusiastically endorsed by the Association of Boxing Commissions [ABC], which represents 35 State boxing commissions across the United States. Over 20 chief State boxing officers have written to me in support of this bill, ranging from prominent boxing States such as Nevada, Florida, and New Jersey, to smaller commissions such as Kentucky, Ohio, and my home State of Arizona.

Most important to me, however, is the enthusiastic support I have received from professional boxers themselves. They bear all the risk of this violent profession, and they are the people I want to protect with this legislation. Legendary champions Muhammad Ali, George Foreman, and Sugar Ray Leonard each wrote to me in support of S. 187, and I am deeply grateful to them.

I also want to note the special participation of two extremely impressive boxing industry professionals in this effort. Mr. Eddie Futch, perhaps the greatest trainer of this era, and accomplished junior featherweight Jerome Coffee both took the time to testify on boxing safety before the Commerce Committee. They graced the committee with their experienced views, and I again extend my sincere gratitude to the both of them for their contributions.●

SNOWBASIN LAND EXCHANGE ACT

● Mr. BURNS. Mr. President, yesterday Senators HATCH, BENNETT, CRAIG, and I introduced S. 1371, the Snowbasin Land Exchange Act. This bill would facilitate a land transfer in Utah.

The consolidation of ownership of lands in the West has been a goal of many Members of the Senate, including me. I have supported many land exchanges for Montana, and I am pleased to be a cosponsor of S. 1371. This bill deals with lands in Utah and would allow the Snowbasin ski area, which will be one of the sites for ski events of the 2002 Winter Olympic Games. The bill would transfer about 1,320 acres from the Forest Service to the ski area and Forest Service would receive lands of equal value which they desire.

About 10 years ago, discussions began between the owners of this land and the Forest Service. Since 1985, there have been studies, hearings, and assessments on the exchange. These include an environmental impact statement, environmental assessment, cultural and historical assessment, fish and wildlife studies, soil and water reviews, and geological studies. Despite a decision made by the Forest Service to exchange 700 acres of land at Snowbasin in 1990, the exchange remains uncompleted today.

Congress needs to act quickly on S. 1371 so the exchange can be completed in the near future. For the 2002 Olympic Games, planning has already begun. This exchange is important so the work at Snowbasin can be completed for Olympic ski events scheduled there.

The 2002 Olympic Games are important to the people of Montana for many reasons. For one, the Olympics will draw people to the Inter-Mountain West, including Montana. This means more travel and tourism dollars to Montana and greater exposure of the attributes Montana possesses.

Mr. President, the Public Lands Subcommittee will hold a hearing on S. 1371 next week, and I look forward to this bill moving forward quickly.●

ENERGY AND WATER APPROPRIATIONS ACT

Mrs. MURRAY. Mr. President, yesterday evening, the Senate passed the conference report on H.R. 1905, the Fiscal Year 1996 Energy and Water Development Appropriations Act. I would like to comment on one aspect of this bill that has tremendous meaning to people in my State of Washington.

During the debate, the senior Senator from Washington made a statement regarding a recent agreement between the various Members of the Senate from the Pacific Northwest and the Clinton administration regarding the recovery of salmon runs in the Columbia and Snake Rivers. He correctly pointed out the two things it represents: First, an acknowledgment by the administration of the need to stabilize recovery costs; and, second, an interim solution that provides some breathing space for the region to develop ideas for longer-term solutions.

My colleague also went the extra step of pointing out all the problems with the status quo, problems on which there is almost no disagreement. He spoke of the escalating costs of recovery measures. He spoke of the increasing financial pressures on Bonneville Power Administration. He spoke of conflicting Federal laws. He spoke of the inability of the Federal Government to develop solutions that work for a very unique region of the country. These are things on which we can both agree. These are problems on which I want to work with him to solve.

He also spoke of his goals in this debate. And again, his goals are substantially similar to mine. He spoke of the need to rebuild the once vibrant salmon runs which so much define the people of the Northwest and their culture. He wants to accomplish that soon, and so do I. He wants the Pacific Northwest—and the United States—to continue to benefit from the magnificent Federal Columbia River Power System, and I think he's right on target.

During his remarks, however, he drew an interesting parallel between this issue and the spotted owl controversy that has vexed our region for so many years. He said, in effect, that while owls are important, they should not be more important than people. I do not think any right-thinking person ever argued that owls should be more important than people; I know I have not. But most people know the real issue has been the gradual degradation of the public forests for which the owl became a symbol. The public has soundly rejected overcutting and overexploitation of the national forests, in favor of ecosystem management approach currently embodied by the Northwest forest plans.

The senior Senator suggests that—like his approach to the spotted owl—we should restore fish, but not at the expense of anyone else. I think that he fundamentally misjudges the differences between the salmon issue and the spotted owl issue. This is not as simple as jobs versus owls. Unlike the owl, salmon are firmly identified with people. They are part of people's basic vision of the Northwest, and they are part of the economic foundation on which our great State has been built. Salmon mean jobs. They put a roof over the heads of fishers and their families. They are at the spiritual center of native American cultures. They are at the core of many family relationships; how many parents have taken their child out for his or her very first fishing trip?

And the decline of salmon has sent a horrendous ripple effect through our economy, through our State, our politics, and even our international relations. The decline of salmon has driven fishers from Washington and Oregon up to Alaska. It has driven parents out of homes. It has created tension between politicians from neighboring States. Lawsuits have been filed. Indian peoples have threatened to enforce their treaty rights. Canada has taken a punitive line against our fishing boats, and our treaty with them has fallen into serious dispute. Why? Because the Federal Government has not taken care of our salmon runs. It is as simple as that, and it's a problem we can fix.

My colleague from Washington correctly points out that the administrative agreement reached last week to

establish a budget for salmon recovery is just that—a promise by the administration to bring costs under control. He also expressed concern that nothing has been committed to paper describing this agreement. That is why I insert language into the conference report on H.R. 1905—with his support—that directs the agencies involved to enter into a memorandum of agreement detailing the manner in which the annual salmon budget will be implemented.

Make no mistake: a huge amount of money will be devoted to salmon recovery, and the public deserves detailed accounting of how it is spent. We will have accountability, or we will pull the plug. I expect the National Marine Fisheries Service, the Bonneville Power Administration, and the four Northwest States—either through their Governors, or the Northwest Power Planning Council—to reach agreement on the best approach to recovery, and to provide a full written accounting of their efforts.

How will we recover these salmon runs, when we have had so little success to date? The answer is by following good science. The senior Senator and I also agree on this, though he made one comment that disturbs me. He said we should not spend all this money solely to recover one, two, or three weak runs of fish. Well, I agree, and I do not think anyone is suggesting we should just focus on three runs. There are over 80 salmon and steelhead runs in this basin, and we should focus on managing the whole population to maximum advantage. Like the national forests that are home to the spotted owl, the health of the river system is in trouble. Nearly every single salmon and steelhead run is trending downward in population.

If we examine the science as it is currently understood, we will find that what is good for 1 weak run is also good for 79 others. Furthermore, the Northwest Power Planning Council has developed its own plan, and it's almost identical to that of the Federal Government. The only difference is that it targets the whole basin. That is right; the regional, homespun salmon plan aims to rebuild all salmon runs in the basin, and yet it calls for recovery measures almost identical to those required by the ESA: better passage around dams, faster travel time to the ocean, habitat conservation, and decreased predation. So it is reasonable to conclude that scientific theories are headed in the same direction for all salmon in the basin, be they listed under the Endangered Species Act, or not.

My colleague also pointed out that the region's current problems are the fault of Federal laws and overzealous bureaucrats. While that is surely true in part, it is not the whole story. The Endangered Species Act gives NMFS the responsibility to act to save salmon. It has kicked in as a measure of last resort, because other actions have failed. There are other laws that also apply. The Northwest Power Act—written by our Senators Warren Magnuson, Scoop Jackson, and MARK HATFIELD specifically for the region—requires BPA to manage the river system to ensure the propagation of salmon. That law set up the Northwest Power Planning Council to oversee BPA.

It was a regional solution; but it maybe outdated, because it's no longer working.

But that's not all. The Federal Power Act requires non-Federal dams to take serious measures to protect salmon before they can get an operating license. There are treaties with native Americans—upheld by the Supreme Court of the United States as the highest law of the land—that require the Government to ensure healthy salmon runs exist. And finally, we have a treaty with Canada that requires each country to replaced the amount of fish it takes from the other's waters.

What solutions have been proposed by my senior colleague? He consistently has proposed shortcutting the law and tilting the balance of decisionmaking by limiting public involvement. His approach has been to find the quick fix: suspend the laws as they apply to our region, and impose an outcome from the Federal level. Well, more often than not, that approach shortchanges the science and leads to massive lawsuits. He has also proposed sweeping revision to the ESA, some of which might be needed. But the fact remains, we could repeal the ESA tomorrow, and it would not do a thing to help restore salmon to the Columbia Basin.

It is not as simple as turning the whole mess over to the States. That might get the Feds out of the picture, but it does not begin to solve the problem. In the end, we need to stop addressing all Columbia River issues in isolation. Salmon costs are not BPA's only problem; some might argue it is the least of its problems. BPA's biggest problem is how to continue delivering benefits to the people, given competitive changes to energy markets. It has inefficient management, a huge debt load, numerous public policy mandates, very little accountability, and virtually no regulatory oversight.

Politicians should commit to working for a series of shared values, and then start looking for ways to achieve them for the people. I think those values remain very clear: we should have clean, affordable hydropower; we should have bountiful fish and wildlife; and we should pay off the debts incurred to construct the system.

For fish, we need to find a way to make the requirements of all these laws and treaties consistent. And then we need one plan to meet these requirements. One set of standards, and one plan to meet them. We must utilize a scientifically sound, adaptive management approach. We must test, monitor, and adapt as we learn more about salmon science. The fact is, salmon science is inexact. There are many different theories on what is best for them; only by experimenting will we find the solutions that work best. Our challenge is to conduct these tests in the most sensible, cost effective way.

For the hydro system, we need to carefully reevaluate the role of BPA—and all its assets—as we enter the 21st century, and try to identify the role that makes the most sense for consumers in the new marketplace. The four Northwest Governors and the Department of Energy are currently planning a regional forum to review these issues. I hope this forum can be used to review proposals for change coming from the bottom up. I have been talking with many constituents over the past year, and I know much work has been done on the ground to scope out changes to the law that make sense for the region. I want to see that work carry over into the public arena. In my view, the Governors are best positioned to bring people together, review ideas, and forward useful guidance to the congressional delegation here in Washington, DC.

Mr. President, I have listened very closely to the people of the Northwest. They want salmon runs. They want clean hydropower in favor of nuclear power, or coal, or even gas. But above all else, they want to avoid the controversies of the past like the spotted owl: they want a solution. I am passionately committed to finding a solution that works for the Northwest. People do not want to see their politicians bicker. They do not want to see winners and losers in public debate. They want to see their politicians work together, and they want problems solved.

The agreement reached with the Clinton administration last week was a solid beginning. It was not landmark, and it certainly was not a long-term solution. But it buys time for the region to think this through very carefully, and it does not harm any aspect of the river system, or the fish. We now have an opportunity. We can move forward, and find solutions, or we can draw lines in the sand and let things devolve into politics. I know the people of the Pacific Northwest want the former.

NATIONAL SECURITY PROVISIONS OF THE GATT TREATY AS APPLIED TO ECONOMIC EMBARGOES

Mr. D'AMATO. Mr. President, I rise today to offer a brief explanation of article 21 of the GATT, otherwise known as the General Agreement on Tariffs and Trade, especially as it relates to the imposition of secondary economic sanctions against Iran. This is particularly pertinent because of my bill, S. 1228, the Iran Foreign Oil Sanctions Act.

Briefly, the provisions of article 21, are so broadly written, that legislation such as S. 1228 is possible, and in fact,

sustainable under the GATT. Furthermore, the concept has been tested before, in relative terms as it relates to economic sanctions imposed upon Cuba in the 1960's, Nicaragua, and even against Czechoslovakia in the 1940's.

I want to add that even when President Reagan imposed similar sanctions against the Soviet Union in the 1980's, in retaliation to the imposition of martial law in Poland, a Federal court upheld sanctions against Dresser France.

I feel that this point must be made clear for those who feel that there would be a challenge to this once it became law, or that it would cause legal disputes. In light of this, I ask unanimous consent that the following documents be printed in the RECORD, explaining the legality of secondary boycotts under the GATT: First, a memo dated June 28, 1983, from Sherman Unger, then legal counsel for the Department of Commerce, on the subject of the legality of import sanctions under GATT; an article from the New York Times from August 25, 1982, entitled ''Judge Backs U.S. Bid to Penalize Company on Soviet Pipeline Sale,'' that details an attempt by Dresser France to defy President Reagan's secondary boycott against foreign companies supplying oil pipeline equipment to the Soviet Union; and finally, an analytical index Guide to GATT Law and Practice, explaining article 21 in GATT, the national security exception.

In their totality, these documents will help to explain the legality and I hope that they will go some way toward settling any doubts about S. 1228.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNSEL OF THE
U.S. DEPARTMENT OF COMMERCE,
Washington, DC, June 28, 1983.

Memorandum to Lionel H. Olmer, Under Secretary for International Trade, from Sherman E. Unger, General Counsel.

EXPORT ADMINISTRATION ACT—INTERNATIONAL LEGALITY OF PROPOSED IMPORT SANCTION

SUMMARY

Proposed amendments to the Export Administration Act would authorize subjecting violators of national security export controls to sanctions in the form of import restrictions. The proper exercise of this authority would be consistent with United States obligations under the General Agreements on Tariffs and Trade (GATT) and under other potentially applicable trade agreements. GATT legality would not preclude the possibility of a claim of ''nullification or impairment'' under GATT Article XXIII, but the relationship of such sanctions to security interests and the likelihood of their relatively insignificant impact on a country's exports greatly reduce the risk of GATT-sanctioned counter-measures.

BACKGROUND

The Administration bill would amend section 11 of the Export Administration Act of 1979, as amended (the ''EAA'') [1]

''(3) Whoever violates any national security control imposed under section 5 of this Act, or any regulation, order or license related thereto, may be subject to such controls on the importing of its goods and technology into the United States or its territories and possessions as the President may prescribe.'' [2]

The bill reported by the Senate Banking Committee contains a similar amendment, but the import controls on a violator are not limited to ''its'' goods and technology, and the sanction is also applicable to a violation of ''any regulation issued pursuant to a multilateral agreement to control exports for national security purposes, to which the United States is a part.'' [3]

Under the present statute and regulations, violators of the export controls under the EAA are subject to criminal penalties and to administratively imposed civil fines and denial or limitation of access to exports from the United States.[4] When a violator is outside the United States, it may not be possible to acquire personal jurisdiction over that person for purposes of criminal proceedings or the collection of civil fines. The export control authority of the EAA can be used to deny a violator access to U.S. exports even if the violator elects not to contest the administrative enforcement proceedings and remains outside of United States territory.[5] Thus, denial of export privileges may be the only available sanction in certain cases. Whether this sanction will provide a meaningful penalty to deter further violations will depend upon the extent to which the violator needs continued access to U.S.-origin goods and technology. The ability to restrict imports, as well, would increase the economic impact on any violator and, for some, might be key to achieving an effective sanction.

GATT LEGALITY

GATT Article XI bars ''prohibitions or restrictions'' on imports, with certain exceptions not applicable to the EAA sanctions under consideration. Article XI applies to prohibitions or restrictions on the importation of ''any product of the territory of any other contracting party.'' Thus, the origin of the affected imports, rather than the nationality or place of business of the sanctioned violator, would be controlling. Absent an exception in the GATT, an affected contracting party could challenge the import sanction as an illegal restraint on the exports of its products to the United States.[6]

The United States would be able to defend a proper use of the import sanction against violators on the basis of exceptions provided in Articles XX and XXI of the GATT.

Among the general exceptions in Article XX is that in subparagraph (d) with respect to measures ''necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of [the GATT] . . . ''. To qualify for an exception under the terms of Article XX, measures must not constitute ''a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail'' or ''a disguised restriction on international trade.''

It should not be subject to serious question that denial of import privileges to violators would constitute a measure to secure compliance with the export control laws, with the likely economic consequences of such a sanction serving as a deterrent. The real issue, therefore, would be whether the export controls themselves are consistent with the GATT.

Article XI bars prohibitions or restrictions through export licenses with respect to the exportation or sale for export of any product destined for the territory of any other contracting party. The application of this prohibition is limited by exclusions stated in paragraph 2 of the Article, but none of these is applicable to national security export controls.

For purposes of this memorandum, I shall assume that the import sanction is imposed in connection with a violation of a control restricting the export of a product destined for the territory of a contracting party. It should be noted, however, that most of the controlled destinations under U.S. national security controls are Communist countries that are not GATT contracting parties. Where an export license must be applied for in connection with an export of a national security controlled product to a Free World destination, the basic purpose of licensing (with limited nuclear-related exceptions) is to assure that the indicated destination is bona fide and that diversion to a controlled destination is not in prospect. As the purpose of these licensing requirements is not to deny these Free World destinations access to the products, and as the trade impact in fact is nil because licenses are rarely denied to these destinations, it is arguable that such controls are not the kind of trade practice which Article XI should be deemed to prohibit. This argument would gain force if Article XI were invoked in a case involving the unauthorized export of a U.S.-origin product from the territory of the contracting party lodging the complaint. It is not unlikely that such reexport controls would be involved in a complaint, as it is this jurisdictional reach that distinguishes U.S. controls from those of its major trading partners.

Even if Article XI were applicable to the national security export control being enforced, the United States should be able to GATT—justify its actions under the security exception in Article XXI. This provides in pertinent part:

''Nothing in this Agreement shall be construed . . . (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests (i) relating to fissionable materials or the materials from which they are derived; (ii) relating to traffic in arms, ammunition and implements of war, and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment; (iii) taken in time of war or other emergency in international relations. . . .''

The use in Article XXI of the term ''which it considers necessary'' is indicative of the deference to the judgment of contracting parties when they wish to justify measures on security grounds. The very limited testing of this Article in GATT proceedings has confirmed this deference.[7] Professor Jackson quotes statements from the GATT preparatory conference that ''some latitude must be granted for security as opposed to commercial purposes'' and that ''the spirit in which the Members of the Organization would interpret these provisions was the only guarantee against abuse.'' [8] The United States invoked Article XXI in successfully defending its export controls against a Czechoslovak challenge in 1949. In May 1982, Argentina complained to the GATT Council that the trade sanctions (not limited to military or strategic items) imposed by the United kingdom, the European Community, Canada and Australia violated various GATT requirements and could not be justified under Article XXI. The complaint remains unresolved.

The scarcity of official interpretations of Article XXI is due not only to the very few complaints in which it has been invoked, but also to the fact that the broad wording of the Article XXI exception relieves contracting parties of the obligation to provide notification of security-related measures.

Footnotes at end of article.

If the GATT were to be invoked with respect to controls on industrial goods being exported for industrial use, it might be contended that the controls are not within the Article XXI reference to traffic in ''other goods and materials . . . carried on directly or indirectly for the purpose of supplying a military establishment.'' Weighing strongly against the success of any such contention, however, is the fact that, from the earliest years of the GATT, the United States and the major industrialized countries of the West have operated a coordinated system of export controls with very broad product coverage and often with little or no concern as to whether supply of a military establishment was involved. In fact, in the early years of the GATT, Western embargoes of Communist countries were not confined to strategic goods, but included common industrial raw materials, so as to impair the growth of the economic base that could support a military effort. The targets of these controls included Czechoslovakia, a GATT contracting party.

If there is little likelihood of a successful GATT challenge to the security-related export control measure itself, might import sanctions imposed against a violator of that control nonetheless be found to be ''arbitrary or unjustifiable discrimination between countries'' or a ''disguised restriction on international trade'', preventing justification under the Article XX general exception? GATT negotiating history is not helpful in interpreting these provisions.[9] Import sanctions are unlikely to be overtly discriminatory between countries, for, as already noted, restrictions would apply to imports of a violator, irrespective of the country of origin. In practice, the impact of the import restraints would fall most heavily on the country where most of the violator's production occurs. It is conceivable, however, unlikely, that a pattern of selective use the import sanction could develop over time sufficient to sustain a claim of unjustifiable discrimination. The type of situation that could more reasonably be expected to lead to a GATT challenge and possible success would be a transparent use of the import sanction to achieve protectionist objectives. Circumstances suggesting such abuse would include the targeting of sanctions toward particular products accounting for troublesome import competition for domestic producers and the imposition of import restraints of such breadth or duration as to give them an economic impact disproportionate to other penalties for violation of export controls. (Note that denial of export privileges can serve both as a penalty and as a protective device—a blanket cut-off of a violator's access to U.S. goods and technology reduces that person's ability to engage in further diversions of strategic items).

Justification of import sanctions under Article XX would also require a showing that the measures were ''necessary'' to secure compliance—whereas Article XXI permits a contracting party to take measures ''which it considers necessary'' to protect its essential security interests. Where Article XX is applied to enforcement measures relating to security controls, however, it is reasonable to expect the same GATT deference to a party's assessment of its security needs and reluctance to render a decision on what would be viewed as a ''political'' matter.

NULLIFICATION OR IMPAIRMENT

The imposition of the import sanction against one of its companies could cause a contracting party to invoke Article XXIII claiming that the reduction of its exports to the U.S. has ''nullified or impaired'' benefits accruing to it under the GATT. It is not necessary to claim or establish that a GATT obligation has been breached. Art. XXIII: ((b) and (c). If the complaint is not satisfactorily adjusted between the parties concerned, it may be referred to the GATT disputes machinery and result in a panel proceeding and a GATT Council recommendation or ruling. The contracting parties could authorize the complaining country to suspend the application of concessions or obligations under the GATT to the country imposing the measures found to nullify or impair benefits.

Given the extreme rarity of Article XXIII complaints actually proceeding to authorized retaliation, it is hard to believe that an import sanction case would ever lead to this result. Specific factors weighing against a finding of nullification or impairment are 1) the likelihood that other producers in the country concerned would remain free to supply the exports to the U.S. barred to the violator 2) the likelihood that the economic impact of the sanction would be insignificant in relation to the concerned country's overall trade and 3) the likelihood that the contracting parties would avoid acting with respect to security-related measures even though they would not have to rule on their legality.

OTHER CONSIDERATIONS

United States treaties such as our Friendship, Commerce and Navigation treaties typically provide ''most favored nation'' treatment for imports from the other country. In general, import sanctions would seem even less vulnerable under such treaties then under the GATT. First, an enforcement system that treats similarly situated violators the same, without regard to country of origin, arguably does not violate an MFN obligation. Secondly, these treaties typically contain a ''security'' or ''vital interests'' exception more broadly worded than GATT Article XXI. However, a consideration that could induce a country to invoke such a treaty rather than GATT procedures would be concern over the difficulty of getting such cases decided in GATT and the belief that the World Court would be more willing to adjudicate.

The EAA import sanction amendment has been criticized as an example of the allegedly improper extraterritorial extension of U.S. export controls. Although the sanction is available whether the violation involves conduct within United States territory or abroad, it is undoubtedly recognized that the sanction would most likely be applied to persons beyond the reach of U.S. legal process. It is to be expected that the violations charged would often involve activity abroad, such as unauthorized reexports, which other governments claim is beyond the regulatory jurisdiction of the United States. The new sanction, of course, does not extend the jurisdictional reach of the regulations. Like the existing authority to deny export privileges, it simply supplies an enforcement tool that can be effective against persons outside the United States. In any possible challenge to the import sanction under the GATT, these questions of legal jurisdiction should be irrelevant. The Article XX exception is for measures to secure compliance with laws or regulations ''which are not inconsistent with the provisions of this Agreement.'' The Agreement contains no provision affecting rule-making jurisdiction, so claimed jurisdictional excesses ought not to bear on GATT justification based on Article XX. It should not be a surprise, nonetheless, if a government that finds cause to complain in the GATT of a U.S. export control action involving conduct abroad seeks to inject the jurisdictional issue. That government may well recognize that it has no real chance of having positive action taken on its complaint yet it may hope to get a GATT panel report to include some potentially useful criticism of the jurisdictional reach of the controls.

Finally, it should be noted that the factors that would be most important in sustaining the international legality of the proposed import sanction would be, for the most part, inapplicable to the other proposed EAA amendment that would permit controls to be imposed against imports from a country as to which export controls had been applied for foreign policy purposes. The Article XXI exception would be unavailable unless the controls could somehow be brought within that Article's characterization of ''security interests''. In contrast with sanctions against companies and individuals, sanctions against countries would entail literal conflict with the terms of pertinent GATT articles and MFN provisions in treaties.

In conclusion, the reasonable use of the import sanction against violators of security-related controls can be justified under pertinent GATT and treaty provisions. A government's good faith in imposing import controls is more likely to be questioned, due to the protectionist potential of such measures. Notwithstanding the traditional deference in official proceedings to a country's security-related justification of its measures, it will be important for our government to avoid measures which debase the national security standard and invite corresponding measures damaging to our trading interests and to the integrity of the international system of trade discipline.

FOOTNOTES

[1] 50 U.S.C. app. §2410(c) (Supp V, 1981).

[2] Section 8(6) H.R. 2500, 98th Cong., 1st Sess., 129th Cong. Rec. H. 1992 (April 12, 1983); Section 8(6) S. 979, 98th Cong., 1st Sess., 129th Cong. Rec. S. 4183, 4186 (April 6, 1983).

[3] Section 7 S. 979, 98th Cong., 1st Sess.

[4] 50 U.S.C. app. §2410 (a)–(c); 15 CFR §§387.1, 388.3 (1982).

[5] 15 CFR §388.8.

[6] The imposition of the import sanction arguably would not violate the ''most favored nation'' (MFN) requirements of Articles I and XIII of the GATT. Presumably, such sanctions would be applied in a source-neutral manner, that is, to bar all imports by or from the violator irrespective of the country of origin. The clear applicability of Article XI makes it unnecessary to pursue the question of MFN, but the issue of discrimination is addressed below with respect to the availability of an exception under the GATT.

[7] See Jackson, World Trade and the Law of GATT, 748–752 (1969).

[8] Id., at 748–49.

[9] Id., at 744.

[From the New York Times, Aug. 25, 1982]

JUDGE BACKS U.S. BID TO PENALIZE COMPANY ON SOVIET PIPELINE SALE

(By Clyde H. Farnsworth)

WASHINGTON, Aug. 24.—A Federal judge today cleared the way for the Commerce Department to penalize an American company for refusing to comply with President Reagan's sanctions against supplying equipment for the Siberian natural gas pipeline.

The company, Dresser Industries, has declined to order its French subsidiary to defy a French Government order to deliver equipment to be used for the Soviet pipeline.

In another move against the company, two Administration sources said, Cabinet members recommended during a meeting held in unusual secrecy that Dresser and Dresser France, the subsidiary, be placed on an American ''denial list.'' The action would prevent the subsidiary from having any commercial relations with the United States.

They said the blacklist was one of the options that President Reagan was asked to consider in an options paper that went to him tonight in California after the meeting, which was under the chairmanship of Secretary of State George P. Shultz.

Another meeting began at the Justice Department tonight to prepare for enforcement of the denial order once the pipeline equipment is actually loaded on a Russian freighter, the Borodin, at Le Havre. The loading, which was to take place today, has reportedly been delayed until Wednesday.

The sources stressed that it was still up to the President to decide on a course of action in the developing confrontation with France and other Western European countries over the pipeline and the extraterritorial reach of American laws.

United States District Judge Thomas O. Flannery, turning down a last minute appeal by Dresser, refused to bar the Administration from punishing the company.

JUDGE DENIES DRESSER REQUEST

The judge was asked by a lawyer representing Dresser, John Vanderstar of the Washington law firm of Covington & Burling, to issue a temporary restraining order that would prohibit the Government from issuing penalties against Dresser. However, the judge said that Mr. Vanderstar had failed to show that the Dallas-based company would suffer ''immediate and irreparable harm'' if the order was not issued.

Dresser France has agreed to supply three compressors, worth $2 million, that it has already built. The Russians have ordered a total of 21 compressors from Dresser, worth $18 million to $20 million, to pump natural gas through the 3,600 mile pipeline. The company argued that if its subsidiary did not ship the equipment, it would be liable to criminal and civil penalties in France.

On the other hand, if it did ship the compressors, it would violate the ban on supplying pipeline equipment to the Russians imposed by President Reagan under an executive decree last June 22. The American Export Administration Act of 1979, under which that decree was issued, also calls for civil and criminal penalties against violators.

That ruling extended American export controls not only to the foreign activities of United States companies, but also to foreign companies that use American technological licenses to manufacture products of their own. The controls were intended to deny American technology for the pipeline in retaliation for Soviet-inspired repression in Poland.

''The plaintiff is in a terrible jam,'' Mr. Vanderstar said. ''Congress simply cannot have intended to authorize the Secretary of Commerce, no matter how good his intentions, to impose sanctions against this company.''

Richard Willard, Acting Assistant Attorney General in the civil division of the Justice Department, told the judge that injunctive relief would ''severely damage the foreign relations of the United States.'' He emphasized that this was an issue on which the President felt strongly.

He also said that the United States was not prepared to concede that the French Government order to Dresser France to ship the compressors represented even a ''valid exercise of French law.''

On the other hand, the French and other Europeans, who have filed a strong protest against the American sanctions, argue that Europe cannot accept the right of the United States to extend its jurisdiction to companies established outside its territory.

Although it is the subsidiary of a Dallas-based company, Dresser France is a French company and operates under French laws.

Many other American subsidiaries in Europe and European companies that produce pipeline equipment under American license are affected by the June 22 order of the President. The reason that Dresser became the target is that, according to an Administration source, ''it just happened to have the earliest delivery schedule.''

Commerce Secretary Malcolm Baldrige, who was cited as a defendant in Dresser's petition for injunctive relief, said he was ''pleased with the judge's ruling.'' But neither he, nor Secretary of State Shultz, nor any other participant at the Cabinet-level meeting would comment on the results of the hearing.

The President has justified his action by citing both the Polish repression and the financial and political advantages the pipeline would bring to the Soviet Union. Europeans are both financing and providing equipment for the line to diversify energy sources and to provide employment for depressed industries.

The President said that the Russians stand to earn $10 billion to $12 billion a year from the gas and could use the proceeds to become an even greater military threat.

The penalties that may be levied against Dresser are discretionary, meaning that at one extreme the Government need do nothing at all. At the other extreme, officials explained, the United States could seek extradition of chief executives of offending companies and seek to jail them in the United States.

Although Secretary of State Shultz has supported the sanctions, he had gone on record before joining the Administration as opposing the use of trade as an instrument of United States foreign policy.

He was quoted once, for instance, as saying that trade cannot be ''turned on and off like a light switch,'' and called for a ''predictable set of rules'' to avoid domestic and foreign confusion.

COMPRESSORS FOR PIPELINE

Compressors are devices that increase the pressure of a gas, vapor, or mixture of gas and vapor by reducing the volume of such fluids as they pass through the device. In a pipeline, they are used to increase the amount of fuel that can be pumped through a line of a given diameter.

Dresser Industries manufactures a variety of compressors used in transporting fuels, including centrifugal, reciprocating, and axial compressors.

There are 21 50-ton centrifugal compressors involved in the current dispute, according to Edward Luter, Dresser's senior vice president. They cost about $700,000 each.

''Each compressor order is to certain specifications,'' Mr. Luter said yesterday in a telephone interview from Dresser's Dallas headquarters.

GUIDE TO GATT LAW AND PRACTICE

I. TEXT OF ARTICLE XXI

Article XXI—Security Exceptions

Nothing in this Agreement shall be construed

(a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests

(i) relating to fissionable materials or the materials from which they are derived;

(ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

II. INTERPRETATION AND APPLICATION OF ARTICLE XXI

A. Scope and application of article XXI

1. Paragraphs (a) and (b): ''it considers . . . essential security interests'':

During discussions in the Geneva session of the Preparatory Committee, in response to an inquiry as to the meaning of ''essential security interests'', it was stated by one of the drafters of the original Draft Charter that ''We gave a good deal of thought to the question of the security exception which we thought should be included in the Charter. We recognized that there was a great danger of having too wide an exception and we could not put it into the Charter, simply by saying: 'by any Member of measures relating to a Member's security interests,' because that would permit anything under the sun. Therefore we thought it well to draft provisions which would take care of real security interests and, at the same time, so far as we could, to limit the exception so as to prevent the adoption of protection for maintaining industries under every conceivable circumstance. . . . There must be some latitude here for security measures. It is really a question of balance. We have got to have some exceptions. We cannot make it too tight, because we cannot prohibit measures which are needed purely for security reasons. On the other hand, we cannot make it so broad that, under the guise of security, countries will put on measures which really have a commercial purpose''. The Chairman of Commission A suggested in response that the spirit in which Members of the Organization would interpret these provisions was the only guarantee against abuses of this kind.[1]

During the discussion of the complaint of Czechoslovakia at the Third Session in 1949 (see page 556) it was stated, inter alia, that ''every country must be the judge in the last resort on questions relating to its own security. On the other hand, every contracting party should be cautious not to take any step which might have the effect of undermining the General Agreement.[2]

In 1961, on the occasion of the accession of Portugal, Ghana stated that its boycott of Portuguese goods was justified under the provisions of Article XXI:(b)(iii), noting that

''. . . under this Article each contracting party was the sole judge of what was necessary in its essential security interest. There could therefore be no objection to Ghana regarding the boycott of goods as justified by security interests. It might be observed that a country's security interests might be threatened by a potential as well as an actual danger. The Ghanaian Government's view was that the situation in Angola was a constant threat to the peace of the African continent and that any action which, by bringing pressure to bear on the Portuguese Government, might lead to a lessening of this danger, was therefore justified in the essential security interests of Ghana''.[3]

During the Council discussion in 1982 of trade restrictions applied for non-economic reasons by the EEC, its member States, Canada and Australia against imports from Argentina (see page 557), the representative of the EEC stated that ''the EEC and its member States had taken certain measures on the basis of their inherent rights, of which Article XXI of the General Agreement was a reflection. The exercise of these rights constituted a general exception, and required neither notification, justification nor approval, a procedure confirmed by thirty-five years of implementation of the General Agreement. He said that in effect, this procedure showed that every contracting party

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Footnotes at end of article.

was—in the last resort—the judge of its exercise of these rights''. The representative of Canada stated that ''Canada's sovereign action was to be seen as a political response to a political issue . . . Canada was convinced that the situation which had necessitated the measures had to be satisfactorily resolved by appropriate action elsewhere, as the GATT had neither the competence nor the responsibility to deal with the political issue which had been raised. His delegation could not, therefore, accept the notion that there had been a violation of the General Agreement''.[4] The representative of Australia ''stated that the Australian measures were in conformity with the provisions of Article XXI:(c), which did not require notification or justification''.[5] The representative of the United States stated that ''The General Agreement left to each contracting party the judgment as to what it considered to be necessary to protect its security interests. The CONTRACTING PARTIES had no power to question that judgement''.[6]

The representative of Argentina noted that it had attempted to submit to GATT only the trade aspects of this case and stated ''that in order to justify restrictive measures a contracting party invoking Article XXI would specifically be required to state reasons of national security . . . there were no trade restrictions which could be applied without being notified, discussed and justified''.[7]

Paragraph 7(iii) of the Ministerial Declaration adopted 29 November 1982 at the Thirty-eighth Session of the Contracting Parties provides that ''. . .the contracting parties undertake, individually and jointly: . . . to abstain from taking restrictive trade measures, for reasons of a non-economic character, not consistent with the General Agreement''.[8]

The question of whether and to what extent the Contracting Parties can review the national security reasons for measures taken under Article XXI was discussed again in the GATT Council in May and July 1985 in relation to the US trade embargo against Nicaragua which had taken effect on 7 May 1985.[9] While a panel was established to examine the US measures, its terms of reference stated that ''the Panel cannot examine or judge the validity or motivation for the invocation of Article XXI(b)(iii) by the United States''.[10] In the Panel Report on ''United States—Trade Measures affecting Nicaragua'', which has not been adopted,

''. . . The Panel noted that, while both parties to the dispute agreed that the United States, by imposing the embargo, had acted contrary to certain trade-facilitating provisions of the General Agreement, they disagreed on the question of whether the non-observance of these provisions was justified by Article XXI(b)(iii) . . .

''The Panel further noted that, in the view of Nicaragua, this provision should be interpreted in the light of the basic principles of international law and in harmony with the decisions of the United Nations and of the International Court of Justice and should therefore be regarded as merely providing contracting parties subjected to an aggression with the right of self-defence. The Panel also noted that, in the view of the United States, Article XXI applied to any action which the contracting party taking it considered necessary for the protection of its essential security interests and that the Panel, both by the terms of Article XXI and by its mandate, was precluded from examining the validity of the United States' invocation of Article XXI.

''The Panel did not consider the question of whether the terms of Article XXI precluded it from examining the validity of the United States' invocation of that Article as this examination was precluded by its mandate. It recalled that its terms of reference put strict limits on its activities because they stipulated that the Panel could not examine or judge the validity of or the motivation for the invocation of Article XXI:(b)(iii) by the United States . . . The Panel concluded that, as it was not authorized to examine the justification for the United States' invocation of a general exception to the obligations under the General Agreement, it could find the United States neither to be complying with its obligations under the General Agreement nor to be failing to carry out its obligations under that Agreement''.[11]

2. Paragraph (a): ''disclose . . . any information'':

During the discussion at the Third Session of a Czechoslovak complaint concerning United States national security export controls, in response to a request by Czechoslovakia for information under Article XIII:3 on the export licensing system concerned, the US representative stated that while it would comply with a substantial part of the request, ''Article XXI . . . provides that a contracting party shall not be required to give information which it considers contrary to its essential security interests. The United States does consider it contrary to its security interest—and to the security interest of other friendly countries—to reveal the names of the commodities that it considers to be most strategic''.[12]

The ''Decision Concerning Article XXI of the General Agreement'' of 30 November 1982 (see page 559 below) provides inter alia that ''Subject to the exception in Article XXI:a, contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI''.[13]

3. Paragraph (b): ''action'':

(1) ''relating to fissionable materials or the materials from which they are derived'':

The records of the Geneva discussions of the Preparatory Committee indicate that the representative of Australia withdrew its reservation on the inclusion of a reference to ''fissionable materials'' in the light of a statement that the provisions of Article 35 [XXIII] would apply to Article XXI; see below at page 560.[14]

(2) ''relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment'':

During discussions in the Geneva session of the Preparatory Committee, in connection with a proposal to modify Article 37(g) [XX(g)] to permit export restrictions on raw materials for long-term defense purposes, the question was put whether the phrase ''for the purpose of supplying a military establishment'' would permit restrictions on the export of iron ore when it was believed that the ore would be used by ordinary smelting works and ultimately for military purposes by another country. It was stated in response that ''if a Member exporting commodities is satisfied that the purpose of the transaction was to supply a military establishment, immediately or ultimately, this language would cover it''.[15]

At the Third Session in 1949, Czechoslovakia requested a decision under Article XXIII as to whether the US had failed to carry out its obligations under Articles I and XIII, by reason of the 1948 US administration of its export licensing controls (both short-supply controls and new export controls instituted in 1948 discriminating between destination countries for security reasons). The US stated that its controls for security reasons applied to a narrow group of exports of goods which could be used for military purposes[16] and also stated that ''the provisions of Article I would not require uniformity of formalities, as applied to different countries, in respect of restrictions imposed for security reasons''.[17] It was also stated by one contracting party that ''goods which were of a nature that could contribute to war potential'' came within the exception of Article XXI.[18] The complaint was rejected by a roll-call vote of 17 to 1 with 3 abstentions.[19]

(3) ''taken in time of war or other emergency in international relations'':

The 1970 Working Party Report on ''Accession of the United Arab Republic'' notes that in response to concerns raised regarding the Arab League boycott against Israel and the secondary boycott against firms having relations with Israel, the representative of the UAR stated that ''the history of the Arab boycott was beyond doubt related to the extraordinary circumstances to which the Middle East area had been exposed. The state of war which had long prevailed in that area necessitated the resorting to this system. . . . In view of the political character of this issue, the United Arab Republic did not wish to discuss it within GATT. . . . It would not be reasonable to ask that the United Arab Republic should do business with a firm that transferred all or part of its profits from sales to the United Arab Republic to an enemy country''.[20] Several members of the working party supported the views of the representative of the UAR that the background of the boycott measures was political and not commercial.[21]

In November 1975 Sweden introduced a global import quota system for certain footwear. The Swedish Government considered that the measure was taken in conformity with the spirit of Article XXI and stated, inter alia, that the ''decrease in domestic production has become a critical threat to the emergency planning of Sweden's economic defence as an integral part of the country's security policy. This policy necessitates the maintenance of a minimum domestic production capacity in vital industries. Such a capacity is indispensable in order to secure the provision of essential products necessary to meet basic needs in case of war or other emergency in international relations''.[22] In the discussion of this measure in the GATT Council, ''Many representatives . . . expressed doubts as to the justification of these measures under the General Agreement . . . Many delegations reserved their rights under the GATT and took note of Sweden's offer to consult''.[23] Sweden notified the termination of the quotas as far as leather and plastic shoes were concerned as of 1 July 1977.[24]

In April 1982, the EEC and its member states, Canada, and Australia suspended indefinitely imports into their territories of products of Argentina. In notifying these measures they stated that ''they have taken certain measures in the light of the situation addressed in the Security Council Resolution 502 [the Falkland/Malvinas issue]; they have taken these measures on the basis of their inherent rights of which Article XXI of the General Agreement is a reflection''.[25] Argentina took the position that, in addition to infringing the principles and objectives underlying the GATT, these measures were in violation of Articles I;1, II, XI:1, XIII, and Part IV. The legal aspects of these trade restrictions affecting Argentina were discussed extensively in the Council.[26] The measures were removed in June 1982. Argentina sought an interpretation of Article XXI; these efforts led to the inclusion of paragraph 7(iii) in the Ministerial Declaration of November 1982, which provides that ''. . . the contracting parties undertake, individually and

jointly: . . . to abstain from taking restrictive trade measures, for reasons of a non-economic charter, not consistent with the General Agreement''[27] and also led to the adoption of the text below at page 559.

On 7 May 1985 the US notified the contracting parties of an Executive Order prohibiting all imports of goods and services of Nicaraguan origin, all exports from the US of goods to or destined for Nicaragua (except those destined for the organized democratic resistance) and transactions relating thereto.[28] In Council discussions of this matter, Nicaragua stated that these measures contravened Article I, II, V, XI, XIII and Part IV of the GATT, and that ''this was not a matter of national security but one of coercion''.[29] Nicaragua further stated that Article XXI could not be applied in an arbitrary fashion; there had to be some correspondence between the measures adopted and the situation giving rise to such adoption.[30] Nicaragua stated that the text of Article XXI made it clear that the Contracting Parties were competent to judge whether a situation of ''war or other emergency in international relations'' existed and requested that a Panel be set up under Article XXIII:2 to examine the issue.[31] The United States stated that its actions had been taken for national security reasons and were covered by Article XXI:(b)(iii) of the GATT; and that this provision left it to each contracting party to judge what action it considered necessary for the protection of its essential security interest.[32] The terms of reference of the Panel precluded it from examining or judging the validity of the invocation of Article XXI(b)(ii) by the U.S. Concerning the Panel decision on this issue, see page 555 and the discussion of Article XXIII below. When the Council discussed the Panel Report, Nicaragua requested that the Council recommend removal of the embargo; authorized special support measures for Nicaragua so that countries wanting to do so could grant trade preferences aimed at re-establishing a balance in Nicaragua's pre-embargo global trade relations and at compensating Nicaragua for the damage caused by the embargo; and prepare an interpretative note on Article XXI. Consensus was not reached on any of these alternatives. The Panel Report has not been adopted. At the meeting of the Council on 3 April 1990 Nicaragua announced the lifting of the trade embargo. The representative of the US announced that the conditions which had necessitated action under Article XXI had ceased to exist, his country's national security emergency with respect to Nicaragua had been terminated, and all economic sanctions, including the trade embargo, had been lifted.[33]

In November 1991, the European Community notified the contracting parties that the EC and its member States had decided to adopt trade measures against Yugoslavia ''on the grounds that the situation prevailing in Yugoslavia no longer permits the preferential treatment of this country to be upheld. Therefore, as from 11 November, imports from Yugoslavia into the Community are applied m.f.n. treatment . . . These measures are taken by the European Community upon consideration of its essential security interests and based on GATT Article XXI.''[34] The measures comprised suspension of trade concessions granted to the Socialist Federal Republic of Yugoslavia under its bilateral trade agreement with the EC; application of certain limitations (previously suspended) to textile imports from Yugoslavia; withdrawal of GSP benefits; suspension of similar concessions and GSP benefits for ECSC products; and action to denounce or suspend the application of the bilateral trade agreements between the EC and its member states and Yugoslavia. On 2 December the Community and its member states decided to apply selective measures in favor of ''those parties which contribute to progress toward peace.'' Economic sanctions or withdrawal of preferential benefits from the Yugoslavia were also taken by Australia, Austria, Canada, Finland, Japan, New Zealand, Norway, Sweden, Switzerland, and the United States.

At the Forty-seventh Session in December 1991, Yugoslavia referred to the Decision of 1982 on notification of measures taken under Article XXI (see page 559 below) and reserved its GATT rights. In February 1992 Yugoslavia requested establishment of a panel under Article XXIII:2, stating that the measures taken by the EC were inconsistent with Articles I, XXI and the Enabling Clause; departed from the letter and intention of paragraph 7(iii) of the Ministerial Decision of November 1982; and impeded the attainment of the objectives of the General Agreement. Yugoslavia further stated:

''The situation in Yugoslavia is a specific one and does not correspond to the notion and meaning of Article XXI (b) and (c). There is no decision or resolution of the relevant UN body to impose economic sanctions against Yugoslavia based on the reasoning embodied in the UN Charger. . . . the 'positive compensatory measures' applied by the European Community to certain parts of Yugoslavia [are] contrary to the MFN treatment of 'products originating in or destined for the territories'—taken as a whole—'of all contracting parties' ''.[35]

In March 1992, the Council agreed to establish a panel with the standard terms of reference unless, as provided in the Decision of 12 April 1989, the parties agreed otherwise within twenty days.[36] At the April 1992 Council meeting, in discussion of the notification of the transformation of the Socialist Federal Republic of Yugoslavia (SFRY) into the Federal Republic of Yugoslavia (FRY) consisting of the Republics of Serbia and Montenegro, the EC representative said that until the question of succession to Yugoslavia's contracting party status had been resolved, the Panel process which had been initiated between the former SFRY and the EC no longer had any foundation and could not proceed.[37] At the May 1992 Council meeting, in a discussion concerning the status of the FRY as a successor to the former SFRY as a contracting party, the Chairman stated that ''In these circumstances, without prejudice to the question of who should succeed the former SFRY in the GATT, and until the Council returned to this issue, he proposed that the representative of the FRY should refrain from participating in the business of the Council''. The Council so agreed.[38] At the June 1993 Council meeting this decision was modified taking into account United Nations General Assembly Resolution 47/1 to provide that the FRY could not continue automatically the contracting party status of the former SFRY and that it shall not participate in the work of the Council and its subsidiary bodies.[39]

4. Other invocations of Article XXI:

The United States embargo on trade with Cuba, which was imposed by means of Proclamation 3447 by the President of the United States, dated 3 February 1962, was not formally raised in the Contracting Parties but notified by Cuba in the inventory of non-tariff measures. The United States invoked Article XXI as justification for its action.[40]

5. Procedures concerning notification of measures under Article XXI:

During the Council discussion in 1982 of trade measures for non-economic reasons taken against Argentina (see page 557), it was stated by the countries taking these measures that ''Article XXI did not mention notification'' and that many contracting parties had, in the past, invoked Article XXI without there having been any notification or challenge to the situation in GATT.[41] Argentina sought an interpretation of Article XXI. Informal consultations took place during the Thirty-eighth Session in November 1982 in connection with the adoption of the Council report to the Contracting Parties, in so far as it related to these trade restrictions.[42] As a result, on 30 November 1982 the Contracting Parties adopted the following ''Decision Concerning Article XXI of the General Agreement'':

''Considering that the exceptions envisaged in Article XXI of the General Agreement constitute an important element for safeguarding the rights of contracting parties when they consider that reasons of security are involved;

''Noting that recourse to Article XXI could constitute, in certain circumstances, an element of disruption and uncertainty for international trade and affect benefits accruing to contracting parties under the General Agreement;

''Recognizing that in taking action in terms of the exceptions provided in Article XXI of the General Agreement, contracting parties should take into consideration the interests of third parties which may be affected;

''That until such time as the Contracting Parties may decide to make a formal interpretation of Article XXI it is appropriate to set procedural guidelines for its application;

The Contracting Parties decide that:

''1. Subject to the exception in Article XXI:a, contracting parties should be informed to the fullest extent possible of trade measures taken under Article XXI.

''2. When action is taken under Article XXI, all contracting parties affected by such action retain their full rights under the General Agreement.

''3. The Council may be requested to give further consideration to this matter in due course''.[43]

See the references to this Decision above in the case of EC measures on trade with Yugoslavia.

B. Relationship between article XXI and other articles of the General Agreement

1. Articles I and XIII:

During the discussion at the Third Session of the complaint of Czechoslovakia that U.S. export controls were administered inconsistently with Articles I and XIII (see page 556), the US representative stated that these restrictions were justified under Article XXI(b)(ii). In calling for a decision, the Chairman indicated that Article XXI ''embodied exceptions to the general rule contained in Article I''. In a Decision of 8 June 1949 under Article XXIII:2, the Contracting Parties rejected the contention of the Czechoslovak delegation.[44]

2. Article XXIII:

During discussions in Geneva in 1947 in connection with the removal of the provisions now contained in Article XXI and their relocation in a separate exception (Article 94) at the end of the Charter, the question was raised whether the dispute settlement provisions of Article 35 of the New York Draft [XXII/XXIII] would nevertheless apply. It was stated that ''It is true that an action taken by a Member under Article 94 could not be challenged in the sense that it could not be claimed that a Member was violating the Charter; but if that action, even though not in conflict with the terms of Article 94, should affect another Member, I should think that that Member would have the right to seek redress of some kind under Article 37 as it now stands. In other words, there is no exception from the application of Article 35 to this or any other Article''.[45] The

addition of a note to clarify that the provisions of paragraph 2 of Article 35 [XXIII] applied to Article 94 was rejected as unnecessary.[46]

See the discussion above of the Czechoslovak complaint concerning export controls, in which the Contracting Parties make a decision under Article XXIII:2 as to ''whether the Government of the United States had failed to carry out its obligations under the Agreement through its administration of the issue of export licences''.[47]

During the discussion of the trade restrictions affecting Argentina applied for non-economic reasons, the view was expressed ''that the provisions of Article XXI were subject to those of Article XXIII:2''. Argentina reserved its rights under Article XXIII in respect of any injury resulting from trade restrictions applied in the context of Article XXI.[48]

Paragraph 2 of the ''Decision Concerning Article XXI of the General Agreement'' of 30 November 1982 stipulates that ''. . . when action is taken under Article XXI, all contracting parties affected by such action retain their full rights under the General Agreement''.[49]

The 1984 Panel Report on ''United States—Imports of Sugar from Nicaragua'' examined the action taken by the US government to reduce the share of the US sugar import quota allocated to Nicaragua and distribute the reduction in Nicaragua's allocation to El Salvador, Honduras and Costa Rica. The Panel Report notes that ''The United States stated that it was neither invoking any exceptions under the provisions of the General Agreement nor intending to defend its actions in GATT terms . . . the action of the United States did of course affect trade, but was not taken for trade policy reasons.''[50]

''The Panel noted that the measures taken by the United States concerning sugar imports from Nicaragua were but one aspect of a more general problem. The Panel, in accordance with its terms of reference . . . examined those measures solely in the light of the relevant GATT provisions, concerning itself only with the trade issue under dispute.''[51]

''. . . The Panel . . . concluded that the sugar quota allocated to Nicaragua for the fiscal year 1983/84 was inconsistent with the United States' obligations under Article XIII:2.

''The Panel noted that the United States had not invoked any of the exceptions provided for in the General Agreement permitting discriminatory quantitative restrictions contrary to Article XXIII. The Panel did not examine whether the reduction in Nicaragua's quota could be justified under any such provision.''[52]

The follow-up on the Panel report was discussed in the Council meetings of May and July 1984. The United States said that it ''had not obstructed Nicaragua's resort to GATT's dispute settlement process; it had stated explicitly the conditions under which the issue might be resolved; and it recognized that Nicaragua had certain rights under Article XXIII which it had reserved and could continue to exercise''.[53] Nicaragua stated that it was aware of its rights under Article XXIII.

In July 1985, following a request by Nicaragua for the establishment of a panel to review certain US trade measures affecting Nicaragua, the right of a contracting party to invoke Article XXIII in cases involving Article XXI was discussed again in the GATT Council.[54] At its meetings in October 1985 and March 1986 respectively the Council established a panel with the following terms of reference to deal with the complaint by Nicaragua:

''To examine, in the light of the relevant GATT provisions, of the understanding reached at the Council on 10 October 1985 that the Panel cannot examine or judge the validity of or motivation for the invocation of Article XXI(b)(iii) by the United States, of the relevant provisions of the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance (BISD 26S/211–218), and of the agreed Dispute Settlement Procedures contained in the 1982 Ministerial Declaration (BISD 29S/13–16), the measures taken by the United States on 7 May 1985 and their trade effects in order to establish to what extent benefits accruing to Nicaragua under the General Agreement have been nullified or impaired, and to make such findings as will assist the Contracting Parties in further action in this matter''.[55]

In the Panel Report on ''United States—Trade Measures affecting Nicaragua'', which has not been adopted, the Panel noted the different views of the parties regarding whether the United States' invocation of Article XXI(b)(iii) was proper, and concluded that this issue was not within its terms of reference; see above at page 555. With regard to Nicaragua's claim of non-violation nullification or impairment, the Panel ''decided not to propose a ruling in this case on the basic question of whether actions under Article XXI could nullify or impair GATT benefits of the adversely affected contracting party''.[56]

When the Panel's report was discussed by the Council in November 1986, the US representative stated that ''Nullification or impairment when no GATT violation had been found was a delicate issue, linked to the concept of 'reasonable expectations'. It was not simply a question of trade damage, since no one doubted the existence of trade damage. Applying the concept of 'reasonable expectations' to a case of trade sanctions motivated by national security considerations would be particularly perilous, since at a broader level those security considerations would nevertheless enter into expectations . . . the Panel had acted wisely in refraining from a decision that could create a precedent of much wider ramifications for the scope of GATT rights and obligations . . .''.[57] The representative of Nicaragua stated that her delegation could not support adoption of the report, inter alia because it could only be adopted once the Council was in a position to make recommendations.[58]

C. Relationship between article XXI and general international law

The 1986 Panel Report on ''United States—Trade Measures Affecting Nicaragua'', which has not been adopted, noted the different views of the parties to the dispute concerning the relationship between Article XXI and general international law including decisions of the United Nations and the International Court of Justice.[59]

In discussion at the Forty-seventh Session in December 1991 concerning trade measures for non-economic purposes against Yugoslavia, the representative of India stated that ''India did not favour the use of trade measures for non-economic reasons. Such measures should only be taken within the framework of a decision by the United Nations Security Council. In the absence of such a decision or resolution, there was serious risk that such measures might be unilateral or arbitrary and would undermine the multilateral trading system''.[60]

III. PREPARATORY WORK

In the US Draft Charter, and London and New York Draft Charter texts, the Article on exceptions to the commercial policy chapter included the provisions of what is now GATT Article XXI (see Article 32, US draft; Article 37, London and New York drafts). Also in these drafts, the exceptions clause for the chapter on commodity agreements included provisions excepting arrangements relating to fissionable materials; to the traffic in arms, ammunition and implements of war and traffic in goods and materials for the purpose of supply a military establishment; or in time of war or other emergency in international relations, to the protection of the essential security interests of a member (Article 49:2, US Draft; Article 59(2), London Draft; article 59(c), New York Draft). At Geneva it was decided to take paragraphs (c), (d), (e) and (k) of Article 37 and place them in a separate Article.[61] It was agreed that this Article would be a general exception applicable to the entire Charter.[62] The corresponding security exception was also removed from the commodity chapter. The security exception provisions became Article 94 in Chapter VII of the Geneva draft Charter, which was virtually identical to the present text of Article XXI.

The text of Article 94 was extensively discussed at Havana in the Sixth Committee on Organization. Article 94 became Article 99 of the Charter on General Exceptions, of which paragraphs 1(a) and (b) were almost identical to those of Article XXI, the only differences being (i) an addition in the first line of paragraph (b) as follows: ''to prevent any Member from taking, either singly or with other States, any action . . .'', and (ii) an addition to paragraph (b)(ii) as follows: ''a military establishment of any other country''. Article 99 also included a paragraph 1(c) exempting intergovernmental military supply agreements[63]; a paragraph 1(d) on trade relations between India and Pakistan (dealt with in the General Agreement by the provisions of Article XXIV:11); and a paragraph 2 providing that nothing in the Charter would override the provisions of peace treaties resulting from the Second World War or UN instruments creating trust territories or other special regimes.

However, ''on examining several of the proposals submitted by delegations relating to action taken in connection with political matters or with the essential interests of Members, the Committee concluded that the provisions regarding such action should be made in connection with an article on 'Relations with the United Nations', since the question of the proper allocation of responsibility as between the Organization and the United Nations was involved'',[64] Accordingly a new Article 86 of the Charter on ''Relations with the United Nations'' was drafted, including the former paragraph 1(c) of Article 94 [XXI:(c)].

Article 86 of the Charter dealt with various institutional questions such as the conclusion of a specialized agency agreement between the ITO and the UN. It also stated, in paragraph 3, that:

''3. The Members recognize that the Organization should not attempt to take action which would involve passing judgment in any way on essentially political matters. Accordingly, and in order to avoid conflict of responsibility between the United Nations and the Organization with respect to such matters, any measure taken by a Member directly in connection with a political matter brought before the United Nations in accordance with the provisions of Chapters IV or VI of the United Nations Charter shall be deemed to fall within the scope of the United Nations, and shall not be subject to the provisions of this Charter.

''4. No action, taken by a Member in pursuance of its obligations under the United Nations Charter for the maintenance or restoration of international peace and security, shall be deemed to conflict with the provisions of this Charter''.

The interpretative notes to paragraph 3 provided that:

''1. If any Member raises the question whether a measure is in fact taken directly in connection with a political matter brought before the United Nations in accordance with the provisions of Chapters IV or VI of the United Nations Charter, the responsibility for making a determination on the question shall rest with the Organization. If, however, political issues beyond the competence of the Organization are involved in making such a determination, the question shall be deemed to fall within the scope of the United Nations.

''2. If a Member which has no direct political concern in a matter brought before the United Nations considers that a measure taken directly in connection therewith and falling within the scope of paragraph 3 of Article 86 constitutes a nullification or impairment within the terms of paragraph 1 of Article 93, it shall seek redress only by recourse to the procedures set forth in Chapter VIII of this Charter''.

The purpose of these provisions was explained by the Sixth Committee as follows:

''Paragraph 3 of Article [86], which like paragraph 4 is independent in its operation, is designed to deal with any measure which is directly in connection with a political matter brought before the United Nations in a manner which will avoid conflict of responsibility between the United Nations and the Organization with respect to political matters. The Committee agreed that this provision would cover measures maintained by a Member even though another Member had brought the particular matter before the United Nations, so long as the measure was taken directly in connection with the matter. It was also agreed that such a measure, as well as the political matter with which it was directly connected, should remain within the jurisdiction of the United Nations and not within that of the Organization. The Committee was of the opinion that the important thing was to maintain the jurisdiction of the United Nations over political matters and over economic measures of this sort taken directly in connection with such a political matter, and nothing in Article [86] could be held to prejudice the freedom of action of the United Nations to settle such matters and to take steps to deal with such economic measures in accordance with the provisions of the Charter of the United Nations if they see fit to do so.

''It was the view of the Committee that the word 'measure' in paragraph 3 of Article [86] refers only to a measure which is taken directly in connection with a political matter brought before the United Nations in accordance with Chapters IV and VI of the Charter of the United Nations and does not refer to any other measure''.[65]

The Charter provisions in Articles 86 and 99 were not not taken into the General Agreement. While Article XXIX:1 provides that ''The contracting parties undertake to observe . . . the general principles of Chapters I to VI and of Chapter IX of the Havana Charter'', the Note Ad Article XXIX:1 provides that ''Chapters VII and VIII . . . have been excluded from paragraph 1 because they generally deal with the organization, functions and procedures of the International Trade Organization''. In this connection, during the discussion at the Sixth Session of the Contracting Parties of the US suspension of trade relations with Czechoslovakia it was stated with reference to Article 86, paragraph 3 of the Havana Charter that ''although Chapter VII of the Charter was not specifically included by reference in Article XXIX of the Agreement, it had surely been the general intention that the principles of the Charter should be guiding ones for the Contracting Parties''.[66]

The present text of Article XXI dates from the 30 October 1948 Geneva Final Act. It has never been amended. Amendment of Article XXI was neither proposed nor discussed in the 1954–55 Review Session.

IV. RELEVANT DOCUMENTS

Geneva:
Discussion: EPCT/WP.1/SR/11, EPCT/A/SR/25, 30, 33, 40(2), EPCT/A/PV/25, 30, 33, 40(2).
Reports: EPCT/103.
Other: EPCT/W/23.
Havana:
Discussion: E/CONF.2/C.5/SR.14, E/CONF.2/C.6/SR.18, 19, 37, and Add. 1.
Reports: E/CONF.2/C.5/14, E/CONF.2/C.6/45, 93, 104.
Other: E/CONF.2/C.6/12/Add.9, E/CONF.2/C.6/W/48.

See also London, New York and Geneva document references concerning Article XX.

FOOTNOTES

[1] EPCT/A/PV/33, p. 20–21 and Corr. 1; see also EPCT/A/SR/33, p. 3.
[2] GATT/CP.3/SR.22, Corr. 1.
[3] SR.19/12, p. 196.
[4] C/M/157, p. 10.
[5] C/M/157, p. 11.
[6] C/M/159, p. 19; see also C/M/157, p. 8.
[7] C/M/157, p. 12; C/M/159, pp. 14–15.
[8] L/5424, adopted on 29 November 1982, 29S/9, 11.
[9] C/M/188, pp. 2–16; C/M/191, pp. 41–46.
[10] C/M/196 at p. 7.
[11] L/6053, dated 13 October 1953 (unadopted), paras. 5.1–5.3.
[12] GATT/CP.3/38, p. 9.
[13] L/5426, 29S/23–24, para. 1.
[14] EPCT/A/PV/33, p. 29; see also EPCT/A/PV/33/Corr. 3.
[15] EPCT/A/PV/36, p. 19; see also proposal referred to at EPCT/W/264.
[16] GATT/CP.3/38; GATT/CP.3/SR.22, p. 8.
[17] GATT/CP.3/SR.22, p. 4–5.
[18] GATT/CP.3/SR.20, p. 3–4.
[19] GATT/CP.3/SR.22, p. 9; Decision of 8 June 1949 at II/28.
[20] L/3362, adopted on 27 February 1970, 17S/33, 39, para. 22.
[21] Ibid., 17S/40, para. 23.
[22] L/4250, p. 3.
[23] C/M/109, p. 8–9.
[24] L/4250/Add.1; L/4254, p. 17–18.
[25] L/5319/Rev. 1.
[26] L/5317, L/5336; C/M/157, C/M/159.
[27] L/5424. adopted on 29 November 1982, 29S/9, 11.
[28] L/5803.
[29] C/M/1881 p. 4.
[30] C/M/188, p. 16.
[31] L/5802; C/M/191, pp. 41–46.
[32] C/M/191, pp. 41,46.
[33] C/M/240, p. 31; L/6661.
[34] L/6948.
[35] DS27/2, dated 10 February 1992.
[36] C/M/255, p. 18.
[37] C/M/256, p. 32.
[38] C/M/257 p. 3 and Corr. 1.
[39] C/M/264, p. 3.
[40] COM.IND/6/Add.4, p. 53 (notification); MTN/3B/4, p. 559 (response citing binding reolution under Inter-American Treaty of Reciprocal Assistance). See also Council discussion May 1986 concerning US measures authorizing denial of sugar import quota to any failing to certify that it does not import sugar produced in Cuba for re-export to the US, stated by US to be a ''procedural safeguard'' against tran-shipment of sugar in violation of the embargo; C/M/198 p. 33, L/5980.
[41] C/M/159, p. 18.
[42] See L/5414 (Council report); see also C/W/402, W.38/5, L/5426.
[43] L/5426, 29S/23.
[44] GATT/CP.3/SR.22, p. 9; II/28.
[45] EPCT/A/PV/33, p. 26–27.
[46] EPCT/A/PV/33 p. 27–29 and EPCT/A/PV/33/Corr. 3.
[47] GATT/CP.3/SR.22, p. 9.
[48] C/M/157, p. 9; C/M/159, p. 14; C/M/165, p. 18.
[49] 29S/24.
[50] L/5607, adopted on 13 March 1984, 31S/67, 72, para. 3.10.
[51] Ibid., 31S/73, para. 4.1.
[52] Ibid., 31S/74, paras. 4.4–4.5.
[53] C/M/178, p. 27.
[54] C/M/191, pp. 41–46.
[55] C/M/196, p. 7.
[56] L/6053 (unadopted), dated 13 October 1986, paras. 5.4–5.11.
[57] C/M/204.
[58] C/M/204. See also communication from Nicaragua at C/W/506.
[59] L/6053, unadopted, dated 13 October 1986, prs. 5.2.
[60] SR.47/3, p. 5.
[61] See proposal at EPCT/W/23, reports on discussions in Commission A (commercial policy) at EPCT/WP.1/SR/11, EPCT/103 p. 3, EPCT/A/PV/25 p. 38–42.
[62] EPCT/A/PV/25 p. 39–42.
[63] See Havana Reports, p. 118, para. 32 and p. 145–147.
[64] Havana Reports, p. 153, para. (a).
[65] Havana Reports, p. 153–154, paras. (b)-(c).
[66] GATT/CP.6/SR.12, p. 4.

NOTE

In the RECORD of October 27, at page S16007, during consideration of the balanced budget reconciliation bill, Mr. LIEBERMAN moved to commit the bill to the Finance Committee with instructions to report the bill back to the Senate with an amendment. The text of the amendment was not printed in the RECORD. The permanent RECORD will be corrected to reflect the following omitted language.

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with the following amendment, and to make sufficient reductions in the tax cuts to maintain deficit neutrality.

(Purpose: To restore the solvency of the Medicare part A Hospital Insurance Trust Fund for the next 10 years. To reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plans available, providing better information so that beneficiaries can act as informed consumers and to require strategic planning for the demographic changes that will come with the retirement of the ''babyboom'' generation)

On page 442, beginning on line 1, strike all through page 748, line 18, and insert:

Subtitle A—Medicare

SEC. 7001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Medicare Improvement and Solvency Protection Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

CHAPTER 1—PROVISIONS TO IMPROVE AND EXPAND MEDICARE CHOICES

Sec. 7002. Increasing choice under medicare.
Sec. 7003. Provisions relating to medicare coordinated care contracting options.
Sec. 7004. Provisions relating to medicare supplemental policies.
Sec. 7005. Special rule for calculation of payment rates for 1996.
Sec. 7006. Graduate medical education and disproportionate share payment adjustments to hospitals providing services to enrollees in eligible organizations.
Sec. 7007. Effective date.

CHAPTER 2—PROVISIONS RELATING TO QUALITY IMPROVEMENT AND DISTRIBUTION OF INFORMATION

Sec. 7011. Quality report cards.

CHAPTER 3—PROVISIONS TO STRENGTHEN RURAL AND UNDER-SERVED AREAS

Sec. 7021. Rural referral centers.
Sec. 7022. Medicare-dependent, small, rural hospital payment extension.
Sec. 7023. PROPAC recommendations on urban medicare dependent hospitals.

Sec. 7024. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 7025. Improving health care access and reducing health care costs through telemedicine.
Sec. 7026. Establishment of rural health outreach grant program.
Sec. 7027. Medicare rural hospital flexibility program.
Sec. 7028. Parity for rural hospitals for disproportionate share payments.

CHAPTER 4—GENERAL PROGRAM IMPROVEMENTS AND REFORM

Sec. 7031. Increased flexibility in contracting for medicare claims processing.
Sec. 7032. Expansion of centers of excellence.
Sec. 7033. Selective contracting.

CHAPTER 5—REDUCTION OF WASTE, FRAUD, AND ABUSE

SUBCHAPTER A—IMPROVING COORDINATION, COMMUNICATION, AND ENFORCEMENT

PART I—MEDICARE ANTI-FRAUD AND ABUSE PROGRAM

Sec. 7041. Medicare anti-fraud and abuse program.
Sec. 7042. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health programs.
Sec. 7043. Health care fraud and abuse provider guidance.
Sec. 7044. Medicare/medicaid beneficiary protection program.
Sec. 7045. Medicare benefit quality assurance.
Sec. 7046. Medicare benefit integrity system.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 7051. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 7052. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 7053. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 7054. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 7055. Sanctions against providers for excessive fees or prices.
Sec. 7056. Applicability of the bankruptcy code to program sanctions.
Sec. 7057. Agreements with peer review organizations for medicare coordinated care organizations.
Sec. 7058. Effective date.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 7061. Establishment of the health care fraud and abuse data collection program.
Sec. 7062. Inspector general access to additional practitioner data bank.
Sec. 7063. Corporate whistleblower program.

PART IV—CIVIL MONETARY PENALTIES

Sec. 7071. Social Security Act civil monetary penalties.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

Sec. 7081. Health care fraud.
Sec. 7082. Forfeitures for Federal health care offenses.
Sec. 7083. Injunctive relief relating to Federal health care offenses.
Sec. 7084. Grand jury disclosure.
Sec. 7085. False Statements.
Sec. 7086. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.
Sec. 7087. Theft or embezzlement.
Sec. 7088. Laundering of monetary instruments.
Sec. 7089. Authorized investigative demand procedures.

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 7091. State health care fraud control units.

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

Sec. 7101. Uniform medicare/medicaid application process.
Sec. 7102. Standards for uniform claims.
Sec. 7103. Unique provider identification code.
Sec. 7104. Use of new procedures.
Sec. 7105. Required billing, payment, and cost limit calculation to be based on site where service is furnished.

SUBCHAPTER B—ADDITIONAL PROVISIONS TO COMBAT WASTE, FRAUD, AND ABUSE

PART I—WASTE AND ABUSE REDUCTION

Sec. 7111. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 7112. Application of competitive acquisition process for Part B items and services.
Sec. 7113. Interim reduction in excessive payments.
Sec. 7114. Reducing excessive billings and utilization for certain items.
Sec. 7115. Improved carrier authority to reduce excessive medicare payments.
Sec. 7116. Effective date.

PART II—MEDICARE BILLING ABUSE PREVENTION

Sec. 7121. Implementation of General Accounting Office recommendations regarding medicare claims processing.
Sec. 7122. Minimum software requirements.
Sec. 7123. Disclosure.
Sec. 7124. Review and modification of regulations.
Sec. 7125. Definitions.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

Sec. 7131. Reforming payments for ambulance services.

PART IV—REWARDS FOR INFORMATION

Sec. 7141. Rewards for information leading to health care fraud prosecution and conviction.

CHAPTER 6—ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY

Sec. 7161. Establishment.
Sec. 7162. Duties of the Commission.
Sec. 7163. Powers of the Commission.
Sec. 7164. Commission personnel matters.
Sec. 7165. Termination of the Commission.
Sec. 7166. Funding for the Commission.

CHAPTER 7—MEASURES TO IMPROVE THE SOLVENCY OF THE TRUST FUNDS

SUBCHAPTER A—PROVISIONS RELATING TO PART A

PART I—GENERAL PROVISIONS

Sec. 7171. PPS hospital payment update.
Sec. 7172. Modification in payment policies regarding graduate medical education.
Sec. 7173. Elimination of DSH and IME for outliers.
Sec. 7174. Capital payments for PPS inpatient hospitals.
Sec. 7175. Treatment of PPS-exempt hospitals.
Sec. 7176. PPS-exempt capital payments.
Sec. 7177. Prohibition of PPS exemption for new long-term hospitals.
Sec. 7178. Revision of definition of transfers from hospitals to post-acute facilities.
Sec. 7179. Direction of savings to hospital insurance trust fund.

PART II—SKILLED NURSING FACILITIES

Sec. 7181. Prospective payment for skilled nursing facilities.
Sec. 7182. Maintaining savings resulting from temporary freeze on payment increases for skilled nursing facilities.
Sec. 7183. Consolidated billing.

SUBCHAPTER B—PROVISIONS RELATING TO PART B

Sec. 7184. Physician update for 1996.
Sec. 7185. Practice expense relative value units.
Sec. 7186. Correction of MVPS upward bias.
Sec. 7187. Limitations on payment for physicians' services furnished by high-cost hospital medical staffs.
Sec. 7188. Elimination of certain anomalies in payments for surgery.
Sec. 7189. Upgraded durable medical equipment.

SUBCHAPTER C—PROVISIONS RELATING TO PARTS A AND B

PART I—SECONDARY PAYOR

Sec. 7189A. Extension and expansion of existing medicare secondary payor requirements.

PART II—HOME HEALTH AGENCIES

Sec. 7189B. Interim payments for home health services.
Sec. 7189C. Prospective payments.
Sec. 7189D. Maintaining savings resulting from temporary freeze on payment increases.
Sec. 7189E. Elimination of periodic interim payments for home health agencies.
Sec. 7189F. Effective date.

CHAPTER 1—PROVISIONS TO IMPROVE AND EXPAND MEDICARE CHOICES

SEC. 7002. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

''PROVIDING FOR CHOICE OF COVERAGE

''SEC. 1805. (a) CHOICE OF COVERAGE.—

''(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

''(A) THROUGH TRADITIONAL MEDICARE SYSTEM.—Through the provisions of parts A and B (hereafter in this section, referred to as the 'traditional medicare option').

''(B) THROUGH AN ELIGIBLE ORGANIZATION.—Through an eligible organization with a contract under part C.

''(b) PROCESS FOR EXERCISING CHOICE.—

''(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed during enrollment periods specified under part C.

''(4) DEFAULT.—

''(A) INITIAL ELECTION.—

''(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an open enrollment period described in section 1852(b)(3) is deemed to have chosen the traditional medicare option.

''(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with an eligible organization at the time of an open enrollment period described in section 1852(b)(3) and who fail to elect to receive coverage other than through the organization are deemed to have elected to have enrolled in a plan offered by the organization.

''(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

''(i) the individual changes the election under this section, or

''(ii) an eligible organization's plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

''(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in eligible organizations under this section.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts effective on and after January 1, 1997.

SEC. 7003. PROVISIONS RELATING TO MEDICARE COORDINATED CARE CONTRACTING OPTIONS.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

''PART C—PROVISIONS RELATING TO MEDICARE COORDINATED CARE CONTRACTING OPTIONS

''DEFINITIONS

''SEC. 1851. For purposes of this part:

''(a) ADJUSTED COMMUNITY RATE.—The term 'adjusted community rate' for a service or services means, at the election of an eligible organization, either—

''(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this part with an eligible organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

''(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this part with the eligible organization, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this part and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this part with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

''(b) ELIGIBLE ORGANIZATION.—

''(1) IN GENERAL.—The term 'eligible organization' shall include any of the public or private entities described in paragraph (2), organized under the laws of any State:

''(2) ENTITIES DESCRIBED.—The entities described in this paragraph are the following:

''(A) COORDINATED CARE PLANS.—

''(i) IN GENERAL.—Private managed or coordinated care plans which provide health care services through an integrated network of providers, including—

''(I) qualified health maintenance organizations as defined in section 1310(d) of the Public Health Service Act; and

''(II) beginning with services provided on or after January 1, 1997, preferred provider organization plans, point of service plans, provider-sponsored network plans, or other integrated health plans (subject to approval by the Secretary).

''(ii) REQUIREMENTS FOR CERTAIN COORDINATED CARE PLANS.—A coordinated care plan described in clause (i)(II) shall meet the following requirements:

''(I) The plan shall be in the business of providing a plan of health insurance or health benefits and be organized under the laws of any State.

''(II) The plan shall provide physician's services directly or through physicians who are either employees or partners of such an organization or through contracts or agreements with individual physicians or one or more groups of physicians.

''(III) The plan has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

''(IV) The plan has effective procedures, satisfactory to the Secretary, to monitor utilization and to control the costs of services.

''(V) The plan shall offer all services covered under parts A and B (or B only, as applicable) and such preventive health services designated by the Secretary under section 1853(a)(1).

''(VI) The plan shall provide all enrollees under this part with a comprehensive out-of-plan service benefit (point-of-service) that allows enrollees to obtain all services covered under parts A and B (or B only, as applicable) and such preventive health services designated by the Secretary under section 1853(a)(1) from a provider with whom the plan does not have a contract.

''(VII) The plan shall provide that cost-sharing for services described in subclause (VI) may not exceed the deductibles and coinsurance amounts applicable to services under part A or B.

''(VIII) A provider under contract with the plan may not bill an enrollee under this part an amount in excess of the applicable cost-sharing amount of the rate negotiated between the provider and the plan.

''(IX) The plan shall meet quality and access standards under this part.

''(iii) POINT-OF-SERVICE OPTION.—Not later than January 1, 1996, the Secretary shall issue guidelines that would permit a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) to offer a point-of-service option under a risk-sharing contract under this part.

''(B) COMPETITIVE MEDICAL PLAN.—A competitive medical plan that meets the following requirements:

''(i) The entity provides to enrolled members at least the following health care services:

''(I) Physicians' services performed by physicians (as defined in section 1861(r)(1)).

''(II) Inpatient hospital services (except in the case of an entity that had contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970).

''(III) Laboratory, X-ray, emergency, and preventive services.

''(IV) Out-of-area coverage.

''(ii) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

''(iii) The entity provides physicians' services primarily—

''(I) directly through physicians who are either employees or partners of such organization, or

''(II) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

''(iv) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in clause (i), except that such entity may—

''(I) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in clause (i) the aggregate value of which exceeds $5,000 in any year,

''(II) obtain insurance or make other arrangements for the cost of health care service listed in clause (i) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

''(III) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

''(IV) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

''(v) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

''(3) PROVIDER SPONSORED NETWORK.—The term 'provider sponsored network' has the meaning given such term in section 1858(a).

''(c) CONTRACTS.—The term—

''(1) 'risk-sharing contract' means a contract entered into under section 1856(b); and

''(2) 'reasonable cost reimbursement contract' means a contract entered into under section 1856(c).

''(d) AREAS.—

''(1) PAYMENT AREA.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'payment area' means an entire metropolitan statistical area or single statewide area that does not include a metropolitan statistical area.

''(B) EXCEPTION.—The Secretary may modify the geographic area covered by a payment area if the application of paragraph (1) would result in a substantial disruption of services provided to enrollees under this part by eligible organizations in an area.

''(2) SERVICE AREA.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'service area' means, with respect to an eligible organization, the payment area for such organization.

''(B) EXCLUSION.—The Secretary may permit an organization's service area to exclude any portion of a payment area (other than the central county of a metropolitan statistical area) if—

''(i) the organization demonstrates that it lacks the financial or administrative capacity to serve the entire payment area; and

''(ii) the Secretary finds that the composition of the organization's service area does

not reduce the financial risk to the organization of providing services to enrollees because of the health status or other demographic characteristics of individuals residing in the service area (as compared to the health status or demographic characteristics of individuals residing in the portion of the payment area which the organization seeks to exclude from its service area).

''ELIGIBILITY, ENROLLMENT AND DISENROLLMENT, AND INFORMATION

''SEC. 1852. (a) ELIGIBILITY FOR ENROLLMENT.—Subject to the provisions of subsection (b), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this part with any eligible organization with which the Secretary has entered into a contract under this part and which serves the geographic area in which the individual resides.

''(b) COORDINATED OPEN ENROLLMENT PERIOD.—

''(1) IN GENERAL.—Each eligible organization must have an open enrollment period (which shall be specified by the Secretary for each payment area), for the enrollment of individuals under this part, of at least 30 days duration every year and including the period or periods specified under paragraphs (2) through (4), and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (a) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of section 1855(k) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the service area of the organization.

''(2) OPEN ENROLLMENT PERIODS IF CONTRACT NOT RENEWED OR TERMINATED.—

''(A) IN GENERAL.—If a risk-sharing contract under this part is not renewed or is otherwise terminated, eligible organizations with risk-sharing contracts under this part and serving a part of the same service area as under the terminated contract are required to have an open enrollment period for individuals who were enrolled under the terminated contract as of the date of notice of such termination. If a risk-sharing contract under this part is renewed in a manner that discontinues coverage for individuals residing in part of the service area, eligible organizations with risk-sharing contracts under this part and enrolling individuals residing in that part of the service area are required to have an open enrollment period for individuals residing in the part of the service area who were enrolled under the contract as of the date of notice of such discontinued coverage.

''(B) DURATION OF PERIOD.—The open enrollment periods required under subparagraph (A) shall be for 30 days and shall begin 30 days after the date that the Secretary provides notice of such requirement.

''(C) EFFECT OF ENROLLMENT.—Enrollment under this paragraph shall be effective 30 days after the end of the open enrollment period, or, if the Secretary determines that such date is not feasible, such other date as the Secretary specifies.

''(3) ENROLLMENT UPON MEDICARE ELIGIBILITY.—Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (a) during any enrollment period specified by section 1837 that applies to that individual. Enrollment under this paragraph shall be effective as specified by section 1838.

''(4) MOVED FROM GEOGRAPHIC AREA OR DISENROLLED FROM ANOTHER ORGANIZATION.—Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (a) who has previously resided outside the organization's service area or who has disenrolled from another organization. The enrollment period shall begin with the beginning of the month that precedes the month in which the individual becomes a resident of that service area or disenrolls from another plan and shall end at the end of the following month. Enrollment under this paragraph shall be effective as of the first of the month following the month in which the individual enrolls.

''(5) PROCEDURES FOR ENROLLMENT AND DISENROLLMENT.—An individual may enroll under this part with an eligible organization in such manner as may be prescribed in regulations (including enrollment through a third party) and may terminate the individual's enrollment with the eligible organization as of the beginning of the first calendar month following the date on which the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations. In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.

''(6) ENROLLMENT AND DISENROLLMENT BY MAIL, PHONE, OR LOCAL SOCIAL SECURITY OFFICE.—

''(A) IN GENERAL.—Each eligible organization that provides items and services pursuant to a contract under this part shall permit an individual eligible to enroll under this part—

''(i) to obtain enrollment forms and information by mail, telephone, or from local social security offices, and

''(ii) to enroll or disenroll by mail or at a local social security office.

''(B) NO VISITS BY AGENTS.—No agent of an eligible organization may visit the residence of such an individual for purposes of enrolling the individual under this part or providing enrollment information to the individual.

''(c) INFORMATION.—

''(1) INFORMATION DISTRIBUTED BY ORGANIZATION.—The Secretary shall prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this part may inform individuals eligible to enroll under this part with the organization about the organization, or may enroll such individuals with the organization. No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this part unless—

''(A) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review; and

''(B) the Secretary has not disapproved the distribution of the material.

The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

''(2) DISTRIBUTION OF COMPARATIVE MATERIALS BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall develop and distribute comparative materials during the enrollment periods described in paragraphs (1) and (3) of subsection (b) to individuals eligible to enroll under this part. Such comparative materials shall present comparative information (in a standardized format and in language easily understandable by the target population) about all eligible organizations with contracts under this part and medicare supplemental policies under section 1882 available in the individual's payment area. The Secretary shall allocate the costs for developing and distributing such materials to such eligible organizations and issues medicare supplemental policies represented in such materials.

''(B) MATERIAL DESCRIBED.—The comparative materials distributed under subparagraph (A) shall include where applicable, with respect to eligible organizations and medicare supplemental policies, the following information:

''(i) Benefits, including maximums limitations and exclusions.

''(ii) Premiums, cost-sharing, administrative charges and availability of out-of-plan services.

''(iii) Coordination of care.

''(iv) Procedures for obtaining benefits including the locations, qualifications, and availability of participating providers.

''(v) Grievance and appeal procedures, including the right to address grievances with the organization to the Secretary and the appropriate peer review entity.

''(vi) Programs for health promotion, the prevention of diseases, disorders, disabilities, injuries and other health conditions.

''(vii) Rights and responsibilities of enrollees.

''(viii) Prior authorization requirements.

''(ix) Procedures used to monitor and control utilization of services and expenditures.

''(x) Procedures for assuring and improving quality of care.

''(xi) Risk and referral arrangements under the plan.

''(xii) Loss ratios and an easily understandable explanation that such ratio reflects the percentage of premiums spent on health services compared to total premiums paid.

''(xiii) Whether the organization is out-of-compliance with standards (as defined by the Secretary).

''(xiv) In the case of medicare supplemental policies, underwriting policies and projected premiums in age-bands.

''BENEFITS AND PREMIUMS

''SEC. 1853. (a) BENEFITS COVERED.—

''(1) IN GENERAL.—

''(A) COVERED SERVICES.—Except as provided in subparagraph (B), the organization must provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

''(i) only those services covered under parts A and B of this title (and such preventive health services and reduced cost-sharing as the Secretary may designate) for those members entitled to benefits under part A and enrolled under part B, or

''(ii) only those services covered under part B of this title (and such preventive health services and reduced cost-sharing designated under clause (i)) for those members enrolled only under such part.

''(B) ADDITIONAL SERVICES.—The organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and in the case of an organization with

a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

''(C) PAYMENTS IN LIEU OF OTHER AMOUNTS.—Subject to paragraph (2)(B) and section 1857(h), payments under a contract to an eligible organization under subsection (a) or (b) of section 1857 shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this part.

''(2) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1857(a)(1) and ending on the date of the next announcement under such section that the Secretary projects will result in a significant change in the costs to the organization of providing the benefits that are the subject of such national coverage determination and that was not incorporated in the determination of the per capita rate of payment included in the announcement made at the beginning of such period—

''(A) such determination shall not apply to risk-sharing contracts under this part until the first contract year that begins after the end of such period; and

''(B) if such coverage determination provides for coverage of additional benefits or under additional circumstances, paragraph (1)(C) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

''(b) PREMIUMS, DEDUCTIBLES, COINSURANCE, AND COPAYMENTS.—

''(1) IN GENERAL.—In no case may—

''(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B, preventive services designated under section 1853(a)(1), and, if applicable, the point-of-service benefit described in section 1851(b)(2)(A)(ii)(VI)) to individuals who are enrolled under this part with the organization and who are entitled to benefits under part A and enrolled under part B, or

''(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under part B, preventive services designated under section 1853(a)(1) and the point-of-service benefit described in section, if applicable, 1851(b)(2)(A)(ii)(VI)) to individuals who are enrolled under this part with the organization and enrolled under part B only,

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

''(2) ADDITIONAL SERVICES.—If the eligible organization provides to its members enrolled under this part services in addition to services covered under parts A and B of this title and such preventive health services designated by the Secretary under subsection (a)(1)(A), election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (a)(1)(B)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

''(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this part, and

''(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members,

exceed the adjusted community rate for such services.

''(c) SECONDARY PAYER.—Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this part for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

''(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

''(2) such member to the extent that the member has been paid under such law, plan, or policy for such services.''

''PATIENT PROTECTIONS

''SEC. 1855. (a) ANTIDISCRIMINATION.—The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

''(b) EXPLANATION OF RIGHTS.—Each eligible organization shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this part, including an explanation of—

''(1) the enrollee's rights to benefits from the organization,

''(2) if any the restrictions on payments under this title for services furnished other than by or through the organization,

''(3) out-of-area coverage provided by the organization,

''(4) the organization's coverage of emergency services and urgently needed care, and

''(5) appeal rights of enrollees.

''(c) ASSURANCES RELATING TO PREEXISTING CONDITION.—Each eligible organization that provides items and services pursuant to a contract under this part shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of 6 months or the duration of such period.

''(d) NOTICE OF RIGHT TO TERMINATE CONTRACT OR REFUSE TO RENEW.—

''(1) IN GENERAL.—Each eligible organization having a risk-sharing contract under this part shall notify individuals eligible to enroll with the organization under this part and individuals enrolled with the organization under this part that—

''(A) the organization is authorized by law to terminate or refuse to renew the contract, and

''(B) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this part.

''(2) NOTICE INCLUDED.—The notice required by paragraph (1) shall be included in—

''(A) any marketing materials described in section 1852(c)(1) that are distributed by an eligible organization to individuals eligible to enroll under this part with the organization, and

''(B) any explanation provided to enrollees by the organization pursuant to subsection (b).

''(e) ACCESS.—

''(1) IN GENERAL.—The organization must—

''(A) make the services described in section 1853(a)(1)(A) (and such other health care services as such individuals have contracted for)—

''(i) available and accessible to each such individual, within the area served by the organization, with reasonable promptness and in a manner which assures continuity, and

''(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week, and

''(B) provide for reimbursement with respect to emergency services which are provided to such an individual other than through the organization.

''(2) EMERGENCY SERVICES DEFINED.—For purposes of this subsection, the term 'emergency services' means services provided to an individual after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected by a prudent layperson (possessing an average knowledge of health and medicine) to result in placing the individual's health in serious jeopardy, the serious impairment of a bodily function, or the serious dysfunction of any bodily organ or part, and includes services furnished as a result of a call through the 911 emergency system.

''(3) NO PRIOR AUTHORIZATION.—An eligible organization with a contract under this part may not require prior authorization for emergency services.

''(f) HEARING AND GRIEVANCES.—

''(1) IN GENERAL.—The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this part.

''(2) HEARING BEFORE THE SECRETARY.—A member enrolled with an eligible organization under this part who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is $1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein

to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

''(g) ARRANGEMENTS FOR ONGOING QUALITY ASSURANCE.—The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program—

''(1) stresses health outcomes; and

''(2) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

''(h) ADVANCE DIRECTIVES.—A contract under this part shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

''(i) UTILIZATION REVIEW PROGRAM.—

''(1) IN GENERAL.—An eligible organization may not deny coverage of or payment for items and services on the basis of a utilization review program unless the program meets the standards established by the Secretary under paragraph (2).

''(2) STANDARDS.—The Secretary shall establish standards for utilization review programs of eligible organizations, consistent with paragraph (3), and shall periodically review and update such standards to reflect changes in the delivery of health care services. The Secretary shall establish such standards in consultation with appropriate parties.

''(3) CONTENTS OF STANDARDS.—Under the standards established under paragraph (2)—

''(A) individuals performing utilization review may not receive financial compensation based upon the number of denials of coverage; and

''(B) determinations regarding requests for authorization for service shall be made in a timely manner, based on the urgency of the request.

''(j) QUALIFIED HEALTH PROVIDERS.—

''(1) IN GENERAL.—The eligible organization shall demonstrate to the Secretary that the organization has a sufficient number, distribution, and variety of qualified health care providers to ensure that all covered health care services will be available and accessible in a timely manner to all individuals enrolled in the organization.

''(2) SPECIALISTS.—The eligible organization shall demonstrate to the Secretary that organization enrollees have access, when medically or clinically indicated in the judgment of the treating health professional, to specialized treatment expertise.

''(3) DISTANCE.—In order to meet the requirements of paragraph (1), any eligible organization that restricts an enrollee's choice of doctor shall provide that primary care services for each enrollee who lives in a rural area (as defined in section 1886(d)(2)(D)) are not more than 30 miles or 30 minutes in travel time from the enrollee's residence. The Secretary may provide for exceptions from this paragraph on a case-by-case basis.

''(k) 50/50 RULE.—

''(1) IN GENERAL.—Each eligible organization with which the Secretary enters into a contract under this part shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

''(2) MODIFICATION OR WAIVER.—Subject to paragraph (3), the Secretary may modify or waive the requirement imposed by paragraph (1) only—

''(A) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX,

''(B) in the case of an eligible organization that is owned and operated by a governmental entity, only with respect to a period of 3 years beginning on the date the organization first enters into a contract under this part, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX, or

''(C) the Secretary determines (in accordance with criteria developed by the Secretary not later than January 1, 1997) that individuals who are entitled to benefits under this title who are enrolled with the eligible organization with a contract under this part in the organization's payment area receive the same quality of service as enrollees in private sector health plans in the same payment area.

''(4) FAILURE TO COMPLY.—If the Secretary determines that an eligible organization has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

''CONTRACTS WITH ELIGIBLE ORGANIZATIONS

''SEC. 1856. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of enrollment in an eligible organization under this part, and no payment shall be made under section 1857 to an organization, unless the Secretary has entered into a contract under this part with the organization. Such contract shall provide that the organization agrees to comply with the requirements of this part and the terms of conditions of payment as provided for in this part.

''(b) REQUIREMENTS RELATING TO RISK-SHARING CONTRACTS.—

''(1) MINIMUM ENROLLMENT.—The Secretary may enter a risk-sharing contract with any eligible organization which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urban areas.

''(2) PROVISION OF ADDITIONAL BENEFITS IF ADJUSTED COMMUNITY RATE LESS THAN PER CAPITA RATE OF PAYMENT.—

''(A) IN GENERAL.—Each risk-sharing contract shall provide that—

''(i) if the adjusted community rate, as defined in section 1851(a), for services under parts A and B and such preventive services designated by the Secretary under section 1853(a)(1) (as reduced for the actuarial value of the coinsurance and deductibles under those parts and such reduced cost-sharing designated by the Secretary under such section) for members enrolled under this part with the organization and entitled to benefits under part A and enrolled in part B, or

''(ii) if the adjusted community rate for services under part B and such preventive services (as reduced for the actuarial value of the coinsurance and deductibles under that part and such reduced cost-sharing) for members enrolled under this part with the organization and entitled to benefits under part B only,

is less than the average of the per capita rates of payment to be made under section 1857(a) at the beginning of an annual contract period for members enrolled under this part with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this part with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

''(B) EXCEPTIONS.—

''(i) RECEIPT OF LESSER PAYMENT.—Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

''(ii) STABILIZATION FUND.—An organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary as provided in paragraph (4).

''(C) CALCULATION OF PER CAPITA RATES OF PAYMENT.—If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under section 1857(a) at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

''(3) ADDITIONAL BENEFITS DESCRIBED.—The additional benefits referred to in paragraph (2) are—

''(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this part, or

''(B) the provision of additional health benefits,

or both.

''(4) STABILIZATION FUND.—An organization having a risk-sharing contract under this part may (with the approval of the Secretary) provide that a part of the value of additional benefits otherwise required to be provided by reason of paragraph (2) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3). Any of such value of additional benefits which is not provided to members of the organization in accordance with paragraph (3) prior to the end of such period, shall revert for the use of such trust funds.

''(5) PROMPT PAYMENT.—

''(A) IN GENERAL.—A risk-sharing contract under this part shall require the eligible organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

''(B) FAILURE TO MAKE PROMPT PAYMENT.—In the case of an eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this part under the contract. If the Secretary provides for such direct payments,

the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

''(c) REASONABLE COST REIMBURSEMENT CONTRACT.—

''(1) IN GENERAL.—If—

''(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this part, or

''(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (b)(1),

the Secretary may, if the Secretary is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

''(2) REIMBURSEMENT.—A reasonable cost reimbursement contract under this part may, at the option of such organization, provide that the Secretary—

''(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to section 1852(a), and

''(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.

If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

''(3) RETROACTIVE ADJUSTMENT.—Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in section 1853(a)(1).

''(4) FINANCIAL STATEMENT.—Any reasonable cost reimbursement contract with an eligible organization under this part shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

''(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in section 1853(a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this part and other individuals enrolled with such organization;

''(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

''(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

''(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

''(d) CONTRACT PERIOD AND EFFECTIVENESS.—

''(1) PERIOD.—

''(A) IN GENERAL.—Each contract under this part shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

''(B) TERMINATION OR IMMEDIATE SANCTIONS FOR CAUSE.—The Secretary, in accordance with procedures established under paragraph (9), may terminate any such contract at any time, or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable), if the Secretary finds that the organization—

''(i) has failed substantially to carry out the contract,

''(ii) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, or

''(iii) no longer substantially meets the applicable conditions of this part.

''(2) EFFECTIVE DATE OF CONTRACT.—The effective date of any contract executed pursuant to this part shall be specified in the contract.

''(3) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Each contract under this part—

''(A) shall provide that the Secretary, or any person or organization designated by him—

''(i) shall have the right to inspect or otherwise evaluate—

''(I) the quality, appropriateness, and timeliness of services performed under the contract, and

''(II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

''(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain—

''(I) to the ability of the organization to bear the risk of potential financial losses, or

''(II) to services performed or determinations of amounts payable under the contract;

''(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this part with the organization; and

''(C)(i) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members);

''(ii) shall require the organization to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section;

''(iii) shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties; and

''(D) shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

''(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this part was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

''(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

''(6) INTERMEDIATE SANCTIONS.—

''(A) IN GENERAL.—If the Secretary determines that an eligible organization with a contract under this part—

''(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

''(ii) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

''(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

''(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

''(v) misrepresents or falsifies information that is furnished—

''(I) to the Secretary under this part, or

''(II) to an individual or to any other entity under this part;

''(vi) fails to comply with the requirements of section 1856(b)(5); or

''(vii) in the case of a risk-sharing contract, employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in subparagraph (B).

''(B) REMEDIES DESCRIBED.—The remedies described in this subparagraph are—

''(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I) of such

subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,

''(ii) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

''(iii) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

''(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1)(B) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

''(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

''(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

''(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

''(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128(a).

''(7) UTILIZATION AND PEER REVIEW ORGANIZATION.—

''(A) IN GENERAL.—Each risk-sharing contract with an eligible organization under this part shall provide that the organization will maintain a written agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the eligible organization is located) or with an entity selected by the Secretary under section 1154(a)(4)(C) under which the review organization will perform functions under section 1154(a)(4)(B) and section 1154(a)(14) (other than those performed under contracts described in section 1866(a)(1)(F)) with respect to services, furnished by the eligible organization, for which payment may be made under this title.

''(B) COST OF AGREEMENT.—For purposes of payment under this title, the cost of such agreement to the eligible organization shall be considered a cost incurred by a provider of services in providing covered services under this title and shall be paid directly by the Secretary to the review organization on behalf of such eligible organization in accordance with a schedule established by the Secretary.

''(C) SOURCE OF PAYMENTS.—Such payments—

''(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

''(ii) shall not be less in the aggregate for such organizations for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting activities described in subparagraph (A) with respect to such eligible organizations under part B of title XI.

''(8) PHYSICIAN INCENTIVE PLAN.—

''(A) IN GENERAL.—Each contract with an eligible organization under this part shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

''(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

''(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

''(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

''(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

''(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

''(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

''(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

(e) SERVICES NOT FURNISHED BY ORGANIZATION.—

''(1) PARTICIPATING PHYSICIAN.—In the case of physicians' services or renal dialysis services described in paragraph (2) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with an eligible organization under this part and enrolled under part B, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the eligible organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with an eligible organization under this part.

''(2) NONPARTICIPATING PHYSICIAN.—In the case of physicians' services described in paragraph (3) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with an eligible organization under this part) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

''(3) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this paragraph are physicians' services or renal dialysis services which are furnished to an enrollee of an eligible organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

''(4) EXCEPTION FOR EMERGENCY SERVICES.—In the case of emergency services described in section 1855(e)(2), which are furnished by a provider that does not have a contractual relationship with the organization, the organization shall be required to reimburse the provider for the reasonable costs of providing such services.

''PAYMENT TO ELIGIBLE ORGANIZATIONS

''SEC. 1857. (a) MONTHLY PAYMENTS IN ADVANCE TO ORGANIZATION WITH RISK-SHARING CONTRACTS.—

''(1) ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

''(A) a per capita rate of payment for each class of individuals who are enrolled under this part with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

''(B) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

(2) IN GENERAL.—

''(A) MONTHLY PAYMENT.—In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (B) and except as provided in section 1856(b)(2), to the organization for each individual enrolled with the organization under this part.

''(B) METHOD OF DETERMINING PAYMENT.—

''(i) 1997.—For 1997, the modified per capita rate of payment for each class defined under clause (iii) shall be equal to the annual per capita rate of payment for such class which

would have been determined under section 1876(a)(1)(C) for 1996 if—

''(I) the applicable geographic area were the payment area; and

''(II) 50 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures)..

''(ii) SUCCEEDING YEARS.—

''(I) IN GENERAL.—For 1998 and each succeeding calendar year, the modified per capita rate of payment for each class defined under clause (iii) shall be equal to the modified per capita rate of payment determined for such area for the preceding year, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures).

''(II) PHASE-OUT OF SPECIAL PAYMENTS.—In applying this clause for 1998, the modified per capita rate of payment for each such class for 1997 shall be the amount that would have been determined for 1997 if clause (i)(II) had been applied by substituting '100 percent' for '50 percent'.

''(iii) CLASSES.—The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence and not later then January 1, 1997, the Secretary shall implement risk-adjusters that were not in effect under section 1876 (as in effect on December 31, 1996.

''(iv) ADJUSTMENTS.—The Secretary shall adjust modified per capita rates of payment for a payment area under this subparagraph such that—

''(I) the portion of such rate attributable to part B shall not result in a modified per capita rate of payment for an area that is less than 85 percent of portion of the weighted average of the modified per capita rates determined under clause (i) or (ii) attributable to part B services for all payment areas for 1996; and

''(II) such rate reflects the cost of providing the benefits described in section 1853(a)(1) to enrollees.

Such adjustments shall be made to ensure that total payments under this subsection to eligible organizations do not exceed the amount that would have been paid under this subsection in the absence of such adjustments.

''(3) PAYMENTS ONLY TO ELIGIBLE ORGANIZATIONS.—Subject to paragraph (6) and section 1853(a)(2), if an individual is enrolled under this part with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

''(4) RETROACTIVE ADJUSTMENT.—

''(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

''(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this part) under a health benefit plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this part, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

''(ii) EXPLANATION.—No adjustment may be made under clause (ii) with respect to any individual who does not certify that the organization provided the individual with the explanation described in section 1855(b) at the time the individual enrolled with the organization.

''(5) NOTICE OF PROPOSED CHANGES.—

''(A) IN GENERAL.—At least 45 days before making the announcement under paragraph (1) for a year the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

''(B) EXPLANATION.—In each announcement made under paragraph (1) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

''(6) INPATIENT OF HOSPITAL AT TIME OF ENROLLMENT.—A risk-sharing contract under this part shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

''(A) enrollment with an eligible organization under this part—

''(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

''(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

''(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

''(B) termination of enrollment with an eligible organization under this part—

''(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

''(ii) payment for such services during the stay shall not be made under section 1886(d), and

''(iii) the organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

''(b) REASONABLE COST CONTRACT.—With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with section 1856(c) rather than subsection (a).

''(c) PAYMENT FROM TRUST FUNDS.—The payment to an eligible organization under this part for individuals enrolled under this part with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by each trust fund shall be determined as follows:

''(1) In regard to expenditures by eligible organizations having risk-sharing contracts, the allocation shall be determined each year by the Secretary based on the relative weight that benefits from each fund contribute to the adjusted average per capita cost.

''(2) In regard to expenditures by eligible organizations operating under a reasonable cost reimbursement contract, the initial allocation shall be based on the plan's most recent budget, such allocation to be adjusted, as needed, after cost settlement to reflect the distribution of actual expenditures.

The remainder of that payment shall be paid by the former trust fund.

''(d) TESTING THE USE OF COMPETITIVE PRICING PRIOR TO IMPLEMENTATION.—

''(1) IN GENERAL.—Not later than January 1, 1997, the Secretary shall implement alternative payment methodologies for determining the monthly rate that will be paid to eligible organizations with risk-sharing contracts in payment areas designated by the Secretary in accordance with paragraph (2). Such alternative payment methodologies shall be based on competitive price and include a method that determines rates based on the commercial, competitively determined rates of the organizations.

''(2) CRITERIA FOR SELECTION.—The Secretary shall develop criteria for designating payment areas, determining the minimum number of bidders necessary to effectively implement and test alternative payment methodologies, and utilizing any additional health status adjusters that may be necessary to implement such methodologies. The criteria for designating payment areas shall provide that the Secretary designate relatively high and low payment areas, relatively high and low market penetration areas, and urban and rural areas.

''(3) BIDS.—Each eligible organization desiring to enter into a risk-sharing contract under this part shall place a bid on the benefits covered under section 1853(a)(1)(A) under a methodology implemented under this paragraph. The premium structure included in the bid shall consist of enrollee cost-sharing amounts and the monthly amount to be paid from the Federal Hospital Insurance Trust Fund and Federal Supplementary Medical Insurance Trust Fund under this section. Each organization shall be required to adhere to the premium structure included in the organization's bid. An organization may offer additional benefits at a separately determined price. An organization shall not be prevented from entering into a contract under this section solely based on the level of the organization's premium bid.

''(4) REQUIRED PARTICIPATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), each eligible organization that desires to enter into a risk-sharing contract under this part in a payment area designated under this subsection shall receive payment under this part in accordance with this subsection, instead of subsection (a).

''(B) EXCEPTION.—The Secretary may, at the Secretary's discretion, permit an eligible organization to receive payment under this title (without regard to this part).

''(5) PROHIBITION OF REASONABLE COST CONTRACTS.—The Secretary may prohibit the use of reasonable cost contracts in payment areas designated under this subsection.

''(6) AGGREGATE PAYMENTS.—Aggregate payments under this subsection across payment areas under this subsection shall not exceed the amount that would have, in the absence of this subsection, been paid under subsection (a) to such organization for individuals enrolled under this part. Payments to eligible organizations with risk-sharing

contracts in a single payment area may exceed the amount described in the preceding sentence but may not exceed 100 percent of the adjusted average per capita cost (as defined in subsection (a)(1)(B)(ii)) that would have, in the absence of this subsection, been determined for all individuals enrolled under this part.

''(7) TRANSITION RULES.—The Secretary shall develop transition rules for payment areas in which risk-sharing plan enrollees pay minimal or no premiums in order to prevent substantial increases in premiums as a result of an alternative payment methodology implemented under this subsection.

''(8) REPORT.—Not later then January 1, 2000, the Secretary shall report to Congress on specific recommendations for a new payment methodology under this part to be based on the results of the alternate methodologies implemented under this subsection.

''(e) PARTIAL CAPITATION DEMONSTRATION.—The Secretary shall conduct a demonstration project on the alternative partial risk-sharing arrangements between the Secretary and health care providers. Not later then December 31, 1998, the Secretary shall report to the Congress on the administrative feasibility of such partial capitation methods and the information necessary to implement such methods.

''PROVIDER-SPONSORED NETWORKS

''SEC. 1858. (a) PROVIDER-SPONSORED NETWORK DEFINED.—

''(1) IN GENERAL.—In this part, the term 'provider-sponsored network' means a public or private entity is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

''(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

''(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

''(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

''(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

''(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

''(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

''(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

''(D) both providers are part of an affiliated service group under section 414 of such Code.

''(4) CONTROL.—for purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

''(b) CERTIFICATION PROCESS FOR PROVIDER-SPONSORED NETWORKS.—

''(1) FEDERAL ACTION ON CERTIFICATION.—If—

''(A) a State fails to complete action on a licensing application of an eligible organization that is a provider sponsored network within 90 days of receipt of the completed application, or

''(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

''(2) FEDERAL CERTIFICATION PROCEDURES.—

''(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider sponsored network) and its sponsor as meeting the requirements of this part in cases described in paragraph (1).

''(B) REQUIREMENTS.—Such process shall—

''(i) set forth the standards for certification,

''(ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

''(iii) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under paragraph (1)(A)(ii), and

''(iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later then 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant as to whether the application includes all information necessary to process the application.is received by the Secretary.

''(C) EFFECT OF CERTIFICATIONS.—

''(i) IN GENERAL.—A certificate under this subsection shall be issued for not more than 36 months and may not be renewed, unless the Secretary determines that the State's laws and regulations provide an unreasonable barrier to market entry.

''(ii) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under paragraph (1) during the period the certificate is in effect.

''(D) STATE STANDARDS.—During the first 24 months after the issuance of the Federal rules relating to the Federal certification process established under this paragraph, a State may apply to the Secretary to demonstrate that the State's licensure standards and process are consistent with Federal standards, incorporate appropriate flexibility to reflect the deliver system of provider-sponsored networks, and do not present an unreasonable barrier to market entry. If the Secretary approves the State licensure standards and process under this subparagraph, a provider sponsored network in such a State shall be required to obtain State licenses (as well as meet all other applicable Federal standards).

''(3) REPORT.—Not later then December 31, 1999, the Secretary shall report to Congress on the Federal certification system under paragraph (2), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that provider-sponsored networks provide services directly to enrollees through affiliated providers.''.

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION OF SECTION 1876.—Section 1876 (42 U.S.C. 1395mm) is repealed.

(2) GME ADJUSTMENT.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by inserting '', including all days attributable to patients enrolled in an eligible organization with a risk-sharing contract under part C'' after ''part A''.

SEC. 7004. PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL POLICIES.

Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking ''paragraphs (1) and (2)'' and inserting ''paragraph (1), (2), or (3)'',

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

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

''(3) Each issuer of a medicare supplemental policy shall have an open enrollment period (which shall be the period specified for each geographic area by the Secretary under section 1852(b)(1)), of at least 30 days duration every year, during which the issuer may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy because of age, health status, claims experience, past or anticipated receipt of health care, or presence of a medical condition. The policy may not exclude benefits relating to the existence of any preexisting condition. The Secretary may require enrollment and disenrollment through a third party designated under section 1876(c)(3)(B). Each issuer of a medicare supplemental policy shall have an additional open enrollment period which shall be the period specified in section 1852(b)(4).''.

SEC. 7005. SPECIAL RULE FOR CALCULATION OF PAYMENT RATES FOR 1996.

(a) IN GENERAL.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the per capita rate under section 1876 of the Social Security Act (42 U.S.C. 1395ww) for 1996 for any class for a geographic area shall be equal to the amount determined for such class for such area in 1995, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures).

(2) FLOOR.—The Secretary shall adjust a per capita rate of payment for a geographic area determined under this subsection for a class such that the portion of such rate attributable to part B shall not be less than 85 percent of the weighted average of the portion of the per capita rates attributable to part B services for such class determined under this subsection for all geographic areas. Such adjustments shall be made to ensure that total payments under this subsection to eligible organizations do not exceed the amount that would have been paid under this subsection in the absence of such adjustments.

(b) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than 30 days after the date of the enactment of this Act.

(c) REPORT.—Not later then July 1, 1996, the Prospective Payment Assessment Commission and the Physician Payment Review Commission shall jointly report to Congress on geographically-based variations in payments to eligible organizations with a risk-sharing contract under section 1876 of the Social Security Act (42 U.S.C. 1395mm).

(d) EFFECTIVE DATE.—This section shall apply on and after the date of the enactment of this Act.

SEC. 7006. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS TO HOSPITALS PROVIDING SERVICES TO ENROLLEES IN ELIGIBLE ORGANIZATIONS.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(j) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

''(1) IN GENERAL.—For discharges occurring on or after January 1, 1997, a subsection (d)

hospital that is a qualified provider shall receive payment for each discharge of an individual enrolled under part C with an eligible organization as follows:

''(A) For a qualified provider that qualifies for the indirect medical education adjustment under subsection (d)(5)(B), payment shall be made on a per discharge basis for each individual enrolled in an eligible organization with a risk-sharing contract who receives inpatient care at that provider as though such provider was receiving the applicable percentage of the amount such provider would receive as direct payment under this title on the basis of a diagnosis related group.

''(B) For a qualified provider that qualifies for the disproportionate share adjustment under subsection (d)(5)(F), payment shall be made on a per discharge basis for each individual enrolled in an eligible organization with a risk-sharing contract who receives inpatient care at that provider as though such provider was receiving the applicable percentage of the amount such provider would receive as direct payment under this title on the basis of a diagnosis related group.

''(C) For a qualified provider that qualifies for payment for direct graduate medical education under subsection (h), payment shall be made by counting as medicare inpatient days the applicable percentage of those days attributable to individuals enrolled in an eligible organization with a risk-sharing contract when determining the provider's medicare patient load.

''(2) QUALIFIED PROVIDER.—For purposes of paragraph (1), the term 'qualified provider' means a provider that—

''(A) qualifies for any or all payments under subsection (d)(5)(B), (d)(5)(F) or (h); and

''(B) provides inpatient services either as an eligible organization or under a contract with an eligible organization, to individuals enrolled with an eligible organization under part C.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) for calendar year 1997, 50 percent; and

''(B) for calendar years after 1997, 100 percent.''.

SEC. 7007. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this title shall apply with respect to services furnished under a contract on or after January 1, 1997.

CHAPTER 2—PROVISIONS RELATING TO QUALITY IMPROVEMENT AND DISTRIBUTION OF INFORMATION

SEC. 7011. QUALITY REPORT CARDS.

Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7002, is amended by inserting after section 1805 the following new section:

''QUALITY REPORT CARDS

''SEC. 1806. (a) DISTRIBUTION OF QUALITY REPORT CARDS.—Beginning with calendar year 1997, the Secretary shall include a quality report card with the comparative materials distributed under section 1852(c)(2). The quality report card shall contain information designed to assist medicare beneficiaries in choosing eligible organizations including, as appropriate, the performance measures developed under subsection (b).

''(b) DEVELOPMENT OF PERFORMANCE MEASURES.—

''(1) DELEGATION.—

''(A) IN GENERAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall, in cooperation with nonprofit organizations—

''(i) develop standardized performance measures for eligible organizations and providers which are designed to achieve the purposes described in subparagraph (B); and

''(ii) examine the feasibility of using risk adjusters to validate the performance measures developed.

''(B) PURPOSES DESCRIBED.—The purposes described in this subparagraph are as follows:

''(i) To develop a quality report card for medicare beneficiaries that will assist such beneficiaries' decisionmaking regarding health care and treatment by allowing the beneficiaries to compare quality information.

''(ii) To establish performance measures that will assist eligible organizations and providers in providing high quality health care.

''(iii) To provide information to eligible organizations and providers regarding such organizations' and providers' performance and health care processes.

''(C) PERFORMANCE MEASURES DESCRIBED.—The performance measures developed under subparagraph (A) may include the following:

''(i) The number of members of an eligible organization who disenroll from the organization, and to the extent possible, the reasons for such disenrollment.

''(ii) Outcomes of care.

''(iii) Population health status.

''(iv) Appropriateness of care.

''(v) Consumer satisfaction for general and subgroup populations.

''(vi) Access to care, including access to emergency care, waiting time for scheduled appointments, and provider location convenience.

''(vii) Prevention of diseases, disorders, disabilities, injuries, and other health conditions.

''(D) ONGOING BASIS.—Development of performance measures and risk adjusters shall be done on an ongoing basis.

''(2) COLLECTION OF DATA.—

''(A) VALIDITY PREREQUISITE.—The performance measures developed under this subsection shall not be disseminated to eligible organizations and providers before the validity of such performance measures is established.

''(B) COLLECTION SCHEDULE.—Beginning 6 months after the first dissemination of the performance measures to eligible organizations, data regarding specific performance measures shall be collected from the eligible organizations on a regular rotating basis that coincides with data collection requirements for private sector health care systems.

''(C) COMPLIANCE.—Each eligible organization shall disclose performance measure data as requested. The Administrator of the Health Care Financing Administration or an entity designated by the Secretary shall audit eligible organizations for compliance with the data collection requirements and shall enforce any noncompliance in accordance with regulations promulgated by the Secretary.

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

''(1) the term 'eligible organization' means an organization with a contract under part C;

''(2) the term 'medicare beneficiary' means an individual entitled to benefits under part A or enrolled under part B; and

''(3) the term 'provider' means hospitals, physicians, nursing homes, and providers of ancillary services to medicare beneficiaries.''.

CHAPTER 3—PROVISIONS TO STRENGTHEN RURAL AND UNDER-SERVED AREAS

SEC. 7021. RURAL REFERRAL CENTERS.

(a) PERMANENT GRANDFATHERING OF RURAL REFERRAL CENTER STATUS.—Section 1886(d)(5)(C) (42 U.S.C. 1395ww(d)(5)(C)) is amended by adding at the end the following new clause:

''(iii) Notwithstanding any other provision of law, any hospital that was classified as a rural referral center under clause (i) on September 30, 1991, shall continue to be classified or, as applicable, shall be reclassified, as a rural referral center and such classification or reclassification shall be effective on and after October 1, 1991, with respect to payments under this title.''.

(b) GRADUATED AREA WAGE INDEX FOR RURAL REFERRAL CENTERS.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended by adding at the end the following new clauses:

''(iv) Notwithstanding section 412.230(e)(iii) of title 42, Code of Federal Regulations (relating to criteria for use of an area's wage index)—

''(I) in the case of an eligible hospital that pays an average hourly wage that is equal to or greater than 104 percent and less than 108 percent of the average hourly wage of the hospitals in the area in which the hospital is located, the wage index of such hospital shall be equal to the sum of—

''(aa) the wage index of the area in which the hospital is located; and

''(bb) 66 percent of the difference between the higher wage index area which the hospital would receive if it was reclassified (if the hospital's average hourly wage was 108 percent or more of the average hourly wage of hospitals in the area in which the hospital is located in accordance with the provisions of section 1886(d)(8)(C)) and the amount determined under item (aa); and

''(II) in the case of an eligible hospital that pays an average hourly wage that is equal to or greater than 100 percent and less than 104 percent of the average hourly wage of the hospitals in the area in which the hospital is located, the wage index of such hospital shall be determined under subclause (I) as if the reference to '66 percent' in such subclause were a reference to '33 percent'.

''(v) For purposes of clause (iv), the term 'eligible hospital' means a hospital that is classified as a rural referral center under paragraph (5)(C)(i) that would be reclassified to a higher area wage index if the hospital's average hourly wage was 108 percent or more of the average hourly wage in the area in which the hospital is located and meets all other applicable Federal standards.''.

(c) BUDGET NEUTRALITY.—Notwithstanding any other provision of law, for cost reporting periods beginning on or after October 1, 1995, the Secretary of Health and Human Services shall provide for such equal proportional adjustment in payments under section 1886 of the Social Security Act (42 U.S.C. 1395ww) to subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined under such section) as may be necessary to assure that the aggregate payments to such hospitals under such section are not increased or decreased by reason of the amendments made by subsections (a) and (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1995.

SEC. 7022. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking ''October 1, 1994,'' and inserting ''October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,''; and

(B) in clause (ii)(II), by striking ''October 1, 1994'' and inserting ''October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,''.

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking ''September 30, 1994,'' and inserting ''September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,'';

(B) in clause (ii), by striking ''and'' at the end;

(C) in clause (iii), by striking the period at the end and inserting '', and''; and

(D) by adding at the end the following new clause:

''(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).''.

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking ''or fiscal year 1994'' and inserting '', fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999''.

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7023. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: ''The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.''.

SEC. 7024. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (II); and

(B) by inserting ''or (IV) in an outpatient or home setting as defined by the Secretary'' following ''shortage area,''; and

(2) in clause (ii)—

(A) by striking ''in a skilled'' and inserting ''in (I) a skilled''; and

(B) by inserting '', or (II) in an outpatient or home setting (as defined by the Secretary),'' after ''(as defined in section 1919(a))''.

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting ''services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting'' after ''rural area),''; and

(B) by striking ''or clinical nurse specialist'' and inserting ''clinical nurse specialist, or physician assistant''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking ''clauses (i), (ii), or (iv)'' and inserting ''subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)''.

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

''(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

''(i) payment under this part may only be made on an assignment-related basis; and

''(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking ''(i), (ii),'' and inserting ''subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)''.

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking ''a physician assistants'' and inserting ''physician assistants''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7025. IMPROVING HEALTH CARE ACCESS AND REDUCING HEALTH CARE COSTS THROUGH TELEMEDICINE.

(a) IN GENERAL.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended—

(1) in the title heading by striking out ''AND HEALTH PROMOTION'' and inserting '', HEALTH PROMOTION AND TELEMEDICINE DEVELOPMENT'';

(2) by inserting after the title heading the following:

''PART A—HEALTH INFORMATION AND HEALTH PROMOTION'';

and

(3) by adding at the end thereof the following new part:

''PART B—TELEMEDICINE DEVELOPMENT

''SEC. 1711. GRANT PROGRAM FOR PROMOTING THE DEVELOPMENT OF RURAL TELEMEDICINE NETWORKS.

''(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible entities in accordance with this subsection to promote the development of rural telemedicine networks.

''(b) GRANTS FOR DEVELOPMENT OF RURAL TELEMEDICINE.—The Secretary of Health and Human Services, acting through the Office of Rural Health Policy, shall award grants to eligible entities that have applications approved under subsection (d) for the purpose of expanding access to health care services for individuals in rural areas through the use of telemedicine. Grants shall be awarded under this section to—

''(1) encourage the initial development of rural telemedicine networks;

''(2) expand existing networks;

''(3) link existing networks together; or

''(4) link such networks to existing fiber optic telecommunications systems.

''(c) ELIGIBLE ENTITY DEFINED.—For the purposes of this section the term 'eligible entity' means hospitals and other health care providers operating in a health care network of community-based providers that includes at least three of the following—

''(1) community or migrant health centers;

''(2) local health departments;

''(3) community mental health centers;

''(4) nonprofit hospitals;

''(5) private practice health professionals, including rural health clinics; or

''(6) other publicly funded health or social services agencies.

''(d) APPLICATION.—To be eligible to receive a grant under this section an eligible entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including a description of—

''(1) the need of the entity for the grant;

''(2) the use to which the entity would apply any amounts received under such grant;

''(3) the source and amount of non-Federal funds that the entity will pledge for the project funded under the grant;

''(4) the long-term viability of the project and evidence of the providers commitment to the network.

''(e) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall give preference to applicants that—

''(1) are health care providers operating in rural health care networks or that propose to form such networks with the majority of the providers in such networks being located in a medically undeserved area or health professional shortage area;

''(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located; and

''(3) propose to use funds received under the grant to develop plans for, or to establish, telemedicine systems that will link rural hospitals and rural health care providers to other hospitals and health care providers;

''(4) will use the amounts provided under the grant for a range of health care applications and to promote greater efficiency in the use of health care resources;

''(5) demonstrate the long term viability of projects through use of local matching funds (in cash or in-kind); and

''(6) demonstrate financial, institutional, and community support and the long range viability of the network.

''(f) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the development of telemedicine networks. Such amounts may be used to cover the costs associated with the development of telemedicine networks and the acquisition of telemedicine equipment and modifications or improvements of telecommunications facilities, including—

''(1) the development and acquisition through lease or purchase of computer hardware and software, audio and visual equipment, computer network equipment, modification or improvements to telecommunications transmission facilities, telecommunications terminal equipments, interactive video equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

''(2) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

''(3) the development and acquisition of instructional programming;

''(4) the development of projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telemedicine;

''(5) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

''(6) the development of projects to use telemedicine to facilitate collaboration between health care providers; and

''(7) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

''(g) PROHIBITED USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall not be used for—

''(1) expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 60 percent of the total grant funds; or

''(2) expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 10 percent of the total grant funds.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

''(i) DEFINITION.—For the purposes of this section, the term 'rural health care network' means a group of rural hospitals or other rural health care providers (including clinics, physicians and non-physicians primary care providers) that have entered into a relationship with each other or with nonrural hospitals and health care providers for the purpose of strengthening the delivery of health care services in rural areas or specifically to improve their patients' access to telemedicine services. At least 75 percent of hospitals and other health care providers participating in the network shall be located in rural areas.

''(j) REGULATIONS ON REIMBURSEMENT OF TELEMEDICINE.—Not later than July 1, 1996, the Secretary, in consultation with the Office of Rural Health and the Health Care Financing Administration, shall develop and submit to Congress a recommendation on a methodology for determining payments under title XVIII of the Social Security Act for telemedicine services.''.

SEC. 7026. ESTABLISHMENT OF RURAL HEALTH OUTREACH GRANT PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

''PART O—RURAL HEALTH OUTREACH GRANTS

''SEC. 399O. RURAL HEALTH OUTREACH GRANT PROGRAM.

''(a) IN GENERAL.—The Secretary may make grants to demonstrate the effectiveness of outreach to populations in rural areas that do not normally seek or do not have access to health or mental health services. Grants shall be awarded to enhance linkages, integration, and cooperation in order to provide health or mental health services, to enhance services, or increase access to or utilization of health or mental health services.

''(b) MISSION OF THE OUTREACH PROJECTS.—Projects funded under subsection (a) should be designed to facilitate the integration and coordination of services in or among rural communities in order to address the needs of populations living in rural or frontier communities.

''(c) COMPOSITION OF PROGRAM.—

''(1) CONSORTIUM ARRANGEMENT.—To be eligible to participate in the grant program established under subsection (a), an applicant entity shall be a consortium of three or more separate and distinct entities formed to carry out an outreach project under subsection (b).

''(2) CERTAIN REQUIREMENTS.—A consortium under paragraph (1) shall be composed of three or more public or private nonprofit health care or social service providers. Consortium members may include local health departments, community or migrant health centers, community mental health centers, hospitals or private practices, or other publicly funded health or social service agencies.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.''.

SEC. 7027. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

''MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

''SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

''(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

''(2) provide more appropriate and flexible staffing and licensure standards;

''(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

''(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

''(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

''(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

''(1) assurances that the State—

''(A) has developed, or is in the process of developing, a State rural health care plan that—

''(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

''(ii) promotes regionalization of rural health services in the State, and

''(iii) improves access to hospital and other health services for rural residents of the State;

''(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

''(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

''(3) such other information and assurances as the Secretary may require.

''(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

''(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

''(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

''(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

''(2) STATE DESIGNATION OF FACILITIES.—

''(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

''(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

''(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

''(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

''(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

''(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

''(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

''(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

''(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

''(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

''(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

''(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

''(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—A State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

''(e) RURAL HEALTH NETWORK DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

''(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

''(B) at least 1 hospital that furnishes acute care services.

''(2) AGREEMENTS.—

''(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

''(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

''(i) Patient referral and transfer.

''(ii) The development and use of communications systems including (where feasible)—

''(I) telemetry systems, and

''(II) systems for electronic sharing of patient data.

''(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

''(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

''(i) hospital that is a member of the network;

''(ii) peer review organization or equivalent entity; or

''(iii) other appropriate and qualified entity identified in the State rural health care plan.

''(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

''(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

''(2) is designated as a critical access hospital by the State in which it is located; and

''(3) meets such other criteria as the Secretary may require.

''(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 to use the beds designated for inpatient cases pursuant to subsection (d)(2)(A)(iii) for extended care services.

''(h) GRANTS.—

''(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

''(A) engaging in activities relating to planning and implementing a rural health care plan;

''(B) engaging in activities relating to planning and implementing rural health networks; and

''(C) designating facilities as critical access hospitals.

''(2) RURAL EMERGENCY MEDICAL SERVICES.—

''(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

''(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

''(i) GRANDFATHERING OF CERTAIN FACILITIES.—

''(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

''(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

''(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.''.

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

''CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

''(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

''(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.''.

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking ''or inpatient rural primary care hospital services'' and inserting ''or inpatient critical access hospital services''.

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''; and

(II) by striking ''72'' and inserting ''96'';

(ii) in subsection (b), by striking ''other than a rural primary care hospital providing inpatient rural primary care hospital services,'' and inserting ''other than a critical access hospital providing inpatient critical access hospital services,''; and

(iii) by amending subsection (*l*) to read as follows:

''(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ''a rural primary care hospital'' and inserting ''a critical access hospital''.

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking ''rural primary care hospitals'' each place it appears and inserting ''critical access hospitals''.

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(ii) in subsection (i)(1)(A), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iii) in subsection (i)(3)(A), by striking ''rural primary care hospital services'' and inserting ''critical access hospital services'';

(iv) in subsection (l)(5)(A), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''; and

(v) in subsection (l)(5)(B), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(ii) in subsection (v)(1)(S)(ii)(III), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iii) in subsection (w)(1), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(iv) in subsection (w)(2), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking ''rural primary care hospitals'' and inserting ''critical access hospitals'';

(ii) in subparagraph (H), in the matter preceding clause (i), by striking ''rural primary care hospitals'' and ''rural primary care hospital services'' and inserting ''critical access hospitals'' and ''critical access hospital services'', respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking ''rural primary hospitals'' and inserting ''critical access hospitals'', and

(II) in clause (i), by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking ''rural primary care hospital'' each place it appears in subparagraphs (A) and (B) and inserting ''critical access hospital''; and

(ii) in subparagraph (C)(ii)(II), by striking ''rural primary care hospitals'' each place it appears and inserting ''critical access hospitals''.

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(d) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting ''as in effect or designated by the State on January 1, 1996'' before the period at the end; and

(2) in clause (v)—

(A) by inserting ''as in effect or designated by the State on January 1, 1996'' after ''1820(i)(1)''; and

(B) by striking ''1820(g)'' and inserting ''1820(e)''.

(e) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

''(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.''.

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking ''rural primary care hospital services'' and inserting ''critical access hospital services''.

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking ''outpatient rural primary care hospital services'' and inserting ''outpatient critical access services''.

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

''(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

''(1) IN GENERAL.—The amount of payment for outpatient critical access hospital services provided in a critical access hospital under this part shall be determined by one of the 2 following methods, as elected by the critical access hospital:

''(A) REASONABLE COST.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

''(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs.

The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.''.

(f) SWING BEDS.—Section 1883 (42 U.S.C. 1395tt) is amended by adding at the end the following new subsection:

''(g) Nothing in this section shall prohibit the Secretary from entering into an agreement with a critical access hospital.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

SEC. 7028. PARITY FOR RURAL HOSPITALS FOR DISPROPORTIONATE SHARE PAYMENTS.

(a) DISPROPORTIONATE SHARE ADJUSTMENT PERCENTAGE.—Section 1886(d)(5)(F)(iv) (42 U.S.C. 1395ww(d)(5)(F)(iv)) is amended—

(1) in subclause (I), by inserting ''or rural'' after ''urban'',

(2) in subclause (II), by inserting ''or rural'' after ''urban'',

(3) by striking subclause (III) and redesignating subclauses (IV), (V), and (VI), as subclauses (III), (IV), and (V), respectively,

(4) in subclause (III), as redesignated, by striking ''10 percent'' and inserting ''15 percent'',

(5) in subclause (IV), as redesignated, to read as follows:

''(IV) is located in a rural area, is classified as a rural referral center under subparagraph (C), is not classified as a sole community hospital under subparagraph (D) and—

''(aa) has 100 or more beds, is equal to the percent determined in accordance with the applicable formula described in clause (vii), or

''(bb) has less than 100 beds, is equal to 5 percent; or'', and

(6) in subclause (V), as redesignated, by striking ''10 percent'' and inserting ''15 percent''.

(b) SERVES A SIGNIFICANTLY DISPROPORTIONATE NUMBER OF LOW-INCOME PATIENTS.—Section 1886(d)(5)(F)(v) (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended by striking subclauses (II) through (IV) and inserting the following subclauses:

''(II) 20 percent, if the hospital is located in a rural area and has 100 or more beds,

''(III) 40 percent, if the hospital is located in a rural area and has less than 100 beds,

''(IV) 20 percent, if the hospital is located in a rural area and is classified as a sole community hospital under subparagraph (D),

''(V) 15 percent, if the hospital is located in a rural area, is classified as a rural referral center, is not classified as a sole community hospital under subparagraph (D), and has 100 or more beds, or

''(VI) 40 percent, if the hospital is located in a rural area, is classified as a rural referral center, is not classified as a sole community hospital under subparagraph (D), and has less than 100 beds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1995.

CHAPTER 4—GENERAL PROGRAM IMPROVEMENTS AND REFORM

SEC. 7031. INCREASED FLEXIBILITY IN CONTRACTING FOR MEDICARE CLAIMS PROCESSING.

(a) CARRIERS TO INCLUDE ENTITIES THAT ARE NOT INSURANCE COMPANIES.—

(1) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking ''with carriers'' and inserting ''with agencies and organizations (hereafter in this section referred to as 'carriers')''.

(2) Section 1842(f) (42 U.S.C. 1395u(f)) is repealed.

(b) CHOICE OF FISCAL INTERMEDIARIES BY PROVIDERS OF SERVICES; SECRETARIAL FLEXIBILITY IN ASSIGNING FUNCTIONS TO INTERMEDIARIES AND CARRIERS.—

(1) Section 1816(a) (42 U.S.C. 1395h(a)) to read as follows:

''(a)(1) The Secretary may enter into contracts with agencies or organizations to perform any or all of the following functions, or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other organizations):

''(A) Determination (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this part to be made to providers of services.

''(B) Making payments described in subparagraph (A).

''(C) Provision of consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as providers of services.

''(D) Serving as a center for, and communicate to individuals entitled to benefits under this part and to providers of services, any information or instructions furnished to the agency or organization by the Secretary, and serve as a channel of communication from individuals entitled to benefits under this part and from providers of services to the Secretary.

''(E) Making such audits of the records of providers of services as may be necessary to ensure that proper payments are made under this part.

''(F) Performance of the functions described under subsection (d).

''(G) Performance of such other functions as are necessary to carry out the purposes of this part.

''(2) As used in this title and title XI, the term 'fiscal intermediary' means an agency or organization with a contract under this section.''.

(2) Subsections (d) and (e) of section 1816 (42 U.S.C. 1395h) are amended to read as follows:

''(d) Each provider of services shall have a fiscal intermediary that—

''(1) acts as a single point of contact for the provider of services under this part,

''(2) makes its services sufficiently available to meet the needs of the provider of services, and

''(3) is responsible and accountable for arranging the resolution of issues raised under this part by the provider of services.

''(e)(1)(A) The Secretary shall, at least every 5 years, permit each provider of services (other than a home health agency or a hospice program) to choose an agency or organization (from at least 3 proposed by the Secretary, of which at least 1 shall have an office in the geographic area of the provider of services, except as provided by subparagraph (B)(ii)(II)) as the fiscal intermediary under subsection (d) for that provider of services. If a contract with that fiscal intermediary is discontinued, the Secretary shall permit the provider of services to choose under the same conditions from 3 other agencies or organizations.

''(B)(i) The Secretary, in carrying out subparagraph (A), shall permit a group of hospitals (or a group of another class of providers other than home health agencies or hospice programs) under common ownership by, or control of, a particular entity to choose one agency or organization (from at least 3 proposed by the Secretary) as the fiscal intermediary under subsection (d) for all the providers in that group if the conditions specified in clause (ii) are met.

''(ii) The conditions specified in this clause are that—

''(I) the group includes all the providers of services of that class that are under common ownership by, or control of, that particular entity, and

''(II) all the providers of services in that group agree that none of the agencies or organizations proposed by the Secretary is required to have an office in any particular geographic area.

''(2) The Secretary, in evaluating the performance of a fiscal intermediary, shall solicit comments from providers of services.''.

(3)(A) Section 1816(b)(1)(A) (42 U.S.C. 1395h(b)(1)(A)) is amended by striking ''after applying the standards, criteria, and procedures'' and inserting ''after evaluating the

ability of the agency or organization to fulfill the contract performance requirements''.

(B) The first sentence of section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended—

(i) by striking ''develop standards, criteria, and procedures'' and inserting '', after public notice and opportunity for comment, develop contract performance requirements'', and

(ii) by striking '', and the Secretary shall establish standards and criteria with respect to the efficient and effective administration of this part''.

(C) The second sentence of section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended to read as follows: ''The Secretary shall, after public notice and opportunity for comment, develop contract performance requirements for the efficient and effective performance of contract obligations under this section.''.

(D) Section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by striking the third sentence.

(E) Section 1842(b)(2)(B) (42 U.S.C. 1395u(b)(2)(B)) is amended in the matter preceding clause (i) by striking ''establish standards'' and inserting ''develop contract performance requirements''.

(F) Section 1842(b)(2)(D) (42 U.S.C. 1395u(b)(2)(D)) is amended by striking ''standards and criteria'' each place it appears and inserting ''contract performance requirements''.

(4)(A) Section 1816(b) (42 U.S.C. 1395h(b)) is amended in the matter preceding paragraph (1) by striking ''an agreement'' and inserting ''a contract''.

(B) Paragraphs (1)(B) and (2)(A) of section 1816(b) (42 U.S.C. 1395h(b)) are each amended by striking ''agreement'' and inserting ''contract''.

(C) The first sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking ''An agreement'' and inserting ''A contract''.

(D) The last sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking ''an agreement'' and inserting ''a contract''.

(E) Section 1816(c)(2)(A) (42 U.S.C. 1395h(c)(2)(A)) is amended in the matter preceding clause (i) by striking ''agreement'' and inserting ''contract''.

(F) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is amended by striking ''agreement'' and inserting ''contract''.

(G) The first sentence of section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended by striking ''an agreement'' and inserting ''a contract''.

(H) Section 1816(h) (42 U.S.C. 1395h(h)) is amended—

(i) by striking ''An agreement'' and inserting ''A contract'', and

(ii) by striking ''the agreement'' each place it appears and inserting ''the contract''.

(I) Section 1816(i)(1) (42 U.S.C. 1395h(i)(1)) is amended by striking ''an agreement'' and inserting ''a contract''.

(J) Section 1816(j) (42 U.S.C. 1395h(j)) is amended by striking ''An agreement'' and inserting ''A contract''.

(K) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by striking ''An agreement'' and inserting ''A contract''.

(L) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) is amended by striking ''agreements'' and inserting ''contracts''.

(M) Section 1842(h)(3)(A) (42 U.S.C. 1395u(h)(3)(A)) is amended by striking ''an agreement'' and inserting ''a contract''.

(5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended by striking the second sentence.

(6)(A) Section 1816(c)(2)(A) (42 U.S.C. 1395h(c)(2)(A)) is amended in the matter preceding clause (i) by inserting ''that provides for making payments under this part'' after ''this section''.

(B) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is amended by inserting ''that provides for making payments under this part'' after ''this section''.

(C) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by inserting ''(as appropriate)'' after ''submit''.

(D) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking ''some or all of the following functions'' and inserting ''any or all of the following functions, or parts of those functions''.

(E) The first sentence of section 1842(b)(2)(C) (42 U.S.C. 1395u(b)(2)(C)) is amended by inserting ''(as appropriate)'' after ''carriers''.

(F) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended in the matter preceding subparagraph (A) by inserting ''(as appropriate)'' after ''contract''.

(G) Section 1842(b)(7)(A) (42 U.S.C. 1395u(b)(7)(A)) is amended in the matter preceding clause (i) by striking ''the carrier'' and inserting ''a carrier''.

(H) Section 1842(b)(11)(A) (42 U.S.C. 1395u(b)(11)(A)) is amended in the matter preceding clause (i) by inserting ''(as appropriate)'' after ''each carrier''.

(I) Section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended in the first sentence by inserting ''(as appropriate)'' after ''shall''.

(J) Section 1842(h)(5)(A) (42 U.S.C. 1395u(h)(5)(A)) is amended by inserting ''(as appropriate)'' after ''carriers''.

(7)(A) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking ''hospital, rural primary care hospital, skilled nursing facility, home health agency, hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency'' and inserting ''provider of services''.

(B) Section 1816(j) (42 U.S.C. 1395h(j)) is amended in the matter preceding paragraph (1) by striking ''for home health services, extended care services, or post-hospital extended care services''.

(8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3)) is amended by inserting ''(to and from individuals enrolled under this part and to and from physicians and other entities that furnish items and services)'' after ''communication''.

(c) ELIMINATION OF SPECIAL PROVISIONS FOR TERMINATIONS OF CONTRACTS.—

(1) Section 1816(b) (42 U.S.C. 1395h(b)) is amended in the matter preceding paragraph (1) is amended by striking ''or renew''.

(2) The last sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking ''or renewing''.

(3) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended—

(A) by striking '', renew, or terminate'', and

(B) by striking '', whether the Secretary should assign or reassign a provider of services to an agency or organization,''.

(4) Section 1816(g) (42 U.S.C. 1395h(g)) is repealed.

(5) The last sentence of section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by striking ''or renewing''.

(6) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (5).

(d) REPEAL OF FISCAL INTERMEDIARY REQUIREMENTS THAT ARE NOT COST-EFFECTIVE.—Section 1816(f)(2) (42 U.S.C. 1395h(f)(2)) is amended to read as follows:

''(2) The contract performance requirements developed under paragraph (1) shall include, with respect to claims for services furnished under this part by any provider of services other than a hospital, whether such agency or organization is able to process 75 percent of reconsiderations within 60 days and 90 percent of reconsiderations within 90 days.''.

(e) REPEAL OF COST REIMBURSEMENT REQUIREMENTS.—

(1) The first sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended—

(A) by striking the comma after ''appropriate'' and inserting ''and'', and

(B) by striking ''subsection (a)''and all that follows through the period and inserting ''subsection (a).''.

(2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is further amended by striking the second and third sentences.

(3) The first sentence of section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) by striking ''shall provide'' the first place it appears and inserting ''may provide'', and

(B) by striking ''this part'' and all that follows through the period and inserting ''this part.''.

(4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is further amended by striking the second and third sentences.

(5) Section 2326(a) of the Deficit Reduction Act of 1984 is repealed.

(f) COMPETITION REQUIRED FOR NEW CONTRACTS AND IN CASES OF POOR PERFORMANCE.—

(1) Section 1816(c) (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

''(4)(A) A contract with a fiscal intermediary under this section may be renewed from term to term without regard to any provision of law requiring competition if the fiscal intermediary has met or exceeded the performance requirements established in the current contract.

''(B) Functions may be transferred among fiscal intermediaries without regard to any provision of law requiring competition.''.

(2) Section 1842(b)(1) (42 U.S.C. 1395u(b)(1)) is amended to read as follows:

''(b)(1)(A) A contract with a carrier under subsection (a) may be renewed from term to term without regard to any provision of law requiring competition if the carrier has met or exceeded the performance requirements established in the current contract.

''(B) Functions may be transferred among carriers without regard to any provision of law requiring competition.''.

(g) WAIVER OF COMPETITIVE REQUIREMENTS FOR INITIAL CONTRACTS.—

(1) Contracts that have periods that begin during the 1-year period that begins on the first day of the fourth calendar month that begins after the date of enactment of this Act may be entered into under section 1816(a) of the Social Security Act (42 U.S.C. 1395h(a)) without regard to any provision of law requiring competition.

(2) The amendments made by subsection (f) apply to contracts that have periods beginning after the end of the 1-year period specified in paragraph (1).

(h) EFFECTIVE DATES.—

(1) The amendments made by subsection (c) apply to contracts that have periods ending on, or after, the end of the third calendar month that begins after the date of enactment of this Act.

(2) The amendments made by subsections (a), (b), (d), and (e) apply to contracts that have periods beginning after the third calendar month that begins after the date of enactment of this Act.

SEC. 7032. EXPANSION OF CENTERS OF EXCELLENCE.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to as the ''Secretary'') shall use a competitive process to contract with centers of excellence for cataract surgery and coronary artery bypass surgery, and any other appropriate services designated by the Secretary. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts on the basis of negotiated or all-inclusive rates as follows:

(1) The center shall cover services provided in an urban area (as defined in section 1886(d)(2)(D) of the Social Security Act) for years beginning with fiscal year 1996.

(2) The amount of payment made by the Secretary to the center under title XVIII of the Social Security Act for services covered under the contract shall be less than the aggregate amount of the payments that the Secretary would have made to the center for such services had the contract not been in effect.

(3) The Secretary shall make payments to the center on such a basis for the following services furnished to individuals entitled to benefits under such title:

(A) Facility, professional, and related services relating to cataract surgery.

(B) Coronary artery bypass surgery and related services.

(b) REBATE OF PORTION OF SAVINGS.—In the case of any services provided under a contract conducted under subsection (a), the Secretary shall make a payment to each individual to whom such services are furnished (at such time and in such manner as the Secretary may provide) in an amount equal to 10 percent of the amount by which—

(1) the amount of payment that would have been made by the Secretary under title XVIII of the Social Security Act to the center for such services if the services had not been provided under the contract, exceeds

(2) the amount of payment made by the Secretary under such title to the center for such services.

(c) INFORMATION.—The Secretary shall include in the annual notice mailed under section 1804 of the Social Security Act (42 U.S.C. 1395b–2) information regarding the availability of centers of excellence under this section and notification that an individual may be directed to local centers of excellence by calling the toll-free number established under subsection (b) of such section.

SEC. 7033. SELECTIVE CONTRACTING.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to as the ''Secretary'') may selectively contract with specialized programs that manage chronic diseases, complex acute care needs, and the needs of disabled medicare beneficiaries. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts subject to such contracts on the basis of negotiated rates. The Secretary shall ensure that such contracts do not limit access to services in rural and undesirable areas.

(b) BASIS OF CONTRACTS.—The Secretary shall enter into contracts under subsection (a) on the basis of objective measures of quality, service, and cost.

(c) INNOVATIONS.—A specialized program with a contract under this section may use alternatives to inpatient or institutional care and may use specialized networks of caregivers.

(d) NO REQUIREMENT TO OBTAIN SERVICES FROM PROGRAMS.—No medicare beneficiary shall be required to receive health care services from a specialized program with a contract under this section.

CHAPTER 5—REDUCTION OF WASTE, FRAUD, AND ABUSE

Subchapter A—Improving Coordination, Communication, and Enforcement

PART I—MEDICARE ANTI-FRAUD AND ABUSE PROGRAM

SEC. 7041. MEDICARE ANTI-FRAUD AND ABUSE PROGRAM.

(a) FINDINGS AND STATEMENT OF PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) a significant amount of funds expended on the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are lost to fraud, medically unnecessary services, and other abuse;

(B) the Office of Inspector General of the Department of Health and Human Services (hereinafter referred to as the Inspector General) and the Attorney General is effective in combating fraud and abuse under the medicare program and returning misspent funds to the Federal Treasury at a rate many times the amount invested in Inspector General and Attorney General activities; and

(C) the investigations, audits, and other activities of the Inspector General and the Attorney General have been severely curtailed by budget constraints, particularly the limits imposed by the ceilings on discretionary spending.

(2) PURPOSE.—It is the purpose of this Act to ensure a continued and adequate source of funding for the medicare anti-fraud and abuse activities of the Inspector General and the Attorney General.

(b) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

SEC. . FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''FRAUD AND ABUSE CONTROL PROGRAM

''SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

''(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

''(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

''(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

''(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

''(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

''(3) GUIDELINES.—

''(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

''(B) INFORMATION GUIDELINES.—

''(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

''(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

''(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

''(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

''(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

''(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

''(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

''(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

''(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

''(1) a policy of health insurance;

''(2) a contract of a service benefit organization; and

''(3) a membership agreement with a health maintenance organization or other prepaid health plan.''.

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

''(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

''(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

''(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

''(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

''(i) such gifts and bequests as may be made as provided in subparagraph (B);

''(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

''(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

''(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

''(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

''(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

''(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

''(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

''(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

''(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

''(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

''(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

''(I) for fiscal year 1996, $110,000,000,

''(II) for fiscal year 1997, $140,000,000,

''(III) for fiscal year 1998, $160,000,000,

''(IV) for fiscal year 1999, $185,000,000,

''(V) for fiscal year 2000, $215,000,000,

''(VI) for fiscal year 2001, $240,000,000, and

''(VII) for fiscal year 2002, $270,000,000; and

''(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

''(I) for fiscal year 1996, $200,000,000, and

''(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

''(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

''(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

''(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

''(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

''(II) investigations;

''(III) financial and performance audits of health care programs and operations;

''(IV) inspections and other evaluations; and

''(V) provider and consumer education regarding compliance with the provisions of title XI.

''(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

''(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.''.

SEC. 7042. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking ''MEDICARE OR STATE HEALTH CARE PROGRAMS'' and inserting ''FEDERAL HEALTH CARE PROGRAMS''.

(B) In subsection (a)(1), by striking ''a program under title XVIII or a State health care program (as defined in section 1128(h))'' and inserting ''a Federal health care program''.

(C) In subsection (a)(5), by striking ''a program under title XVIII or a State health care program'' and inserting ''a Federal health care program''.

(D) In the second sentence of subsection (a)—

(i) by striking ''a State plan approved under title XIX'' and inserting ''a Federal health care program''; and

(ii) by striking ''the State may at its option (notwithstanding any other provision of that title or of such plan)'' and inserting ''the administrator of such program may at its option (notwithstanding any other provision of such program)''.

(E) In subsection (b)—

(i) by striking ''and willfully'' each place it appears;

(ii) by striking ''$25,000'' each place it appears and inserting ''$50,000'';

(iii) by striking ''title XVIII or a State health care program'' each place it appears and inserting ''Federal health care program'';

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking ''kind—'' and inserting ''kind with intent to be influenced—'';

(v) in paragraph (1)(A), by striking ''in return for referring'' and inserting ''to refer'';

(vi) in paragraph (1)(B), by striking ''in return for purchasing, leasing, ordering, or arranging for or recommending'' and inserting ''to purchase, lease, order, or arrange for or recommend'';

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking ''to induce such person'' and inserting ''with intent to influence such person'';

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: ''A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.'';

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking ''Paragraphs (1) and (2)'' and inserting ''Paragraphs (1), (2), and (3)''; and

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

''(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

''(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

''(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

''(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.''.

(F) In subsection (c), by inserting ''(as defined in section 1128(h))'' after ''a State health care program''.

(G) By adding at the end the following new subsections:

''(f) For purposes of this section, the term 'Federal health care program' means—

''(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

''(2) any State health care program, as defined in section 1128(h).

''(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

''(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

''(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

''(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.''.

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

''(h) The Secretary may—

''(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

''(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7043. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the ''Inspector General'') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7b) (in this section referred to as an ''interpretive ruling'').

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (in this subsection referred to as a ''special fraud alert'').

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 7044. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) RECOGNITION AND PUBLICATION OF CONTRIBUTIONS.—The program established by the Secretary under this section shall recognize and publicize significant contributions made by individual health care patients toward the combating of health care fraud and abuse.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 7051. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

''(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

''(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law—

''(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

''(i) in connection with the delivery of a health care item or service, or

''(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

''(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.''.

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under

Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.''.

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking ''CONVICTION'' and inserting ''MISDEMEANOR CONVICTION''; and

(B) by striking ''criminal offense'' and inserting ''criminal offense consisting of a misdemeanor''.

SEC. 7052. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

''(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

''(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

''(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.''.

SEC. 7053. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

''(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

''(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

''(B) that has been excluded from participation under a program under title XVIII or under a State health care program.''.

SEC. 7054. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking ''may prescribe)'' and inserting ''may prescribe, except that such period may not be less than 1 year)''.

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking ''shall remain'' and inserting ''shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain''.

(b) REPEAL OF ''UNWILLING OR UNABLE'' CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking ''and determines'' and all that follows through ''such obligations,''; and

(2) by striking the third sentence.

SEC. 7055. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a–7(b)(6)(A)) is amended—

(1) by inserting ''(as specified by the Secretary in regulations)'' after ''substantially in excess of such individual's or entity's usual charges''; and

(2) striking ''(or, in applicable cases, substantially in excess of such individual's or entity's costs)'' and inserting '', costs or fees''.

SEC. 7056. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

''(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.''.

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: ''An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.''.

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: ''An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code.''

SEC. 7057. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7058. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7061. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for

the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term ''final adverse action'' includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms ''licensed health care practitioner'', ''licensed practitioner'', and ''practitioner'' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term ''health care provider'' means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term ''supplier'' means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i–3(a) and (b), and 1395x).

(5) The term ''Government agency'' shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term ''health plan'' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r–2(d)) is amended by inserting ''and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995'' after ''section 422 of the Health Care Quality Improvement Act of 1986''.

SEC. 7062. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: ''Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board.''; and

(2) by amending subsection (b)(4) to read as follows:

''(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.''.

SEC. 7063. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''CORPORATE WHISTLEBLOWER PROGRAM

''SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

''(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

''(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

''(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.''.

PART IV—CIVIL MONETARY PENALTIES

SEC. 7071. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking ''programs under title XVIII'' and inserting ''Federal health care programs (as defined in section 1128B(b)(f))''.

(2) In subsection (f)—

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

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

''(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Medicare Improvement and Solvency Protection Act of 1995 (as estimated by the Secretary) shall be deposited into the general fund of the Treasury.''.

(3) In subsection (i)—

(A) in paragraph (2), by striking ''title V, XVIII, XIX, or XX of this Act'' and inserting ''a Federal health care program (as defined in section 1128B(f))'';

(B) in paragraph (4), by striking ''a health insurance or medical services program under title XVIII or XIX of this Act'' and inserting ''a Federal health care program (as so defined)''; and

(C) in paragraph (5), by striking ''title V, XVIII, XIX, or XX'' and inserting ''a Federal health care program (as so defined)''.

(4) By adding at the end the following new subsection:

''(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

''(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

''(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

''(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

''(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.''.

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking ''or'' at the end of paragraph (1)(D);

(2) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(4) by inserting after paragraph (3) the following new paragraph:

''(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;''.

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking ''; or'' at the end of subparagraph (D) and inserting '', or''; and

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

''(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);''.

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a–7a(a)(1)(D)) is amended by inserting '', directed, or prescribed'' after ''furnished''.

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting ''; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs'' after ''false or misleading information was given''; and

(3) by striking ''twice the amount'' and inserting ''3 times the amount''.

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking ''claimed,'' and inserting ''claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,'';

(2) in subparagraph (C), by striking ''or'' at the end;

(3) in subparagraph (D), by striking ''; or'' and inserting '', or''; and

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

''(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or''.

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

''(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).''.

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting ''up to $10,000 for each instance''.

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking ''or'' at the end of paragraph (1)(D);

(B) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(D) by inserting after paragraph (3) the following new paragraph:

''(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;''.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

''(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

''(A) the waiver of coinsurance and deductible amounts by a person, if—

''(i) the waiver is not offered as part of any advertisement or solicitation;

''(ii) the person does not routinely waive coinsurance or deductible amounts; and

''(iii) the person—

''(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

''(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

''(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

''(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

''(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.''.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7081. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1347. Health care fraud

''(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

SEC. 7082. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

''(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

''(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

''(i) section 1347 of this title;

''(ii) section 1128B of the Social Security Act;

''(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

''(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.''.

SEC. 7083. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''or'' at the end of subparagraph (B); and

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

''(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);''.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''or a Federal health care offense (as defined in section 982(a)(6)(B))'' after ''title)''.

SEC. 7084. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

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

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

''(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

''(1) received in the course of duty as an attorney for the Government; or

''(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.''.

SEC. 7085. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1035. False statements relating to health care matters

''(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

''1035. False statements relating to health care matters.''.

SEC. 7086. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

''(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

''(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.''.

SEC. 7087. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 669. Theft or embezzlement in connection with health care

''(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

''669. Theft or embezzlement in connection with health care.''.

SEC. 7088. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

''(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.''.

SEC. 7089. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

''§ 3486. Authorized investigative demand procedures

''(a) AUTHORIZATION.—

''(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

''(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

''(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

''(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

''(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

''(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

''(e) USE IN ACTION AGAINST INDIVIDUALS.—

''(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

''(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

''(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

''(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

''3486. Authorized investigative demand procedures.''.

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting ''or a Department of Justice subpoena (issued under section 3486),'' after ''subpoena''.

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7091. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting ''(A)'' after ''in connection with''; and

(2) by striking ''title.'' and inserting ''title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).''.

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

''(4)(A) The entity has—

''(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

''(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

''(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

''(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

''(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

''(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.''.

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7101. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7102. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7103. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7104. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7105. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

''(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.''.

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking ''agency is located'' and inserting ''service is furnished''.

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7111. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7112. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

''COMPETITION ACQUISITION FOR ITEMS AND SERVICES

''SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

''(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

''(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

''(A) initially be within, or be centered around metropolitan statistical areas;

''(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

''(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas..

''(b) AWARDING OF CONTRACTS IN AREAS.—

''(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

''(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

''(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

''(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

''(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

''(A) the quantity of items and services the entity shall provide; and

''(B) such other terms and conditions as the Secretary may require.

''(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

''(1) Durable medical equipment and medical supplies.

''(2) Oxygen and oxygen equipment.

''(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.''.

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(3) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.''.

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (30 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction.

SEC. 7113. INTERIM REDUCTION IN EXCESSIVE PAYMENTS.

Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by adding at the end the following new sentence: ''With respect to services described in section 1847(c) furnished between January 1, 1996, and the date on which competitive acquisition under section 1847 is fully implemented, the Secretary shall reduce the payment amount applied for such services by 10 percent, except that with respect to oxygen and oxygen equipment items, the Secretary shall reduce the payment amount applied for such items by 20 percent.''.

SEC. 7114. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking ''Secretary may'' both places it appears and inserting ''Secretary shall''.

SEC. 7115. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking ''paragraphs (8) and (9)'' and all that follows through the end of the sentence and inserting ''section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)''.

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking ''(8)(A)'' and inserting ''(8)'', and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

''(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.''.

SEC. 7116. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7121. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as ''ADPE'') meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7122. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7123. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7124. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7121.

SEC. 7125. DEFINITIONS.

For purposes of this chapter—

(1) The term ''automatic data processing equipment'' (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term ''billing code abuse'' means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term ''commercial item'' has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term ''medicare part B'' means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term ''medicare carrier'' means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term ''payment policies'' means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term ''Secretary'' means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7131. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(k) PAYMENT FOR AMBULANCE SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

''(A) the actual charges for the services; or

''(B) the amount determined by a fee schedule developed by the Secretary.

''(2) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

''(3) SEPARATE PAYMENT LEVELS.—

''(A) IN GENERAL.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

''(B) NONROUTINE BASIS.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

''(4) ANNUAL ADJUSTMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the fee schedules shall be adjusted annually (to become effective on January 1 of each year) by a percentage increase or decrease equal to the percentage increase or decrease in the consumer price index for all urban consumers (United States city average).

''(B) SPECIAL RULE.—Notwithstanding subparagraph (B), the annual adjustment in the fee schedules determined under such subparagraph for each of the years 1996 through

2002 shall be such consumer price index for the year minus 1 percentage point.

''(5) FURTHER ADJUSTMENTS.—The Secretary shall adjust the fee schedule to the extent necessary to ensure that the fee schedule takes into consideration the costs incurred in providing the transportation and associated services as well as technological changes.

''(6) SPECIAL RULE FOR END STAGE RENAL DISEASE BENEFICIARIES.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

''(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

''(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

''(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7141. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term ''health care fraud'' means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term ''original source'' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. . INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking ''the Secretary may terminate'' and all that follows and inserting ''in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

''(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

''(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).''.

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

''(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

''(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

''(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

''(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.''.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

''(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

''(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

''(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.''.

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking ''an agreement'' and inserting ''a written agreement''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

CHAPTER 6—ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY.

SEC. 7161. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Commission To Prepare For The 21st Century (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with national recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) ANALYSES AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission is charged with long-term strategic planning (for years after 2010) for the medicare program. The Commission shall—

(A) review long-term problems and opportunities facing the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(B) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled,

(ii) overall trends in national health care costs,

(iii) the number of Americans without health insurance, and

(iv) the impact of its recommendations on the private sector and on the medicaid program;

(C) consider a range of program improvements, including measures to—

(i) reduce waste, fraud, and abuse,

(ii) improve program efficiency,

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive care and primary care services,

(v) improve beneficiary cost consciousness, including an analysis of proposals that would restructure medicare from a defined benefits program to a defined contribution program and other means, and

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice;

(D) prepare findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be made for seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(F) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) DEFINITION OF MEDICARE TRUST FUNDS.—For purposes of this subsection, the term ''medicare trust funds'' means the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t).

(b) REPORT.—The Commission shall submit its report to the President and the Congress not later than July 31, 1996.

SEC. 7163. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 7164. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—All members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) PRIVATE CITIZENS OF THE UNITED STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission, to the extent funds are available therefor.

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7165. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 7702(b).

SEC. 7166. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.

CHAPTER 7—MEASURES TO IMPROVE THE SOLVENCY OF THE TRUST FUNDS

Subchapter A—Provisions Relating to Part A

PART I—GENERAL PROVISIONS

SEC. 7171. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XII) and (XIII) and inserting the following new subclauses:

''(XII) for fiscal year 1997 through 2002, the market basket percentage increase minus 1.0 percentage point for hospitals located in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area, and

''(XIII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.''.

SEC. 7172. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION.

(a) INDIRECT COSTS OF MEDICAL EDUCATION; APPLICABLE PERCENTAGE.—

(1) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

''(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

''(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89; and

''(II) October 1, 1995, 'c' is equal to 1.48.

(2) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking ''of 1985'' and inserting ''of 1985, but not taking into account the amendments made by section 7172(a)(1) of the Medicare Improvement and Solvency Protection Act of 1995''.

(b) LIMITATION ON NUMBER OF RESIDENTS.—

(1) DIRECT GRADUATE MEDICAL EDUCATION.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

''(F) LIMITATION ON NUMBER OF RESIDENTS FOR CERTAIN FISCAL YEARS.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002, the number of full-time-equivalent residents (and full-time-equivalent residents who are not primary care residents) determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents (and full-time-equivalent residents who are not primary care residents) with respect to the program as of August 1, 1995. This subparagraph does not apply to any nonphysician postgraduate training program that, under paragraph (5)(A), is an approved medical residency training program.''.

(2) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(A) in clause (ii), by striking ''to beds'' and inserting ''to beds (subject to clause (v))''; and

(B) by adding at the end the following new clauses:

''(v) For purposes of this subparagraph, as of July 1, 1996, ''r'' may not exceed the ratio of the number of interns and residents as determined under section 1886(h)(4) with respect to the hospital as of August 1, 1995, to the hospital's number of usable beds as of August 1, 1995.

''(vi) In determining such adjustment with respect to discharges of a hospital occurring on or after October 1, 1995, and on or before September 30, 2002, the number of interns and residents determined under clause (ii) with respect to a hospital may not exceed a number determined by the Secretary by applying rules similar to the rules of subsection (h)(4)(F).''.

SEC. 7173. ELIMINATION OF DSH AND IME FOR OUTLIERS.

(a) INDIRECT MEDICAL EDUCATION ADJUSTMENTS.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by striking ''and the amount paid to the hospital under subparagraph (A)''.

(b) DISPROPORTIONATE SHARE ADJUSTMENT.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by striking ''and the amount paid to the hospital under subparagraph (A) for that discharge''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 1995.

SEC. 7174. CAPITAL PAYMENTS FOR PPS INPATIENT HOSPITALS.

Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by—

(1) by striking ''through 1995'' and inserting ''through 2002''; and

(2) by inserting after ''reduction'' the following: ''(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)''.

SEC. 7175. TREATMENT OF PPS-EXEMPT HOSPITALS.

(a) REBASING FOR PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amended to read as follows:

''(A)(i) Subject to clause (ii), and except as provided in subparagraphs (C), (D), and (E), for purposes of this subsection, the term 'target amount' means—

''(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the average allowable operating costs of inpatient hospital

services (as defined in subsection (a)(4)) recognized under this title for the hospital for the hospital's 2 most recent 12-month cost reporting periods beginning on or after October 1, 1990, increased in a compounded manner by the applicable percentage increases determined under subparagraph (B)(ii) for the hospital's succeeding cost reporting periods through fiscal year 1996; or

''(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

''(ii) Notwithstanding subsection (a), in the case of a hospital (or unit) that did not have a cost reporting period beginning on or before October 1, 1990—

''(I) with respect to cost reporting periods beginning during the hospital's first fiscal year of operation, the amount of payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in subsection (a)(4)) shall be the reasonable costs for providing such services, except that such amount may not exceed 150 percent of the national average allowable operating costs of inpatient hospital services for a hospital (or unit) of the same grouping as such hospital for the hospital's first fiscal year of operation;

''(II) with respect to cost reporting periods beginning during the hospital's second fiscal year of operation, the amount determined under subclause (I), increased by the market basket percentage increase for such year (determined under subparagraph (B)(iii); and

''(III) with respect to succeeding cost reporting periods, clause (i) shall apply to such hospital except that the 'target amount' for such hospital shall be the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the hospital's 2 12-month cost reporting periods beginning 1 year after the hospital accepts its first patient.''.

(b) NON-PPS HOSPITAL PAYMENT UPDATE.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) in subclause (V)—

(A) by striking ''1997'' and inserting ''1995''; and

(B) by striking ''and'' at the end; and

(2) by striking subclause (VI) and inserting the following subclauses:

''(VI) for fiscal year 1996, the market basket percentage increase minus 2 percentage points for hospitals located in all areas,

''(VII) for fiscal years 1997 through 2002, the market basket percentage increase minus 1.0 percentage point for hospitals located in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area, and

''(IX) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.''.

(c) EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking the first sentence and inserting the following: ''The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under his subsection for determining the amount of payment to a hospital with respect to the hospital's 12-month cost reporting period beginning in a fiscal year where the hospital's allowable operating costs of inpatient hospital services recognized under this title for the hospital's 12-month cost reporting period beginning in the preceding fiscal year, exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period by at least 50 percent.''.

(d) ELIMINATION OF INCENTIVE PAYMENTS.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended to read as follows:

''(b)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813 and paragraph (2), if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital (other than a subsection (d) hospital, as defined in subsection (d)(1)(B)) for a cost reporting period subject to this paragraph are greater than the target amount by at least 10 percent, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the sum of—

''(i) the target amount, plus

''(ii) an additional amount equal to 50 percent of the amount by which the operating costs exceed 110 percent of the target amount (except that such additional amount may not exceed 20 percent of the target amount) after any exceptions or adjustments are made to such target amount for the cost reporting period.

''(B) In no case may the amount payable under this title (other than on the basis of a DRG prospective payment rate determined under subsection (d)) with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).''.

(e) FLOORS AND CEILINGS FOR TARGET AMOUNTS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)), as amended by subsection (a), is amended by adding at the end the following new clauses:

''(ii) Notwithstanding clause (i), in the case of a hospital (or unit thereof)—

''(I) the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 70 percent of the national mean (weighted by caseload) of the target amounts determined under this paragraph for all hospitals (and units thereof) of such grouping for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

''(II) such target amount may not be greater than 130 percent of the national mean (weighted by caseload) of the target amounts for such hospitals (and units thereof) of such grouping for cost reporting periods beginning during such fiscal year.''.

(f) EFFECTIVE DATE.—The amendment made by this section shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

SEC. 7176. PPS-EXEMPT CAPITAL PAYMENTS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

''(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2005 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.''.

SEC. 7177. PROHIBITION OF PPS EXEMPTION FOR NEW LONG-TERM HOSPITALS.

Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking ''25 days'' and inserting ''25 days and which received payment under this section on or before November 30, 1995''.

SEC. 7178. REVISION OF DEFINITION OF TRANSFERS FROM HOSPITALS TO POST-ACUTE FACILITIES.

(a) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

''(iii) Effective for discharges occurring on or after October 1, 1995, transfer cases (as otherwise defined by the Secretary) shall also include cases in which a patient is transferred from a subsection (d) hospital to a hospital or hospital unit that is not a subsection (d) hospital (under section 1886(d)(1)(B)) or to a skilled nursing facility.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 7179. DIRECTION OF SAVINGS TO HOSPITAL INSURANCE TRUST FUND.

Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following new subsection:

''(j) There are hereby appropriated for each fiscal year to the Federal Hospital Insurance Trust Fund amounts equal to the estimated savings to the general fund of the Treasury for such year resulting from the provisions of and amendments made by the Medicare Improvement and Solvency Protection Act of 1995. The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund amounts equal to such estimated savings in the form of public-debt obligations issued exclusively to the Federal Hospital Insurance Trust Fund.''.

PART II—SKILLED NURSING FACILITIES

SEC. 7181. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITIES.

Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsections:

''(e) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1996, provide for payment for routine costs of extended care services in accordance with a prospective payment system established by the Secretary, subject to the limitations in subsections (f) through (h).

''(f)(1) The amount of payment under subsection (e) shall be determined on a per diem basis.

''(2) The Secretary shall compute the routine costs per diem in a base year (determined by the Secretary) for each skilled nursing facility, and shall update the per diem rate on the basis of a market basket and other factors as the Secretary determines appropriate.

''(3) The per diem rate applicable to a skilled nursing facility may not exceed the following limits:

''(A) With respect to skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in rural areas within the same region, as updated by the same percentage determined under paragraph (2).

''(B) With respect to skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in urban areas within the same region, updated by the same percentage determined under paragraph (2).

''(C) With respect a skilled nursing facility that does not have a base year (determined by the Secretary under subparagraph (A) or (B)), the limit for such facility for cost reporting periods (or portions of cost reporting periods) beginning prior to October 1, 1998, shall be equal to 100 percent of the mean costs of freestanding skilled nursing facilities located in rural or urban areas (as applicable).

For purposes of this paragraph, the terms 'urban', 'rural', and 'region' have the meaning given such terms in section 1886(d)(2)(D).

''(4)(A) Subject to subparagraph (B), the Secretary may not make adjustments or exceptions to the limits determined under paragraph (3).

''(B) For periods prior to October 1, 1998, a facility's payment for routine costs shall be the greater of—

''(i) the facility's limit as of the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

''(ii) the regional limit determined under this paragraph (3) (including any exception amounts that were in effect in the base year), updated in accordance with paragraph (2).

''(C) The Secretary shall not provide for new provider exemptions under this subsection under section 413.30(e)(2) of title 42 of the Code of Federal Regulations and shall not include such exemption amounts determined in the base year for purposes of subparagraph (B)(ii).

''(1) In the case of a skilled nursing facility which received an adjustment to the facility's limit in the base year (determined by the Secretary under paragraph (3)), the facility shall receive an adjustment to the limit determined under paragraph (3) for a fiscal year if the magnitude and scope of the case mix or circumstances resulting in the base year adjustment are at least as great for such fiscal year.

''(g)(1) In the case of a hospital-based skilled nursing facility receiving payments under this title as of the date of enactment of this subsection, the amount of payment to the facility based on application of subsections (e) and (f) may not be less than the per diem rate applicable to the facility for routine costs on the date of enactment of this subsection.

''(2) In the case of a skilled nursing facility receiving payment under subsection (d) as of the date of enactment of this subsection, such facility may elect, in lieu of payment otherwise determined under this section for routine service costs, to receive payments under this section in an amount equal to a rate equal to 100 percent of the mean routine service costs of free standing skilled nursing facilities by rural or urban area, as applicable.

''(h) The Secretary shall, for cost reporting periods beginning on or after October 1, 1996, and before the prospective payment system is established under subsection (i), the Secretary shall not provide for payment for ancillary costs of extended care services in accordance with section 1861(v) in excess of the amount that would be paid under the fee schedules applicable to such services under sections 1834 and 1848.

''(i)(1) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1998, provide for payment for all costs of extended care services (including routine service costs, ancillary costs, and capital-related costs) in accordance with a prospective payment system established by the Secretary.

''(2)(A) Prior to implementing the prospective system described in paragraph (1) in a budget-neutral fashion, the Secretary shall reduce by 5 percent the per diem rates for routine costs, and the cost limits for ancillary services and capital for skilled nursing facilities as such rates and costs are in effect on September 30, 1998.

''(B) Subject to the reduction under subparagraph (B), the Secretary shall establish the prospective payment system described in paragraph (1) such that aggregate payments under such system for a fiscal year shall not exceed the payments that would have otherwise been made for such fiscal year.

''(j) Each skilled nursing facility shall be required to include uniform coding (including HCPCS codes, if applicable) on the facility's cost reports''.

SEC. 7182. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITIES.

(a) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(1) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: ''(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).''.

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

SEC. 7183. CONSOLIDATED BILLING.

(a) REQUIREMENT OF ARRANGEMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting the following:

''(16) which are other than physicians' services, services described by clauses (i) or (ii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, or services of a certified registered nurse anesthetist, and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility.''.

(b) AGREEMENTS WITH PROVIDERS OF SERVICES.—Section 1866(a)(1)(H) (42 U.S.c. 1395cc(a)(1)(H)) is amended—

(1) by redesignating clauses (i) and (ii), as subclauses (I) and (II), respectively;

(2) by inserting ''(i)'' after ''(H)''; and

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

''(ii) in the case of skilled nursing facilities which provide services for which payment may be made under this title, to have all items and services (other than physicians services, and other than services described by sections 1861(s)(2)(K) (i) or (ii), certified nurse-midwife services, qualified psychologist services, or services of a certified registered nurse anesthetist—

''(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

''(II) for which the individual is entitled to have payment made under this title, furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

Subchapter B—Provisions Relating to Part B

SEC. 7184. PHYSICIAN UPDATE FOR 1996.

(a) SPECIAL RULE FOR 1996.—Section 1848(d)(3) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—In determining the update under subparagraphs (A) and (B) for 1996, the Secretary shall use the same percentage increase for all categories of service, determined in a budget-neutral manner, weighting the percentage increase for each of the 3 categories of service by the category's respective share of expenditures. The update determined in the previous sentence shall be reduced by 0.8 percentage points for all physicians' services, except for primary care services (as defined in section 1842(i)(4)''.

SEC. 7185. PRACTICE EXPENSE RELATIVE VALUE UNITS.

(a) EXTENSION TO 1997.—Section 1848(c)(2)(E) is amended—

(1) by striking ''and'' at the end of clause (i)(II),

(2) by striking the period at the end of clause (i)(III) and inserting '', and'', and

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

''(IV) 1997, by an additional 25 percent of such excess.''

(b) CHANGE IN FLOOR ON REDUCTIONS AND SERVICES COVERED.—Clauses (ii) and (iii)(II) of section 1848(c)(2)(E) are amended by inserting ''(or 115 percent in the case of 1997)'' after ''128 percent''.

SEC. 7186. CORRECTION OF MVPS UPWARD BIAS.

(a) IN GENERAL.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w–4(f)(2)(A)(iv)) is amended by striking ''including changes in law and regulations affecting the percentage increase described in clause (i)'' and inserting ''excluding anticipated responses to such changes''.

(b) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in the heading by inserting ''IN CERTAIN YEARS'' AFTER ''ADJUSTMENT'';

(2) in the matter preceding subclause (I), by striking ''for a year'';

(3) in subclause (II), by striking ''and''; and

(4) in subclause (III), by striking ''any succeeding year'' and inserting ''1995, 1996, and 1997''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to performance standard rates of increase determined for fiscal year 1996 and succeeding fiscal years.

SEC. 7187. LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII, is amended by inserting after section 1848 the following new section:

''LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS

''SEC. 1849. (a) SERVICES SUBJECT TO REDUCTION.—

''(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

''(A) the hospital-specific per admission relative value under subsection (b)(2) for the following year; and

''(B) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (b)(1).

''(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection

(c)) the amount of payment otherwise determined under this part for each physician's service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

''(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff under paragraph (1).

''(b) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

''(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

''(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

''(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

''(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

''(A) IN GENERAL.—The hospital-specific per admission relative value projected for a hospital (other than a teaching hospital) for a calendar year, shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second calendar year preceding such calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

''(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a calendar year shall be equal to the sum of—

''(i) the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year; and

''(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding such calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

''(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

''(c) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (a) during a year shall be reduced 15 percent, in the case of a service furnished by a member of the medical staff of the hospital for which the Secretary determines under subsection (a)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

''(d) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

''(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (b)(2)(C)). Notwithstanding any other provision of this title, no payment may be made under this part for any physician's service furnished by a member of a hospital's medical staff to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for payment for such service not later than 90 days after the last day of the year.

''(2) RECONCILIATION WITH REDUCTIONS TAKEN.—In the case of a hospital for which the payment amounts for physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

''(A) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (c), including interest at an appropriate rate determined by the Secretary;

''(B) if the actual average per admission relative value for such hospital's medical staff during the year is less than 15 percentage points above the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total allowed charges for physicians' services performed in such hospital (prior to the withhold), the difference between 15 percentage points and the actual number of percentage points that the staff exceeds the limit allowable average per admission relative value, including interest at an appropriate rate determined by the Secretary; and

''(C) if the actual average per admission relative value for such hospital's medical staff during the year exceeded the allowable average per admission relative value applicable to the hospital's medical staff by 15 percentage points or more, none of the withhold is paid to the fiduciary agent for the medical staff.

''(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have one year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate withhold amount made by the carrier.

''(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(B) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff, on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

''(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

''(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

''(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

''(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

''(B) if such physician provides at least one service to a medicare beneficiary in such hospital.

''(2) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

''(3) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).''.

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 13951(a)(1)(N)) is amended by inserting ''(subject to reduction under section 1849)'' after ''1848(a)(1)''.

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w–4(a)(1)(B)) is amended by striking ''this subsection,'' and inserting ''this subsection and section 1849,''.

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w–4(g)(4)(A)(i)) is amended by striking ''beneficiary,'' and inserting ''beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 7188. ELIMINATION OF CERTAIN ANOMALIES IN PAYMENTS FOR SURGERY.

(a) GENERAL RULE.—

(1) Part B of title XVIII is amended by inserting after section 1846 the following section:

''ELIMINATION OF CERTAIN ANOMALIES IN PAYMENTS FOR SURGERY

''SEC. 1847. (a) IN GENERAL.—Payment under this part for surgical services (as defined by the Secretary under section 1848(j)(1)), when a separate payment is also

made for the services of a physician or physician assistant acting as an assistant at surgery, may not (except as provided by subsection (b)), when added to the separate payment made for the services of that other practitioner, exceed the amount that would be paid for the surgical services if a separate payment were not made for the services of that other practitioner.

''(b) ESTABLISHMENT OF EXCEPTIONS.—The Secretary may specify surgery procedures or situations to which subsection (a) shall not apply.''.

(2) Section 1848(g)(2)(D) is amended by inserting ''(or the lower amount determined under section 1847)'' after ''subsection (a)''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to services furnished after calendar year 1995.

SEC. 7189. UPGRADED DURABLE MEDICAL EQUIPMENT.

Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

''(16) CERTAIN UPGRADED ITEMS.—

''(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

''(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

''(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

''(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i). In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

''(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

''(i) determination of fair market prices with respect to an upgraded item;

''(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

''(iii) conditions of participation for suppliers in the simplified billing arrangement;

''(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

''(v) such other safeguards as the Secretary determines are necessary.''.

Subchapter C—Provisions Relating to Parts A and B

PART I—SECONDARY PAYOR

SEC. 7189A. EXTENSION AND EXPANSION OF EXISTING MEDICARE SECONDARY PAYOR REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking ''and before October 1, 1998''.

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking ''12-month'' each place it appears and inserting ''30-month'', and

(2) by striking the second sentence.

PART II—HOME HEALTH AGENCIES

SEC. 7189B. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by inserting ''and before October 1, 1996,'' after ''July 1, 1987'' in subclause (III),

(2) by striking the period at the end of the matter following subclause (III), and inserting '', and'', and

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

''(IV) October 1, 1996, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.''.

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking ''July 1, 1996'' and inserting ''October 1, 1996''.

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

''(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

''(I) costs determined under the preceding provisions of this subparagraph, or

''(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including nonroutine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of medicare patients for the year subject to the limitation. The limitation shall represent total medicare reasonable costs divided by the unduplicated census count of medicare patients.

''(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

''(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

''(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among agencies.

''(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate medicare reasonable cost in a year.

''(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency-specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.''.

(d) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(e) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(f) SUBMISSION OF DATA FOR CASE-MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1998, the Secretary shall require all home health agencies to submit such additional information as the Secretary may deem necessary for the development of a reliable case-mix adjuster.

SEC. 7189C. PROSPECTIVE PAYMENTS.

Title XVIII is amended by adding at the end the following new section:

''PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

''(b) Such a system shall include the following:

''(1) All services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode, the use of services, and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

''(2) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

''(3) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

''(4) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

''(5) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to,

or receive services from, another home health agency within an episode period, the episode payment shall be prorated between home health agencies.''.

''(c) Prior to implementing the prospective system described in subsections (a) and (b) in a budget-neutral fashion, the Secretary shall first reduce, by 15 percent, the cost limits, per beneficiary limits, and actual costs, described in section 1861(v)(1)(L)(iv), as such limits are in effect on September 30, 1999.''.

SEC. 7189D. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: ''In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.''.

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 7189E. ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.

(a) IN GENERAL.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting ''and'' at the end of subparagraph (C);

(2) by striking subparagraph (D); and

(3) by redesignating subparagraph (E) as subparagraph (D).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made on or after October 1, 1999.

SEC. 7189F. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this subtitle shall apply to items and services provided on or after October 1, 1995.

Amend the table of contents for title VII accordingly.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 1374 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

CAMPAIGN FINANCE REFORM

Mr. MCCAIN. Mr. President, today, two of our colleagues on the other side of the aisle, Senators DODD and KERREY, held a press conference endorsing legislation that Senator FEINGOLD and I and Senator THOMPSON and others introduced some time ago. This follows on the heels of an announcement in the other body by Congresswoman SMITH and Congressman MARKEY of Massachusetts and Congressman SHAYS of support for this legislation as well, including announcement by the Speaker of the House that hearings would begin on the issue of campaign finance reform.

Mr. President, I welcome all of these initiatives and support. I believe that the issue of campaign finance reform is one that is very important to the American people and becomes more important almost on a daily basis.

I wish to emphasize, after having been through this issue for a number of years, that if the issue is not bipartisan, then there will be no resolution to the campaign finance reform issue. And I worry sometimes that this legislation may tilt to one side or the other. That is why the Senator from Wisconsin and I have tried to maintain a balance as far as cosponsors are concerned.

If there is one lesson about reform in this body, and reform in the way we do business not only inside the Congress but in the way we conduct our campaigns, it is that any reform must be done on a bipartisan basis. I urge my colleagues who have similar ideas—I understand there are at least about 40 or 50 other campaign reform proposals now floating around—they engage it on a bipartisan basis, in which I and my friend from Wisconsin would be glad to join them.

Mr. President, I yield the floor.

MEASURE PLACED ON CALENDAR—S. 1372

The PRESIDING OFFICER. Pursuant to rule XIV of the Standing Rules of the Senate, the clerk will read S. 1372 for a second time.

The assistant legislative clerk read as follows.

A bill (S. 1372) to amend the Social Security Act to increase the earnings limit, and for other purposes.

The PRESIDING OFFICER. Is there objection to further proceeding?

Mr. LOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the Legislative Calendar.

CAMPAIGN FINANCE REFORM

Mr. FEINGOLD. Mr. President, I would like to strongly associate myself with the remarks of the Senator from Arizona with regard to the recent news on our efforts on campaign finance reform.

Last week, we were extremely pleased to see a bipartisan group in the House essentially agree to introduce the kind of legislation that the Senator from Arizona and I have proposed.

Today, we are also pleased by the announcement of the support by the chairman of the Democratic National Committee and the chairman of the Democratic Senatorial Campaign Committee.

We are not so excited about the fact that these people happen to be leaders in the Democratic Party—that is good—but the more important thing is that it is another sign of the importance and the value of the bipartisan nature of this proposal.

The House proposal last week was bipartisan. Adding these two Senators to this group makes it another significant step in bringing both parties together with regard to this issue. I have been very pleased with the quick response from various Senators on signing on to this bill. Week by week, we have added new people.

I also want to note the editorial endorsements that the Senator from Arizona alluded to. The Feingold-McCain–Thompson bill has been endorsed by the New York Times, the Washington Post, Los Angeles Times, Dallas Morning News, Milwaukee Journal, St. Louis Post-Dispatch, Kansas City Star, Houston Chronicle, Nashville Tennessean, the Boston Globe, and many others. Of course, this was added to last week in addition by the endorsement of Ross Perot, who has indicated a lot of support on this issue.

Today, the addition of the support of Senator BOB KERREY of Nebraska and Senator DODD of Connecticut helps us move in that direction.

It takes about 100 steps to pass this bill. It is a complicated, very controversial bill that has been a knotty problem for the Congress for many years, but I think we have taken about 25 or 35 of those steps already. These endorsements are very important today.

Senator DODD's response at the news conference to the question of, ''Why do you think this bill has a chance of actually passing?'' was right on target. The fact that this bill has Republican and Democrat cosponsors and represents the first truly bipartisan bill, the first truly bipartisan bill in nearly 10 years, automatically makes this effort different, dramatically different than past efforts.

Senator BOB KERREY of Nebraska also made an excellent point about nobody understanding the need for reform better than those of us who are charged with the responsibility of raising these awful amounts of money. So this is progress.

I want to emphasize what the Senator from Arizona did. It is only progress in the context of a continued bipartisan effort. If either party thinks they can gain political advantage by turning this into a partisan issue, all they will succeed in doing is killing this effort.

This effort can win. There is every sign that it will win and that the President would be willing to sign it. With that caveat, with that effort to make sure that this is a continuation of the effort of bipartisanship, I welcome their support, and I look forward to further support from Members on both sides of the aisle.

I thank the Senator from Arizona and the Chair, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FEINGOLD. Mr. President, 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. LUGAR. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. LUGAR. I would like to proceed in morning business, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LUGAR pertaining to the introduction of S. 1377 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LUGAR. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. 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 FOR MEASURE TO BE PLACED ON CALENDAR—H.R. 2492

Mr. LUGAR. Mr. President, I ask unanimous consent that H.R. 2492, the legislative branch appropriations bill, be placed on the calendar when received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE INDEFINITELY POSTPONED—SENATE RESOLUTION 168

Mr. LUGAR. Mr. President, I ask unanimous consent that calendar No. 183, Senate Resolution 168, be indefinitely postponed.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 191, submitted earlier today by Senator MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 191) designating the month of November 1995 as "National American Indian Heritage Month," and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCAIN. Mr. President, on behalf of myself and the following 51 Senators, I am pleased to submit today a Senate resolution to designate the month of November, 1995 as American Indian Heritage Month: BAUCUS, BENNETT, BINGAMAN, BRADLEY, BREAUX, BROWN, BRYAN, BURNS, CAMPBELL, CHAFEE, COCHRAN, COHEN, CONRAD, CRAIG, D'AMATO, DASCHLE, DODD, DOMENICI, DORGAN, EXON, FAIRCLOTH, FEINGOLD, FEINSTEIN, GORTON, GRAHAM, HATCH, INHOFE, INOUYE, JEFFORDS, KASSEBAUM, KEMPTHORNE, KENNEDY, J. KERRY, LAUTENBERG, LEVIN, LIEBERMAN, MIKULSKI, MOSELEY-BRAUN, MURRAY, NICKLES, PELL, PRESSLER, REID, SARBANES, SIMON, SIMPSON, SPECTER, STEVENS, THOMAS, THURMOND, and WELLSTONE.

Since 1982, the Congress has honored American Indians by designating a special day or week to pay tribute to the many outstanding contributions that American Indian tribes have made to our Nation. In the past 5 years, the Senate and the House have jointly designated the month of November as a time to celebrate the unique culture and heritage of American Indian people.

Mr. President, there are 557 federally recognized Indian tribal governments in this country, each with their own distinct language, culture, and traditions. All of us as Americans reap the benefits from many of these tribes' contributions, customs, and teachings.

Many of the principles of democracy that are reflected in the U.S. Constitution were drawn from the governmental traditions of various American Indian tribes, particularly the fundamental principles of freedom of speech and separation of powers in government. Environmentalists embrace the spiritual and practical teachings of Indian people because of their deep-rooted beliefs and reverence for the natural world.

Many of our words in the English language derive from native languages, including those that denote rivers, cities and, counties nationwide. The beautiful art, crafts, and jewelry of American Indian tribes are a distinctive feature of our American heritage.

A wide range of modern medicines and remedies derive from traditional American Indian healing practices that use natural herbs and plants. Indian people have lent important findings to the fields of agriculture, anthropology, astronomy, and other sciences.

In proportion to their share of the overall population, more American Indians have dedicated their lives to the military defense of our country than have any other group of Americans.

The special designation of November as American Indian Heritage Month is equally important as an educational tool for America's children. American Indians and many others utilize this time to share their special cultural heritage with the larger world. Schools, educational institutions, and teachers take advantage of this opportunity to include educational activities and events in their curriculum and school activities that celebrate the many contributions and achievements of American Indians. Federal agencies, various organizations, and private businesses plan activities geared toward educating the public and their employees about American Indian history and culture.

Mr. President, around the Thanksgiving holiday that occurs each November, Americans typically remember a special time in our history when the American Indians and English settlers celebrated and gave thanks for the bounty of their harvests and the promise of new kinships. I think the month of November is, therefore, an appropriate time for America to commemorate and recognize the first Americans.

Therefore, I ask you to join me in this special tribute to the American Indian people of this country. They deserve special recognition for their significant contributions to our great Nation.

Mr. President, I urge immediate adoption of the resolution.

Mr. LUGAR. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 191) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 191

Whereas American Indians were the original inhabitants of the land that now constitutes the United States of America;

Whereas American Indian governments developed the fundamental principles of freedom of speech and separation of powers in government, and these principles form the foundation of the United States Government today;

Whereas American Indian societies have exhibited a respect for the finiteness of natural resources through deep respect for the earth, and these values continue to be widely held today;

Whereas American Indian people have served with valor in all wars from the Revolutionary War to the conflict in the Persian Gulf, often in a percentage well above the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians have made distinct and important contributions to America and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians deserve to be recognized for their individual contributions to American society as artists, sculptors, musicians, authors, poets, artisans, scientists, and scholars;

Whereas a resolution and proclamation as requested in this resolution will encourage self-esteem, pride, and self-awareness in American Indians of all ages; and

Whereas November is traditionally the month when American Indians have harvested their crops and is generally a time of celebration and giving thanks: Now, therefore, be it

Resolved, That the Senate designates November 1995 as "National American Indian Heritage Month" and requests that the President issue a proclamation calling on Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, NOVEMBER 2, 1995

Mr. LUGAR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, November 2; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until 12 noon, with Senators permitted to speak up to 5 minutes each, with the following exceptions: Senator MURKOWSKI is designated for 20 minutes; Senator BINGAMAN for 20 minutes; Senator HATCH for 15 minutes; Senator DASCHLE, or his designee, for 30 minutes; Senator THOMAS for 30 minutes; Senator MCCONNELL for 10 minutes and Senator ROCKEFELLER for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LUGAR. Mr. President, for the information of all Senators, at approximately 12 noon on Thursday, it will be the intention of the majority leader to turn to consideration of S. 1372, regarding the Social Security earnings limit. Also, the majority leader has indicated the Senate may consider the legislative branch appropriations bill during Thursday's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LUGAR. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:06 p.m., adjourned until Thursday, November 2, 1995, at 9:30 a.m.

EXTENSIONS OF REMARKS

THE COMPREHENSIVE LONG-TERM-CARE ACT OF 1995

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. PETERSON of Florida. Mr. Speaker, in recent weeks, much has been said in this Congress about deficit reduction. Integrated into the debate on balancing the Federal budget is the fate of two of the most important social programs this Nation has ever created: Medicare and Medicaid. Tens of millions of Americans rely on at least one of these programs, and in many cases both, to meet even their most basic health care needs.

Unfortunately, the skyrocketing cost of health care in this country, coupled with America's changing demographics, has caused a dramatic and unsustainable growth in the cost of these programs. It is simply indisputable that we can never make more than a dent in the budget deficit facing our children unless we seriously address reform of our health care system. Clearly, Medicare and Medicaid need reform now.

Some in this Chamber seem to believe they have a quick and easy solution to the problems confronting these programs. However, many of us here in this body understand in our hearts that there is no easy solution. Our choices are difficult, and many are politically unpopular. Simply making draconian cuts in Medicare in order to meet arbitrarily chosen budget targets is not sound policy, nor is packaging Medicaid up into a block grant and shipping it off to the States.

For this reason, I am today introducing the Comprehensive Long-Term Care Act of 1995. This bill compliments H.R. 2071, the Health Care Improvement Act, which I introduced in July of this year. That bill, which makes sensible reforms to the American health care system and the acute care side of Medicaid, currently has 14 cosponsors.

The Long-Term Care Act makes bold reforms to the long-term care side of Medicaid by adding a new home- and community-based program, and expanding eligibility those with incomes up to 100 percent of the Federal poverty level. The nursing home and institutional portion of the Medicaid Program will be similar to the current Medicaid Program, with eligibility expanded to those with incomes up to 100 percent of poverty. Also, improvements are made with regard to the financial and disability eligibility determination criteria for all beneficiaries, as well as in the asset spend-down protections and personal needs allowance.

Importantly, this bill also contains unprecedented tax relief for the purchase of private long-term care insurance. Under the Comprehensive Long-Term Care Act, private long-term care insurance premiums are tax-deductible, and employer-provided long-term care insurance is excluded from an employee's taxable income. And funds drawn from a retiree's IRA or 401(k) trust plan that are used for the purchase of long-term care insurance will not be subject to taxation. These bold changes will go a long way toward lowering future Federal expenditures on public long-term care programs by ensuring that the number of Americans with private long-term-care insurance is greatly expanded.

These incentives for the purchase of private long-term care insurance assure that public funds for Medicaid are directed at those who need them the most—those who cannot afford to pay for themselves. The new State funding distribution formula will also ensure that every State receives an equitable amount of Federal funding based on the State's number of eligible beneficiaries and ability to match the Federal share.

It is my hope that the introduction of this bill will help move the debate about how to lower the cost of Medicare and Medicaid in the direction of serious reform—not arbitrary cuts. I encourage my colleagues to join me in this effort.

TRIBUTE TO RICHARD C. BRAMWELL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. TOWNS. Mr. Speaker, I am pleased to recognize the accomplishments and contributions of Richard Bramwell, president, CEO, and cofounder of Shinda Management Corp., a Queens-based real estate management company.

Mr. Bramwell is directly responsible for building a business that employs in excess of 40 employees. His company provides management and accounting services for over 3,000 residential apartment units. Shinda Management Corp. has specialized in the management of large multifamily housing developments, and has developed a stellar reputation as specialists in workout and other distressed properties.

Mr. Bramwell earned a bachelor's degree from Hofstra University and is a New York State real estate broker. He is a certified public housing manager and a member of the New York Association of Realty Managers and the National Association of Housing and Redevelopment Officials. I am pleased to highlight the accomplishments of Mr. Richard Bramwell.

A TRIBUTE TO JOE J. WEBB

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. HAMILTON. Mr. Speaker, I rise to pay tribute to Joe J. Webb for his leadership and commitment to Indiana's electric cooperative industry as he concludes his tenure as president of the Indiana Statewide Association of Rural Electric Cooperatives, Inc.

In December Mr. Webb will complete his second year as president of the Indiana Statewide Association. He has had a long and distinguished career with Indiana's electric cooperative industry. He has been a member of the Clark County REMC board since 1973 and a director of Indiana Statewide since 1988. He served as the association's's secretary-treasurer from 1989 to 1991 and as its vice president from 1991 to 1993.

Mr. Webb is dedicated in all his efforts to the betterment of rural Indiana and has made a difference in the lives of those in his community and throughout the State. He is charter president and lifetime member of the New Washington Optimist Club. He is past elder and member of the board of trustees for the Trinity United Presbyterian Church in New Washington. He participates in a number of events which benefit local charities and is especially proud of his work for the Center for Lay Ministries in Jeffersonville. The center offers a food pantry for the needy and provides vouchers for people who cannot pay their bills.

Joe Webb has been a leader and a model citizen. He is richly deserving of the praise and recognition of his fellow Hoosiers.

PRESIDENT CLINTON AGREES WITH REPUBLICANS ON CRACK COCAINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. SOLOMON. Mr. Speaker, after 3 years President Clinton finally did something right in the war on drugs. Yesterday he signed into law legislation denying the Sentencing Commission's recommendation on crack cocaine. President Clinton reaffirmed that offenses involving crack cocaine deserve more severe punishment than those involving powder cocaine.

Failure to reject the Sentencing Commission's proposal would have led to an increase in the use of crack and an increase in the number of people addicted to crack cocaine. Today in the United States, according to the Partnership for a Drug Free America, one out of every 10 babies born in the United States is born addicted to drugs, and most are addicted to crack cocaine.

I agree with some of what has been said about the equal treatment of crack and powder cocaine, but instead of lowering the penalties for crack offenses, as the Sentencing Commission proposes, we should simply increase the punishment for powder offenses to the same level as crack cocaine.

In the 1980's, the crack epidemic devastated American cities, causing the twin problems of addiction and drug-dealing crime. Crime skyrocketed between 1985 and 1990,

the years crack was introduced. In fact, violent crime went up 37 percent in 1990 and aggravated assaults increased 43 percent. Because of crack cocaine, more teens in this country now die of gunshot wounds than all natural causes combined.

The Congress, in the 1980's, reacted properly to the crack epidemic gripping vulnerable inner-city communities. We saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine. This time President Clinton did the right thing and decided that crack offenses ought to be punished more severely than powder offenses because of the increased violence and crime associated with crack.

TRIBUTE TO SENECA COUNTY 4–H CAMP

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to a group of volunteers who unselfishly contributed their talents to the Seneca County, Ohio 4–H Camp this past August.

The time and effort required to run a successful 4–H camp is immense. The staff and senior counselors worked long hours and made great sacrifices for the benefit of the community. In particular I would like to recognize senior counselors Joann Piper, Kim Reinhart, Holly Wright, Melissa Lambert, Mike Rainey, and Jeremy Harrison and staff members Ann Golden, Cathy Margraf, Brad Boes and Christa Gittinger. Together they created an exceptional educational opportunity for Seneca County.

I have often spoken to my colleagues here in the House of Representatives about the strength of character that can be found in the cities of northwest Ohio. A strong 4–H club is a source of deserved pride for those who participate and is an invaluable part of the community.

I ask my colleagues to join me today in honoring these individuals for their efforts and commending them on the wonderful example they have set for others.

TRIBUTE TO WILLIAM GUARINELLO

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Ms. MOLINARI. Mr. Speaker, tonight, Wednesday, November 1, 1995, a special event will take place in New York City. Mr. Guarinello, a Brooklyn resident, is celebrating his 25 years of service with HeartShare.

Mr. Guarinello is responsible for current HeartShare services and new program development. He works with city, State, and Federal officer, voluntary agencies, and community organizations in making services available and accessible to people in need of help. Under his leadership HeartShare has been accredited by the Council on Accreditation of Services for Families and Children, Inc. This highly respected rank is held by less than 10 agencies in New York City, and only about 650 organizations in the United States and Canada.

In addition to his executive role with HeartShare, Mr. Guarinello is chairman of Brooklyn's Community Board 11. He volunteers his leadership experience to many organizations, including the Interagency Council of Developmental Disabilities Agencies; Brooklyn Boro Wide Council; New York State Council of Voluntary Family and Child Care Agencies; National Conference of Catholic Charities; and National Council of Family Relations.

He is a frequent speaker on urban family issues before civic and business groups, and colleges and universities. He has often been interviewed by the media on children and family developments, including a feature by Crain's New York Business.

Mr. Guarinello is a graduate of The Institute for Not-for-Profit Management, Graduate School of Business at Columbia University, and was awarded a Certificate of Completion in Financial Management from the Wharton School, University of Pennsylvania. He received an A.A. in Psychology from St. Francis College, and an M.S. degree in Counseling Psychology from Southeastern University.

Mr. Guarinello has made great contributions to his community and our country. His civic-minded approach has added to a better quality of life in our neighborhoods. Together, with the Board of Directors, staff, clients, friends, and family, I congratulate Mr. Guarinello for his 25 years of service and dedication to the Brooklyn community.

TRIBUTE TO CARMEN A. PACHECO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. TOWNS. Mr. Speaker, it is my pleasure to introduce to my colleagues, Carmen A. Pacheco, a native of Brooklyn. She is the founding member of Pacheco & Lugo, Attorneys at Law, the first Hispanic women-owned law firm in New York.

Ms. Pacheco has an impressive academic portfolio. She received her law degree from St. John's University School of Law, and her bachelor's degree from City University of New York.

Her varied professional career includes work as an attorney on Wall Street. Ms. Pacheco has amassed considerable expertise by providing corporate services to multimillion and billion dollar companies such as Transamerica, and the United States Trust Company of New York to name a few. Carmen is a multitalented professional who takes immense pride in her work.

Ms. Pacheco has been lauded for her professional and community work. She is active in the New York State Bar Executive Committee Association on Federal and Commercial Litigation. She is also a member of the Puerto Rican Bar Association, and the Hispanic National Bar Association. It is my distinct honor to recognize Ms. Pacheco for her sterling contributions.

INCOME INEQUALITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. HAMILTON. Mr. Speaker, I am inserting my Washington Report for Wednesday, November 1, 1995 into the CONGRESSIONAL RECORD:

INCOME INEQUALITY IN AMERICA

Over the past several years it has become clear that we have an economy in which income inequality has been worsening—the rich in America have been getting richer and the poor have been getting poorer. The figures are worrisome, but what is even more worrisome is that the current budget proposals moving through Congress would aggravate this trend.

GROWING INEQUALITY

Certainly there is nothing wrong with some people making more than others based upon different levels of work and skill. But in recent years the U.S. has become one of the most, if not the most, economically stratified of all the industrialized nations. The gap between the rich and the poor in the U.S. is well above that in Canada and Britain and twice as bad as in Germany.

After years of little change, income inequality since the 1970s has gotten progressively worse. Those in the bottom fifth have seen no improvement at all; indeed their real family income is slightly lower than it was 25 years ago. A recent study found that a larger proportion of children in the U.S. are poor than in the other industrialized nations. Meanwhile, people at the top have done very well. More than three-quarters of the additional income generated during the 1980s went to the top 20% of families. The top fifth now receives half of total household income, a record high. Twenty years ago, for example, a corporate CEO's income was 35 times greater than his average worker's income; today it is 150 times greater.

Many factors may have been involved in this trend of growing income inequality—technology in the workplace, lagging productivity, changing labor markets, international trade, the 1980s tax cuts for well-to-do Americans, and the rise in the stock market—and we can debate which of these factors are the most important. But what is beyond debate is whether this basic shift has occurred.

GINGRICH BUDGET PROPOSALS

Yet against this backdrop the budget plan put forward by House Speaker Newt Gingrich would make this trend worse—giving more to the rich and taking away more from moderate-income Americans.

The majority of the Gingrich tax cuts would go to families making over $100,000 a year. His tax plan, for example, makes deep cuts in capital gains taxes for the well-to-do. At the same time, 50% of his spending cuts for individuals would come from programs for the bottom fifth. Deep cuts are made in health and nursing home care for the elderly; student loans and veterans benefits are scaled back; and reductions in the Earned Income Tax Credit mean a tax increase that hurts low-income workers.

Particularly worrisome is that Speaker Gingrich wants to cut deeply not just health but also education and training programs—the very programs that mean greater opportunity and help those on the lower rungs of society get a leg up and improve their future job and income prospects. Most economists would agree that what we should be doing now is increasing programs for youth job

training, student loans, school-to-work transition, vocational and adult education, and the like—but these are targeted for deep cuts by Speaker Gingrich.

LOOKING AT OVERALL IMPACT

Certainly some aspects of the Speaker's budget package are reasonable. Reducing the deficit and bringing the budget into balance is clearly a good idea, and several of the specific items in his overall package make sense, such as selling off unneeded government assets and trimming congressional pensions.

I also don't want to suggest that we should be anti-rich or that we should protect every program for the poor. Various federal programs, no matter how well intentioned, have not worked, and we need to recognize that they need to be dropped or overhauled.

Taken one by one, some of the Gingrich proposals do make sense and can be supported. But we need to look at the overall impact of his budget and tax policies taken as an entirety. The clear impact is to give more to those who already have a lot and to take away from struggling Americans. That simply doesn't make sense. It calls into question the basic fairness of government policy and aggravates one of the most worrisome trends in recent decades—the growing income inequality between rich and poor.

CONCERNS ABOUT INCOME INEQUALITY

This trend of worsening income inequality is a concern for several reasons.

First, it is divisive. When the gap between rich and poor grows too wide and increasing numbers of people feel that America is no longer a land of opportunity for them, the social fabric of the country is at risk. Those at the bottom may begin to feel they have less of a stake in our society's continuance. Some have called the growing income inequality the greatest threat to America's well-being. Second, it hinders economic growth. As those less well-off get poorer and fall father behind, that reduces their access to education and training and their opportunities for improvement. And that in the end means that the nation as a whole is worse off because growth of the U.S. economy is held back by a less qualified workforce. I frequently hear from Hoosier businesses that inadequately trained and educated workers are a major impediment to growth and increased profits. Third, abandoning those less well-off just isn't what America should be about. One of the things that impressed me most about the Pope's recent visit to the U.S. was his challenge to Americans to be more concerned about the poor. He wanted to know if America is becoming less sensitive and less caring toward the poor, the weak, and the needy—in short, less fair.

CONCLUSION

President Clinton has vowed to veto the Gingrich proposals in their current form, so there is some hope that they can be moderated and the burdens and benefits shared more fairly. Our government should help upper-income people do better but it should also help lower- and moderate-income people do better too. Our nation's strength does not lie just in the top 1% or 5% or 10% of Americans but in the top 100% of Americans. Every American should have an equal chance at the starting line. We need to ensure the traditional American promise that hard work will be rewarded, opportunity will be promoted for all, and mobility to move up the ladder will be sustained. That is what is right for America and its future.

THE UNITED NATIONS: 50 YEARS OF MISMANAGEMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. SOLOMON. Mr. Speaker, it has come to my attention that the United Nations has been spending money more carelessly than even the spend thrift Democratic Congresses of the past 40 years. The United Nation's own inspector general has found $16 million in waste and fraud in this not-so-venerable organization.

In addition to the waste and fraud, the United Nations heaps lavish salaries and perks on its employees. The average computer analyst at the United Nations, for example, makes $111,500 per year, has 30 days paid vacation, receives a generous housing subsidy, and an education grant of $12,765 per child tax-free. In addition they receive the most unbelievable pension I have ever heard of: Employees contribute 7.9 percent of their salary, while the United Nations kicks in another 15.8 percent. The pension plan can give entry-level staffers who work for 30 years nearly $2 million.

For some perspective, Mr. Speaker, the average computer analyst in the New York area makes a whopping $54,664 less than his U.N. counterpart, with 12 days less vacation, and of course, no housing subsidy nor education grant. And to be candid, Mr. Speaker, the non-U.N. computer analyst probably works a lot harder. Why? Because the analyst in the private sector is determined to make a profit.

The United Nations will have a much easier time obtaining payments from hard-working American taxpayers once their salaries are made comparable to those in the real world. I would like to insert into the RECORD a recent article in Money magazine that discusses the cushy life of U.N. staffers.

IT'S THE U.N.'S 50TH BIRTHDAY, BUT ITS EMPLOYEES GET THE GIFTS

For months, the United Nations has been celebrating its 50th anniversary—the actual date is Oct. 24—even as many Americans are blasting the organization for being a colossal waste of money. Critics might be even more disgusted if they knew just how much the U.N. spends to pamper its 14,380 employees, roughly one-third of whom work in New York City. In addition to their pay, which is free of all taxes, and lavish perks (see the table at right), U.N. workers have a generous pension plan: All staffers contribute 7.9% of their salary, while the U.N. kicks in another 15.8%. That means many entry-level U.N. staffers whose pay rises only as fast as inflation can retire in 30 years with $1.8 million, assuming that the pension fund earns around 8% annually, according to Michael Chasnoff, a Cincinnati financial planner. At a 4% inflation rate, that's $558,533 in today's dollars. (Employees may take a lump sum or annuitize.)

Here's the icing on the birthday cake: Shielded by diplomatic immunity from niggling local laws, high-ranking U.N. officials enjoy what many New Yorkers consider the best perk of all: free parking.

TAKE A LOOK AT THE CUSHY LIFE OF U.N. STAFFERS

[The table below compares the annual salary and benefits of a New York City-based U.N. employee with kids to those of his non-U.N. counterpart.]

Job	Salary	Vacation	Housing subsidy	Education grant
U.N. mid-level accountant.	$84,500	30 days	80% of rent payments exceeding 26% of salary.	$12,675 per child tax-free
Average mid-level accountant.	41,964	16 days	None	None
U.N. computer analyst.	111,500	30 days	80% of rent payments exceeding 26% of salary.	12,675 per child tax-free
Average computer analyst.	56,836	18 days	None	None
U.N. Assistant Secretary-General.	190,250	30 days	80% of rent payments exceeding 26% of salary.	12,675 per child tax-free
New York City mayor.	130,000	Not specified	Housing provided by New York City.	None
U.N. Secretary-General.	344,200	Not specified	Housing provided by U.N.	12,675 per child tax-free
U.S. President.	200,000	Not specified	Housing provided by the federal government.	None

TRIBUTE TO SHERIFF DAVID GANGWER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding law enforcement officer and citizen of Ohio. On November 15, 1995, Sandusky County Sheriff David G. Gangwer will be sworn in as president of the Buckeye State Sheriff's Association. This selection is a tribute to all the talent, intellect, and hard work that have made Sheriff Gangwer an outstanding police officer and a tremendous example to others.

In a time when Americans are deeply concerned about the effects of crime on our society, we owe a special debt of gratitude to people like David Gangwer who have bravely served on the front line in the fight against crime. Sheriff Gangwer has demonstrated a remarkable dedication to performing his duties and obligations with the utmost efficiency and competence. As sheriff, he has placed the wellbeing and safety of the community above all else.

Time and time again, Sheriff Gangwer has been willing to take on the tough problems. His fight against drug abuse has won accolades from all quarters. He has received commendations from Ohio's Lieutenant Governor, the Veterans of Foreign Wars, and the U.S. Department of Justice for his outstanding contributions to law enforcement and his pioneering efforts in educating children to the perils of drug abuse.

I can think of no better message to send than drug abuse prevention. I have often said that the best way to stop alcohol and drug abuse is through education. When all of our children get the message about the evil of drugs, America's future will be safer.

I ask my colleagues to join me in paying tribute to Sheriff Gangwer's record of personal accomplishments and wishing him well in his position of president of the Buckeye State Sheriff's Association.

IN RECOGNITION OF NATIONAL ALZHEIMER'S DISEASE AWARENESS MONTH

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. QUINN. Mr. Speaker, I rise today on the 1st of November to recognize National Alzheimer's Disease Awareness Month.

Alzheimer's is a neurological disorder that affects nearly 2 million Americans and is one of the primary causes of mental illness in the elderly. The affects of Alzheimer's disease increase significantly with aging. Nobody is immune to Alzheimer's, nor can anyone reduce their odds of acquiring it. All Americans are at risk.

Demographic projections indicate that the number of Alzheimer's cases is expected to rise exponentially during the next several decades. The current number of Americans age 65 and over with Alzheimer's is 33.6 million, but this statistic is expected to increase to 70.2 million by the year 2030.

The course of the disease is progressive and irreversible, beginning with simple forgetfulness, followed by noticeable and severe changes in memory and personality. Eventually, victims of Alzheimer's cannot care for themselves, and life expectancy is usually reduced. Although this disease was first discovered in 1906 by the German physician Alios Alzheimer, the exact cause of the disease is unknown.

Researchers are aggressively attempting to find out what causes Alzheimer's and how to effectively diagnose, treat, and prevent this disorder. One emerging consensus among the scientific community is that a principle goal of research efforts should be aimed at delaying the onset of symptoms of aging-dependent disorders such as Alzheimer's disease. The National Institute on Aging [NIA] of the National Institutes of Health [NIH] is the Federal Government's lead agency for Alzheimer's research.

Mr. Speaker, I urge all of my colleagues to join with me in support of the efforts to overcome this devastating disease.

H.R. 2566—THE BIPARTISAN CAMPAIGN FINANCE REFORM BILL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. CARDIN. Mr. Speaker, I am very pleased to be an original cosponsor of this bill and part of a true bipartisan effort to reform the way campaigns are financed. Such a complex issue can only be responsibly addressed in a bipartisan fashion. We, the Members of the 104th Congress, have an opportunity to stop the erosion of public confidence in our democratic system.

The skyrocketing cost of congressional campaigns, the influence of special interests through large contributions and political action committees [PAC's], and the advantage of incumbency in raising campaign funds in elections must be addressed. This bill addresses all three issues.

This bill is strong reform. It places firm but reasonable limits on the amount of money candidates can spend on campaigns. In addition, it bans soft money and leadership PAC's and deals responsibly with independent expenditures. Furthermore, it encourages small, individual contributions.

I am, however, opposed to one part of this proposed legislation. There should be parity in the restrictions imposed on large contributions and PAC contributions. Instead, this legislation bans PAC contributions but allows large contributions to finance up to 25 percent of a candidate's campaign. In the spirit of bipartisanship, PAC contributions should be treated similarly to large contributions. Perhaps the most important message we could take to the American people is that we have a bipartisan bill. By treating large individual contributions differently from PAC contributions, we lose that message. I hope that as this legislation proceeds throughout the Congress, we will address this disparity. I am convinced that once this inequity is resolved, the bill will receive even stronger support.

Mr. Speaker, I urge my colleagues to carefully review this legislation. I know that once they do, they will agree that this type of bipartisan effort is the only way to achieve real campaign finance reform.

TRIBUTE TO JEFFREY ZIFF

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. TOWNS. Mr. Speaker, Jeffrey Ziff of my district has distinguished himself as a member of the community and a practitioner in the legal field. He attended Fordham Law School and has served for many years as an arbitrator in the small claims court in Kings County, NY.

Mr. Ziff has been a pioneer in the field of vehicle and traffic law in New York City, and his expertise has proven to be especially helpful to immigrants when they have had to contend with State and city agencies.

A former teacher in the New York school system, he received his Teacher of the Year Award during his teaching tenure from 1968–1971 at P.S. 138 in district 17, in Brooklyn. Mr. Ziff and his wife reside in Brooklyn. The borough of Brooklyn has been enriched by his contributions.

REMARKS OF EDWARD H. RENSI, PRESIDENT/C.E.O. MCDONALD'S U.S.A.

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. PASTOR. Mr. Speaker, the other night I had the opportunity to attend the National Hispanic Corporate Council Institute's 10th year anniversary dinner. The featured speaker of the evening was Edward H. Rensi, the president and chief executive officer of McDonald's U.S.A. I found his remarks insightful, and I would encourage my colleagues to take the time to read what one of our Nation's top business leaders has to say about the benefits of diversity in today's economy.

NATIONAL HISPANIC CORPORATE COUNCIL INSTITUTE—10TH ANNIVERSARY

(By Edward H. Rensi)

On behalf of the McDonald's family, I want to congratulate the National Hispanic Corporate Council on its ten-year anniversary; thank you for your outstanding record in bridging the private sector with the Hispanic market; and we applaud your foresight in establishing the NHCC Institute. We are proud to be a charter member of the organization and look forward to partnering with you to fulfill the mission of NHCC for many years to come.

I also want to thank you for honoring one of our own—Olga Aros. The McDonald's family knows what a special lady Olga is and how passionately she champions issues of concern and interest to the Hispanic community. And it is gratifying to see that an organization of your stature recognizes her commitment and dedication as well. So Olga, congratulations from all your McFamily.

I want to discuss with you today one of the most important strategic business tools that corporate America has at its disposal to build new business. That tool is diversity.

I want to tell you how we define diversity at McDonald's,

How we use it as a business-building tool,

And what each of us must do to ensure it remains a building block of our society just as the founding fathers affirmed equality into our Constitution and Bill of Rights. This is an issue of business, society and morality.

We find ourselves at a crossroads in our country's history. At a time when people of different backgrounds and cultures play an increasingly important role in all aspects of our society, there are those who would turn the clock back. And I find that unconscionable and divisive. It runs counter to everything that our experiences at McDonald's have taught us and runs counter to my personal experiences. I'm proud of my Italian family and admire their hard work and self-determination. They built a better life in America. I know you feel the same way about your families. That concept of diversity—of many different people contributing to the common good—is what this country is all about. And when I hear people say that we should all speak one language, that we should not teach cultural history in the schools or our homes, I find that extremely disturbing. To deny our multi-cultural heritage is to deny history and forfeit our future.

Social and market diversity are what makes this country great. And if you don't believe that, just try to imagine jazz, rhythm and blues without African-Americans; Tejano music without Mexican-Americans; or salsa without the blending of the Americas.

I realize that I may be preaching to the choir. You wouldn't be here today if you weren't already believers in the value of diversity. The people I really want to talk to are those who are not here today. And what I would tell them is that they are missing out on a great opportunity to align themselves with an ever-changing marketplace, of which the Hispanic market is one of the most dynamic. Say what you will about affirmative action, immigration, bilingual education and other issues. At the end of the discussion, no company can ignore a market that is 30 million people strong with an annual purchasing power approaching $300 billion. Those are numbers that represent value and opportunity and that no company can ignore if they expect to remain competitive.

Let's talk, then, about the many roles of diversity at McDonald's.

Diversity at McDonald's is a tool that we use to strengthen our position as a global industry leader. Diversity plays a major role in our company's growth, and by integrating diversity throughout our business, we are able to more effectively build market share, customer satisfaction and profitability. As our society changes, we must incorporate the diversity of our customers into every facet of our operations.

Diversity is not just the right thing to do, or the altruistic thing to do—it's the smart and business thing to do. If we can't rationalize diversity in our organizations on the basis of moral justification, on the basis of the Bill of Rights, or employee satisfaction, then we better rationalize diversity on the basis of economic growth.

At McDonald's, we serve a diverse group of customers who demand a diverse menu of products. And we understand that if we want to win the business of those customers, we have to provide more than just great hamburgers and world class fries: we have to reflect the image of our diverse customers in everything we do—from staffing to marketing, franchising, business partnerships, and community involvement. Because if we don't look like our customers, talk like our customers and understand our customers, our customers will become someone else's customers. It's that simple.

At McDonald's, diversity goes beyond race and gender. It means valuing and accepting unique abilities, perspectives, talents, backgrounds, and experiences. It means providing all individuals the opportunity to reach their full potential while contributing to the achievement of our corporate goals. And that all comes together, it makes McDonald's richer both financially and culturally.

The story of how we have incorporated diversity into our competitive arsenal is one we are especially proud of. We have institutionalized concepts and curriculum like ''managing diversity,'' which teaches that specific skills are utilized and policies created that get the best from every employee. And education like ''valuing differences,'' which places an emphasis on the appreciation of differences and creates an environment where everyone feels valued and accepted. These are simple, basic concepts that we've had in our corporation many years, and that support our business goals.

Let me tell you how these practices have worked for us in building marketshare:

We've established a network of Hispanic owner/operators that has made us the undisputed quick service restaurant of choice with Hispanic consumers. And if you take the combined revenues of those franchisees—more than $600 million—it would comprise the largest Hispanic company in the country.

We were one of the first companies to advertise on Spanish-language television some 25 years ago, and remain the largest single-brand advertiser today. And we will continue to do so because it sells hamburgers.

We're proud of our Hispanic managers at all levels of the organization. They provide us with a broad range of life experiences and opinions that builds our business not only here but abroad.

We buy hundreds of millions a year in goods and services from Hispanic firms—because they're the best in the field and they reflect our customers.

And the entire McDonald's family of employees, franchisees, suppliers, the company and Ronald McDonald Children's Charities helps prepare the workforce of tomorrow through the RMCC/HACER [Hispanic American Commitment to Educational Resources] Scholarship Program. HACER is one of the largest Hispanic scholarship programs in the country with more than $2.4 million awarded since 1985. Just recently, RMCC acknowledged the good work of HACER with an additional $1 million matching grant.

These are just a few of the numbers that exemplify our commitment to diversity and the success of that strategy. But what's more compelling are the human stories of Hispanic men and women within our system whose diverse backgrounds and perspectives contribute to our growth.

People like Eduardo Sanchez, who started as a restaurant crew member 20 years ago and was recently appointed to oversee operations throughout Latin America and the Caribbean.

People like franchisee Jose Canchola, who not only operates four restaurants with his family and is the former mayor of Nogales, but for the last 18 years has hosted an annual Christmas party for 2,000 underprivileged Mexican children.

And people like Lupe Velasquez, who serves in the non-traditional female role of director of construction and helps to plan and build four to five hundred restaurants every year.

These are the kinds of people who make McDonald's great. With stories and successes like that, it's hard to understand why anyone would question the value of diversity. There are many, many other examples of achievement, dedication and pride that put a special shine on our arches and we're proud of them all. Their stories speak well to the fact that McDonald's is an employer of opportunity.

So what is our role—what can each of us do to assure that we leverage and maximize diversity for the benefit of our entire country. I have three thoughts:

First, we must speak up and speak out for diversity. We must reaffirm our commitment and assume the responsibility of leaders. We know that erecting barriers between people is not what this country is all about. The kind of divisiveness that I see cannot go unanswered. We must all do our part to share our success stories and our triumps, and erase the spirit of negativity that is taking hold.

Second, we must all make a personal commitment to do more. I've made a commitment on behalf of myself and McDonald's by agreeing to chair the NHCC Institute during its formative year because I believe in what it stands for and what it can do. I ask each of you to find a role you can play—either within your own company, your own community, or your own industry. And I should not need to remind you that this is no time for any company to retreat from its investment in the Hispanic market.

And last, we must all set an example—to our employees, other companies, and the community at large. Let's all step forward, set the pace and provide leadership and inspiration for others.

The time has come for us to stand together to turn the tide. Do we continue to construct new barriers, erase hard-fought accomplishments, or do stand up and say enough is enough? McDonald's is one company that is willing to step forward and say we believe in diversity, we will practice diversity in all we do, and we need diversity to build market dominance.

I can assure you with every confidence that to follow that course will serve the best interests of our companies, our communities, and ultimately our country.

Thank you very much. (Muchas Gracias).

TRIBUTE TO M. ANN BELKOV

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Ms. MOLINARI. Mr. Speaker, on Saturday, November 4, 1995, a special event will take place in New York City. Hundreds will gather at Ellis Island to honor M. Ann Belkov, National Park Service Superintendent of the Statue of Liberty National Monument and Ellis Island. It is my pleasure to thank her for her stewardship of these unique American monuments, the crown jewels of our Nation's history and eternal symbols to all the world of our promise.

Ms. Belkov, a Staten Islander, is retiring after three-and-a-half decades of distinguished service with the National Park Service and the U.S. Department of the Interior. The granddaughter of four Ellis Island immigrants from Russia and Poland, Ms. Belkov has brought her heritage and her experience in culture park management to the place where millions of immigrants arrived on our shores to seek freedom and opportunity.

Her career in recreational and historic park management includes superintendencies of Jean Lafitte National Historical Park and Preserve in New Orleans, LA and Chickamauga-Chattanooga National Military Park in Georgia and Tennessee.

She was chief of interpretation and visitor services at the National Visitors Center in Washington, DC., chief of recreation at the Golden Gate National Recreation Area in San Francisco. In 1994, she represented the United States to the Australian Department of Conservation and Land Management and a fellow at Edith Cowan University in Perth.

National parks and historic monuments preserve our Nation's natural wonders and its great past. Ms. Belkov has made many important contributions to the people of our Nation and visitors from throughout the world. She is an outstanding citizen and humanitarian, one who has the esteem and respect of the National Park Service, the great State of New York and the United States of America. We can accord her patriotism, love of country, loyalty, professional capabilities and her commitment and dedication to duty no greater tribute.

AMENDMENT ESTABLISHING THE POSITION OF AIRCRAFT NOISE OMBUDSMAN

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, today the Transportation and Infrastructure Committee, of which I am a member, passed the Franks amendment to H.R. 2276, the Federal Aviation Administration Revitalization Act of 1995. My amendment would establish the position of aircraft noise ombudsman within the Federal Aviation Administration [FAA].

The idea of an aircraft noise ombudsman is long overdue. In my home State of New Jersey, the FAA has either arrogantly dismissed or totally ignored the pleas from my constituents for relief from intolerable aircraft noise.

After the Expanded East Coast Plan [EECP] was implemented by the FAA in 1987, it took years for the FAA to even react to the significant increase in aircraft noise over New Jersey that resulted from their policies. The adoption of my amendment would ensure that the American people have an advocate in the FAA bureaucracy who will represent the concerns of residents affected by airline flight patterns.

This amendment also gives citizens someone to turn to should they have a comment, complaint, or suggestion, dealing with aircraft noise. As the experience in New Jersey demonstrates, the FAA views the real concerns of constituents regarding aircraft noise as nothing more than a minor inconvenience. For example, when the FAA was flooded by telephone calls from irate citizens after the EECP was implemented, their response was to belatedly install an answering machine on a single telephone line which was constantly jammed and to which citizens were unable to get through. The arrogance and insensitivity of this agency can no longer be tolerated. Our constituents deserve to talk to a real, live human being who can answer their questions about the decisions that directly affect their quality of life.

Furthermore, by requiring that the ombudsman be appointed by the FAA Board, and not by the Administrator, Congress will ensure that the position is filled by a fair and independent individual, and not simply by a mouthpiece for the FAA bureaucracy. The days of the FAA turning a deaf ear to the very people who pay their salaries are over.

Mr. Speaker, my amendment is extremely important to the people of New Jersey and to the residents of any area that could find themselves severely impacted after the FAA announces a change in flight patterns. After suffering for nearly a decade from a constant barrage of aircraft noise, my constituents have lost all faith in the FAA. As this committee takes a leadership role in restructuring the FAA, it is vitally important that Congress take steps to restore public confidence in this agency by giving citizens a voice inside the FAA. If any of my colleagues doubt the level of ire and disgust the FAA has earned over their mishandling of this issue, I encourage them to attend the November 9, Aviation Subcommittee hearing on aircraft noise in New Jersey.

Mr. Speaker, I am pleased that my amendment passed the Transportation and Infrastructure Committee earlier today by voice vote, with Members on both sides of the aisle, including the distinguished ranking minority member from Minnesota [Mr. OBERSTAR], speaking in support. I urge all my colleagues to support the Franks amendment to H.R. 2276 by becoming a cosponsor of this important bill.

REINSTATE EMERGENCY UNEMPLOYMENT COMPENSATION

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. RAHALL. Mr. Speaker, I have introduced legislation today to reinstate the emergency unemployment compensation program.

In 1993, we were able to pass two extensions of unemployment benefits for the long term unemployed. Thousands of people were exhausting their benefits each month, and when they lost their benefits, these American workers also lost any chance of further retraining and education. Mr. Speaker, we passed the benefits to forcibly pull our Nation out of the recession of the late eighties and early nineties.

Well, Mr. Speaker, I have news for some of my colleagues; unemployment is not over for every body. By not passing another extension in 1993, we removed a vital safety net for our chronically unemployed workers. I have been contacted by a number of coal miners in my home State of West Virginia, miners who for years had worked in the mines, only to see their jobs disappear.

One miner wrote to me saying, "My unemployment has run out. I need a way to support my family. I'm 54 years old and I am not asking for a handout or welfare. I'd like to have a job, I am tired of being out of work * * * extending unemployment benefits would help since it takes so long to find a job."

Another worker, who is attending a transition class at a vocational school, wrote to me to request an extension of unemployment benefits. This worker was not asking for a handout, he was asking for a helping hand so he could finish his class, find another job and continue supporting his family.

West Virginia coal has fueled this Nation's economy for over a century. Now, as we move into the 21st century, when a mine closes, often times the mine never reopens. Generations of miners must be retrained with new skills, and that Mr. Speaker, takes time, sometimes longer than the 26 weeks the State provides in unemployment benefits.

The legislation I have introduced today is straightforward. The bill will extend unemployment benefits for workers who have exhausted their State provided benefits for a period of 20 to 26 weeks, depending on each State's unemployment rate. It is funded through emergency funding provisions within the Budget Act because for any family with a long-term unemployed member, every single day without a job or paycheck is an emergency.

Mr. Speaker, it is urgent that we as a Congress act now on this measure. It is an urgent issue for families all across America. By passing this legislation, we will be providing a helping hand, providing a safety net and it will continue the work started in the 103d Congress to pull all of our Nation out of the recession created by the failed policies of the eighties. Mr. Speaker, this legislation will enable chronically unemployed workers who have lost their jobs to retrain and retool for the next century.

ELI HERTZ HONORED FOR FOSTERING COMMERCIAL TIES BETWEEN UNITED STATES AND ISRAEL

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of Eli Hertz. Mr. Hertz will be honored on November 8 by the America-Israel Chamber of Commerce and Industry for his work in fostering commercial ties between the United States and Israel.

Mr. Speaker, since its establishment in 1953, the America-Israel Chamber of Commerce and Industry has been a major force behind the growth of trade and investment between the United States and Israel. Now in its 42d year, the Chamber counts among its members today's leading consumer, industrial and financial companies. Its effectiveness as a non-political, nonprofit organization has resulted in closer ties between our two great countries.

Mr. Speaker, the chamber could hardly have picked a more deserving honoree. Eli Hertz has been a leader in the personal computer industry for well over a decade. As the founder and President of the Hertz Technology Group, Eli is responsible for the overall management, strategic planning and new product development of one of the most highly successful companies in the industry.

The fact that the Hertz computer corporation has won numerous awards for design excellence and outstanding performance and technical support is a testament to Eli's vision and leadership.

In addition, Eli is a bestselling author, having written several highly successful books, including "Now That I Have Os/2 2.0 On My Computer, What Do I Do Next?", as well as many thoughtful industry-related articles.

Eli also authored the chapter on Science and Technology of "Partners for Change: How U.S.-Israel Cooperation Can Benefit America," detailing the promises of technology in Israel. This important book promotes ways in which our two countries can build on our shared values and mutual interests.

But Eli doesn't just write about United States-Israel economic cooperation. In 1991, his company established a subsidiary in Israel, and this year the Hertz Technology group's exports to Israel will exceed $2.5 million. Eli is also a director of the Jerusalem-based Har Hotzvim Incubator project for hi-tech start up companies.

Eli gives his time freely to many important groups and causes, including his service on the Executive Committee of the American-Israel Public Affairs Committee, as Chairman of the American-Israeli Cooperative Enterprise, and on the Executive Committee of the America Israel Friendship League.

It is indicative of his generous and caring nature that Eli has donated personal computers and computer consulting services to youth and disadvantaged children in this country and overseas. In particular, he contributed computers and technical assistance to three grade schools in Israel and four schools in Morocco.

Mr. Speaker, it is always a pleasure to learn that individuals who have given so much to our country and the world will be recognized for the work that they do. So I ask my colleagues to join me in congratulating Eli Hertz for his well-deserved honor and in wishing him many more years of success.

TRIBUTE TO LOS ANGELES COUNTY DOMESTIC VIOLENCE ORGANIZATIONS

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Ms. ROYBAL-ALLARD. Mr. Speaker, domestic violence is a crime that affects people

in all communities, transcending economic, geographic, and racial lines. In fact, domestic violence is the greatest cause of injury to women in the United States. Today, a woman is battered every 13 seconds, compared to every 15 seconds a few years ago. Yet, the nature and seriousness of domestic violence as a crime is often ignored.

To combat domestic violence, education is vital to helping battered women recognize the problem, and to changing society's attitude and perceptions. Only by raising the level of awareness and understanding about domestic violence can we overcome the shameful stigma and psychological barriers associated with this epidemic.

As Chair of the Violence Against Women Task Force, I will cohost a reception with California State Senator Hilda Solis on November 3, 1995, in Los Angeles, to highlight organizations and individuals that work tirelessly against domestic violence. In particular, this year's reception will honor organizations in Los Angeles County that provide sanctuary to victims of domestic violence. Shelters play a critical role in helping women and children break the cycle of violence, and make the transition from victim to survivor. The honorees are: The Angel Step Inn; Chicana Service Action Center/East Los Angeles Center/Free Spirit; Didl Hirsh-Via Avanta; Dominquez Family Shelter; El Monte Youth; Every Woman's Shelter/Center for the Pacific Asian Family; Glendale YWCA Shelter; Good Shepherd Shelter; Haven Hills; Haven House; House of Ruth; Jenesse Center; Oshon Village; Rainbow Services, Ltd.Sojourn; Su Casa Family Crisis & Support; Tamar House; Valley Oasis; Wings [Women in need Growing Strong]; Women's & Children's Crisis Shelter; Womenshelter; and 1736 Family Crisis Center.

Mr. Speaker, in honor of Domestic Violence Awareness Month, I urge my colleagues to join me and Senator Solis in recognizing and congratulating these organizations that provide life-saving services to victims of domestic violence and help educate our communities about this terrible crime.

TRIBUTE TO JOHN SAMPSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. TOWNS. Mr. Speaker, it is indeed my pleasure to recognize the hard work and patience of John Sampson. John is a product of the New York Public School System. He later attended Brooklyn College where he graduated with a degree in political science. John became fascinated by the legal profession and decided to attend law school.

In 1988 John enrolled at Albany Law School and graduated in 1991. He went to work for the Legal Aid Society and subsequently became employed with the Brooklyn law firm of Alter & Barbaro, Esqs, specializing in housing, criminal, and contract law.

Always active in local community affairs, John participates in political campaigns and represents candidates in election law matters before the Supreme Court. Mr. Sampson is also a member of the Rosetta Gaston Democratic Club. John is devoted to his family and he and his wife Crystal are the proud parents of a baby girl, Kyra Chanel Sampson.

DR. FRANK P. LLOYD RESIGNS

SPEECH OF

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. JACOBS. Mr. Speaker, the following editorial published in the Indianapolis News this past weekend, does not overstate the accomplishments and the goodness of Dr. Frank P. Lloyd. It would be impossible to say too much good about this magnificent man:

[From the Indianapolis News, Oct. 28, 1995]

A ONE-IN-A-MILLION LEADER

Too often, the work of a soft-spoken leader goes without due recognition. Such is the case with Dr. Frank P. Lloyd, who resigned last week from the White River State Park Development Commission.

Lloyd has served tirelessly on that body since 1979, when it began its work to create an urban park for the people of Indianapolis. His work for the commission, however, is just one of many of his efforts to better this city.

Upon hearing of Lloyd's resignation, U.S. Rep. Andy Jacobs, Jr. called him a ''civil saint'' and one of ''God's nobleman.''

A summary of a few of his accomplishments explains that description.

Lloyd, who will turn 76 this month, received his medical degree from Howard University in 1946 and built a career as an obstetrician. Along the way, he also became involved in many community projects.

In 1968, Lloyd got the idea to give Indianapolis its first radio station with a goal to serve the black community. He and 11 Democrats put their money together and bought a license and began to broadcast on WTLC–FM.

Lloyd also was the chairman of Midwest National Bank, where he put high priority on opening up lending opportunities for minorities.

In a 1993 interview with News reporter Marion Garmel, he said: ''What I believe as a black male is that if you're going to try to do something in a community at all, you need three things: access to media, access to money and access to the political world.''

He has been successful at all three.

Lloyd has served on the boards of many organizations, including Indiana Bell Telephone, Ameritech, the Christian Theological Seminary, Community Leaders Allied for Superior Schools and the Indiana Advisory Board of the U.S. Commission on Civil Rights.

He was president of the Metropolitan Planning Commission in the 1970s and was chairman of the prestigious American Planning Association, which develops urban policy.

Lloyd also has recognized women deserving a leadership positions. During his stint at Methodist Hospital, from which he retired as president and chief executive officer, Lloyd promoted two women to senior management positions, something that had not been done before.

He also has mustered support for health programs for women and children. When Sen. Richard Lugar was in Indianapolis a few weeks ago, he praised Lloyd during a luncheon speech, crediting him for his work.

''I remember Dr. Frank Lloyd, when I was mayor, said that the best index of the civilization of this city is the infant mortality rate. It tells you very rapidly the sense of concern that people have for each other in a community sense,'' said Sen. Lugar.

Lloyd clearly has a strong sense of concern for the people of Indianapolis. His accomplishments—there have been for to many to list here—bear that out.

Although he would not seek out recognition for his good deeds, we choose to acknowledge them here, as well as offer a heartfelt thank-you on behalf of the entire community.

HONORING EL RIO BAKERY

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. PASTOR. Mr. Speaker, I rise today to recognize the winners of the U.S. Small Business Administration's 1995 Minority Retail Firm of the Year for the Western region of the United States, the El Rio Bakery of Tucson, AZ.

First opening their business over 20 years ago, Sabino and Artemisa Gomez started a small Mexican bakery, working together 7 days a week in an effort to achieve the American Dream. Sabino Gomez had come to the United States in his early twenties, when a local baker recruited him from Mexico in exchange for a good wage and the opportunity for legal immigration to the United States. After meeting his wife, Artemisa, in 1968, the two opened El Rio Bakery in 1971 selling traditional baked goods. Several years later, they expanded into the wholesale market, selling their products to the local supermarkets and restaurants. Today, they employ 22 people, still work side by side for up to 15 hours a day, and have realized their dreams. I congratulate the Gomez family on their successes, and wish them the best of luck in their future endeavors.

TRIBUTE TO CHARLES J. SLEZAK, BERWYN'S ''MR. REPUBLICAN''

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today with great sadness at the recent passing of one of my district's leading citizens—Charles J. Slezak. Charlie was known as "Mr. Republican," serving as GOP Committeeman for Berwyn Township, but his legacy goes far above and beyond his involvement in party politics. Charlie spent most of his adult life working to improve the community he was born in, Berwyn, IL, and its neighbor, Cicero.

After serving in the South Pacific with the Navy in World War II, Charlie, a Morton East High School graduate, returned home to his job with Continental Can. More importantly, he married the former Mildred Hurt on June 8, 1946, forming a partnership of love that lasted nearly half a century.

In 1959, Charlie and Millie purchased a hardware store in Cicero. Not only did they expand the business threefold in the 20 years they owned it, but he used it as a springboard for charitable and civic work. The list of organizations Charlie lent his leadership and organizational abilities to is long indeed. He served as parade chairman of the South Cicero Boys Baseball Association, chairman of the Illinois Junior Miss Pageant, chairman of the Cicero

Progress Committee, president of the Cicero Rotary Club, chairman of the Cicero Chamber of Commerce and Industry, and finance chairman of the Cicero Boy Scout Council, to name just a few.

In addition, Charlie served as an elected trustee of Morton Junior College from 1976 until he was appointed Berwyn Republican Committeeman in 1981, a post he was reelected to four times. He also worked as an aide to State Representative Judy Baar Topinka, and for the last 12 years, served the Illinois Secretary of State's office, most recently as the director of a driver's license examination facility. Charlie was noted for his ability to make what is often a less than pleasant experience almost enjoyable for many an Illinois motorist.

Charlie won numerous awards for his civic and business achievements. The Albert Gallatin Business Award for Outstanding Achievement, the Friends of Berwyn and Cicero Citizen of the Year, and the John F. Kubik Humanitarian of the Year Award are just a few of his many honors. And, for good measure, Charlie qualified for and completed a Boston Marathon in 1978, finishing in less than 4 hours.

But perhaps the achievement of which Charlie was the proudest was his work in establishing a permanent home for the Berwyn-Cicero Council on Aging when he served as president of the council in the 1970's. He put together a consortium of banks and saving and loans that provided a mortgage to purchase a building for the council. It is this building that will serve as a permanent memorial to Charlie Slezak when it is renamed in his honor.

Mr. Speaker, I extend my condolences to Mrs. Slezak, Charlie's two daughters, Diane and Charlene, his granddaughter and ''little shining star'' Carly Ann, and all of his relatives and countless friends. Charlie is gone, but his legacy of community involvement and caring will live on for many years to come.

PERSONAL EXPLANATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. TORRES. Mr. Speaker, I was inadvertently detained on official business yesterday during rollcall vote No. 752, the vote for final passage of the conference report on H.R. 1868. Had I been present on the floor of the House, I would have voted ''yea.''

HELLS CANYON NATIONAL RECREATION AREA

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. COOLEY. Mr. Speaker, today I am introducing legislation to correct an unfortunate problem for motorized river craft operators in the Hells Canyon National Recreation Area [HCNRA]. To fully explain the reason for my legislation, I would like to provide a little background on the situation in the HCNRA.

Nearly 20 years ago, on December 31, 1975, President Gerald Ford signed Public Law 94–199, which designated the HCNRA. The stated purpose of this law was to ''assure that the natural beauty, historical, and archeological values of the Hells Canyon area and the 71-mile segment of the Snake River between Hells Canyon Dam and the Oregon-Washington border, together with certain portions of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced.''

Section seven of this act instructs the Secretary to ''administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation'' in a manner compatible with seven listed objectives. In addition, section 10 of this act instructs the Secretary to promulgate such rules and regulations as he deems necessary to accomplish purposes of the act, including ''provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area.''

Considering this, the language is very clear and straight forward. Unfortunately, however, the original intent of the act—including the compromises and promises that fostered its passage—seem to have been forgotten and/or confused.

Throughout both the process leading to designation of the HCNRA and the ensuing management planning efforts, the USDA's Forest Service—managing agency—has exhibited a disturbing prejudice against motorized river craft in the HCNRA. This bias first surfaced in hearings leading to the designation of the HCNRA, then later in a Comprehensive Management Plan that had to be overruled on appeal by then Assistant Secretary of Agriculture Crowell, and most recently by Wallowa-Whitman National Forest Supervisor Robert Richmond in an effort to revise the river management plan.

During HCNRA hearings in 1975, then Assistant Secretary of Agriculture Long testified regarding a proposed amendment that would authorize the Department of Agriculture to prohibit jet boats. He noted that there were ''times when boating perhaps should be prohibited entirely.'' Senator Church responded to this unfavorably, explaining:

> I think you may have given the present use of the river and the fact that access to it for many people who go into the canyon, if not the majority, is by the river, and jet boats have been found to be the preferred method of travel by a great many people who have gone into the canyon. This is a matter of such importance that Congress itself should decide what the guidelines would be with respect to regulation of traffic on the river and that the discretion ought not to be left entirely to the administrative agencies.

Consequently, the amendment failed, thus indicating that Congress expressly disapproved of the actions proposed in the amendment.

In spite of the lack of any demonstrable resource problems, and in the face of overwhelming public support for motorized river craft, the Forest Service continues in its attempt to provide solely a nonmotorized experience by proposing to close the heart of the canyon to motorized river craft for 3 days a week in July and August. This is the peak of the recreation season, and this action severely limits motorized access to the rest of the river. In response to the numerous appeals received by the regional forester in adamant opposition to this effort, a stay on this ominous proposal was granted for the 1995 season. The 1996 season is just around the corner, and this predicament requires justified legislative relief.

The Snake River is different than most of those in the Wild and Scenic River system, for the diversity that it provides makes it particularly precious to the American people. The Snake is a high-volume river with a long and colorful history of use by motorized river craft. The first paying passengers to go up through its rapids on a motor boat made their journey on the 110-foot *Colonel Wright* in 1865. The U.S. Army Corps of Engineers began blasting rocks and improving channels in 1903, and they worked continuously until 1975 to make the river safer for navigation.

Today the vast majority of people—over 80 percent—who recreate in the Hells Canyon segment of the Snake River access it by motorized river craft. Some of these are private boaters, and others travel with commercial operators on scenic tours. This access is accomplished with a minimum of impact to the river, the land, or the resources. The Hells Canyon portion of the Snake River is our Nation's premier whitewater powerboating river.

The use of motorized river craft is deeply interwoven with the history, traditions, and culture of Hells Canyon. It was for this reason that Congress left a nonwilderness corridor for the entire length of the river. Likewise, Congress clearly intended that both motorized and nonmotorized river craft were valid uses of the entire river within the recreation area for the full year. It was clearly not the intent of Congress to allow the managing agency to decide that one valid use would prevail over the other, as the Forest Service has proposed.

In light of the pending proposal to severely curtail powerboat operation in the HCNRA, I believe the practical and permanent resolution to this predicament is to clarify congressional intent in Public Law 94–199 in a manner that will preclude any future misunderstanding. This is what I propose to do with the legislation I am introducing today.

Thank you, and I urge my colleagues' support of this solid endeavor.

TRIBUTE TO GWYN GANDY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. TOWNS. Mr. Speaker, I come before the House today to extol the many milestones of Gwyn Gandy. Gwyn is the chief executive officer and president of C&G Insurance Brokerage Co., Inc., a full-service firm specializing in all forms of insurance. Gwyn is a 12-year veteran of the insurance industry and has the distinction of being the only African-American female from New York to participate in the Democratic National Convention [DMC] which awarded a contract that provided for special events coverage as part of the DNC.

Gwyn's parents left the rural south and traveled to Brooklyn where she was raised as the oldest of six children. Financial necessity

prompted Gwyn's entrepreneurial talents to shine through, as she became a very competent door-to-door saleswoman. She graduated from Franklin K. Lane High School at the age of 17. A marriage which ended in divorce produced three children, Kenneth, Sheree, and Kevin, each of whom has distinguished themselves academically and professionally.

Ms. Gandy is a graduate of Hunter College and the Fashion Institute of Technology. She is a staunch environmentalist and community activist. Gwyn serves as a member of the Bedford-Stuyvesant YMCA Board of Managers, and has served on the trustee board of the First A.M.E. Zion Church in Brooklyn. I am delighted to share her vast contributions to the community and America with my House colleagues.

IN HONOR OF ELLORA C. CARLE UPON HER CIA RETIREMENT

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. COMBEST. Mr. Speaker, I rise today to pay tribute to Ellora C. Carle. After a distinguished career with the U.S. Government she is retiring from the Central Intelligence Agency on October 31, 1995.

Over a period spanning nearly 39 years, Mrs. Carle served the CIA and the Nation with patriotism, loyalty, and a strong sense of duty. She deserves the thanks of this body and of the American people.

Mrs. Carle began her career in the 1950's and served under nine Presidents and thirteen Directors of Central Intelligence. Throughout these years, she contributed in important ways to the Agency's work on behalf of the Nation's security. First in the CIA's Clandestine Services and later in the offices of General Counsel and Congressional Affairs, her skills and perseverance achieved operational successes and provided the day-to-day support necessary for the CIA to function effectively.

In the Office of General Counsel, she worked on and supported voluminous litigation in the Privacy Act, the Freedom of Information Act, and Graymail suits. Her excellent organizational skills made her invaluable in marshalling the Government's case. The result was that important secrets were protected.

I would note in particular the part that Mrs. Carle has played in supporting the House and the Senate for the past 7 years. During this period, she has managed—and in many cases prepared—the Agency's responses to hundreds if not thousands of constituent requests. Congressional offices here in Washington and in districts across the land have benefited from the expertise and the integrity that she has brought to this work.

As chairman of the Permanent Select Committee on Intelligence, I am pleased to take this opportunity to bring to your attention a citizen whom the public may never know, but who has worked in quiet and unrecognized ways on its behalf. I ask you to join with me in wishing Ellie Carle a long and enjoyable retirement.

PERSONAL EXPLANATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 1, 1995

Mr. POMEROY. Mr. Speaker, I regret that I was not present yesterday for rollcall No. 753, the motion to recede and concur on H.R. 1868, the Foreign Operations Appropriations Act of 1996. Had I been present, I would have voted ''no''.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 2, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 3

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Nancy E. McFadden, of California, to be General Counsel, and Charles A. Hunnicutt, of Georgia, to be an Assistant Secretary, both of the Department of Transportation, and Jane Bobbitt, of West Virginia, to be an Assistant Secretary of Commerce.
SR–253

Joint Economic
To hold hearings on the employment-unemployment situation for October.
SD–106

NOVEMBER 7

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR–253

10:00 a.m.
Judiciary
To hold hearings to examine contingency fee abuses.
SD–226

Indian Affairs
Business meeting, to mark up S. 1341, to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona; to be followed by hearings on S. 1159, to establish an American Indian Policy Information Center.
SR–485

2:30 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
SH–219

NOVEMBER 8

9:30 a.m.
Governmental Affairs
Oversight of Government Management and The District of Columbia Subcommittee
To hold hearings to examine the courthouse construction program.
SD–342

10:00 a.m.
Judiciary
To hold hearings to examine mandatory victim restitution.
SD–226

2:00 p.m.
Small Business
To hold joint hearings with the House Committee on Small Business to examine small business concerns regarding railroad consolidation.
2123 Rayburn Building

Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

NOVEMBER 9

2:00 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 231 and H.R. 562, bills to modify the boundaries of Walnut Canyon National Monument in the State of Arizona, S. 342, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, S. 364, to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and H.R. 629, the Fall River Visitor Center Act.
SD–366

NOVEMBER 14

10:00 a.m.
Judiciary
To hold hearings to examine the operation of the Office of the Solicitor General.
SD–226

NOVEMBER 15

10:00 a.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings on S. 582, to amend United States Code to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding.
SD–226

POSTPONEMENTS

NOVEMBER 7

Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 901, to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, S. 1169, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, Idaho, S. 590, a land exchange for the relief of Matt Clawson, S. 985, to exchange certain lands in Gilpin County, Colorado, and S. 1196, to transfer certain National Forest System lands adjacent to the Townsite of Cuprum, Idaho.
SD–366

NOVEMBER 16

2:00 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 873, to establish the South Carolina National Heritage Corridor, S. 944, to provide for the establishment of the Ohio River Corridor Study Commission, S. 945, to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, S. 1020, to establish the Augusta Canal National Heritage Area in the State of Georgia, S. 1110, to establish guidelines for the designation of National Heritage Areas, S. 1127, to establish the Vancouver National Historic Reserve, and S. 1190, to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio.
SD–366

Daily Digest

HIGHLIGHTS

See Résumé of Congressional Activity.

Senate agreed to Foreign Operations Appropriations, 1996 Conference Report.

Senate

Chamber Action

Routine Proceedings, pages S16449–S16556

Measures Introduced: Five bills and one resolution were introduced, as follows: S. 1373–1377, and S. Res. 191. **Page S16495**

Measures Passed:

American Indian Heritage Month: Senate agreed to S. Res. 191, designating the month of November 1995 as ''National American Indian Heritage Month.'' **Pages S16555–56**

Foreign Operations Appropriations, 1996—Conference Report: By 90 yeas to 6 nays (Vote No. 559), Senate agreed to the conference report on H.R. 1868, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996. **Pages S16470–76**

By 53 yeas to 44 nays (Vote No. 561), Senate concurred in the amendment of the House to the amendment of the Senate No. 115, with the following amendment proposed thereto: **Page S16495**

Leahy/Kassebaum Amendment No. 3041, to strike the prohibition on funds to foreign non-government organizations which employ abortion as a means of family planning. **Pages S16476–77, S16480–95**

Rejected:

McCain/Kerry Amendment No. 3042 (to Amendment No. 3041), to permit the continued provision of assistance to Burma only if certain conditions are satisfied. (By 50 yeas to 47 nays (Vote No. 560), Senate tabled the amendment.) **Pages S16477–80**

Measure Indefinitely Postponed:

Ethics Investigation: Senate indefinitely postponed further consideration of S. Res. 168, concerning the Select Committee on Ethics Investigation of Senator Packwood of Oregon. **Page S16555**

Messages From the House: **Page S16495**

Measures Referred: **Page S16495**

Measures Placed on Calendar: **Pages S16495, S16554, S16555**

Statements on Introduced Bills: **Pages S16496–S16508**

Additional Cosponsors: **Pages S16508–09**

Amendments Submitted: **Page S16509**

Notices of Hearings: **Page S16509**

Authority for Committees: **Page S16509**

Additional Statements: **Page S16509**

Record Votes: Three record votes were taken today. (Total—561) **Pages S16476, S16480, S16495**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 6:06 p.m., until 9:30 a.m., on Thursday, November 2, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S16556.)

Committee Meetings

(Committees not listed did not meet)

MARITIME REGULATORY REFORM

Committee on Commerce, Science, and Transportation: Committee concluded hearings on S. 1356, to deregulate the United States ocean shipping industry and sunset the Federal Maritime Commission, after receiving testimony from former Senator William D. Hathaway, Chairman, Austin Schmitt, Director, Bureau of Economics, and Robert D. Bourgon, General Counsel, all of the Federal Maritime Commission; Edward M. Emmett, National Industrial Transportation League, Arlington, Virginia; Geoffrey N. Giovanetti, Wine and Spirits Shippers Association,

Inc., Reston, Virginia, on behalf of the Shippers' Association Coalition; Bill McInerney, Phoenix International Freight Services, Chicago, Illinois, on behalf of the American International Freight Association; Peter H. Powell Sr., C.H. Powell Company, Peabody, Massachusetts, on behalf of the National Customs Brokers and Forwarders Association of America, Inc.; Herzl S. Eisenstadt, Brooklyn, New York, on behalf of the International Longshoremen's Association; Christopher L. Koch, Sea-Land Service, Inc., Timothy J. Rhein, American President Companies, and Murray Graham, Council of European and Japanese National Shipowners' Association, all of Washington, D.C.; John P. LaRue, Port of Corpus Christi Authority, Corpus Christi, Texas; W. Don Welch, South Carolina State Ports Authority, Charleston; Brian McWilliams, International Longshoremen's and Warehousemen's Union, San Francisco, California; and William P. Verdon, Crowley Maritime Corporation, Oakland, California.

WETLANDS PROTECTION

Committee on Environment and Public Works: Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety concluded hearings on S. 851, to reform the Section 404 wetlands permitting program under the Clean Water Act to focus Federal regulatory authority on functioning wetlands and to ensure that citizens can obtain permits within a reasonable period of time, after receiving testimony from John H. Zirschky, Acting Assistant Secretary of the Army for Civil Works; Robert Perciasepe, Assistant Administrator for Water, Environmental Protection Agency; Bernard N. Goode, former Chief, National Regulatory Program, United States Corps of Engineers; John D. Echeverria, National Audubon Society, Washington, D.C.; James S. Burling, Pacific Legal Foundation, Sacramento, California; Robert D. Sokolove, U.S. Wetland Services, Inc., Bethesda, Maryland; William D. Lane, Lane Corporation, Goldsboro, North Carolina; Steven N. Moyer, Trout Unlimited, Arlington, Virginia; and Kenneth F. Bierly, Oregon Division of State Lands, Salem, on behalf of the Association of State Wetland Managers.

PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Committee on Governmental Affairs: Permanent Subcommittee on Investigations continued hearings to examine the threat of global proliferation of chemical, biological and nuclear weapons and weapons-material, receiving testimony from Gordon C. Oehler, Director, Nonproliferation Center, Central Intelligence Agency; Connie J. Fenchel, Assistant Director, Strategic Investigations Division, Office of Investigations, U.S. Customs Service, Department of the Treasury; John P. O'Neill, Special Supervisory Agent, Chief, Counterterrorism Section, Federal Bureau of Investigation, Department of Justice; H. Allen Holmes, Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict; Frank E. Young, Director, National Disaster Medical System, Office of Emergency Preparedness, Public Health Service, Department of Health and Human Services; Amy E. Smithson, Henry L. Stimson Center, Washington, D.C.; Vil S. Mirzayanov, Moscow, Russia, on behalf of the State Research Institute of Organic Chemistry and Technology; Milton Leitenberg, University of Maryland, College Park; and Michael Moodie, Chemical and Biological Arms Control Institute, Alexandria, Virginia.

Hearings were recessed subject to call.

WACO AFTERMATH

Committee on the Judiciary: Committee concluded hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas, after receiving testimony from Kenneth V. Lanning, Supervisory Special Agent, Behavioral Science Unit, Robin Montgomery, Special Agent in Charge, Critical Incident Response Group, Gary W. Noesner, Supervisory Special Agent, Critical Incident Response Group, and William J. Esposito, Assistant Director, Criminal Investigative Division, all of the Federal Bureau of Investigation, Department of Justice; Frank A. Bolz, Frank A. Bolz Associates, Inc., Huntington Station, New York; Clint R. Van Zandt, Van Zandt & Associates, Fredericksburg, Virginia; Peter Smerick, The Academy Group, Manassas, Virginia; and Graeme Craddock, an incarcerated witness.

House of Representatives

Chamber Action

Bills Introduced: 8 public bills, H.R. 2567–2574 were introduced. Page H11686

Reports Filed: Reports were filed as follows:

H.R. 2149, to reduce regulation, promote efficiencies, and encourage competition in the international ocean transportation system of the United States, and to eliminate the Federal Maritime Commission (H. Rept. 104–303); and

H. Res. 253, waiving points of order against the further conference report on H.R. 1977, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996 (H. Rept. 104–304). Pages H11685–86

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Hefley to act as Speaker pro tempore for today. Page H11589

Committees To Sit: The following committees and their subcommittees received permission to sit today during proceedings of the House under the 5-minute rule: Committees on Commerce, Economic and Educational Opportunities, International Relations, the Judiciary, Science, and Transportation and Infrastructure. Page H11593

Partial-Birth Abortion Ban: By a yea-and-nay vote of 288 yeas to 139 nays with 1 voting "present", the House passed H.R. 1833, to amend title 18, United States Code, to ban partial-birth abortions. Pages H11604–18

Agreed to the committee amendment in the nature of a substitute pursuant to the rule. Page H11618

By a recorded vote of 332 ayes to 86 noes, Roll No. 755, it was made in order to use certain exhibits in the Committee of the Whole. Page H11605

H. Res. 251, the rule under which the bill was considered, was agreed to earlier by a yea-and-nay vote of 237 yeas to 190 nays, Roll No. 754. Pages H11593–H11602

D.C. Appropriations: House completed all general debate and began consideration of amendments on H.R. 2546, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996; but came to no resolution thereon. Consideration of amendments will resume on Thursday, November 2. Pages H11627–61

Agreed To:

The Walsh amendment that clarifies the definition of unmarried couples so that qualified single persons seeking to adopt will not be turned away in the adoption process; Page H11643

The Davis amendment that makes technical corrections to the Financial Responsibility and Management Assistance Act; and Pages H11649–51

The Hostettler amendment that repeals the District's Health Care Benefits Expansion Act which permits unmarried cohabiting adults to register with the District and receive certain health and other legal benefits (agreed to by a recorded vote of 249 ayes to 172 noes, Roll No. 759). Pages H11656–61

Rejected the Bonilla amendment that sought to revoke the National Education Association's exemption from District property taxes beginning in fiscal year 1996 (rejected to be a recorded vote of 210 ayes to 213 noes with 2 voting "present", Roll No. 758); Pages H11651–56

H. Res. 252, the rule under which the bill is being considered, was agreed to earlier by a yea-and-nay vote of 241 yeas to 181 nays, Roll No. 757. Pages H11618–27

Committee To Sit: The following committees and their subcommittees received permission to sit during proceedings of the House under the 5-minute rule on Thursday, November 2: Committees on Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, the Judiciary, National Security, Resources, Science, and Transportation and Infrastructure. Page H11661

Senate Messages: Message received from the Senate appears on page H11589.

Referral: One Senate-passed measure was referred to the appropriate House committee. Page H11685

Quorum Calls—Votes: Three yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H11602, H11605, H11618, H11626–27, H11655–56, and H11660–61. There were no quorum calls.

Adjournment: Met at 10 a.m. and adjourned at 10:15 p.m.

Committee Meetings

MISCELLANEOUS MEASURES

Committee on Commerce: Ordered reported the following bills: H.R. 2366, to repeal an unnecessary medical device reporting requirement; and H.R. 2519, amended, Philanthropy Protection Act of 1995.

REFORM OF SUPERFUND ACT

Committee on Commerce: Subcommittee on Commerce, Trade, and Hazardous Materials began markup of H.R. 2500, Reform of Superfund Act of 1995.

Will continue tomorrow.

ENGLISH—COMMON LANGUAGE

Committee on Economic and Educational Opportunities: Subcommittee on Early Childhood, Youth and Families continued hearings on English as the Common Language. Testimony was heard from Nimi McConigley, member, Legislature, State of Wyoming; and public witnesses.

OVERSIGHT—FAIR LABOR STANDARDS ACT

Committee on Economic and Educational Opportunities: Subcommittee on Workforce Protections continued oversight hearings on the Fair Labor Standards Act. Testimony was heard from public witnesses.

FOOD FOR PEACE REAUTHORIZATION ACT

Committee on International Relations: Held a hearing on the Food For Peace Reauthorizational Act of 1995. Testimony was heard from Christopher Goldthwait, General Sales Manager, USDA; M. Douglas Stafford, Assistant Administrator, Bureau for Humanitarian Response, AID, U.S. International Development Cooperation Agency; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held a hearing on the following bills: H.R. 1733, Patent Application Publication Act of 1995; and H.R. 359, to restore the term of patents. Testimony was heard from Representative Rohrabacher; and public witnesses.

CONFERENCE REPORT—INTERIOR APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the further conference report to accompany H.R. 1977, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Representative Regula.

X–33 REUSABLE LAUNCH VEHICLE

Committee on Science: Subcommittee on Space and Aeronautics held a hearing on the X–33 Reusable Launch Vehicle: A New Way of Doing Business? Testimony was heard from the following officials of the NASA: John E. Mansfield, Associate Administrator, Office of Space Access and Technology; and Lt. Col. Gary Payton, USAF (Ret.), Deputy Associate Administrator, Advanced Space Transportation; and public witnesses.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

ICC TERMINATION ACT; FAA REVITALIZATION ACT

Committee on Transportation and Infrastructure: Ordered reported amended the following bills; H.R. 2539, by a vote of 36–22, ICC Termination Act of 1995; and H.R. 2276, Federal Aviation Administration Revitalization Act of 1995.

THRIFT CHARTER CONVERSION TAX ACT; REPEAL UNNECESSARY MEDICAL DEVICE REPORTING REQUIREMENT

Committee on Ways and Means: Ordered reported the following bills; H.R. 2494, amended, Thrift Charter Conversion Tax Act of 1995; and H.R. 2366, to repeal an unnecessary medical device reporting requirement.

COMMITTEE MEETINGS FOR THURSDAY, NOVEMBER 2, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Energy and Natural Resources, Subcommittee on Forests and Public Land Management, to resume hearings to examine alternatives to Federal forest land management and to compare land management cost benefits on Federal and States lands, 9:30 a.m., SD–366.

Committee on Environment and Public Works, Subcommittee on Transportation and Infrastructure, to hold hearings on courthouse construction and related GSA public buildings program matters, 10 a.m., SD–406.

Committee on Finance, business meeting, to mark up S. 1318, to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and to consider other pending committee business, 10 a.m., SD–215.

Committee on Governmental Affairs, to hold hearings on S. 704, to establish the Gambling Impact Study Commission, 9:30 a.m., SD–342.

Special Committee on Aging, to hold hearings to examine fraud in the medicare and medicaid programs, 10 a.m., SD–562.

Special Committee To Investigate Whitewater Development Corporation and Related Matters, to resume hearings to examine issues relative to the President's involvement with the Whitewater Development Corporation, focusing on the handling of certain documents following the death of Deputy White House Counsel Vincent Foster, 10 a.m., SH–216.

NOTICE

For a listing of Senate Committee Meetings scheduled ahead, see page E2092 in today's RECORD.

House

Committee on Banking and Financial Services, to mark up H.R. 2406, United States Housing Act of 1995, 10 a.m., 2128 Rayburn.

Committee on Commerce, Subcommittee on Commerce, Trade, and Hazardous Materials, to continue markup of H.R. 2500, Reform of Superfund Act of 1995, 10 a.m., 2123 Rayburn.

Subcommittee on Energy and Power, oversight hearing on the Federal Energy Regulatory Commission's Proposed Rules Affecting the Electricity Industry, 10 a.m., 2322 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Early Childhood, Youth and Families, hearing on the Older Americans Act, 9 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Human Resources and Intergovernmental Relations, to continue oversight hearings on Protecting the Blood Supply from Infectious Agents: New Standards to meet New Threats, 9:30 a.m., 2247 Rayburn.

Committee on House Oversight, hearing on campaign finance reform, 10 a.m., 1310 Longworth.

Committee on the Judiciary, Subcommittee on the Constitution, to mark up H.R. 2564, Lobbying Disclosure Act of 1995, 11 a.m., 2226 Rayburn.

Subcommittee on Crime, hearing regarding the nature and threat of violent anti-government groups in America, 9:30 a.m., 2237 Rayburn.

Committee on National Security, executive, to receive a classified briefing on deployment of United States ground forces to Bosnia, 10 a.m., and to continue hearings on deployment of United States ground forces to Bosnia, 2 p.m., 2118 Rayburn.

Committee on Resources, Subcommittee on Fisheries, Wildlife and Oceans, hearing on H.R. 2243, Trinity River Basin Fish and Wildlife Management Reauthorization Act of 1995, 10 a.m., 1324 Longworth.

Subcommittee on Water and Power Resources, hearing on the following bills: H.R. 1803, Reclamation Recycling and Water Conservation Act of 1995; and H.R. 2549, to authorize the Secretary of the Interior to enter into contracts to assist the Pajaro Valley Water Management Agency, CA, to implement a basin management plan for the elimination of groundwater overdraft and seawater intrusion, 10 a.m., 1334 Longworth.

Committee on Rules, hearing on H. Res. 250, to amend the Rules of the House of Representatives to provide for gift reform, 10 a.m., H–313 Capitol.

Committee on Science, Subcommittee on Technology, hearing on Medical Technology Development and Commercialization, 9 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, hearing on H.R. 2500, Reform of Superfund Act of 1995, 9 a.m., 2167 Rayburn.

Permanent Select Committee on Intelligence, Subcommittee on Human Intelligence, Analysis, and Counterintelligence, executive, hearing on Terrorism, 10 a.m., H–405 Capitol.

Résumé of Congressional Activity

FIRST SESSION OF THE ONE HUNDRED FOURTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House.
The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

January 4 through October 31, 1995

	Senate	*House*	*Total*
Days in session	167	137	. .
Time in session	1,547 hrs., 58′	1,238 hrs., 20′	. .
Congressional Record:			
Pages of proceedings	16,448	11,587	27,935
Extensions of Remarks	. .	2,082	. .
Public bills enacted into law	15	23	38
Private bills enacted into law	. .	. .	. .
			. .
Measures passed, total	259	327	586
Senate bills	59	27	. .
House bills	48	134	. .
Senate joint resolutions	3	. .	. .
House joint resolutions	1	5	. .
Senate concurrent resolutions	8	4	. .
House concurrent resolutions	16	22	. .
Simple resolutions	124	135	. .
Measures reported, total	*192	*279	471
Senate bills	130	4	. .
House bills	26	164	. .
Senate joint resolutions	6	. .	. .
House joint resolutions	2	6	. .
Senate concurrent resolutions	4	. .	. .
House concurrent resolutions	0	3	. .
Simple resolutions	24	102	. .
Special reports	14	5	. .
Conference reports	0	18	. .
Measures pending on calendar	116	37	. .
Measures introduced, total	1,633	3,043	4,676
Bills	1,372	2,566	. .
Joint resolutions	41	114	. .
Concurrent resolutions	30	111	. .
Simple resolutions	190	252	. .
Quorum calls	3	17	. .
Yea-and-nay votes	558	202	. .
Recorded votes	. .	534	. .
Bills vetoed	1	3	. .
Vetoes overridden	0	. .	. .

* These figures include all measures reported, even if there was no accompanying report. A total of 165 reports has been filed in the Senate; a total of 302 reports has been filed in the House.

DISPOSITION OF EXECUTIVE NOMINATIONS

January 4 through October 31, 1995

Civilian nominations, totaling 404, disposed of as follows:

Confirmed	230
Unconfirmed	169
Withdrawn	5

Civilian nominations (FS, PHS, CG, NOAA), totaling 1,685, disposed of as follows:

Confirmed	1,001
Unconfirmed	684

Air Force nominations, totaling 13,552, disposed of as follows:

Confirmed	13,550
Unconfirmed	2

Army nominations, totaling 11,699, disposed of as follows:

Confirmed	9,367
Unconfirmed	2,332

Navy nominations, totaling 12,090, disposed of as follows:

Confirmed	10,842
Unconfirmed	1,248

Marine Corps nominations, totaling 2,833, disposed of as follows:

Confirmed	2,832
Unconfirmed	0
Withdrawn	1

Summary

Total nominations received this session	42,263
Total confirmed	37,822
Total unconfirmed	4,435
Total withdrawn	6

Next Meeting of the SENATE

9:30 a.m., Thursday, November 2

Senate Chamber

Program for Thursday: After the recognition of eight Senators for speeches and the transaction of any morning business (not to extend beyond 12 noon), Senate may consider S. 1372, Social Security Earnings Limit, or H.R. 2492, Legislative Branch Appropriations, 1996.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, November 2

House Chamber

Program for Thursday: Motion to go to conference on H.R. 2099, VA–HUD Appropriations for fiscal year 1996; and

Complete consideration of H.R. 2546, District of Columbia Appropriations for fiscal year 1996.

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