United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, TUESDAY, DECEMBER 5, 1995 *No. 192*

House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
December 5, 1995.

I hereby designate the Honorable TERRY EVERETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 3 minutes.

DIFFICULTIES IN HAITI

Mr. GOSS. Mr. Speaker, I come to the well today to speak about the prospects for democracy in Haiti, an area where we have a great deal of investment. I am sorry to report that the news is even more dismal, there is more deterioration in the signs that we are getting toward democracy. We are not, and there are some four particular disturbing areas we need to have more information from the executive branch on.

First, we apparently are going to have elections on December 17 for the new President in the country of Haiti. It is very important that we do that, but, of course, the elections have to be full, fair, free, democratic elections. There is no indication that the elections are indeed going to be full, fair, or free. In fact, most of the opposition parties are boycotting the election.

There is virtually no campaigning going on, with the exception of one party, which is the chosen party of the present President, and it is impossible to underestimate, in my view, the damage done by the parliamentary elections that basically caused the loyal opposition to lose faith in the system and refuse to participate in it.

The second disturbing area has to do with these elections, and that is, it appears that some of our taxpayers' dollars that are being financed as aid to Haiti are indeed going into the chosen campaign of the party of the President there. There appear to be some unaccounted moneys in significant amounts, and there is only one campaign in evidence, and it is a very well funded, lavishly orchestrated campaign. The indications are, certainly the rumors are strong and we have had no denials, that those are U.S. tax dollars that are running that campaign and providing for all those banners and T-shirts that are springing up around the country that is so poor that many people do not have T-shirts or food or medicine or other things they need. But these campaign shirts seem to be getting out there.

It appears also as we read reports in Miami that some of our tax dollars are being used to lobby ourselves. I suspect we will be hearing more on that as others look into those allegations that are being made about tax dollars that are going to lawyers and lobbyists in our own country.

The third area of concern is we have a new chief of the national police, which is the group supposed to provide the stability in Haiti once our troops leave in February. It turns out Colonel Solastine is an old Aristide friend, sort of a political hack, and has been head of the palace guard, and it is not expected that he is going to be able to bring either professionalism or independence to the national police.

The final problem that I point to this morning is we just have had a cancellation of a business delegation from Haiti. Haiti desperately needs more investment and business. The Haitians who were coming here on a mission this week to talk to American legislators and businessmen about how to do that have canceled their trip because of the heightened tensions between the United States and Haitian Governments and because of the situation in Haiti, which they describe as ''inopportune.'' Inopportune is a euphemism for we are scared to death, we are closing our business, there is no security, there is a lot of corruption, and there is much to be done. These are problems we need to look more into before we spend more tax dollars. I thank you. I look for a report from the White House on this.

DRACONIAN IMPACTS OF PROPOSED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, as we know, negotiations continue, or at least we hope they are going to continue, over the budget, with this Republican budget that has passed the House of Representatives and the Senate, which President Clinton wisely says he cannot accept, and so negotiations are going on to try to see if the President can come to an agreement with the Republican leadership in the Congress.

I just wanted to spend a little time today putting what I call a human face

on some of the numbers. We talk about the budget, and I have said over and over again we need to make sure that whatever is resolved with the budget, that Medicare is preserved, that Medicaid is preserved, that those programs are not cut in order to finance tax breaks for the wealthy, and also that we are concerned with environmental priorities and education priorities.

I just wanted to give some information about numbers and how some of those priorities transfer into real terms and into the effects on the average American, particularly with regard to Medicare and Medicaid.

The Republican-proposed budget cuts Medicare by $270 billion and increases costs on beneficiaries. In effect, these cuts increase direct and indirect costs on Medicare beneficiaries, on our senior citizens, placing a huge financial burden on seniors and people with disabilities.

If you look at it, the cuts in the Medicare Program alone basically are $1,700 per beneficiary, per senior citizen, by the year 2002, and premiums for those seniors increase to $89 per month in 2002, an annual increase of about $440 per couple.

If you also look at the amount of money that is going to be available to Medicare by reference to the amount of money that would be available for someone who is getting health care in the private sector, the $270 billion Medicare cut would limit spending per Medicare beneficiary to a rate that is more than 20 percent below the projected private insurance per person growth rate over the next 7 years. So Medicare now will not be keeping up with the amount of money that is available for those who are paying for their health insurance privately.

Even more important, right now Medicaid pays for the Medicare premiums, coinsurance, and deductibles for people who are below 100 percent poverty. In other words, a lot of low-income senior citizens have their part B premium covered by Medicaid. They do not have to pay coinsurance and they do not have to pay deductibles.

Well, all that is gone under the Republican proposal. So all those people now would have to take that money out of their pocket. Of course, they cannot afford to do so, because they are in fact low income.

What we are going to see happen under these Republican Medicare cuts is essentially quality and access for a lot of senior citizens will suffer. When you get to Medicaid, it is even worse, because Medicaid right now is an entitlement program for low-income people, whether they be seniors, children, pregnant women, the disabled, whatever.

Under this Republican proposal, there no longer is any guaranteed health car for those low-income people under Medicaid. Instead, a block grant goes to the States and we estimate that about a 28-percent cut will be available. The amount of money that will be available will be about 28-percent less under this Republican proposal block granted to the States than what is available now under Medicaid.

What that means is a lot of States simply will not cover people under Medicaid. They will make no categorizations of who is covered and who is not, and that means a lot of low-income people will not have access to health care.

We also estimate that about 330,000 people could be denied nursing home coverage, because right now Medicaid pays for most nursing home care and essentially guarantees nursing home coverage for those seniors who cannot afford to pay for nursing home care privately. That is all gone. There is no guarantee of nursing home care anymore, because, again if the States decide they do not want to provide for certain categories of people, they simply will not.

If you look at where the tax breaks are going under the Republican proposal at the same time, the tax breaks are mostly going for the well-to-do. Nearly half of the benefits under the Republican tax package, about 48 percent, go to the top 12 percent of families, those of incomes of $100,000 or more. If you are actually making less than $30,000 a year, you are probably going to end up paying more in taxes because the earned income tax credit that goes to a lot of working low-income people is cut severely. So a lot of people who are making less than $30,000 a year and who are working essentially are going to be paying more taxes instead of less.

Last, I wanted to talk about the impact of this Republican budget on the environment. It funds enforcement of public health and environmental safeguards 25-percent less than what we have now.

So, again, the environmental priorities are essentially downgraded, and we hope that the President is able to negotiate a better budget bill to preserve these priorities.

MAKING ENGLISH THE OFFICIAL LANGUAGE OF THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 3 minutes.

Mr. ROTH. Mr. Speaker, the Senate Governmental Affairs Committee prepares to hold hearings tomorrow on the issue of making English our official language. One of the issues that heavily dominates that debate is this issue of bilingual education, which was started as part of the Great Society Program back in 1968 and has grown and mushroomed to the juggernaut that it is today. I wish to put this problem into a proper perspective.

Mr. Speaker, a quick look at some startling facts will tell us all we need to know. Today, 32 million Americans don't speak English. In just 5 years, that number will increase to 40 million. English is a foreign language for one in seven Americans.

For most of our Nation's history, America gave the children of immigrants a precious gift—an education in the English language. As each new wave of immigrants arrived on these shores, our public school system taught their sons and daughters English, so they could claim their place in the American dream.

What are we doing for these new Americans today? Instead of a first-rate education in English, our bilingual education programs are consigning an entire generation of new Americans—unable to speak, understand, and use English effectively—to a second-class future.

This tragedy has human faces. Let me tell you about two people's experiences which will illustrate the impact of our failed bilingual education programs. I've never heard the problems with bilingual education more poignantly put than in the words of Ernesto Ortiz, a foreman on a south Texas ranch who said: ''My children learn Spanish in school so they can become busboys and waiters. I teach them English at home so they can become doctors and lawyers.'' Ernesto understands that English is the language of opportunity in the country. He understands that denying his children a good education in English will doom them to a limited—as opposed to limitless—future.

Bilga Abramova also understands this simple truth. Bilga is a 35-year-old Russian refugee who has entered a church lottery three times in an attempt to win 1 of 50 coveted spaces in a free, intensive English class offered by her local parish. Her pleas in Russian speak volumes about the plight of all too many immigrants: ''I need to win,'' she said. ''Without English, I cannot begin a new life.''

The ultimate paradox about our commitment to bilingual education in this country is that Bilga and others like her all across the country are on waiting lists for intensive English classes while we spend $8 billion a year teaching children in their native language.

You've heard from parents like Ernesto Ortiz and how they feel about bilingual education. Even teachers oppose these programs. A recent survey of 1,000 elementary and secondary teachers found that 64 percent of these teachers disapproved of bilingual education programs and favored intensive English instruction instead.

Even longtime defenders of these programs are starting to change their tune. The California Board of Education approved a new policy last month in which they abandoned their preference for bilingual education programs.

This year marks the 27th year of bilingual education programs. For more and more people, that is 27 years too long. It is time to take a fresh look at

this problem. Bilingual education has had 27 years and billions of dollars to prove that it accomplished what it said it would do in 1968: teach children English quickly and effectively. Too many people lose sight of the fact that the real issue here is how to help children and newcomers who don't know English and who need to assimilate.

Let us not forget about Ernesto Ortiz and his children, about Bilga Abramova and other new Americans like them. While a Senate committee will discuss this issue for the first time tomorrow, Ernesto and Bilga have already given us their testimony on bilingual education, in words and in images. We must not lose sight of the fact that this is not just an abstract public policy issue; bilingual education and our national language policies have real world consequences. When our policies fail, the failures have names and faces attached to them. When our policies serve to divide rather than unite us, the rips appear in the very fabric of the American Nation. Don't underestimate this issue's importance. This is an issue that can affect the very future of new Americans and America itself.

OUTRAGE OVER FRANCE'S NUCLEAR TESTING PROGRAM IN SOUTH PACIFIC

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized during morning business for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise again today to express my outrage and dismay with the continuation of France's willful disregard for the millions of human lives that may be seriously at risk because of its nuclear testing program in the South Pacific. France has now exploded four nuclear bombs in addition to 166 nuclear bombs that have already been exploded, filling the landscape in and outside of the Moruroa Atoll in French Polynesia.

It may not be now, Mr. Speaker, but within the next 10 years when the French Government is no longer around in this part of the world, when the Moruroa Atoll finally starts to break apart, the horrors of France's nuclear testing contamination will infuse itself into the fish and other living organisms in our Pacific marine environment. If by some accident of nature this atoll starts to break up because of serious volcanic or earthquake disturbances in or around the ocean floor, what then, Mr. Speaker?

The French Government certainly does not have the capability to clean up the environmental nightmare sure to result, and perhaps our own country may have to commit resources to clean up the mess.

Mr. Speaker, do our colleagues and the American people realize that scientists have verified that the two areas of the Pacific where considerable concentrations of ciguatera poisoning exist are found in the reefs and marine life of the Republic of the Marshall Islands and of French Polynesia?

Mr. Speaker, may I remind my colleagues and the American people there is a direct correlation between nuclear tests that were conducted in the Marshall Islands by our own Government and the nuclear tests now being conducted by the French Government in French Polynesia. The point is, Mr. Speaker, ciguatera poisoning is heavily concentrated in the fish and marine life of these two areas of the Pacific, and there is a tremendous need right now to examine this serious by product of nuclear testing which poisons the very food we depend upon from the Pacific Ocean.

Mr. Speaker, we do not need to explode more nuclear bombs to see if it does harm to human beings.

□ 1245

The two nuclear bombs that were dropped on the residents of the cities of Hiroshima and Nagasaki some 50 years ago killed and vaporized some 290,000 men, women, and children in Japan during World War II. Mr. Speaker, while the international community looks on, France continues to defy the concerns of millions of people around the world, continues to explode their nuclear bombs not in or anywhere near France, but some 14,000 miles away from Paris.

Mr. Speaker, I submit here is a classic example of a so-called democracy that so desperately wants and desires respect and preeminence as a superpower in Europe, they are pursuing nuclear weapons development at the expense of the lives and safety of some 200,000 French citizens living in French Polynesia. Mr. Speaker, how does one justify the Chirac government's exploding more nuclear bombs when over 60 percent of France's public is opposed to nuclear testing? How about the 200,000 French citizens who will be directly impacted if nuclear contamination breaks out from the atolls, where the tests now are being conducted?

Is it fair, Mr. Speaker, for President Chirac of France to conclude that the lives of 200,000 French citizens living in French Polynesia are deemed expendable for the sake of France to become a preeminent force in Europe? Is it also fair, Mr. Speaker, that President Chirac has now determined that the safety of some 28 million people living in the Pacific region is also deemed expendable so as to promote France's nuclear capabilities? In the name of fairness and equity, Mr. Speaker, what right does President Chirac have to impose the hazards of nuclear contamination on millions of people in the Pacific who are not subject to French control? Mr. Speaker, I am not one to defend China's nuclear testing program, but at least they test within their own backyard.

Mr. Speaker, recently the gentleman from Massachusetts, Congressman EDWARD MARKEY, and the gentleman from California, Congressman PETE STARK, and myself introduced a bill, H.R. 2529, that places up to an 800-percent duty on all French beaujolais wine imported to this country. With each nuclear explosion, the price of French wine shall escalate. People should not buy French wine to protest France's testing. I ask my colleagues and the American people to support us in this effort, and to send President Chirac a strong message: Nuclear testing and nuclear bomb explosions are no longer relevant in our world today.

I submit, Mr. Speaker, when are we going to stop this madness, in that we continue to justify ourselves by saying this is the only way that we are going to defend ourselves, by having a nuclear deterrent capability. Mr. Speaker, this is the height of contradiction. We outlaw germ warfare, we outlaw chemical warfare, but we don't touch nuclear warfare, the most destructive warfare in existence. This the height of hypocrisy, Mr. Speaker. The height of hypocrisy.

Mr. Speaker, I include for the RECORD articles on the European Community's reaction to the bombings.

[From the Washington Times, Nov. 20, 1995]

TEST CRITICS RILE PARIS

CHIRAC CANCELS SUMMITS WITH ITALY, BELGIUM

(By Pierre-Yves Glass)

PARIS.—French nuclear tests in the Pacific have blown open a rift between France and most of its European partners. For Paris, their criticism of the blasts amounted to betrayal.

Angered by their support of a U.N. resolution condemning French nuclear tests, President Jacques Chirac on Friday abruptly canceled planned summits with the leaders of Belgium and Italy.

Paris justified its action, saying the positions of those states and eight other European Union members didn't ''correspond to our idea of European solidarity.''

By joining 85 other nations in condemning France, those 10 EU states broke a decades-old tradition of backing a fellow EU member when it deemed its actions essential to its national interests.

But their act could be a reminder to Mr. Chirac that the EU has 15 states and isn't just a club run by its most powerful members—France, Germany and Britain.

The French have to understand that their partners in the European Union have opinions on an initiative on which they have not been consulted,'' Belgian Prime Minister Jean-Luc Dehaene said Saturday.

France has responded to world outrage by insisting its series of six underground nuclear blasts in French Polynesia this fall are essential to ensure the viability of its nuclear arsenal. Government sources said the fourth detonation would take place within the coming days.

Paris has pledged to sign a testban treaty next spring after completing the tests. The United States, Britain and Russia all have adhered to a moratorium on nuclear testing.

A U.N. commission's resolution Thursday ''strongly deplored'' continued nuclear tests by France and China—without naming the countries—and demanded the General Assembly call for a stop to them.

Among the EU's 15 members, only Britain—the bloc's other nuclear power—voted with France against the resolution. Germany, Spain and Greece—usually staunch French allies—abstained.

The resolution was supported by all other EU members—Austria, Belgium, Denmark, Finland, Ireland, Italy, Luxembourg, Portugal, Sweden and the Netherlands.

Paris wants to offset U.S. domination of NATO by creating a more independent EU defense system. It interpreted the vote by 10 EU countries condemning the French blasts as a slap in the face.

The vote of the 10 EU naysayers ''goes counter to [European] solidarity just as everyone proclaims support for a firmer European defense,'' former Premier Edouard Balladur said.

[From the Honolulu Advertiser, Nov. 24, 1995]

SALES OF FRENCH BEAUJOLAIS HIT BY ANTI-NUCLEAR BOYCOTT

POLITICS OF TESTS IN S. PACIFIC SOUR THE NEW VINTAGE

It has evolved into one of the most hallowed annual rituals in France, a moment when bleak autumn blues are swept away by an ocean of fruity red wine spilling out of southern Burgundy amid a boisterous chorus heard around the world:

Le beaujolais nouveau has arrived!

The yearly rush to ship the stuff to every corner of the globe at the stroke of midnight on the third Thursday in November is one of France's great marketing coups. The unpretentious wine, bottled just weeks after the grape harvest, produces sneers from connoisseurs but more than $100 million a year for growers.

Alas, this year's vintage is already producing a horrendous hangover. Foreign sales have dropped precipitously in many markets, largely because of consumer boycotts over France's decision to resume nuclear testing in the South Pacific.

The United States is an exception: sales are solid in Les Etats Unis, including Hawaii, where wine merchants say it would be a crime to let politics interfere with imbibing.

''They are all fanatics,'' R. Field Wine Co. managing partner Tim Learmont says of those who would forgo le beau for le bombe.

The protest, Learmont says, is misplaced. ''A lot of the people that grow the wine are themselves opposed to nuclear testing. They are punishing the wrong people, and they are punishing themselves by boycotting the wine.''

In fact, Learmont said, sales in his Honolulu shop at Ward Centre appear to be brisker this year than last, with 12 cases sold in less than a week, and only 24 more cases here or on the way.

Learmont attributes the sales, at $13.99 a bottle with discounts for six or more bottles, to the ''fresh, clean'' quality of the new vintage, ''with a lot of strawberry character to it.

''This nouveau is much better than last year,'' Learmont says. ''Of course,'' he grins, ''we say that every year.''

But in Japan and Scandinavia, where anti-nuclear protests are popular, beaujolais sales have fallen by more than 30 percent, according to the French winegrowers' union. In Germany, bar customers are asking to pay for the thrill not of drinking beaujolais but of smashing the bottles.

''Politics never mixes well with wine,'' said Franck Duboeuf, who operates France's biggest wine-exporting empire with his father, Georges, known as the ''King of Beaujolais,'' from their base in Romaneche-Thorins.

''Banning the bomb and nuclear testing may be worthy causes, but to stop buying wine is not the best way to achieve those goals,'' Duboeuf said in a telephone interview.

But even new markets such as Brazil, China and Singapore have not offset sharp declines in Japan, the Netherlands and other anti-nuclear nations.

[From the New York Times, Nov. 17, 1995]

CHINA REBUKES FOUR OTHER NUCLEAR POWERS ON ARMS CONTROL

(By Patrick E. Tyler)

BEIJING, Nov. 16.—Issuing a major policy statement on arms control, China tonight sharply rebuked the United States, Russia, Britain and France for continuing to develop ''nuclear weapons and outer space weapons, including guided missile defense systems'' while seeking in some cases to deny the peaceful use of nuclear technology to the developing world.

The policy document, issued by the official New China News Agency, said the world's major nuclear powers ''on the one hand, vie with one another in dumping their advanced weapons on the international market, even using weapons transfers as a means to interfere in other nations domestic affairs.''

''On the other,'' it continued, ''they resort to discriminative anti-proliferation and arms control measures, directing the spearhead of arms control at the developing countries.''

Without mentioning Taiwan, the document implicitly warned Washington that Beijing regards continuing arms sales to the island as interference in China's internal affairs.

For the first time, the policy declaration also appeared to express China's formal opposition to an American proposal to deploy ballistic missile defense systems in Asia to protect Japan and American military forces there, principally against North Korea. Beijing fears that such a missile defense system could undermine Chinese strategic nuclear forces, which were developed to hold American, Japanese and Russian targets at risk of retaliation in any nuclear conflict.

Chinese officials were alarmed when President Clinton and President Boris N. Yeltsin signed a communiqué in May saying Washington and Moscow should cooperate in developing ballistic missile defenses.

In a larger context, China's policy presentation was made to a world and regional audience that is very much concerned with fundamental security questions in Asia. They include the rising military tensions between China and Taiwan; the territorial conflicts in the South China Sea, where there are rich deposits of oil, and China's competition with Japan for regional dominance. The role of American forces in Asia is connected to each one of these issues.

China's policy statement may have also been timed in part to blunt the international criticism that will resume when Beijing detonates its expected third underground nuclear warhead this year, part of a final series of tests leading up to the conclusion in 1996 of a nuclear test ban treaty, which China has pledged to sign. Preparations at the Lop Nor testing range in the far west of China have been observed by American reconnaissance satellites, foreign diplomats here say.

Concerning its own nuclear cooperation with such countries as Iran and Pakistan, both of which have nuclear weapons programs, the document pledged that China would combat the spread of weapons of mass destruction. But it asserted, ''There must not be a double standard whereby anti-nuclear proliferation is used as a pretext to limit or retard the peaceful use of nuclear energy by developing nations.''

China defended its level of military spending, which has increased about 50 percent, taking inflation into account, since the late 1980's, according to estimates by Central Intelligence Agency.

''China needs a peaceful environment in order to be able to devote itself completely to its socialist modernization program,'' the document said. ''As long as there is no serious threat to China's sovereignty or security, China will not increase its defense spending substantially or by a big margin. It will never threaten nor invade any other country.''

PRESIDENT SHOULD SEEK SUPPORT OF THE PEOPLE AND THEIR REPRESENTATIVES BEFORE SENDING UNITED STATES TROOPS TO BOSNIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from North Carolina [Mr. FUNDERBURK] is recognized during morning business for 5 minutes.

Mr. FUNDERBURK. Mr. Speaker, as thousands of American soldiers prepare to depart for a cold winter in Bosnia, two things are lacking in the White House's preparation for its plunge into the Balkan nightmare; an appreciation for the Constitution of the United States and the unique relationship which exists between constitutional government and the American military.

Mr. Speaker, the Founders did not haphazardly assign responsibility for placing American soldiers in the line of fire. Most of these men were veterans of either the French and Indian War or the Revolution or both. They are determined never to commit the Army and Navy without the full backing and faith of the American people. As Alexander Hamilton implied in the Federalist Papers, the military of the new United States was to be an instrument of the people and not of the Government.

The Founders understood that before Americans are committed to battle, the Commander in Chief must have the backing of the people, the people's representatives, and the military itself.

A few years ago, former Secretary of Defense Caspar Weinberger laid out a six point plan designed to thwart the ambitions of any President who might attempt to reserve for himself military powers which the Constitution places clearly with the people and the people's representatives. The fifth of Weinberger's six points was that: ''* * * before the United States commits combat forces abroad, there must be some reasonable assurance that we will have the support of the American people and their elected Representatives in the Congress.''

The distinguished military historian Col. Harry Summers notes that Weinberger's theory was not new. It is clearly found in the writings of James Madison. Madison, as Summers notes, clearly believed that there was a moral imperative that those Americans whose sons' lives are put in danger ''must clearly have a say in their deployment.''

Article I, section 8 of the Constitution gives to the Congress the power to provide and pay for the common defense. Constitutionally, the President

can do absolutely nothing unless the Congress appropriates the money for the military's use. It was precisely that restraint on the warmaking power which forced Bill Clinton to abandon his disastrous adventure in Somalia.

Mr. Speaker, coming to Congress after a decision has been made to engage in full scale military operations abroad is an affront to the Constitution and a threat to our soldiers. I don't care what Bill Clinton pollsters tell him. The momentous issue of war and peace is too dangerous to be left to one publicity hungry chief executive.

To paraphrase a great military mind, ''Bosnia is the wrong war, in the wrong place, at the wrong time.'' Bill Clinton, who spent his college and Oxford years tearing down the American military and damning his country overseas obviously learned nothing from his experiences during Vietnam. It is long past time that he read the simple but powerful words of the Constitution. He must either get the people on his side or pull out now.

FREE THE DISTRICT OF COLUMBIA APPROPRIATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, we are 11 days before another possible shutdown of the Federal and the District Government and I am forced to come to the floor of the House every day trying to keep this from happening, at least in the District. I recognize now that there will probably be at least a short-term CR, so that 10 days before Christmas there is not a Federal Government shutdown, but I hope to impress upon my colleagues that a short-term CR will not help the District much because it is a city and not a Federal agency.

As we saw from the starts and stops of preparing for the last shutdown, it does not help a city to give it a short-term CR. I ask my colleagues to put themselves in the position of my constituents, who have paid their taxes, who are second per capita in Federal taxes in the United States, and their money is up here in the appropriations. Eighty percent of it is their money, and there is the possibility that the Congress would shut down on their money, or put them on a CR on their money.

Tomorrow, the gentleman from Virginia, Chairman TOM DAVIS, has agreed to a hearing on a bill that would allow the District to spend its own money in the case of government shutdowns, remembering that we are not HUD or HHS—we are a city, like the cities my colleagues represent. We are caught in the middle of someone else's fight. The District is in grave financial stress. It is important to let us out so that we can continue to rebuild this city.

Mr. Speaker, this morning's Washington Times reports some distressing news, and I am quoting. ''A paralyzing dispute over school vouchers has so divided Republicans that some are concerned the District will not receive an annual spending bill for the first time since the advent of home rule.''

I say to my GOP colleagues who are in charge now, every year for 40 years that the Democrats were in charge, they got 13 appropriations out. It is now the GOP's responsibility to get 13 appropriations out, including the District's. Instead, what we have brewing is a major constitutional fight on the back of the weakest of the 13 appropriations, the smallest of the 13 appropriations—the D.C. appropriations.

I ask my colleagues, is it fair to hold up our appropriation over a fight, a constitutional fight, over vouchers for private and religious schools? This is a worthy question, but it deserves a hearing. It deserves exposure, major exposure, if my colleagues mean to depart from 200 years of American history.

Instead, we are told, again in the Washington Times this morning, that the gentleman from Vermont [Mr. JEFFORDS] currently holds the votes to bury any voucher program under a filibuster. Imagine filibustering our appropriation over matters that have nothing to do with the District. This proposal on vouchers and on educational reform was meant to help us. It is hurting us now very much. Get it off our backs.

If the GOP wants to do this, if they want to help us, let them do it the right way and not hold up money that the District needs desperately simply to run the city. We already have an agreement on the amount of our appropriation. It involves a cut, by the way. So everything is in order except an extraneous issue involving vouchers.

There is also an abortion issue. But the issue that is really holding our money up, threatening to shut the city down, threatening to put us on short-term continuing resolutions, is not an issue affecting the 600,000 people I represent. They deserve better. They deserve a whole lot better.

According to the Washington Times, Mr. Speaker, ''Longtime observers and those involved in the process say negotiating a District spending bill is often tough, but the House and the Senate have always worked out their differences in one sitting.'' We are having the third sitting today and we are nowhere near to a solution on whether or not 600,000 people, many of them the hardest working people one could ever find, will get their own money out of the Congress.

Our money should not be up here in the first place. There was a whole revolution over charging people taxes without allowing them to have a say in how to spend their own money. The 80 percent I am talking about was raised in the District of Columbia from District taxpayers. Most Americans do not know that. My constituents know it. They are tired of being held up here over the fight between the executive and the Congress of the United States. They understand that to be a worthy fight that has to be fought out, but surely no one believes that we should be punished by disallowing us the flexibility to spend our own money.

Mr. Speaker, there are over-obligation prospects out there because if we are given a 1-month CR, there are mandates such as AFDC. There are mandates such as payroll. We cannot guarantee we will get through those mandates. Free the District appropriation.

DEAD BROKE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. WOLF] is recognized during morning business for 5 minutes.

Mr. WOLF. Mr. Speaker, I want to bring to the House's attention a front page article from the December 3, 1995, Minneapolis edition of the Star Tribune title, ''Dead Broke,'' about how gamblers are killing themselves, bankrupting their families, and costing Minnesota millions. Let me read from this compelling article:

> In less than a decade, legalized gambling in Minnesota has created a broad new class of addicts, victims and criminals whose activities are devastating families and costing taxpayers and businesses millions of dollars.
>
> Thousands have ruined themselves financially, some have committed crimes, and a handful have killed themselves. Thousands more will live for years on the edge of bankruptcy, sometimes working two or three jobs to pay off credit-card debt.

The Star Tribune said these people include Minnesotans such as:

Catherine Avina of St. Paul, an assistant attorney general who killed herself with an overdose of antidepressants after a 4-day gambling binge. The mother of three had been fired just a few days earlier, and left debts of more than $7,000 and $600 in bounced checks.

John Lee, a 19-year-old St. Paul college student who lost $8,000 in two nights at a casino. He returned home, kicked down the door to his apartment, put the barrel of a shotgun to his head, and killed himself.

Lam Ha of Blaine, a father of two and waiter at a restaurant. Last year, he and his wife filed for bankruptcy protection with a $76,000 debt, much of it on 25 credit cards. They listed gambling losses of $40,000 in 1994 alone, more than their joint annual income.

Reva Wilkinson of Cedar, who is in prison for embezzling more than $400,000 from the Guthrie Theater to support her habit. Her case cost taxpayers more than $100,000 to investigate, prosecute, and adjudicate.

According to the article, the costs of gambling include the following: 38,000 probable addicted gamblers in Minnesota; 100,000 people with increasing gambling problems; 6 confirmed gambling related suicides; more than 140 confirmed suicide attempts since 1992; more than 1,000 people per year declaring bankruptcy; $400,000 per year in

welfare benefits withdrawn from casino ATM's and $200 to $300 million in estimated annual social costs—taxes, lost wages, and debts.

The article also reported that some $39,000 a month in welfare benefits from Hennepin and Ramsey counties is being withdrawn from automatic teller machines in casinos. In September, there were 769 withdrawals of public-assistance benefits using cash machines at Mystic Lake Casino in Prior Lake. Seventeen pawn shops have opened near casinos in the State. Several owners said they get 50 percent of their business from gamblers.

Ten years ago, there was one Gamblers Anonymous group meeting in the State. Today, there are 49. Calls to the State Compulsive Gambling Hotline doubled from 1992 to 1994, reaching nearly 500 per month.

Between 1988 when the first of the State's 17 casinos began operating and 1994, counties with casinos saw the crime rate rise twice as fast as those without casinos. The median change in counties with casinos was a 39-percent increase, compared with an 18-percent increase in noncasino counties.

And, in the face of rising crime, pathological gambling, increased bankruptcies, and broken families, what are political leaders doing? The Star Tribune says they have been silent mostly because there is a lack of credible information on the subject. The article said:

Political leaders—even those who have taken an interest in gambling issues—acknowledge they know little about the problem. There has been no comprehensive study of the social costs—the debt, crime, and suicides associated with gambling. The state does not know what kind of treatment works, or how successful the programs it funds have been.

Assistant Attorney General Alan Gilbert, a member of the State Advisory Council on Gambling, and ''But I think common sense tells you that there has to be some adverse effects. * * * We just don't know the extent of it.''

Mr. Speaker, public officials in Minnesota are not alone. Public officials in Virginia, Louisiana, and States across America don't have the information they need to make informed decisions about gambling policy.

That is why I have introduced, and 126 Members of the House have cosponsored, H.R. 497, the National Gambling Impact and Policy Commission Act. This legislation would charge a blue-ribbon panel with the duty of looking at all the social costs described by the Star Tribune so that America's policymakers and citizens know what the impact of legalized gambling may be.

Mr. Speaker, the House Judiciary Committee ordered H.R. 497 reported by voice vote and the report could be filed as early as this week. I urge members who have not yet cosponsored to cosponsor this important legislation so we can rationally determine whether or not, as the Star Tribune headline puts it, America is going ''Dead Broke.''

Mr. Speaker, I include in the RECORD immediately following my statement an Associated Press article which summarizes the three-page Star Tribune special report, as follows:

MINNEAPOLIS.—Legalized gambling in Minnesota has created a new class of addicts, victims and criminals, devastating families and costing taxpayers and businesses millions of dollars, a published report says.

According to the report in Sunday's Star Tribune, thousands of Minnesotans have ruined themselves financially, some have committed crimes, and a handful have killed themselves because of gambling problems.

Thousands more will live for years on the edge of bankruptcy, sometimes working two or three jobs to pay off high-interest credit-card debts, the newspaper said.

Political leaders acknowledge they know little about the problem, or about the social costs of problem gambling such as debt, crime and suicides, the Star Tribune said.

''The social costs really haven't been assessed very accurately, and they certainly haven't been quantified at this point,'' said Assistant Attorney General Alan Gilbert, a member of the state Advisory Council on Gambling. ''But I think common sense tells you that there has to be some adverse effects. . . . We just don't know the extent of it.''

Minnesota's problem gamblers are mostly middle-class people whose appetite for wagering grew from office football pools or church bingo to pulltabs, racetracks, lotteries and casinos when state and federal governments began, legalizing them in the mid-1980s, the newspaper said.

The Star Tribune said they include Minnesotans such as:

Catherine Avina of St. Paul, an assistant attorney general who killed herself with an overdose of antidepressants after a four-day gambling binge. The mother of three had been fired just a few days earlier, and left debts of more than $7,000 and $600 in bounced checks.

John Lee, a 19-year-old St. Paul college student who lost $8,000 in two nights at a casino. He returned home, kicked down the door to his apartment, put the barrel of a shotgun to his head and killed himself.

Lam Ha of Blaine, a father of two and waiter at a restaurant. Last year, he and his wife filed for bankruptcy protection with a $76,000 debt, much of it on 25 credit cards. They listed gambling losses of $40,000 in 1994 alone more than their joint annual income.

Reva Wilkinson of Cedar, who is in prison for embezzling more than $400,000 from the Guthrie Theater to support her habit. Her case cost taxpayers more than $100,000 to investigate, prosecute and adjudicate.

The newspaper said even conservative estimate of the social costs of problem gambling suggest that it costs Minnesotans more than $200 million per year in taxes, lost income, bad debts and crime. An estimated $4.1 billion is legally wagered in the state each year, it said.

Two independent surveys last year estimated that the number of people who have experienced significant problems because of gambling doubled from 1990 to 1994 and now exceeds 100,000. One of those studies also concluded that there are about 38,000 people in the state with serious gambling addictions.

The problem has taken a toll on a larger-scale level as well. In a report today, the newspaper said the 14 Minnesota counties with casinos in them are experiencing a significantly faster growth in the crime rate than are counties without casinos.

Between 1988 when the first of the state's 17 casinos began operating and 1994, counties with casinos saw the crime rate rise twice as fast as those without casinos. The median change in counties with casinos was a 39 percent increase, compared with an 18 percent increase in non-casino counties, the paper said.

In Sunday's report, the newspaper listed several indicators of the scope of Minnesota's gambling problem. Among them:

More gamblers are going bankrupt. It said there is evidence that more than 1,000 people a year are filing for bankruptcy protection in cases involving gambling losses.

Gamblers are committing suicide. The newspaper found six people with gambling problems who had committed suicide since 1991, five of them in the past two years. At least 140 gamblers have attempted suicide, it said. The real numbers are probably much higher, it said.

Credit counselors are seeing increasing numbers of gamblers with seemingly insurmountable debts.

Some $39,000 a month in welfare benefits from Hennepin and Ramsey counties is being withdrawn from automatic teller machines in casinos. In September, there were 769 withdrawals of public-assistance benefits using cash machines at Mystic Lake Casino in Prior Lake.

Ten years ago, there was one Gamblers Anonymous group meeting in the state. Today, there are 49.

Calls to the state Compulsive Gambling Hotline doubled from 1992 to 1994, reaching nearly 500 per month.

□ 1300

BALANCED BUDGET DEBATE IS A QUESTION OF PRIORITIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I am here to talk about the budget. The budget. Now, first of all, all of the appropriations bills were due on September 30. A year ago at this time, we had them all done, they were all signed and that was the end of it.

So, we are now 66 days after the date that they were all due, and they are not done yet. We are still operating under this temporary thing. We had one government shutdown that was, I think, an absolute debacle, in which the Federal taxpayers paid $700 million more and got less, because they paid for people to be at work and they were not at work. They wanted to be at work, but they were not allowed to be at work.

Mr. Speaker, that is really nuts. We are looking very much again at whether or not we are going to have another one of these in 10 days, or are we going to punt it until after the holidays and start this whole thing after the beginning of the new year?

What in the world happened between last year and this year that has got us running round and round and round, screaming, yelling and hollering and looking like a third-rate ''I-don't-know-what,'' but we certainly do not look like any superpower legislature.

Mr. Speaker, this has been a pathetic performance. I think taxpayers are angry with everybody in Washington.

The reason it has been so hard to understand this is because the budget is something that everybody's eyes glaze over the minute we mention it.

Mr. Speaker, there is all sorts of rhetoric going around. I see people wearing the button ''2002,'' like one side is going to balance in the year 2002 and the other side is not. That is wrong. The issue is not are we going to balance the budget 7 years out; the issue is how are we going to balance the budget 7 years out? Who wins? Who loses? That is going to determine what kind of a country we are.

Mr. Speaker, I think this debate is more important than any other debate we are going to have, because it is really going to set the country on a course for the next century. We are talking 2002, the next century. What kind of a country are we going to be? We say, ''Well, what are we? We are America. What is America? America is the flag. What is the flag? The flag is America.'' Let us break out of that circle. What does America mean, and what does the flag mean, and what do we stand for, and how do we invest our tax dollars?

The huge fight between the two different sides of this aisle is whether or not we are going to have to whack away at that budget right, left, and sundry to do this tax cut; to do this tax cut for the top 1 percent of America's families. See, if we do this tax cut, the top 1 percent is going to be like winning the lottery. They are going to get $13,628, if they make over $600,000 a year. We know how they need it. They are having trouble buying all the new fancy presents they want.

Mr. Speaker, to do that, we are going to raise the taxes of the lowest 20 percent and, boy, the next 20 percent they are going to get a whole $39 back. I am sure they are wondering right now how to spend it. Then the next 20 percent is going to get $226 back. This is not going to mean anything to the average American family; especially when we turn around and figure out what we have to cut out of the budget to get this money to fund this tax rebate.

Again, that all sounds like Washingtonian blabberty-blab. Let me try to put it on a family level. Let us assume an American family is sitting around their table working on the family budget for the next year, and assume they had too much debt, that they put too much on that plastic card that tempts us all every single day, and now they have got to figure out how they get rid of that debt. So, they are looking at every member sitting at the table. What are the decisions going to be? Where do they cut back?

Mr. Speaker, do you think there is an American family around that would say to the children, the 4- to 5-year-olds, ''We are going to have to take you out of Head Start?'' ''That is it. It is nice, but you are not even going to get to start, much less finish school.'' That is exactly what we are talking about doing, throwing thousands of kids out of Head Start. I do not think any American family would agree with that decision.

Mr. Speaker, do you think there is any American family that would say to the young people sitting at the table trying to go to college, ''Well, that is it. We are pulling the plug on you?'' I don't think so. Nor do I think they would do it to the elderly, nor do I think they would do it to anyone, just to send extra tax money to their rich uncle. That is what this is about.

NOT WHETHER TO BALANCE THE BUDGET, BUT HOW TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. EHLERS] is recognized during morning business for 5 minutes.

Mr. EHLERS. Mr. Speaker, Just as the previous speaker did, I wish to speak about the budget deficit. However, contrary to what the previous speaker did, I wish to put politics aside and just talk about some of the facts that are involved.

Mr. Speaker, we currently have a national debt which, within a week or two, will exceed $5 trillion, or more than three times the amount of the annual revenues of the United States of America.

Furthermore, over the past several years we have had budget deficits in the neighborhood of $200 billion or more a year and, in general, they have been greater than 10 percent of the annual revenues of the United States of America.

Let us break that down into human terms, as the gentlewoman from Colorado [Mrs. SCHROEDER] just did. That means that each and every man, woman, and child in the United States owes $19,000 as their share of the Federal debt. Every man, woman, and child in this country. Every American child born comes into this world with a debt of $19,000.

Currently, each of us, every man, woman, and child in the United States, pays $1,000 per year, roughly, in interest alone on the national debt. In other words, of the amount of money paid in taxes to the Federal Government, roughly $1,000 per capita goes to cover the interest.

Mr. Speaker, I pointed out a week or two ago that if any one of us as a family owed an amount of money three times or greater than our annual average income, and continued to spend 10 percent more than our annual income, and we went to a credit counselor because our credit cards had been cut off and we could not get any further loans, and we went to a credit counselor and said that we would like to balance our budget, but we wanted 7 years to do it, a credit counselor would say, ''You are crazy. You are in trouble. You have to balance your budget this year.''

Yet, Mr. Speaker, we as a Congress are proposing to balance the budget in 7 years and there are a number of Members, many from the other side of the aisle, who say that is too soon; we need 10 years or 9 years or 8 years. I think 7 years is too long and I think Uncle Sam needs a credit counselor, someone who would shake some sense into our heads and say, ''You need to balance the budget now.''

Mr. Speaker, I think as a nation we have become addicted to spending money. We expect to get services without paying for them. I learned long ago that there is no such thing as a free lunch. We as a nation have to learn that. If we want services, we have to pay for them. If we are not willing to pay for them, then we had better go without the services. That applies across the board.

As I said, I was trying to put politics aside here and just deal with the facts. I would say that too many people in the debate here, and between the Congress and the White House, have gotten into political discussions.

The President, for example, tried to use Medicare to defeat our continuing resolution and scare the elderly about what might happen to Medicare. Some Members on the other side of the aisle continue their refrain about cutting Medicare to pay for tax cuts for the rich. We just saw an example of that.

But, Mr. Speaker, I am also going to fault the Republicans, because I personally think that a number of things that we are seeking to cut are being cut too severely, and other things that are not being cut should be cut or should be cut more than they are. I think all sides have to work together and recognize the overwhelming nature of the budget deficit, and recognize that this has to be our top priority.

That is why I am delighted that we were able to reach agreement with the White House that we will, indeed, balance the budget in 7 years and that we will, indeed, work on this together.

Mr. Speaker, we have to do more than just reach agreement that we will do it. We have to work on the details. This House of Representatives has spent most of this year working on that specific issue: preparing a budget that will achieve balance in 7 years. I am proud of the work that has been done in this Chamber and in the Senate. We have sent that bill to the President. He has said he will veto it, and I suspect he will.

But then, Mr. Speaker, comes the real work. Not simply posturing to the public and saying we are going to injure the elderly by cutting Medicare, which in fact we are not, but rather we have to sit down together and negotiate in good faith and say, ''Look, we have agreed to balance the budget in 7 years and the question is not whether or not we should; the question is how we are going to do it and what we are going to cut.''

Mr. Speaker, that is going to take a very detailed and active and well-intentioned debate in the weeks ahead.

CONSUMER REPORTS LABELS GOP MEDICAID PROPOSAL BUM DEAL FOR AMERICAN FAMILIES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 5 minutes.

Ms. DELAURO. Mr. Speaker, I would just say to the prior speaker that, in fact, that credit counselor would say, ''You are crazy.'' Crazy that in a difficult time economically for our country, that we are about to provide a $245 billion tax break for the wealthiest Americans. That is a free lunch for the wealthiest Americans.

Mr. Speaker, we have spent a lot of time in this Congress talking about the cuts in Medicare contained in the GOP budget. Democrats believe that those cuts go too far, too fast and would be harmful to the 37 million seniors who rely on Medicare for their basic health care.

But, it isn't just Medicare cuts which threaten the health security of our senior citizens. The proposed budget also makes deep cuts in Medicaid which put seniors and their families at risk.

Last week, the Consumers Union, better known as the publisher of Consumer Reports, warned that the Medicaid overhaul would add significant new financial burdens on husbands, wives, and adult children of nursing home residents that could force families into poverty. The group estimates that the $163 billion in proposed cuts will cause hundreds and thousands of nursing home residents to lose their Medicaid coverage.

We all know Consumer Reports as the publication that tells us if we're getting a good deal or a bum deal on a new car or a new computer. This time, they've looked at the Republican Medicaid proposal from a consumer's point of view and have declared it a bum deal for American families.

Currently, Medicaid covers 60 percent of nursing home patients nationwide. The average cost of nursing home care is approximately $38,000 a year. Without Medicaid, nursing home care would be beyond the reach of middle-income Americans.

According to the Consumers Union, families of nursing home residents can expect the following changes if these Medicaid changes are approved:

Adult children may be held financially liable for the nursing home bills of their parents.

Family assets including homes may be sold or seized by Medicaid liens.

No one is guaranteed Medicaid nursing home eligibility; States may set unreasonably low income levels so that thousands of people will be denied help in paying the high costs of nursing home care.

Families may be forced to spend their life savings for long-term care of a loved one.

A representative from the National Senior Citizens Law Center, Patricia Nemore, said of these changes: ''Congress is taking us back to a time when it was commonplace for Americans to lose their homes and their life savings to ensure that their husbands, wives, or parents had adequate nursing home care.'' She is right, this policy is wrong.

Yesterday, I met with people in my district who have parents in nursing homes. They told me that these changes would be devastating to their attempts to take care of their parents in their old age.

Jack and Patricia D'Urso of Branford, CT, have seven children and two parents, both in nursing homes. Without the help of Medicaid, they don't know how they would care for their parents. While comfortable in their retirement, they simply do not have the resources to pay approximately $80,000 a year to pay for long-term care of two parents.

Zelda Cooper of Hamden, CT, has two parents receiving nursing home care. She could not believe that Congress would consider ending the guaranteed coverage that her family relies on and has no idea how she would care for her parents should they be forced out of their nursing home.

Now, my Republican colleagues have made much ado of late about losing their message on the budget. They theorize that the American people aren't with them because they haven't heard the Republican message. The opposite is true. The message is coming through loud and clear to the American people. In fact, the more the American people know, the less they like the Gingrich budget.

It's not a bad message that is hurting Republicans, it's bad policy. It is bad policy to ask families to hawk their homes to pay for the nursing home care for loved ones. It is bad policy to impoverish middle-income families to balance the budget. That's why Consumer Reports has labeled the GOP Medicaid proposal is a bum deal for American families.

□ 1315

RECESS

The SPEAKER pro tempore (Mr. EVERETT). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 20 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

Rabbi Motty Berger, Aish HaTorah Yeshiva, Jerusalem, offered the following prayer:

In a sorely troubled world, filled with all too much hatred, violence, and human misery, we pray to You, dear God, for divine guidance; such guidance is needed for all of us, in and out of government, as we work toward a better day for all mankind. We pray to You, our Father, who taught us to love our neighbors and to seek peace, to imbue us with both the wisdom and the will to apply Your teachings in relations between nations as well as between individuals. Let us reflect on the enormous power available to mankind, power which we may use for good or evil, to build or to destroy. It is ours to choose: life or death. May we be inspired by the prophetic message, ''Not by might, nor by power, but by My spirit, saith the Lord of Hosts,'' and thereby choose life. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE.

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

Mr. BARR 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.

WELCOME TO RABBI BERGER

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

Mr. DEUTSCH. Mr. Speaker, it gives me great pleasure to introduce Rabbi Motty Berger who gave the opening prayer of today's session of the House of Representatives. I was fortunate enough to meet Rabbi Berger several years ago at the College of Jewish Studies in Jerusalem where my wife and I enrolled in one of his courses on Jewish philosophy. During a time of tremendous transition in the Jewish community, I found Rabbi Berger to be an extremely perceptive speaker on topics surrounding the heritage of the Jewish people. He talked passionately about his desire to promote the continuity of Jewish traditions and values.

Rabbi Berger was born and raised in the United States and after graduating high school attended Ner Israel Rabbinical School in Baltimore. After completing his rabbinical studies, he went on to teach Jewish philosophy in Jerusalem and became extremely active with the Aish HaTorah organization. This yeshiva has dedicated itself to creating a warm environment that promotes Jewish unity. With that said,

it is a tremendous honor to welcome Rabbi Motty Berger.

DISPENSING WITH CALL OF PRIVATE CALENDAR

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar scheduled for today be dispensed with.

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

There was no objection.

AGREEMENT BETWEEN REPUBLICAN AND DEMOCRATIC OFFICIAL OBJECTORS RELATIVE TO PROCEDURES FOR CONSIDERATION OF PRIVATE CALENDAR

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that at this point in the RECORD there be inserted an agreement between the three Republican and three Democratic official objectors to the Private Calender relative to procedures used for the consideration of the Private Calendar during the 104th Congress.

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

There was no objection.

The text of the agreement is as follows:

Mr. SENSENBRENNER. Mr. Speaker, I would like to take this opportunity to set forth some of the history behind, as well as describe the workings of the Private Calendar. I hope this might be of some value to the Members of this House, especially our newer colleagues.

Of the five House Calendars, the Private Calendar is the one to which all Private Bills are referred. Private Bills deal with specific individuals, corporations, institutions, and so forth, as distinguished from public bills which deal with classes only.

Of the 108 laws approved by the First Congress, only 5 were Private Laws. But their number quickly grew as the wars of the new Republic produced veterans and veterans' widows seeking pensions and as more citizens came to have private claims and demands against the Federal Government. The 49th Congress, 1885 to 1887, the first Congress for which complete workload and output data is available—passed 1,031 Private Laws, as compared with 434 Public Laws. At the turn of the century the 56th Congress passed 1,498 Private Laws and 443 Public Laws—a better than three to one ratio.

Private bills were referred to the Committee on the Whole House as far back as 1820, and a calendar of private bills was established in 1839. These bills were initially brought before the House by special orders, but the 62nd Congress changed this produce by its rule XXIV, clause six which provided for the consideration of the Private Calendar in lieu of special orders. This rule was amended in 1932, and then adopted in its present form on March 22, 1935.

A determined effort to reduce the private bill workload of the Congress was made in the Legislative Reorganization Act of 1946. Section 131 of that Act banned the introduction or the consideration of four types of private bills: first, those authorizing the payment of money for pensions; second, for personal or property damages for which suit may be brought under the Federal tort claims procedure; third, those authorizing the construction of a bridge across a navigable stream, or fourth, those authorizing the correction of a military or naval record.

This ban afforded some temporary relief but was soon offset by the rising postwar and cold war flood for private immigration bills. The 82nd Congress passed 1,023 Private Laws, as compared with 594 Public Laws. The 88th Congress passed 360 Private Laws compared with 666 Public Laws.

Under rule XXIV, clause six, the Private Calender is called the first and third Tuesday of each month. The consideration of the Private Calendar bills on the first Tuesday is mandatory unless dispensed with by a two-thirds vote. On the third Tuesday, however, recognition for consideration of the Private Calendar is within the discretion of the Speaker and does not take precedence over other privileged business in the House.

On the first Tuesday of each month, after disposition of business on the Speaker's table for reference only, the Speaker directs the call of the Private Calendar. If a bill called is objected to by two or more Members, it is automatically recommitted to the Committee reporting it. No reservation of objection is entertained. Bills unobjected to are considered in the House in the Committee of the Whole.

On the third Tuesday of each month, the same procedure is followed with the exception that omnibus bills embodying bills previously rejected have preference and are in order regardless of objection.

Such omnibus bills are read by paragraph, and no amendments are entertained except to strike out or reduce amounts or provide limitations. Matter so stricken out shall not be again included in an omnibus bill during that session. Debate is limited to motions allowable under the rule and does not admit motions to strike out the last word or reservation of objections. The rules prohibit the Speaker from recognizing Members for statements or for requests for unanimous consent for debate. Omnibus bills so passed are thereupon resolved in their component bills, which are engrossed separately and disposed of as if passed separately.

Private Calendar bills unfinished on one Tuesday go over to the next Tuesday on which such bills are in order and are considered before the call of bills subsequently on the calendar. Omnibus bills follow the same procedure and go over to the next Tuesday on which that class of business is again in order. When the previous question is ordered on a Private Calendar bill, the bill comes up for disposition on the next legislative day.

Mr. Speaker, I would also like to describe to the newer Members the Official Objectors system the House has established to deal with the great volume of Private Bills.

The Majority Leader and the Minority Leader each appoint three Members to serve as Private Calendar Objectors during a Congress. The Objectors are on the Floor ready to object to any Private Bill which they feel is objectionable for any reason. Seated near them to provide technical assistance are the majority and minority legislative clerks.

Should any Member have a doubt or questions about a particular Private Bill, he or she can get assistance from objectors, their clerks, or from the Member who introduced the bill.

The great volume of private bills and the desire to have an opportunity to study them carefully before they are called on the Private Calendar has caused the six objectors to agree upon certain ground rules. The rules limit consideration of bills placed on the Private Calendar only shortly before the calendar is called. This agreement adopted on December 5, 1995, the Members of the Majority Private Calendar Objectors Committee have agreed that during the 104th Congress, they will consider only those bills which have been on the Private Calendar for a period of seven (7) days, excluding the day the bill is reported and the day the calendar is called. Reports must be available to the Objectors for three (3) calendar days.

It is agreed that the majority and minority clerks will not submit to the Objectors any bills which do not meet this requirement.

This policy will be strictly enforced except during the closing days of a session when the House rules are suspended.

This agreement was entered into by: The gentleman from Wisconsin (Mr. Sensenbrenner), the gentleman from North Carolina (Mr. Coble), the gentleman from Virginia (Mr. Goodlatte), the gentleman from Virginia (Mr. Boucher), the gentleman from Maryland (Mr. Mfume), and the gentlelady from Connecticut (Mrs. DeLauro).

I feel confident that I speak from my colleagues when I request all Members to enable us to give the necessary advance consideration to private bills by not asking that we depart from the above agreement unless absolute necessary.

F. JAMES SENSENBRENNER, JR.
HOWARD COBLE.
BOB GOODLATTE.
RICK BOUCHER.
KWEISI MFUME.
ROSA DELAURO.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 20 1-minute speeches on each side.

DO THE RIGHT THING: BALANCE THE BUDGET IN 7 YEARS

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

Mr. TIAHRT. Mr. Speaker, the President has refused to negotiate a balanced budget, just 17 days after signing an agreement to balance the budget in 7 years. There are three plans out there: His plan, which did not get one vote in the Senate, went down 96 to 0; then the Democrat Coalition plan, which did get some votes and does balance in 7 years; but the best plan is the Republican plan.

The reason I believe so is because it has the discipline of a balanced budget. It will balance in 7 years. It is the right thing to do. We will never get there unless we have the discipline.

Second, it deals with the tough issues like welfare reform. We believe it is the right thing for people to work for what they get, and not just get a handout, so they can believe in themselves. We trust States like Kansas to do what is right for those truly in need.

The Republican plan also trusts parents by giving them a $500 per child tax break. It allows them to spend money on their children rather than the Government. It will strengthen families and it is the right thing to do.

Mr. Speaker, let us do the right thing for our country, for ourselves, and for

our children. Let us balance the budget in 7 years.

AMERICAN PEOPLE HAVE THE RIGHT TO FACTS ABOUT ETHICS INVESTIGATION INTO SPEAKER'S TIES TO GOPAC

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

Mr. BONIOR. Mr. Speaker, the Hartford Courant says that the Ethics Committee investigation of Speaker GINGRICH has ''the foul odor of cover-up.'' How much longer is the Ethics Committee going to let this charade continue?

We now know that four members of the Ethics Committee—including the chairwoman herself—have ties to GOPAC. The same GOPAC which financed the Speaker's own campaigns to the tune of $250,000 a year.

The evidence against Speaker GINGRICH is so damning that last week, two of the three Republicans at the FEC voted to make their evidence public.

Mr. Speaker, I am here today to call on the chairwoman and the members of the Ethics Committee to fully disclose their ties to GOPAC. And I am calling on the Speaker himself to release the names of past GOPAC donors and release the list of past GOPAC expenses.

Mr. Speaker, if you've got nothing to hide, you've got nothing to be afraid of. But if you keep dragging your feet, the American people have a right to ask: what are you trying to hide?

AMERICAN PEOPLE WANT A BALANCED BUDGET AND NOT CHARACTER ASSASSINATION

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my friend, the minority whip, trying to whip this body into a rage with an editorial from the Hartford Courant. It is interesting, Mr. Speaker, to hear really the poster boy of American liberal journalism, Bob Woodward, on ''Meet the Press'' this weekend, saying in effect that all of these chargers were trumped up, that there was no reason to attack the Speaker on any of these things.

In fact what we see, Mr. Speaker, is a minority so bereft of ideas, so unwilling to come to the table, so unwilling to address the central question, which is balancing this budget in 7 years, that they will try any tactic of character assassination, any exaggeration, anything to avoid the point.

Mr. Speaker, the American people want it now, they want it simply, they want us to face up to the challenges they put us here to face up to. They want us to balance the budget and not to engage in character assassination.

GATORS SCORE SEC THREE-PEAT

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

Mrs. THURMAN. Mr. Speaker, for the Florida Gators, it's 12 down and 1 to go.

That's right, after thrashing the Arkansas Razorbacks 34 to 3 for a Southeastern Conference three-peat, the fighting Gators from the University of Florida will be meeting the Nebraska Cornhuskers in the Fiesta Bowl on January 2 to settle the question of who is the No. 1 team in the Nation.

Guess whom I'll be rooting for?

The undefeated Gators, led by the tactical brilliance of coach Steve Spurrier and the pinpoint accuracy of quarterback Danny Wuerffel, stomped 12 opponents during this record year. The Gator offense left their opponents dazzled and befuddled, while the defense did the rest.

Never before have the University of Florida Fighting Gators played for a national championship. To all the dedicated coaches and gifted athletes of the 1995 University of Florida football team—and on behalf of the proud alumni, congratulations on an already historic year.

And look out Nebraska, cause the Gators will be growling again in the Fiesta Bowl.

LET THE BEST TEAM WIN

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

Mr. CHRISTENSEN. Mr. Speaker, I cannot let go unchallenged a laying down of the gauntlet like that from my friend, the gentlewoman from Florida [Mrs. THURMAN]. As a Cornhusker and a proud supporter of Tom Osborne and the next Heisman trophy winner, Tommie Frazier, we are looking forward to our January 2 meeting with the third Florida team in 3 years.

To refresh the memory of the gentlewoman from Florida, 2 years ago we lost to Florida State. Last year we beat the University of Miami for the national championship. This year we are looking forward to repeating our national claim to that trophy. We are anxious to have at our helm, a Florida individual from Bradenton, FL, Tommie Frazier, who we are all hoping will win that Heisman trophy award.

It is going to be a fun game. I will see my colleague in Florida, and we look forward to a great, great game. Let the best team win.

FORTY YEARS AGO TODAY

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

Mr. LEWIS of Georgia. Mr. Speaker, 40 years ago today, December 5, 1955, the Montgomery bus boycott began after Rosa Parks refused to give up her seat and move to the back of the bus. It marked the beginning of a long and difficult struggle toward equal rights and civil rights in this Nation.

Forty years later, those signs that I saw growing up in the rural south, those signs that said colored men, white men, colored women, white women, colored waiting, white waiting, are gone.

We have witnessed what I like to call a nonviolent revolution in America. It is a time and a period that we will never go back to, but we must never forget.

On the occasion of this important anniversary, I want to pay tribute to the leaders of that struggle, to Rosa Parks and to my late great mentor Dr. Martin Luther King, Jr.

We have come a long way toward achieving what Dr. King called the ''beloved community'', but we still have a long way to go. Let us, on this anniversary, rededicate ourselves to building a truly inter-racial democracy in America. For in truth, we are one nation, one people, one house, the American House.

IT IS TIME FOR PRESIDENT CLINTON TO GET SERIOUS ABOUT BALANCING THE BUDGET

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

Mr. CHABOT. Mr. Speaker, President Clinton has said time and time again that he supports a balanced Federal budget. True, he has never actually proposed such a plan, but because of the Balanced Budget Act passed by this Congress, he has now got an opportunity to walk the walk, not merely talk the talk.

The President made a start last month when he agreed with this Congress to balance the budget in 7 years. Of course, the very next day, his chief of staff, Leon Panetta, told the American people that they should not read too much into that. But, Mr. Speaker, I am willing to take the President at his word, even if his own chief of staff apparently does not.

Mr. Speaker, the Congress has brought to the negotiating table a detailed balanced budget proposal. The President thus far has brought only press releases. The President can accept our plan, or he can tell us how much more he wants to spend and just where he is going to find the money to pay for it.

With a Federal debt at nearly $5 trillion, it is time for the President to get off the dime. Mr. President, let us work together to balance the budget.

VOTE AGAINST H.R. 2099, VA–HUD AND INDEPENDENT AGENCIES APPROPRIATIONS ACT

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

Mr. FLAKE. Mr. Speaker, while I would like to commend the conferees on their efforts to increase funding for

veteran medical care, I must rise in opposition to H.R. 2099, the VA–HUD and Independent Agencies Appropriations Act.

Mr. Speaker, in its current form, this bill eliminates two programs which promoted comprehensive and effective economic growth in disadvantaged communities—the community development financial institutions and the economic development initiative fund.

Through these programs, low-income individuals were given the opportunity to start their own businesses, small children benefited from community centers that kept them off the streets after school, families gained access to safe and affordable housing and good business was generated for America's financial services industry.

Mr. Speaker, by eliminating these programs, we are launching a double assault on poor communities. In essence, we no longer reward those individuals who take responsibility for improving themselves and creating a better life for their children; while, we simultaneously remove incentives for financial institutions to invest in these communities as well.

Mr. Speaker, we need to commend programs such as the CDFI and EDI fund because they do offer low-income individuals a hand-up, not a hand-out, which I am sure my colleagues on both sides of the aisle can appreciate.

I would urge my colleagues to consider the long-term effect that this disinvestment in America's urban communities will have on this Nation's economy. With that said, I hope my colleague will join me in voting against H.R. 2099.

PRESIDENT SHOULD SIGN BALANCED BUDGET

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

Mr. BALLENGER. Mr. Speaker, I am no great defender of the Washington press corps, but let me share this quote from this week's Newsweek magazine:

> Unfortunately, the White House isn't yet truly bargaining. President Clinton has endorsed a balanced budget but has flagrantly misrepresented the GOP budget. He say it would ''destroy'' Medicare. This is an absurd description of a program whose spending would grow 62 percent by 2002. He says that ''deep'' education cuts would ''undermine'' schools. But the budget barely touches the largest education program—guaranteed college loans—and all Federal aid to public schools provides only 7 percent of their spending.

Newsweek is absolutely right. The President has only paid lipservice to balancing the budget. While he tries to portray the Republican budget as draconian and mean-spirited, he offers no plan of his own.

Instead of lipservice, the President should sign the balanced budget that is now sitting on his desk.

□ 1415

BOEING MOVES TO MEXICO

(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, earlier this year American workers in the Boeing Seattle plant won awards and trophies for worker productivity. Thirty days after the speeches and the trophies, Boeing is moving to Mexico; 2,000 more livable wage jobs down the chute.

The facts: Boeing paid $18 per hour labor wage in Seattle. Boeing will now pay 76 cents an hour labor wage in Mexico. And if you really want to spill your Wheaties, ladies and gentlemen, Mexico has yet to purchase one Boeing jet. Beam me up, Mr. Speaker.

The trade deficit is at a record. Japan and China are literally raping our shores. If you want to get a job in this country, move to Mexico. The biggest export for NAFTA has been American jobs. Shame, Congress. Shame for turning your back on the American workers. What will be left? A couple more McDonald's jobs. Think about it.

ANTITERRORISM LEGISLATION

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

Mr. BARR. Mr. Speaker, I am very happy to appear today as a member of the Committee on the Judiciary and a Member of this body very concerned about antiterrorism legislation that gives Government the tools it needs yet respects the rights of all of our citizens here to report to this House that we have worked out through the yeoman efforts of the gentleman from Illinois [Mr. HYDE] of the Committee on the Judiciary a piece of legislation that we intended to bring to the floor of this House very shortly and that goes a long way toward giving the Government the tools that it needs within the bounds of civil liberties, yet does not represent a vast expansion of Federal electronic surveillance power and intrusive technique and does not erode the very strict separation between military and domestic law enforcement by weakening posse comitatus.

I would like to report to the House that we will have before us a piece of legislation that will indeed strengthen our Government's hand to protect us against acts of terrorism yet is very mindful of the civil liberties that all of us, both individually and collectively, enjoy and should enjoy in this country.

NATO

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

Mr. FUNDERBURK. Mr. Speaker, the Clinton administration is a constant source of amazement. It is ringing alarm bells about how American boys need to save NATO by getting knee deep in Bosnia. Yet, while it's preaching about saving NATO, it is championing the cause of an avowed Marxist to be NATO Secretary General.

Last week, the Clinton administration approved the selection of Javier Solana, Spain's Foreign Minister to lead NATO at this supposedly critical time. Mr. Speaker, let me tell you about Mr. Solana. He has spent his life attacking NATO and the United States. He led the Socialist Worker's Party campaign to impose communism on Spain. He is an ally and admirer of Fidel Castro. He is virulently anti-American and represents a country which is not even part of NATO's military command.

Mr. Speaker, Bill Clinton's argument that NATO will crumble in Bosnia without American troops is silly on its face, but to promote the likes of Javier Solana when American lives are on the line is nothing short of outrageous. If this is what Bill Clinton thinks of NATO, then the NATO's 'charter isn't worth the paper it's written on and it certainly isn't worth the life of one single American soldier.

BALANCED BUDGET ACT OF 1995

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

Mr. LEWIS of Kentucky. Mr. Speaker, it's been more than 2 weeks since President Clinton promised to balance the budget in 7 years. He still doesn't have a plan, but don't worry America, there is a solution.

It's called the Balanced Budget Act of 1995. It's a 7-year plan to balance the budget and ensure a bright future for our children and it's waiting for the President's signature.

I know, I know, Mr. and Mrs. America, you've heard all about the draconian cuts in this bill. But the Balanced Budget Act increases spending by more than $2.5 trillion during the next 7 years. Medicare spending increases 62 percent, Medicaid spending increases 43 percent, student loan spending increases 49 percent.

Mr. Speaker, the President has it easy. We've already done the work. All he has to do is sign on the dotted line and he has helped save the next generation. Mr. Speaker, I hope he does the right thing—I hope the President signs the Balanced Budget Act of 1995.

BALANCE THE BUDGET NOW

(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, Americans want Congress and the President to balance the budget and they want a plan now, not next year.

A public opinion survey of 7,200 registered voters show that when Americans are given the truth, they overwhelmingly favor the Republican proposal to balance the budget in 7 years.

Eighty-six percent believe ''The President and Congress should deal with the budget issue now'' compared to 9 percent who feel the issue should be put off until after next year's election.

Seventy-one percent believe that the President and Congress should submit a 7-year balanced budget scored by the nonpartisan Congressional Budget Office.

The Congress did this long ago.

Mr. Speaker, the Congress and the American people are eager to see the President's plan to balance the budget in 7 years. How else can we negotiate?

It's been 15 days since the President agreed to do this. The deadline is next Friday. Where's the President's 7 year balanced budget?

THE TRUTH ABOUT THE BUDGET

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

Mr. TAYLOR of Mississippi. Mr. Speaker, the previous speaker, my friend from Maryland, said the American people want to know the truth about the Balanced Budget Act of 1995. I think they deserve it.

The Balanced Budget Act of 1995 will borrow $296 billion for the next fiscal year budget. It will borrow $118 billion from trust funds such as the Social Security trust fund that is supposed to be set aside to protect senior citizens Social Security payments in the future.

The Balanced Budget Act of 1995 will go on to borrow $75 billion and give most of that money away in tax breaks for America's wealthiest 12 percent.

I am glad my friend from Maryland wants to know the truth, and I have just given it to him. I hope the gentleman from Ohio [Mr. KASICH], and I hope all the Members of this body will correct the things that I just brought to our attention, because that is certainly not a balanced budget by anyone's scoring.

WAITING FOR THE PRESIDENT'S BUDGET

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

Mr. RIGGS. Mr. Speaker, I draw your attention to this particular chart here. As of today, it has been 1,280 days since candidate Clinton promised a national audience on ''Larry King Live,'' ''I would present a 5-year plan if elected President to balance the budget.'' It has been 17 days, not 16, 17 days since the President promised in writing to sign a bill by the end of this year that balances the budget in 7 years using honest numbers.

We Republicans have done our job. We have sent the President a detailed fair budget plan to do just that. However, the President says he does not like our plan. Well, if that is the case, where is his plan? Let him put his plan on the bargaining table. That is negotiating in good faith.

Let me repeat that. If the President does not like our plan to balance the budget, then he should produce his own plan to balance the budget, not this. His budget has deficits in the range of $200 billion well into the next century. The American people are tired of all the cheap political talk coming out of the White House, the political posturing, the demagoguery. They want to see action. They want to see how the President proposes to balance the budget.

Mr. Speaker, it has been 17 days so far. We are still waiting for the President's balanced budget plan. How many more days will we have to wait until he keeps his promise and signs a budget?

USING HONEST NUMBERS

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

Mr. NORWOOD. Mr. Speaker, we have passed a budget that will be in balance in 7 years using honest numbers. Medicare spending will increase by 62 percent. Medicaid spending will increase by 43 percent. Student loan spending will increase by 48.5 percent. School lunch spending will increase by 37 percent. Mr. Speaker, we are $5 trillion in debt. We are allowing programs to continue to grow. We are making a responsible effort to balance our budget for the sake of our children and grandchildren's future.

What do we have from the President and other liberal Democrats? Nothing. Distortions. Misrepresentations. We have a plan to balance the budget; all they have is talk.

Mr. Speaker, some people would rather talk about balancing the budget. Some people don't want to make the hard choices. Some people just don't want to balance the budget. Meanwhile, we are working to protect the future for our children, to give them a chance for the American dream. That is what we were elected to do.

HELP THE PRESIDENT KEEP HIS WORD

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

Mr. SMITH of Texas. Mr. Speaker, perhaps the current budget negotiations should be terminated. They undermine the President's ability to keep his word to the American people.

In June 1992, then candidate Bill Clinton said he would balance the budget in 5 years. ''I would present a 5-year plan to balance the budget,'' he pledged to the voters. That means he will have to balance the budget by 1997, 2 years from now.

Maybe Republican leaders should not be negotiating with the administration to balance the budget in 7 years. Let President Clinton keep his contract with the American people and show us how he would balance the budget in 2 years.

Of course, we'd have more confidence that the President meant what he said if he had any plan to balance the budget.

The Federal Government should not spend more than it collects, for two reasons: First, it will help the economy and the American people. Second, it will help President Clinton keep his word.

BALANCING THE BUDGET

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

Mr. CHRYSLER. Mr. Speaker, Congress and the President are now in the midst of a great debate about balancing the budget. The President has at one time or another promised to implement many of the items contained in Congress' Balanced Budget Act that is now on his desk.

He said he wanted serious welfare reform. He said he wanted to balance the budget in 7 years. And he also said that he wanted to give tax relief to working, middle-class American families.

But yet he persists in saying that the Republicans only want to give tax breaks to the rich. This is pure fantasy.

This chart clearly shows that the vast overwhelming majority of our $500 per-child tax credit goes to those making less than $75,000. In fact, 89 percent of this tax break goes to the middle class.

Mr. Speaker, the President should end the scare tactics, sign the Balanced Budget Act, and give tax relief to working families.

PROTECT THE ENVIRONMENT

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

Mr. RICHARDSON. Mr. Speaker, we should make sure that we reach agreement on the Interior bill, the environmental bill. The House has rejected this extremist measure and, now that the American people have spoken, that we want to have mining reform, that we want to stop logging in the Tongass, that we want to deal with our parks in a sensible way, that it makes sense to come back with a moderate bill that the President can sign. Many times the House has said to those that want to gut the environment, we do not want that. We want you to reach agreement on this issue.

We are making progress on this, but let us put this appropriation bill to bed. There are so many appropriations bills that have not been dealt with that are still in controversy, that at least

this one, where the American people are behind bipartisan efforts of our side and moderate Republicans to reach agreement, let us proceed with this bill at least as a start. The American people want to protect the environment.

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

Mr. SMITH of Texas. 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 Banking and Financial Services, Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on Transportation and Infrastructure, and Permanent Select Committee on Intelligence.

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

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after the debate has concluded on all motions to suspend the rules.

BIG THICKET NATIONAL PRESERVE LAND EXCHANGE

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 826) to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, as amended.

The Clerk read as follows:

H.R. 826

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) under the Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46), Congress increased the size of the Big Thicket National Preserve through authorized land exchanges;

(2) such land exchanges were not consummated by July 1, 1995, as required by Public Law 103–46; and

(3) failure to consummate such land exchanges by the end of the three-year extension provided by this Act will necessitate further intervention and direction from Congress concerning such land exchanges.

SEC. 2. TIME PERIOD FOR LAND EXCHANGE.

(a) EXTENSION.—The last sentence of subsection (d) of the first section of the Act entitled ''An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes'', approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out ''two years after date of enactment'' and inserting ''five years after the date of enacment''.

(b) INDEPENDENT APPRAISAL.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: ''The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.''.

(c) LIMITATION.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: ''The authority to exchange lands under this subsection shall expire on July 1, 1998.''.

SEC. 3. REPORTING REQUIREMENT.

Not later than six months after the date of the enactment of this Act and every six months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46).

SEC. 4. LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.

If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (b)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (b)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (b)(2).

(b) LANDS DESCRIBED.—

(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled ''Big Thicket Lake Estates Access—Proposed''.

(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(c) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under this section shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] and the gentleman from New Mexico [Mr. RICHARDSON] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

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

Mr. Speaker, H.R. 826, sponsored by Mr. WILSON of Texas, would extend the authority previously granted to the Park Service to conduct land exchanges with private owners and the Forest Service at the Big Thicket National Preserve. These exchanges will add critical acreage to the park unit. Because of the lack of progress by the respective agencies, this legislation is necessary to facilitate expansion of the Big Thicket National Preserve as mandated by the 103d Congress.

Mr. WILSON has worked cooperatively with the committee and the agencies to find a way to promptly facilitate this noncontroversial land exchange. This legislation will extend the deadline for completion of these exchanges by 3 years or until July 1, 1998. Because we are interested in these exchanges occurring in a prompt manner, this bill will also terminate the authority of the Park Service to conduct this exchange if the new deadline is not met. Moreover, there is a requirement that the agencies report back to the committee every 6 months on the progress of the exchange. Last, included in the text is the authorization to complete a very minor exchange necessary to provide emergency access to an inholder in times of flooding. This will exchange 3.76 acres of private lands for 2.38 acres of park lands. This is a noncontroversial exchange supported by both the landowner and the Park Service.

I urge my colleagues to support H.R. 826 for the betterment of the Big Thicket National Preserve.

☐ 1430

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

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

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

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 826, introduced by my good friend and colleague, Representative CHARLIE WILSON. It is a disappointment that the Big Thicket National Preserve land exchanges that were previously authorized have not been completed. Representative WILSON introduced H.R. 826 to extend the deadline for completion of these exchanges. I am gold to see that the bill extends the time period. However, it appears that the gun is being put to the head of the National Park Service to get the land exchanges completed, when it does not appear that the National Park Service is the problem in getting the exchanges done. I hope that the committee amendment's triggering mechanism will not be necessary and that these exchanges can be completed quickly.

I would also note, Mr. Speaker, that the committee amendment includes an additional land exchange that had not been previously discussed. I understand that this small exchange is one the National Park Service supports and that

it is dependent on a third party making available lands that the National Park Service wants. I have no objection to this particular exchange, with the understanding that it is one that the National Park Service supports and that it can and will be carried out properly.

Mr. Speaker, H.R. 826 will facilitate the acquisition of lands within the Big Thicket National Preserve that have significant environmental and recreational values. This is a worthy effort that Representative WILSON has been working on for years. I support the bill, as amended, and urge its adoption by the House.

Mr. WILSON. Mr. Speaker, today the House will consider H.R. 826, a bill to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas.

As you know, under the Big Thicket National Preserve Addition Act of 1993, Public Law 103–46, Congress increased the size of the Big Thicket National Preserve through certain authorized land exchanges.

Unfortunately, the land exchanges were not consummated by the July 1, 1995 deadline as required by law, hence the need for my bill H.R. 826. This legislation merely extends the original deadline to July 1, 1998, thus providing the appropriate congressional authorization.

Assurances have been given by officials of the U.S. Department of Agriculture, the U.S. Department of the Interior, and the private landowners involved, that the land exchanges will be successfully completed by July 1, 1998.

I urge my colleagues to support this bill.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 826, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, passed.

The title of the bill was amended so as to read: ''A bill to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas, and for other purposes''.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 826, the bill just passed.

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

There was no objection.

AMENDING THE DOUG BARNARD, JR.—1996 ATLANTA CENTENNIAL OLYMPIC GAMES COMMEMORATIVE COIN ACT

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2336) to amend the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.

The Clerk read as follows:

H.R. 2336

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

SECTION 1. CHANGES IN COIN SPECIFICATIONS.

Section 102 of the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act (91 U.S.C. 5112 note) is amended—

(1) in the table at the end of subsection (a)—

(A) by striking ''Not more than 175,000 each of 2 coins of different designs'' and inserting ''2 coins of different designs, in quantities not to exceed 175,000 of each design''; and

(B) by striking ''Not more than 300,000 each of 2 coins of different designs'' and inserting ''2 coins of different designs, in quantities not to exceed 100,000 of the first design and not to exceed 150,000 of the second design'';

(2) in the table at the end of subsection (b)—

(A) by striking ''Not more than 750,000 each of 4 coins of different designs'' and inserting ''4 coins of different designs, in quantities not to exceed 750,000 of each design''; and

(B) by striking ''Not more than 1,000,000 each of 4 coins of different designs'' and inserting ''4 coins of different designs, in quantities not to exceed 350,000 of each of the first 2 designs, and not to exceed 500,000 of each of the remaining 2 designs''; and

(3) by striking subsection (c) and inserting the following:

''(c) HALF DOLLAR CLAD COINS.—

''(1) SPECIFICATIONS.—The Secretary shall issue not more than 8,000,000 half dollar coins, each of which shall—

''(A) weight 11.34 grams;

''(B) have a diameter of 30.61 millimeters;

''(C) be minted to the specifications for half dollar coins under section 5112(b) of title 31, United States Code; and

''(D) contain an inscription of the year '1995' or '1996', as the Secretary determines to be appropriate.

''(2) DESIGNS.—Coins issued under paragraph (1) shall be of 4 designs selected in accordance with this Act in such quantities as the Secretary determines to be appropriate.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] will be recognized for 20 minutes, and the gentleman from New York [Mr. FLAKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

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

Mr. Speaker, today I rise in support of H.R. 2336, a measure that lowers the minting levels of the Atlanta Olympia commemorative coins. I am grateful to enjoy the support of Representative JAMES A. LEACH, chairman of the Committee on Banking and Financial Services. On the other side of the aisle, Representative GONZALEZ, former committee chairman; Representative FLAKE, the ranking member of the subcommittee; and Representative FRANK of Massachusetts have provided their strong support for this legislation, and I am very appreciative of their efforts. I must also acknowledge the valued input and support of Representatives BARR, LUCAS, and METCALF of the subcommittee.

Mr. Speaker, the Subcommittee on Domestic and International Monetary Policy of the House Banking and Financial Services Committee has primary jurisdiction over the commemorative coin programs of the U.S. Mint. This legislation is supported by the Atlanta Committee, the U.S. Mint, the Citizens Commemorative Coin Advisory Committee [CCCAC], and the Georgia congressional delegation.

Mr. Speaker, H.R. 2336 amends the mintage levels in section 102 of the 1996 Atlanta Olympic Games Commemorative Coin Act. The maximum 1996 minting of the two gold coins, previously authorized for 600,000 for both, is reduced to a total of 250,000. The 1996 minting of $1 silver coins is reduced from 4 million total of four designs to a sum total of 1.7 million. Half-dollar coins, originally slated for a minting of 10 million, are reduced to 8 million over 2 years. These reductions are necessary for the success of the program.

Mr. Speaker, this bill is supported by the people and groups that will be directly affected; namely, the Atlanta Committee, the people of Georgia, and the Citizens Commemorative Coin Advisory Committee. They realize that unless the rate of sales are increased, the Atlanta Olympic commemorative coin program will not achieve its potential. By lowering the mintage levels, collector interest should be stimulated, and the overall program would be enhanced. This bill is necessary for the success of the Atlanta Olympic coin program, and I urge its immediate adoption.

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

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

Mr. Speaker, I rise today in support of H.R. 2336, a measure to amend the Doug Barnard, Jr. 1996 Atlanta Centennial Olympic Games Commemorative Coin Act. The Georgia delegation, in bipartisan cooperation, has sponsored this bill which will protect the integrity of the commemorative process. More importantly, however, the bill will ensure the integrity of the Atlanta games next summer.

Mr. Speaker, the Atlanta Centennial Olympic Games will be a milestone for both peace and sport. The games represent the largest peacetime event in world history, and in the tradition of Olympic competition, the games will become the beacon of 100 years of goodwill and sportsmanship.

Currently, Olympic coin sales are lagging, and to put it bluntly, Congress has authorized too many coins. Today, however, we will allow the American public to contribute to the success of

this event by encouraging collectors to purchase United States 1996 Olympic coins.

Purchases of Olympic coins provide the public its best chance to display support for the U.S. Olympic team and the Atlanta centennial Olympic games. In return for its support, the American public gets valuable, historic, and sentimental mementos.

Mr. Speaker, by purchasing Olympic coins, we will allow our athletes to go for the gold. To support that goal, four official coins are now available as follows:

First, a gold $5 coin;

Second, two silver dollars; and

Third, and one nonprecious half-dollar.

These are the first of 16 various coins to be issued by the Mint in support of the 1996 games. The attractive coins will capture the grace of gymnastics, the speed and strength of track and field, and the certain excitement of dream team 2 as the United States reaches for gold in basketball. I therefore encourage the American public, and my colleagues, to embrace this opportunity, and to cherish these symbols of peace and sportsmanship. I encourage unanimous support for this bill, and I strongly support our Olympic effort in Atlanta next summer.

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

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, I want to take a moment to thank Mr. CASTLE, the chairman of the Subcommittee on Domestic and International Monetary Policy and his staff for working with me and my staff in moving this important legislation to consideration by the full House. I would like to recognize the efforts of Mr. FLAKE and Mr. FRANK in support of this bill, and would also like to commend the Atlanta Committee on the Olympic Games [ACOG] for their hard work on the Olympic Commemorative Coin Program and the Olympic games as a whole. ACOG has done the State of Georgia proud, in fact the entire country should be proud of their efforts and we look forward to the fruits of their labor next summer. Mr. Speaker, H.R. 2336 is critical to the continued success of the 1996 Olympic Commemorative Coin Program.

As we consider this legislation, I want to make it clear at the outset: This legislation does not create a new commemorative coin program. Instead it reduces the mintage of an existing program, and provides flexibility to the mint to print a greater ratio of the more popular general sale coins. When this program was initiated the mintage level was set to conduct the most aggressive Olympic Coin Program ever. With the reduction in mintage, the program will still be aggressive, however we are allowing a greater potential for success.

H.R. 2336 is supported by the Altanta Committee on the Olympic Games [ACOG], the United States Mint, and the numismatic community. In fact, by lowering the mintage on the gold and silver coins, ACOG and the U.S. Mint have responded to those in the numismatic community who have said that the mintage levels are too high. They believe that by lowering the mintage levels, the value of the coins will increase and the numismatics will take a second look at purchasing these coins.

In addition, H.R. 2336 would lower the mintage levels for the 1995 and 1996 clad coins from 10,000,000 to 8,000,000, and would provide the mint the flexibility to mint more of the popular clad coins, for example basetball and baseball.

I believe that with this flexibility the general public sales will also increase.

It is important to recognize the 1996 Olympic Coin Program is not in trouble or faltering. Sales for the 1995 Olympic coins are strong especially in the international community. Unfortunately Olympic coin sales to the U.S. numismatic community have not been as good as anticipated. With this legislation we expect to build on the well-established success of the Olympic Coin Program.

As seen by other legislation before the House this Congress is in the process of reigning in and reforming commemorative coin programs. H.R. 2336 is consistent with those efforts. A successful coin program is good for the Federal budget and good for the American taxpayer.

Again, Mr. Speaker, this legislation makes changes to the Atlanta Centennial Olympic Coin Program, and does not create a new commemorative coin program. This is very simply a technical change to an already existing program.

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

Mr. Speaker, I wish to commend the gentleman from Texas [Mr. GONZALEZ], the ranking member of the full Committee on Banking and Financial Services, who has spent a great deal of time in giving not only support to, but helping to shape this piece of legislation.

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

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

Mr. Speaker, let me just add that the gentleman from Georgia [Mr. BARR] has been tremendously helpful in the formulation of this legislation and watching over it very carefully. The gentleman calls me constantly on it, and I appreciate that. He kept us on the straight and narrow.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. NORWOOD], who has been concerned about this legislation.

Mr. NORWOOD. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I feel strongly that we should pass H.R. 2336. The 1996 Summer Olympic Games in Atlanta is a great event for both my State and this Nation, but with this legislation I want to also acknowledge the original author of this act, one of my predecessors from Georgia's 10th District, Representative Doug Barnard.

My friend Doug Barnard was first elected in 1978 and served until 1992 and was a consistent voice for fiscal restraint. He was a boll weevil Democrat who served his district and his country well. He supports the action that I hope the House will take today in passing this legislation.

All of us in Georgia look forward to hosting the world in 1996 and are pleased that there will be U.S.-minted coins to commemorate this historic event. I thank my friend Mr. BARR for his diligent work on this legislation and I urge its adoption.

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

Mr. Speaker, I would like to thank the gentleman from Delaware [Mr. CASTLE], the chairman of the committee, for the means by which he has brought this bill forward. I think all of us know that the Olympics are not only important for America, but they are important for world peace.

I would also like to thank the gentleman from Georgia [Mr. BARR]. He has driven this process extremely well. I thank the gentleman for the kind of cooperation that all of our staffs have shared in making sure that this particular commemorative coin legislation not only will get to the floor, but out of the House.

More importantly, I think all of us are focused on the Olympics in 1996, knowing that this is one of the places where we can remove all the walls and barriers that separates us, and come together with the spirit of peace and love, a spirit of sharing and caring for one another.

Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

☐ 1445

Mr. CASTLE. Mr. Speaker, I would like to echo the words of the distinguished ranking member of this committee, the gentleman from New York [Mr. FLAKE]. He has been a tremendous pleasure to work with throughout my tenure as the chairman of this subcommittee. Hopefully, we will have as much peace in the world as we have had in our subcommittee in terms of getting things done.

The gentleman has been very helpful in resolving problems. There was a problem here, as was pointed out to us by the two speakers from Georgia and other individuals, with the Atlanta Olympic Committee, and we recognized it. The sales are strong, but with some changes in tailoring in what we were doing, it was felt that we could move ahead. We were able to address that, and we did it in a way that will be beneficial to everybody, and I am pleased to have the opportunity to be here to help present that.

Mr. LEWIS of Georgia. Mr. Speaker, I would like to thank my colleague from Georgia for

the work he has done on this bill. As he has said, it is a simple, noncontroversial bill to help the 1996 Olympic games.

I am proud to represent the city of Atlanta, which will host the 1996 games. I know many of my colleagues on both sides of the aisle have supported this effort. I would like to thank all my colleagues for their hard work and their support. I believe that the 1996 Olympics, when we celebrate the 100th anniversary of the games, will be the best Olympics ever.

This bill governs the production of commemorative coins for the 1996 games. These coins will commemorate an Olympics that will highlight the best of Atlanta, GA and the United States. We will witness the largest coming together in history of people of different nations, religions, and heritage. The Olympics not only celebrate athletic accomplishment, they celebrate diversity, peace, and our ability to overcome our differences and unite as a people. We all can learn something from the Olympic message.

I urge my colleagues' support for H.R. 2336.

Mr. GONZALEZ. Mr. Speaker, I rise in support of H.R. 2336, legislation which amends the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act.

This bill was introduced by Congressman BOB BARR, a member of the Banking Committee from the State of Georgia. He is joined today by his Democratic and Republican colleagues from the Peach State in cosponsoring H.R. 2336, a bill to significantly change the marketing strategy for the sale of Olympic commemorative coins. Revenues from the sale of these coins will be used to support the Olympic games in Atlanta.

Unfortunately, the projected sale of the coins does not appear to be as successful as anticipated when we first considered the Olympic coin program. Today we take corrective measures that make good marketing sense and should result in a restructured coin program to maximize profits for the Olympic Committee.

I commend the chairman of the Banking Subcommittee on domestic and international monetary policy, Chairman MICHAEL CASTEL, and the ranking Democratic member of the subcommittee, Congressman Floyd Flake, for their work in bringing this bill to the floor in a timely fashion.

Mr. CASTLE. Mr. Speaker, I ask for unanimous support for the legislation and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE], that the House suspend the rules and pass the bill, H.R. 2336.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2336, the bill just passed.

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

There was no objection.

COMMEMORATIVE COIN AUTHORIZATION AND REFORM ACT OF 1995

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2614) to reform the commemorative coin programs of the U.S. Mint in order to protect the integrity of such programs and prevent losses of Government funds, to authorize the U.S. Mint to mint and issue platinum and gold bullion coins, and for other purposes.

The Clerk read as follows:

H.R. 2614

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 ''Commemorative Coin Authorization and Reform Act of 1995''.

TITLE I—COMMEMORATIVE COIN PROGRAM REFORM

SEC. 101. RECOVERY OF MINT EXPENSES REQUIRED BEFORE PAYMENT OF SURCHARGES TO ANY RECIPIENT ORGANIZATION.

(a) CLARIFICATION OF LAW RELATING TO DEPOSIT OF SURCHARGES IN THE NUMISMATIC PUBLIC ENTERPRISE FUND.—Section 5134(c)(2) of title 31, United States Code, is amended by inserting '', including amounts attributable to any surcharge imposed with respect to the sale of any numismatic item'' before the period.

(b) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—Section 5134 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(f) CONDITIONS ON PAYMENT OF SURCHARGES TO RECIPIENT ORGANIZATIONS.—

''(1) PAYMENT OF SURCHARGES.—Notwithstanding any other provision of law, no amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall be paid from the fund to any designated recipient organization unless—

''(A) all numismatic operation and program costs allocable to the program under which such numismatic item is produced and sold have been recovered; and

''(B) the designated recipient organization submits an audited financial statement which demonstrates to the satisfaction of the Secretary of the Treasury that, with respect to all projects or purposes for which the proceeds of such surcharge may be used, the organization has raised funds from private sources for such projects and purposes in an amount which is equal to or greater than the maximum amount the organization may receive from the proceeds of such surcharge.

''(2) ANNUAL AUDITS.—

''(A) ANNUAL AUDITS OF RECIPIENTS REQUIRED.—Each designated recipient organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such amount, for an annual audit, in accordance with generally accepted government auditing standards by an independent public accountant selected by the organization, of all such payments to the organization beginning in the first fiscal year of the organization in which any such amount is received and continuing until all amounts received by such organization from the fund with respect to such surcharges are fully expended or placed in trust.

''(B) MINIMUM REQUIREMENTS FOR ANNUAL AUDITS.—At a minimum, each audit of a designated recipient organization pursuant to subparagraph (A) shall report—

''(i) the amount of payments received by the designated recipient organization from the fund during the fiscal year of the organization for which the audit is conducted which are derived from the proceeds of any surcharge imposed on the sale of any numismatic item;

''(ii) the amount expended by the designated recipient organization from the proceeds of such surcharges during the fiscal year of the organization for which the audit is conducted; and

''(iii) whether all expenditures by the designated recipient organization during the fiscal year of the organization for which the audit is conducted from the proceeds of such surcharges were for authorized purposes.

''(C) RESPONSIBILITY OF ORGANIZATION TO ACCOUNT FOR EXPENDITURES OF SURCHARGES.—Each designated recipient organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall take appropriate steps, as a condition for receiving any such payment, to ensure that the receipt of the payment and the expenditure of the proceeds of such surcharge by the organization in each fiscal year of the organization can be accounted for separately from all other revenues and expenditures of the organization.

''(D) SUBMISSION OF AUDIT REPORT.—Not later than 90 days after the end of any fiscal year of a designated recipient organization for which an audit is required under subparagraph (A), the organization shall—

''(i) submit a copy of the report to the Secretary of the Treasury; and

''(ii) make a copy of the report available to the public.

''(E) USE OF SURCHARGES FOR AUDITS.—Any designated recipient organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may use the amount received to pay the cost of an audit required under subparagraph (A).

''(F) WAIVER OF PARAGRAPH.—The Secretary of the Treasury may waive the application of any subparagraph of this paragraph to any designated recipient organization for any fiscal year after taking into account the amount of surcharges which such organization received or expended during such year.

''(G) NONAPPLICABILITY TO FEDERAL ENTITIES.—This paragraph shall not apply to any Federal agency or department or any independent establishment in the executive branch which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item.

''(H) AVAILABILITY OF BOOKS AND RECORDS.—An organization which receives any payment from the fund of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item shall provide, as a condition for receiving any such payment, to the Inspector General of the Department of the Treasury or the Comptroller General of the United States, upon the request of such Inspector General or the Comptroller General, all books, records, and workpapers belonging to or used by the organization, or by any independent

public accountant who audited the organization in accordance with subparagraph (A), which may relate to the receipt or expenditure of any such amount by the organization.

''(3) USE OF AGENTS OR ATTORNEYS TO INFLUENCE COMMEMORATIVE COIN LEGISLATION.—No portion of any payment from the fund to any designated recipient organization of any amount derived from the proceeds of any surcharge imposed on the sale of any numismatic item may be used, directly or indirectly, by the organization to compensate any agent or attorney for services rendered to support or influence in any way legislative action of the Congress relating to such numismatic item.

''(4) DESIGNATED RECIPIENT ORGANIZATION DEFINED.—For purposes of this subsection, the term 'designated recipient organization' means any organization designated, under any provision of law, as the recipient of any surcharge imposed on the sale of any numismatic item.''.

(c) SCOPE OF APPLICATION.—The amendments made by this section shall apply with respect to the proceeds of any surcharge imposed on the sale of any numismatic item which are deposited in the Numismatic Public Enterprise Fund after the date of the enactment of this Act.

(d) REPEAL OF EXISTING RECIPIENT REPORT REQUIREMENT.—Section 303 of Public Law 103—186 (31 U.S.C. 5112 note) is hereby repealed.

SEC. 102. CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.

(a) FIXED TERMS FOR MEMBERS.—Section 5135(a)(4) of title 31, United States Code, is amended to read as follows:

''(4) TERMS.—Each member appointed under clause (i) or (iii) of paragraph (3)(A) shall be appointed for a term of 4 years.''.

(b) CHAIRPERSON.—Section 5135(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(6) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be elected by the members of the Advisory Committee from among such members.''.

SEC. 104. COMMEMORATIVE CIRCULATING COIN PROGRAM.

(a) IN GENERAL.—The Citizens Commemorative Coin Advisory Committee shall develop a recommendation for a multiyear commemorative coin program involving the circulating coins of the United States which would supersede other commemorative coin programs for the years the commemorative circulating coin program is in effect.

(b) REPORT TO CONGRESS.—The Citizens Commemorative Coin Advisory Committee shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act on the recommendations developed by the committee pursuant to subsection (a), together with such recommendations for legislative or administrative action as the committee determines to be necessary or appropriate with respect to such recommendations.

TITLE II—PLATINUM AND GOLD BULLION COINS

SEC. 201. PLATINUM COINS.

(a) IN GENERAL.—Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(k) PLATINUM COINS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury may mint and issue platinum coins in such quantity and of such variety as the Secretary determines to be appropriate.

''(2) SPECIFICATIONS.—Platinum coins minted under this subsection shall meet such specifications with respect to diameter, weight, design, and fineness as the Secretary, in the Secretary's discretion, may prescribe from time to time.

''(3) LEGAL TENDER.—The coins minted under this subsection shall be legal tender, as provided in section 5103 of title 31, United States Code.

''(4) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this subsection shall be considered to be numismatic items.

''(5) DESIGNATIONS AND INSCRIPTIONS.—On each coin minted under this subsection, there shall be—

''(A) a designation of the value of the coin and the weight of the platinum content of the coin;

''(B) an inscription of the year in which the coin is minted or issued; and

''(C) inscriptions of the words 'Liberty', 'In God We Trust', 'United States of America', and 'E Pluribus Unum'.

''(6) SALE PRICE.—

''(A) BULLION.—The bullion versions of the coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

''(i) the market value of the bullion at the time of the sale; and

''(ii) the cost of minting, marketing, and distributing the coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

''(B) PROOF VERSIONS.—Proof versions of the coins issued under this Act may be sold by the Secretary at a price equal to the sum of—

''(i) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping); and

''(ii) a reasonable profit.

''(7) BULK SALES.—The Secretary may make bulk sales of the coins issued under this subsection at a reasonable discount.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5112(j)(1) of title 31, United States Code, is amended by inserting '', (i), or (k)'' after ''subsection (e)''.

SEC. 202. AMERICAN EAGLE GOLD COINS AUTHORIZED TO BE PRODUCED IN 2 OR MORE DESIGNS, WEIGHTS, DIAMETERS, OR FINENESSES SIMULTANEOUSLY.

Section 5112(i)(4) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

''(C) CONTINUED MINTING TO STATUTORY SPECIFICATIONS AFTER DETERMINATION TO MINT COINS TO CHANGED SPECIFICATIONS.—Notwithstanding any other provision of this section, the Secretary may continue to mint and issue coins in accordance with the specifications contained in paragraphs (7), (8), (9), and (10) of subsection (a) and paragraph (1)(A) of this subsection at the same time the Secretary is minting and issuing other coins under this subsection in accordance with such specifications, varieties, quantities, designations, and inscriptions as the Secretary may determine to be appropriate.''.

TITLE III—MINT MANAGERIAL STAFFING REFORM

SEC. 301. MODERNIZATION OF THE MANAGEMENT STRUCTURE.

Section 5131 of title 31, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. FLAKE] will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

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

Mr. Speaker, today I rise in support of H.R. 2614, a measure that protects the American taxpayer and maintains the integrity of the U.S. Mint's coin programs. I am grateful to enjoy the support of Representative JAMES LEACH, chairman of the Committee on Banking and Financial Services. On the other side of the aisle, Representative GONZALEZ, former committee chairman, Representative FLAKE, the ranking member of the subcommittee, Representatives MALONEY, WATT, and FRANK of Massachusetts have provided their strong support for this legislation, and I appreciate their efforts. I would also like to acknowledge the valuable input and support of Representatives BARR, LUCAS, KELLY, NEY, FOX, and METCALF of the subcommittee. Representative JOHN OLVER, although not a committee member, has also provided immeasurable support and generous guidance in bringing this bill to the floor today.

Mr. Speaker, the Subcommittee on Domestic and International Monetary Policy has primary jurisdiction over the Commemorative Coin Programs of the U.S. Mint. This legislation reforms those programs following recommendations by the administration and the Citizens Commemorative Coin Advisory Committee [CCCAC], received both in testimony before the subcommittee on July 12, 1995, and in CCCAC's First Annual Report to Congress, released in November, 1994. This bill also addresses the concerns of the numismatic collectors, who purchase 90 percent of commemorative coin issues. No longer will the saturation of the market threaten the value of their collections, nor with they be the sole support for beneficiary causes of uncertain popularity.

Title I, which covers Commemorative Coin Program Reform, amends section 5134 of U.S.C. title 31, and prohibits disbursement of surcharges to recipient organizations unless and until all Mint costs for that coin have been fully recovered. With both previous and current programs, surcharges were disbursed as coins were sold, at times putting Government moneys at risk. It is our hope that this will also help to keep in check the marketing costs, undertaken by the Mint, that have been requested by recipient organizations.

The maximum surcharge disbursement to a recipient organization is limited to the amount received from separate fund raising by that organization. No longer will organizations depend exclusively on surcharges for funding projects. This reform will insure that beneficiary organizations are not simply created to receive the proceeds of commemorative coins but requires that they demonstrate an adequate and independent measure of public support.

Annual audits will be required of the recipient organizations, with an accounting of all surcharge moneys and verification of the authorized use of surcharge moneys. In addition, title I

forbids any recipient organization from using surcharges for lobbying activities, thereby maintaining the original purpose of the surcharge moneys.

Title I shortens the length of service for members of the CCCAC to a term of 4 years, and allows for the election of a chairperson by and from committee members. This makes for a better reflection of the appointing administration and does not extend the appointees' mandate far beyond it. H.R. 2614 calls for the CCCAC to develop recommendations for a multiyear Commemorative Coin Program, along the lines of the popular bicentennial quarter. No surcharges are collected on this type of commemorative, which makes the hobby of coin collecting affordable and accessible to the broadest public.

Title II permits the issuance of plantium and gold bullion coins by amending section 5112 of U.S.C. title 31. The Secretary of the Treasury would have the authority to determine the quantity, variety, and physical specifications of these coins. The price would be that of the bullion plus cost of manufacture, with a reasonable profit added for proof versions. Minting of two or more designs of the American Eagle gold coins, with specifications determined by the Secretary, would be allowed.

Title III eliminates, at the administration's request, nine political positions not filled by the current administration.

Mr. Speaker, H.R. 2614 goes a long way toward correcting problems that threatened to destroy the Commemorative Coin Program. Commemorative coins are a benefit, not only to numismatic enthusiasts and the recipient organizations but also by reaffirming our history, to our Nation as a whole. This bill links public funding of special projects to demonstrated private support, and discourages groups from demanding superfluous coins. It prevents the further abuse of the coin collecting community by groups lacking general public support. This bill must be passed if the Commemorative Coin Program is to survive and even flourish in the current environment with reduced levels of demand. I urge its immediate adoption.

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

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

Mr. Speaker, I would first like to congratulate the gentleman from Delaware [Mr. CASTLE] and his staff for working diligently this year on a number of coin-related issues. Moreover, I join with him today in support of H.R. 2614, which will make minor, but vital, changes in our process of minting commemorative coins.

Mr. Speaker, in the past, I have supported various types of legislation to mint commemorative coins. Since assuming the role of ranking member on the authorizing committee, however, I have become more aware of the crisis in the commemorative coin process. My fellow colleagues, you would be amazed at the intensity of the debate on this issue. All those in favor of new coins, and those who vehemently oppose them, continually execute overwhelming lobbying campaigns. The result is that the Banking Committee always has a broad spectrum of opinions as to which coins deserve to be included in the Mint's commemorative series.

As political favors, and with good intentions, Members of Congress continually introduce new coin legislation. Consequently, the Banking Committee, and the Mint have drowned in a sea of commemoratives. The net result is that Congress has burdened the Mint with numerous coins which diminish the Mint's capacity to mint regular coins, and which further cause the Mint to operate at a higher cost.

The numismatic community also has problems with the current state of affairs in the commemorative process. The onslaught of commemoratives has the negative effect of decreasing the value of coins to the collector. This in turn discourages purchases, and leaves the Mint holding the proverbial ''bag'' in that it is stuck with coins it cannot sell.

H.R. 2614 mends this process. By making clear that we will give primary consideration to recommendations from the Citizens Commemorative Coin Advisory Committee, and by requiring stringent audits, we will ensure integrity in the process. Furthermore, by requiring that the Mint recover its costs before surcharges are released to recipient groups, we will protect the vital fiscal interest of the Government.

Finally, Mr. Speaker, this legislation authorizes the minting of platinum and gold bullion coins. Again this will encourage increased purchases, and opens a new competitive market for precious metal coins. It is my hope that this bill passes with unanimous support.

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

Mr. CASTLE. Mr. Speaker, no recognition other than, again, to thank the gentleman from New York [Mr. FLAKE] for the work he has done. This particular piece of legislation did take some dealings with various groups and individuals in order to work out some of the differences, and we were able to do so.

If the gentleman is prepared to yield back, I am as well.

Mr. FLAKE. Mr. Speaker, I yield myself 1 minute to thank the gentleman from Delaware [Mr. CASTLE] and his staff. Again, this really is a great subcommittee Domestic and International Monetary Policy. The gentleman from Delaware [Mr. CASTLE] and I have been able to have an excellent relationship. Our staffs relate excellently, and that is the reason we can bring bills to the floor and move them so easily.

Mr. GONZALEZ. Mr. Speaker, I strongly recommend that all Members of the House of Representatives today vote to pass H.R. 2416, the Commemorative Coin Authorization and Reform Act of 1995.

Our colleague, Congressman MICHAEL CASTLE of Delaware, introduced this bill and, as chairman of the Banking Committee's Domestic and International Monetary Policy Subcommittee, chaired a markup of the bill which resulted in a unanimous vote for this legislation.

This important legislation provides critical reform of our Nation's commemorative coin program. The reforms contained in this bill have been suggested and endorsed by the administration and the Mint's Citizens Commemorative Coin Advisory Committee. Among some of the more noteworthy changes are provisions that disallow payment of any surcharges resulting from the sale of the coins until and unless the cost to the U.S. Mint for the coin has been recovered. In addition, the organization which receives the surcharge must submit audited financial statements showing receipts of donations from private sources greater than the potential proceeds of coin surcharges.

Further, the recipient organization will be required to submit an annual audit of all surcharge payments indicating all revenues and expenditures and verification that all expenditures were for authorized purposes. For example, because of this bill, surcharge moneys for a program to build a memorial could not be used for the general support of the sponsoring organization.

In summary, Mr. Speaker, in our vote today, we will ensure the financial integrity of the commemorative coin program. Passage of H.R. 2614 will reinforce the public's confidence in the program and I commend Chairman CASTLE and the ranking Democratic member of the subcommittee, Congressman FLOYD FLAKE, for their work in bringing this bill to the floor today.

I urge an ''aye'' vote.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE] that the House suspend the rules and pass the bill, H.R. 2614.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2614, the bill just passed.

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

There was no objection.

HOPEWELL TOWNSHIP INVESTMENT ACT OF 1995

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 308) to provide for the conveyance of certain lands and improvements in Hopewell Township, PA, to a

nonprofit organization known as the Beaver County Corporation for Economic Development to provide a site for economic development.

The Clerk read as follows:

H.R. 308

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 ''Hopewell Township Investment Act of 1995''.

SEC. 2. CONVEYANCE OF LAND.

(a) ADMINISTRATOR OF GENERAL SERVICES.—Subject to sections 3 and 4, the Administrator of General Services (hereinafter in this Act referred to as the ''Administrator'') shall convey, without compensation, to a nonprofit organization known as the ''Beaver County Corporation for Economic Development'' all right, title, and interest of the United States in and to those pieces or parcels of land in Hopewell Township, Pennsylvania, described in subsection (b), together with all improvements thereon and appurtenances thereto. The purpose of the conveyance is to provide a site for economic development in Hopewell Township.

(b) PROPERTY DESCRIPTION.—The land referred to in subsection (a) is the parcel of land in the township of Hopewell, county of Beaver, Pennsylvania, bounded and described as follows:

(1) Beginning at the southwest corner at a point common to Lot No. 1, same plan, lands now or formerly of Frank and Catherine Wutter, and the easterly right-of-way line of Pennsylvania Legislative Route No. 60 (Beaver Valley Expressway); thence proceeding by the easterly right-of-way of Pennsylvania Legislative Route No. 60 by the following three courses and distances:

(A) North 17 degrees, 14 minutes, 20 seconds West, 213.10 feet to a point.

(B) North 72 degrees, 45 minutes, 40 seconds East, 30.00 feet to a point.

(C) North 17 degrees, 14 minutes, 20 seconds West, 252.91 feet to a point; on a line dividing Lot No. 1 from the other part of Lot No. 1, said part now called Lot No. 5, same plan; thence by last mentioned dividing line, North 78 degrees, 00 minutes, 00 seconds East; 135.58 to a point, a cul-de-sac on Industrial Drive; thence by said cul-de-sac and the southerly side of Industrial Drive by the following courses and distances;

(i) By a curve to the right having a radius of 100.00 feet for an arc distance of 243.401 feet to a point.

(ii) Thence by a curve to the right having a radius of 100.00 feet for an arc distance of 86.321 feet to a point.

(iii) Thence by 78 degrees, 00 minutes, 00 seconds East, 777.78 feet to a point.

(iv) Thence, North 12 degrees, 00 minutes, 00 seconds West, 74.71 feet to a point.

(v) Thence by a curve to the right, having a radius of 50.00 feet for an arc distance of 78.54 feet to a point.

(vi) Thence North 78 degrees, 00 minutes, 00 seconds East, 81.24 feet to a point.

(vii) Thence by a curve to the right, having a radius of 415.00 feet for an arc distance of 140.64 feet to a point.

(viii) Thence, South 82 degrees, 35 minutes, 01 second East, 125.00 feet to a point.

(ix) Thence, South 7 degrees, 24 minutes, 59 seconds West, 5.00 feet to a point.

(x) Thence by a curve to the right, having a radius of 320.00 feet for an arc distance of 256.85 feet to a point.

(xi) Thence by a curve to the right having a radius of 50.00 feet for an arc distance of 44.18 feet to a point on the northerly side of Airport Road.

(2) Thence by the northerly side thereof by the following:

(A) South 14 degrees, 01 minute, 54 seconds West, 56.94 feet to a point.

(B) Thence by a curve to the right having a radius of 225.00 feet for an arc distance of 207.989 feet to a point.

(C) Thence South 66 degrees, 59 minutes, 45 seconds West, 192.08 feet to a point on the southern boundary of Lot No. 1, which line is also the line dividing Lot No. 1 from lands now or formerly, of Frank and Catherine Wutter.

(3) Thence by the same, South 75 degrees, 01 minutes, 00 seconds West, 1,351.23 feet to a point at the place of beginning.

(c) DATE OF CONVEYANCE.—The date of the conveyance of property required under subsection (a) shall be not later than the 90th day following the date of the enactment of this Act.

(d) CONVEYANCE TERMS.—

(1) TERMS AND CONDITIONS.—The conveyance of property required under subsection (a) shall be subject to such terms and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. Such terms and conditions shall be consistent with the terms and conditions set forth in this Act.

(2) QUITCLAIM DEED.—The conveyance of property required under subsection (a) shall be by quitclaim deed.

SEC. 3. LIMITATION ON CONVEYANCE.

No part of any land conveyed under section 2 may be used, during the 30-year period beginning on the date of conveyance, for any purpose other than economic development.

SEC. 4. REVERSIONARY INTEREST.

(a) IN GENERAL.—The property conveyed under section 2 shall revert to the United States on any date in the 30-year period beginning on the date of such conveyance on which the property is used for a purpose other than economic development.

(b) ENFORCING REVERSION.—The Administrator shall perform all acts necessary to enforce any reversion of property to the United States under this section.

(c) INVENTORY OF PUBLIC BUILDINGS SERVICE.—Property that reverts to the United States under this section shall be under the control of the General Services Administration.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland, [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 308, a bill to provide for the conveyance of certain lands and improvements in Hopewell Township, PA, to a nonprofit organization known as the Beaver County Corporation for Economic Development.

The Hopewell Township Investment Act of 1995 was introduced in Congress for the purpose of making certain property productive for the benefit of the Hopewell community. This legislation will accomplish this by directing GSA to transfer this property, at no cost, to the Beaver County Corporation for economic development, a nonprofit corporation certified by the Commonwealth of Pennsylvania.

The property is 15.94 acres of narrow shaped land which runs in east-west direction, approximately 7 miles northwest of Pittsburgh International Airport, and is improved primarily by a concrete block building of 43,000 square feet containing warehouse space. As of September 23, 1993, the property was designated as surplus and placed on GSA's surplus property inventory.

The Beaver County Corporation for Economic Development, in cooperation with Hopewell Township, plans to utilize this property as the centerpiece of a Hopewell Aliquippa Airport industrial park and thereby promote economic development and create needed jobs for the people of Hopewell Township. This property was originally used in light manufacturing. It was acquired in 1981 by the Federal Government as a staging center for emergency—mine—operations under the Mine Safety and Health Administration of the Department of Labor. Hopewell Township, in anticipation of this Federal facility, invested $225,000 in infrastructure improvements. The facility, however, never opened, and has sat vacant for over 14 years. This community has lost over $250,000 in tax revenue from the Federal jobs that were committed to this facility, and the economy has lost over $21 million in lost wages because of the Government's decision not to live up to a commitment. Returning this property to productive use is fitting and appropriate.

I strongly urge all Members to support this measure.

☐ 1500

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member of the Committee on Transportation and Infrastructure.

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

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], the distinguished ranking member of the subcommittee, and compliment him, and the gentleman from Maryland [Mr. GILCHREST], for the splendid work they have done on this whole series of legislation we bring to the House floor this afternoon. They are important bills and in a cooperative fashion, they bring to the House very sound legislation, including this particular bill to transfer surplus property in Hopewell Township, to an organization known as the Beaver County Corporation for Economic Development.

Mr. Speaker, the significance of this action is that this will provide an opportunity to create jobs, jobs in Beaver County, an area that I have traveled to in the past and know quite well, having seen the unemployment, the severe dislocation in this area of the steel valley, the whole steel county to which my district in northeastern Minnesota is tied.

We produce the taconite, or steel ore, to produce this basic building block of

American industry, steel. But as steel has suffered dislocation over the last decade and a half, so have the people and the communities and the townships. The only way to create job opportunities to succeed those that have passed from the scene because of the downsizing of steel is to make property available for new businesses to locate there.

This legislation will achieve that objective by requiring the General Services Administration to transfer this land at no cost to the Beaver County Corporation for Economic Development. The corporation, in cooperation with Hopewell Township, will use this property as the centerpiece for the Hopewell Aliquippa Airport and Industrial Park to promote economic development and create jobs.

Mr. Speaker, wherever we can, we should be alert to opportunities to link property transfer to airports, to industrial park opportunities to create jobs. We have seen the enormous engine of growth that airports represent for job creation in this country.

Mr. Speaker, I congratulate the gentleman from Pennsylvania [Mr. KLINK] for the time that he has put in with Hopewell Township and with the Beaver County Economic Development Corporation. I know, from 15 years ago, what a splendid organization this is. It is a high-minded, hard-working, public-private cooperation initiative that has worked together to create jobs in this distressed area.

Mr. Speaker, I am very happy we are able to bring this legislation to fruition today, and I thank the gentleman for his work and thank the ranking member for his leadership.

Mr. GILCHREST. Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KLINK], a fine, outstanding representative from this area, a friend of mine who is basically the individual who has brought this bill forward.

Mr. Speaker, we passed this bill last year. The other body did not act on some of these measures, and the gentleman from Pennsylvania [Mr. KLINK] has done a tremendous job. I want to thank him, as an old, fit quarterback, for the efforts he has made.

Mr. KLINK. Mr. Speaker, as an old, good quarterback, we have taken some hints from the play book of the gentleman from Ohio [Mr. TRAFICANT] and have scrambled around on this and avoided being sacked. The Senate did not take action on this, but the House unanimously adopted a very similar proposal a year ago.

Mr. Speaker, I really want to take time to thank the gentleman from Maryland [Mr. GILCHREST] for his amazing work on this. The gentleman has consulted with me on this bill as he has seen me throughout the halls of Congress, making sure we are doing the right thing.

Mr. Speaker, I thank the gentleman from Minnesota [Mr. OBERSTAR] for his concern, and the gentleman from Tennessee [Mr. DUNCAN] helped us last year. Staff has done a remarkable job on this. We are really doing God's work here.

Mr. Speaker, I will not repeat all the things, because I think the gentleman from Minnesota and the gentleman from Maryland have touched the highlights on the economics of this. But the gentleman from Minnesota [Mr. OBERSTAR] was in Beaver County. Hopewell Township sits on a hill outside of a town called Aliquippa, PA. Back in the early 1980's, in 1 day, a 7½-mile long steel mill shut down and 13,000 people were out of work. In 1 day.

The main street of this community, once known as Franklin Avenue, is now called Plywood Alley, because the stores are boarded shut. Slowly, hope is coming back to the community. What we are doing today is saying the Federal Government has no need for this property. The local government has put money into this. We put a quarter of a million dollars into improving the roads and sewers and a lot more work needs to be done, and rather than allowing the property to sit vacant and not letting anything happen to it, let us do the right thing. Let us get it back on the tax rolls, get workers supporting their families back on this property again.

Mr. Speaker, let us fix this building which has holes in the roof. In fact, September 8, 1994, we had a very tragic plane accident. Flight 427 crashed very near this site. The FAA, and others who were investigating, were looking at using this building to try to recreate what happened as they attempt to investigate this accident. This is a building which the Federal Government owns, and still they could not even use the building.

Mr. Speaker, so much needs to be done. We cannot ask the municipality and the county to continue to put money into fixing this site if the Federal Government is just going to sit on it and let this property go to waste. I will tell my colleagues, when was first elected to office, the businesspeople from Beaver County, who were both Republicans and Democrats, came to me and asked me about this.

Mr. Speaker, I think it is great that in a bipartisan move we come together as members of the Republican Party and Democratic Party today and say, Let us do the right thing and pass H.R. 308.

Mr. Speaker, I thank all of the Members for their support. I thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT], and staff, Rick Barnett and Susan Brita, and John George from my staff has done yeoman's work on this.

Mr. Speaker, I urge support for this legislation.

Mr. Speaker, today I wish to express my thanks to chairman and fellow Pennsylvanian BUD SHUSTER, Ranking member JIM OBERSTAR, and the other members of the Committee on Transportation and Infrastructure for their assistance with my bill, the Hopewell Township Investment Act of 1995 (H.R. 308).

The purpose of this bill is to promote economic development and to create jobs in Hopewell Township at a site near Aliquippa, PA. H.R. 308 replaces the Federal Government's caretaker role at the property with local initiative that will produce jobs and revenues.

Specifically, H.R. 308 accomplishes this goal by transferring an abandoned Federal facility from the General Services Administration to the Beaver County Corporation for Economic Development [CED].

The CED is a nonprofit corporation that has the responsibility for spurring economic development and bringing new businesses in a portion of my congressional district in western Pennsylvania.

Using 100 percent Commonwealth of Pennsylvania funding, the CED has a proven track record of transforming rough-cut properties into economic development diamonds that create jobs and generate tax revenues.

The CED supports this legislation and it will mold the Hopewell site from a no job-no tax liability into a job and revenue producing asset.

This legislation relinquishes Federal control of the site that has lasted for 14 years. The Mine Safety and Health Administration operated the site initially. Since the late 1980's the General Services Administration [GSA] has been its caretaker.

In 1987, the Mine Safety and Health Administration announced plans to consolidate its activities by locating additional operations at this site and creating 200 new jobs. At that time, this site served as the staging area for the Federal Government's response to mine disasters in the eastern United States.

In anticipation of attracting a larger Federal presence, Hopewell Township and the Criswell Heights Water District spent $225,000 to upgrade the site with sewer and road improvements.

Bowing to pressure from a member of the other body, the Mine Safety and Health Administration moved its consolidation to Beckley, WV, and in the process transferred its Hopewell operation there. Rather than gaining a new Federal workforce, our area lost 20 Federal employees in the consolidation.

So as you can see this was a situation where the glass started out half-full, the locality poured its resources into topping off the glass. Unfortunately, the glass is now empty and riddled with holes.

In addition to losing $225,000 in site improvements, the local government—Beaver County, schools and Hopewell Township—have not received one cent in local taxes from this property. That adds up to a revenue lost of $18,300 annually or $256,200 over 14 years.

The consolidation of the Mine Health and Safety Administration has resulted in an annual payroll at its Beckley, WV, facility of $2.66 million since 1987 or $21.28 million that would have been injected into the economy of Pennsylvania.

Add up all of these expenses and the Federal Government has been responsible for a net loss of $21,761,200 to my area.

Currently, the property includes an abandoned one-story block building that has gaping holes in its roof. Having toured the site, I can

attest to the fact that the building is dilapidated and it has become a target for vandals.

The CED has committed as much as $1 million to renovate the building by fixing its roof, adding brand new plumbing and wiring as well as installing a parking lot and improving road access.

Once the CED takes over the property it will use State funding only and on Federal money for the building renovation and other improvements to ready the property for an industrial client.

My bill clears the deck so the CED can use this site to recruit industry, create jobs, and put it back on the tax rolls. This legislation will enable the Hopewell Township, rather the Federal Government, to determine its own destiny.

I want to express my sincere thanks to my friends: Public Building and Economic Development Subcommittee Chairman WAYNE GILCHREST, ranking member JIM TRAFICANT as well as their staff members, Rick Barnett and Susan Brita, and John George of my staff for their guidance and stalwart support during the bill's hearing and throughout the legislative process.

Mr. Speaker, I urge support for this legislation.

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

Mr. Speaker, I would like to thank the gentleman from Maryland [Mr. GILCHREST] for the fine job he has done in directing this subcommittee and for his fairness and for his address to detail, and for his staff, Rick Barnett, and others, working with Susan Brita on our staff.

Mr. Speaker, this is a worthwhile bill. This region of the country has been decimated. This is a modest step taken to try and help individuals to help themselves. The ideology of the gentleman from Pennsylvania [Mr. KLINK] in attempting to forge business and private and public relationships in that particular valley make an awful lot of sense. They are beginning to make progress and the gentleman is starting to impact upon the legislative aspect here.

Mr. Speaker, I will close by thanking the gentleman from Minnesota [Mr. OBERSTAR]. During his tenure here on public works, and the work that he has been involved with over the years, for taking time to come to this troubled region to learn and understand it. Every one of us in that region want to thank the gentleman from Minnesota for the efforts he has taken over the years to understand our problems.

Hopefully, Mr. Speaker, before much more time passes, we will have the gentleman from Maryland [Mr. GILCHREST], the gentleman from Pennsylvania [Mr. SHUSTER], and others participate as well.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. KLINK] for the tremendous job that he has done as an old pit quarterback.

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

Mr. Speaker, I echo the words of my colleagues in thanking the staff on both sides of the Committee on Transportation and Infrastructure and the subcommittee. I do think that we have made large gains and maybe a touchdown pass with our efforts to deal with the legislative business of the Nation in a very cooperative, nonpartisan manner. I appreciate the Members on that side of the aisle.

With that, Mr. Speaker, I urge an ''aye'' vote on this bill.

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

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JAMES LAWRENCE KING FEDERAL JUSTICE BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 255) to designate the Federal justice building in Miami, FL, as the ''James Lawrence King Federal Justice Building.''

The Clerk read as follows:

H.R. 255

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

SECTION 1. DESIGNATION.

The Federal Justice Building located at 99 Northeast Fourth Street in Miami, Florida, shall be known and designated as the ''James Lawrence King Federal Justice Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''James Lawrence King Federal Justice Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 255, a bill to designate the Federal justice building in Miami, FL, as the James Lawrence King Federal Justice Building. Judge King is an esteemed and respected U.S. district judge who advocated improved judicial administration, and devoted countless hours to the improvement of our justice system. Among his many accomplishments, Judge King served as 1 of 23 members of the Judicial Conference of the United States. He was the Chairman of the Conferences' Implementation Committee on Admission of Attorneys to Federal Practice and was a member of the Judicial Ethics Committee. In addition to his tenure as chief judge for the U.S. district court of Florida, Judge King served as chief U.S. district judge for the Panama Canal Zone and as a judge on the U.S. Court of Appeals, compiling over 200 published opinions. Judge King was instrumental in promoting the construction of the new Federal justice building.

I urge all Members to support the bill.

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I am happy to join my colleagues in supporting this legislation and compliment the gentleman from Florida [Mr. HASTINGS] and the gentlewoman from Florida [Mrs. MEEK] for leading the way on this legislation to honor Judge James Lawrence King, who has so ably presided over the Court for the Southern District of Florida.

Judge King was a native of Florida; graduate of the University of Florida; got his law degree from that institution; served in the U.S. Air Force; served in private law practice, and in 1964 was appointed a circuit judge in the 11th Judicial Circuit for the State of Florida.

He continued a very distinguished legal career, in 1984, becoming chief judge, and then took senior status in 1991. The Judge is still working a full caseload, as is so characteristic of most of our senior judges, that is those who take senior status, they continue to show up for work every day in their office and decide on important cases.

In this particular instance, we are giving fitting tribute to a distinguished jurist who deserves this honor for his vision, for his stewardship, and for the lasting contribution that he has made to the body of law in this country, and particularly in some of the very, very complex cases that he handled in the 11th District.

Mr. Speaker, I am greatly pleased to join my colleagues, Mr. HASTINGS and Mrs. MEEK of Florida in supporting H.R. 255, a bill to honor Judge James Lawrence King of the Southern District of Florida.

Judge King, a native Floridian, graduated from the University of Florida and in 1953 received his law degree from that institution. From 1953 to 1955 he served his country with distinction as a lieutenant in the U.S. Air Force. After several years in private law practice, Judge King was appointed in 1964 Circuit Judge to the Eleventh Judicial Circuit of the State of Florida. He was appointed to the Federal bench in 1970 and continued his distinguished legal career. In 1984 he became the Chief Judge, and when his term expired in 1991 Judge King took senior status. Today, he still retains a full caseload.

Judge James Lawrence King has exhibited outstanding leadership and dedication to his profession. It is fitting and proper to honor

Judge King for his vision and effective stewardship by designating the Federal Justice Building in Miami in his honor.

I urge adoption of H.R. 255.

Mr. TRAFICANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS], one of the authors of this bill, along with the gentlewoman from Florida [Mrs. MEEK].

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], my good friend, and for his stewardship in allowing this bill to come before the House at this time. As well, I would like to thank the gentleman from Maryland [Mr. GILCHREST] for the extraordinary work that he has put forward, and I also thank the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the committee.

Mr. Speaker, I thank all of these Members and their staffs, as well as a staff member of mine, Ann Jacobs, who has worked very actively in this particular matter.

Mr. Speaker, I rise today to express my support for H.R. 255, legislation to name the Federal Justice Building in Miami, FL as the James Lawrence King Justice Building.

Judge King's career as a U.S. District Judge, especially his effective and much praised administration as Chief Judge, is exemplary and worthy of honor. Among many accomplishments, Judge King served as 1 of 23 members of the Judicial Conference of the United States and as the Chairman of the Conferences' Implementation Committee on Admission of Attorneys to Federal Practice. He was also a member of the Conferences' Judicial Ethics Committee.

Judge King was a Chief U.S. District Judge for the Panama Canal Zone and, on numerous occasions, as a judge on the U.S. Court of Appeals. He has compiled over 200 published opinions. Judge King has been a member of the Judicial Council of the Eleventh Circuit Administrative Conference and a member of the Long Range Planning Committee for the Federal Judiciary.

Of course, the main reason Judge King deserves this honor is his dedication to the new Federal Justice Building. While many community leaders contributed to its construction, no one labored more selflessly or provided greater leadership than Judge King. For without Judge King acting almost as the architect, builder, contractor, and decorator, this building would not be standing today.

Because of Judge King's determination and attention to all of the details, his effective stewardship of the U.S. District Court of Florida during his tenure as Chief Justice, and his proven commitment to improving the administration of justice, Judge King is singularly worthy of having the new Federal Justice Building named in his honor.

□ 1515

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

Judge King has enjoyed a long and distinguished career, as evidenced by the comments of the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Maryland [Mr. GILCHREST], and the gentleman from Florida [Mr. HASTINGS].

He is right now on senior status. He is carrying a full caseload so he is not getting that much rest, from what I understand. Evidently as a graduate of the University of Florida, he is an individual supporter of Steve Spurrier and the Gators, hoping that they will knock off Nebraska.

I do not know if he wanted that said here, but his career has been so outstanding that it is an honor to bring this legislation brought forward by a good friend and very fine Representative, the gentleman from Florida [Mr. HASTINGS], the gentlewoman from Florida [Mrs. MEEK], to our committee. With that, I would ask everybody to vote ''aye.''

Mrs. MEEK of Florida. Mr. Speaker, I want to commend my friend, Congressman ALCEE HASTINGS, for introducing the bill before us today, H.R. 255, which would designate the Federal building in Miami as the James Lawrence King Federal Building. No one deserves this honor more than Judge King.

Judge James Lawrence King was born in Miami in 1927. He attended the University of Florida, earning both his undergraduate and law degrees. While in school, he first entered public life, serving as chairman of a campus political party and as a member of the honor court, the executive council, the president's cabinet, the hall of fame, and as president of Florida Blue Key.

After graduation, James King started his long record of public service by joining the Air Force. After 2 years with the Judge Advocate General's Department, he returned to Miami Beach to practice law. Soon after that, he was appointed circuit judge for the Eleventh Judicial Circuit of Florida. While serving on the circuit court, he was temporarily assigned as a justice of the Supreme Court of Florida and to the Second, Third, and Fourth District Courts of Appeal of Florida. During this time, Judge King also served as a member of the board of regents of Florida.

In 1970, James Lawrence King was appointed to be a U.S. district judge for the Southern District of Florida by President Nixon. Since then, he has been appointed by the Chief Justice to several committees of the Judicial Conference of the United States and was appointed by Chief Justice Rehnquist to be a member of the Long Range Planning Committee for the Federal Judiciary. On several occasions Judge King was specially designated to serve as a judge of the U.S. Court of Appeals for the Fifth and Eleventh Circuits.

In 1992, Judge James Lawrence King elected to take senior status. Remaining active, he is on the Eleventh Circuit Judicial Council and has recently completed a 7-year term as chief judge of the U.S. District Court for the Southern District of Florida.

For his long, distinguished service to the United States and to our community, Judge James Lawrence King has earned our support, our respect, and our thanks. It would only be fitting that Miami's new Federal building, a building dedicated to the principles of public service and justice, be named for the man who best exemplifies these ideals, Judge James Lawrence King. I urge my colleagues to join me in honoring Judge King by supporting H.R. 255.

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to endorse the naming of the Federal Justice Building in Miami, FL in honor of Chief Judge James Lawrence King. The naming of such a building is not to be done lightly. We reserve that honor for those who have given of themselves, in an extraordinary manner, to the betterment of their community and the Nation. Judge King is such a man.

All who have worked with Judge King have been impressed with his leadership and authority. My husband, Dexter Lehtinen, who was the U.S. attorney for south Florida, worked closely with the judge to facilitate the speedy administration of justice at a time when the problem of drug smuggling was taxing the court system to the breaking point. My husband was impressed with Judge King's dedication and commitment to the highest professional standards.

For a turbulent quarter of century, Judge King served on the Federal bench, but his public service long predates his appointment as a Federal judge. Judge King was a member of the Judge Advocate General Corps of the U.S. Air Force. In addition to being a Federal judge, he has served at every level of the court system of Florida, from circuit judge to associate judge of the State district court of appeals to associate justice of the Florida Supreme Court.

Judge King has won respect for his legal scholarship as well as his administrative leadership. He is the author of over 200 published opinions in Federal court and was called on by the late Chief Justice Warren Burger to preside over trials in eight other Federal district courts.

Judge King has also lent his considerable energy to reforming both the judiciary and the education system. He served on the board of control of the State university system. He has been elected or appointed to various commission and panels charged with the reform of the Federal bench. Additionally, he was designated chief judge for the Panama Canal Zone.

His vision and leadership are responsible, in large part, for this Federal building and, therefore, it is fitting and proper that this structure should carry his name. I wholeheartedly endorse this action.

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

Mr. GILCHREST. Mr. Speaker, I, too, urge support of the bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 255.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BRUCE R. THOMPSON UNITED STATES COURTHOUSE AND FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 395) to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the ''Bruce R. Thompson United States Courthouse and Federal Building''.

The Clerk read as follows:

H.R. 395

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

SECTION 1. DESIGNATION.

The United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, is designated as the ''Bruce R. Thompson United States Courthouse and Federal Building''.

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the courthouse and Federal building referred to in section 1 is deemed to be a reference to the ''Bruce R. Thompson United States Courthouse and Federal Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 395, a bill to designate the United States Courthouse and Federal Building under construction in Reno, NV, as the ''Bruce R. Thompson United States Courthouse and Federal Building.'' Judge Thompson was one of Nevada's most prominent and respected men in law and held a long and highly distinguished career. Judge Thompson was a graduate of the University of Nevada and received his law degree from Stanford Law School. His accomplishments include service as Assistant U.S. Attorney for the district of Nevada, special master for the U.S. district court of the district of Nevada, and appointment to the U.S. district court by President John F. Kennedy. Additionally, Judge Thompson served a term as president of the Ninth Circuit District judges and a term as president of the Nevada State Bar Association. He was also a regent and chairman of the State planning board. He held memberships in the American Bar Association, the American Law Institute, the American Judicature Society, the Institute of Judicial Administration, and the American College of Trial Lawyers. Virtually every legal organization in Nevada has unanimously passed a resolution in favor of naming the courthouse in honor of Judge Thompson. The entire Nevada congressional delegation supports this legislation. H.R. 395 is an appropriate tribute to a fine public servant and I urge my colleagues to support the bill.

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], distinguished ranking member.

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

Mr. OBERSTAR. Mr. Speaker, again, I thank the senior Democrat on the subcommittee, the gentleman from Ohio [Mr. TRAFICANT], for the work that he has done on this legislation, chairman of the subcommittee, the gentleman from Maryland [Mr. GILCHREST], and our colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], who has been a sponsor of this legislation.

As with other bills that we are considering this afternoon, this, too, was reported from our committee in the last Congress, passed the House and languished in the other body. We are happy to have this opportunity to bring forward this legislation.

It honors a very distinguished jurist who so served the State and the national judicial system that he has won widespread support and the naming has won endorsement from virtually every organization with interest in the law in the State of Nevada. And the Nevada State legislature passed a resolution endorsing the naming of the Federal courthouse in Reno to honor Judge Thompson.

With that kind of support, we ought to move ahead. It is fitting. It is proper. It is appropriate for us to take this step.

Mr. Speaker, I rise in support of H.R. 395, honoring Judge Bruce R. Thompson, who has enjoyed a full and distinguished judicial career.

Judge Thompson graduated from the University of Nevada and received his law degree from Stanford Law School. He practiced law for 27 years, when he served as Assistant U.S. Attorney for the District of Nevada from 1942 to 1952, and as special master for the U.S. District Court of the District of Nevada from 1952 to 1953. Judge Thompson was also president of the Nevada State Bar Association from 1955 to 1956. Following a term as regent to the State Planning Board in 1959, he served as its chairman from 1960 to 1961. In 1963, he was appointed U.S. District Judge by President John F. Kennedy, and as a jurist, has earned the respect of his colleagues.

H.R. 395 has received widespread support and the endorsement of virtually every legal organization in the State of Nevada. The Nevada State legislature has passed a resolution endorsing the naming of the Federal courthouse in Reno in honor of Judge Thompson. It is fitting and proper to recognize the career of Judge Thompson in this manner.

I join the Nevada delegation in their support of H.R. 395, and commend Congresswoman VUCANOVICH for her leadership on this bill.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I want to thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Pennsylvania [Mr. SHUSTER]. This is a very important bill to me.

Mr. Speaker, I rise today in support of H.R. 395, legislation to name the new Federal courthouse in Reno, NV after the late Judge Bruce R. Thompson.

I cannot think of a more deserving Nevadan on which to bestow this honor, Mr. Speaker. Judge Thompson was one of Nevada's most prominent, respected and beloved men in Nevada jurisprudence and led a long and highly distinguished career. After graduating from the University of Nevada and Stanford law school, he practiced law with George Springmeyer and later Mead Dixon for 27 years until 1963. He served as Assistant U.S. Attorney for the District of Nevada from 1942 to 1952 and as special master for the U.S. District Court of the District of Nevada from 1952 to 1953.

Judge Thompson was also president of the Nevada State Bar Association from 1955 to 1956. And, following a term as regent to the State Planning Board in 1959, he served as its chairman from 1960 to 1961. In 1963, he was appointed U.S. District Judge by President John Kennedy.

Mr. Speaker, I have previously testified to Judge Thompson's legendary career and I will not take further time today. I will simply conclude by saying Judge Thompson's outstanding career, coupled by the immense love and respect he earned from his colleagues, makes naming the new courthouse in Reno a fitting tribute, worthy of his legacy.

I want to thank Mr. GILCHREST and Mr. SHUSTER for their consideration and for their willingness to move this important legislation. Their assistance has been invaluable.

I urge approval of this important legislation.

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

Mr. Speaker, Judge Thompson has enjoyed an outstanding career, having been appointed to the Federal bench by President John F. Kennedy in 1963. He is extremely well liked by all his judicial colleagues and has received the endorsement of many legal organization in the State of Nevada, as evidenced by the statements here of Mr. OBERSTAR and Mr. GILCHREST and the gentlewoman from Nevada, Mrs. VUCANOVICH.

I commend Mrs. VUCANOVICH for her tenacity and diligence in pursuing the passage of this bill. I urge all to vote for it.

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

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 395.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THURGOOD MARSHALL UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 653) to designate the U.S. courthouse under construction in White Plains, NY, as the ''Thurgood Marshall United States Courthouse.''

The Clerk read as follows:

H.R. 653

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

SECTION 1. DESIGNATION.

The United States courthouse under construction at 300 Quarropas Street in White Plains, New York, shall be known and designated as the ''Thurgood Marshall United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Thurgood Marshall United States Courthouse''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 653, a bill which designates the U.S. courthouse under construction in White Plains, NY, as the ''Thurgood Marshall United States Courthouse.''

Thurgood Marshall was born in Baltimore, MD. He graduated cum laude from Lincoln University in 1930, and graduated at the top of his class from the Howard University School of Law in 1933.

As a graduate of college and professional school during the Great Depression, Thurgood Marshall was a member of the black elite. However, he was constrained by a social structure which tended to frustrate the aspirations of black people.

Upon graduation from law school, Justice Marshall began his legal career with the National Association for the Advancement of Colored People [NAACP]. It was during this tenure, as chief counsel, that he organized efforts to end segregation in voting, housing, public accommodations, and education. These efforts led to the landmark Supreme Court decision of Brown versus Board of Education, which declared segregation in public schools to be unconstitutional.

In 1961, Justice Marshall was appointed to the second circuit court of appeals by President John F. Kennedy, and 4 years later was chosen by President Lyndon B. Johnson to be the first black Solicitor General. Two years later, on June 13, 1967, President Johnson chose Marshall to become the first black Justice of the Supreme Court, where he served with distinction until his retirement in 1991. He died in 1993.

It is a fitting tribute to name a courthouse in honor of this American who believed in equal justice for all Americans, and devoted his life to obtaining the values we all hold dear.

I strongly urge all Members to support this bill.

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], distinguished ranking Member.

Mr. OBERSTAR. Mr. Speaker, again we bring to the floor a bill that passed this body in the 103d Congress but did not make it through the other body. I am very appreciative of the efforts of our chairman, the gentleman from Maryland [Mr. GILCHREST], and our senior Democrat, the gentleman from Ohio [Mr. TRAFICANT], for bringing forward this bill to honor Judge Thurgood Marshall. No one, no one deserves our respect and appreciation for the work in civil rights more than Justice Marshall.

□ 1530

His leadership, going back to the famed Board of Education case, all through his service on the Supreme Court, is one of the high points, one of the storied chapters in American jurisprudence. He is a man, if we are going to name a building for anyone, a Federal courthouse for any person associated with the law in this country, we should do it for Justice Thurgood Marshall.

We do that today. I hope the other body will act promptly and decisively on this legislation. It is appropriate that we have a landmark, that there be many in this land to honor Justice Thurgood Marshall.

At the beginning of the 103d Congress a bill was passed to name the Judiciary Building here on Capitol hill after Judge Marshall. H.R. 653 would further acknowledge the contributions of Judge Marshall by designating the U.S. courthouse in White Plains, NY, the ''Thurgood Marshall U.S. Courthouse.'' He exemplified the highest ideals of fairness and equality and his struggle against the evils of intolerance and bigotry spanned over five decades.

Upon graduation from Howard University School of Law, Justice Marshall embarked on a legal career with the National Association for the Advancement of Colored People [NAACP]. In 1940, he became the head of the newly formed NAACP Legal Defense and Education Fund, a post that he held for 20 years. It was during this tenure as chief counsel that Justice Marshall organized efforts to end segregation in voting, housing, public accommodations, and education. These efforts led to a series of cases grouped under the title of Brown versus Board of Education, in which Marshall argued and convinced the Supreme Court to declare segregation in public schools unconstitutional.

In 1961, Marshall was appointed to the second circuit court of appeals by President John F. Kennedy. Four years after he received appointment to the appeals court, President Lyndon B. Johnson chose Justice Marshall to be the Nation's first black solicitor general.

Two years later, on June 13, 1967, President Johnson chose Marshall to become the first black Justice of the Supreme Court where he served with distinction until his retirement in 1991. He died in 1993.

This bill enjoys broad, bipartisan support from the New York delegation as well as the Westchester County Board of Legislators, the Common Council of White Plains, the White Plains-Greenburgh NAACP, the African-American Federation of Westchester, and the Westchester County Bar Association.

It is fitting to name a courthouse in honor of this great American who believed in equal jsutice for all Americans, and devoted his life to obtaining the values which we all hold dear.

I am proud and honored to support this legislation, and urge its passage.

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

Mr. Speaker, the character and contributions of Judge Thurgood Marshall are without equal. Judge Marshall's struggle for equality and dignity for all people were absolutely of historical proportions. I believe it is an absolute honor to participate in this debate and have some little say in the naming of this building.

Mr. Speaker, with that I urge an ''aye'' vote.

Mr. GILMAN. Mr. Speaker, I am pleased to join with the sponsor of this measure, Mr. ENGEL to express my strong support for H.R. 653, legislation designating the courthouse currently under construction at 300 Quarropas Street in White Plains, NY, as the Thurgood Marshall Federal Courthouse.

The naming of this courthouse is a fitting tribute to a man who dedicated his life and career to the cause of justice for those who were victims of bigotry. It was Justice Marshall, who successfully argued in the case of Brown versus Board of Education of Topeka, that separate schools for black and white students were inherently unequal. In 1965 President Lyndon Johnson named Justice Marshall Solicitor General, making him the U.S. Government's chief advocate before the Supreme Court. Two years later, President Johnson named Thurgood Marshall to the Supreme Court, thereby becoming the first African-American Justice in our Nation's history.

I cannot think of a more deserving individual for this honor. Justice Marshall dedicated his career as director of the NAACP's legal defense and educational fund, as a Federal jurist and voice on the Supreme Court, to providing equal opportunity for all Americans and ending discrimination in voting, housing, public accommodations and education. The American people were fortunate to benefit from the sound judgement and compassion that Justice Marshall brought to the Supreme Court.

Mr. KELLY. Mr. Speaker, I rise in strong support of H.R. 653, a bill designating the Federal courthouse in White Plains, NY, as the ''Thurgood Marshall United States Courthouse.''

Upon completion of his law education, Justice Marshall dedicated himself to the civil rights struggle. Whether as head of the legal defense and education fund of the NAACP, or as chief council in the Brown versus Board of Education case, Justice Marshall never slowed in his fight for equal rights for all Americans. He continued this fight as the Nation's first black Solicitor General, where he scored numerous victories in the areas of civil and constitutional rights. His career culminated in an historic appointment to the U.S. Supreme Court in 1967, where he served with distinction until his retirement in 1991.

H.R. 653 is a fitting tribute to the life and work of our Nation's first African-American Supreme Court Justice, and I am proud to represent the district where the Thurgood Marshall U.S. Courthouse will be located. It is certainly an appropriate honor for this great American. I urge my colleagues to support this legislation.

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

Mr. GILCHREST. Mr. Speaker, I, too, strongly urge an aye vote on this bill. I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 653.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

WALTER B. JONES FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 840) to designate the Federal building and United States courthouse located at 215 South Evans Street in Greenville, North Carolina, as the ''Walter B. Jones Federal Building and United States Courthouse''.

The Clerk read as follows:

H.R. 840

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

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 215 South Evans Street in Greenville, North Carolina, shall be known and designated as the ''Walter B. Jones Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Walter B. Jones Federal Building and United States Courthouse''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 840, a bill to designate the Federal Building and United States Courthouse located in Greenville, NC as the ''Walter B. Jones Federal Building and United States Courthouse.'' Walter Jones was one of our most respected and accomplished colleagues ever to serve this Chamber. Born in Fayetteville, NC, Walter Jones began his career as a public servant when he was elected mayor of Farmville, NC in 1949. He served three terms in North Carolina State assembly and was in the midst of his first term in the State senate when in 1966 he won a special election to this Chamber to fill the seat left vacant by the death of former Member Herbert Bonner. He became a tireless advocate for the American worker and the American farmer. Walter Jones was reelected to 11 successive Congresses, serving in this Chamber from February 5, 1966 until his death in 1992. He was a member of the Agriculture Committee and served as chairman of the Merchant Marine and Fisheries Committee from the 97th through the 100th Congress. As chairman of the Merchant Marine and Fisheries Committee, Mr. Jones committed himself to ensuring that the United States maintained a viable merchant marine fleet and marine industry. H.R. 840 is an appropriate and fitting honor to bestow on our former colleague and I urge all Members to support the bill.

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding this time to me, and I also thank our chairman, the gentleman from Maryland [Mr. GILCHREST], for bringing this legislation to the floor.

Mr. Speaker, it was my great privilege and pleasure to serve with Walter Jones on the House Merchant Marine and Fisheries Committee. We served in Congress together on that committee, worked together on a lot of issues. But what struck me was first of all he succeeded Herb Bonner, who was chairman of that committee and then in his own right became chairman of the Committee on Merchant Marine and Fisheries. It is very unusual for one State, let alone one district, to have a succession of chairmanship of one particular committee.

But Walter Jones served in that capacity in a very unassuming, very affable, very warm, but also very knowledgeable manner, with a quiet, unsuspecting country humor. He would often break the tension in a very hotly contested markup over some very difficult and hotly contested issues with just a bit of folk wisdom, or country humor, or an observation that would devastate one side or the other. He had that remarkable knack, that personality that just fitted the occasion, and he did not have to say much, and he usually did not, but what he said was compelling, and whether, as I said earlier, it was humor, or whether it was a bit of folk wisdom to enlighten a point, or whether it was to hurry a vote; when he called a vote, he said all those in favor say aye, aye, and everyone else jumped in, and, before they knew it, the bill was passed.

Mr. Speaker, maybe some of them wanted it passed or not, but they followed his leadership, and his wisdom, and his care about America's merchant marine, about our Coast Guard, about our marine environment, about endangered species, and that committee had jurisdiction over the Marine Mammal Protection Act, and he saw to it that that jurisdiction was carried out and that America's concern for our Marine Mammal Protection Act and for the endangered species of the great oceans of this country was carried out appropriately.

Mr. Speaker, for us to name a building in his honor is a very small, but deserved, honor, one that we can and that we should pay. The greater tribute to Walter Jones is the legacy of legislation that he left. But more importantly, the care that he had for the people he represented; he loved them and spoke of them often, and he represented them with great honor and dignity, and his legacy will carry on in the name that we give to this building in his honor.

Mr. Speaker, this honor is long overdue. Walter Jones' career spanned over four decades beginning in 1949 with his election as the mayor of Farmville, NC, then in 1955 to the North Carolina State Assembly, in 1965 to the State senate and finally in 1966 to the U.S. House of Representatives.

From his days in Congress, Mr. Jones worked hard and long for his constituents. He became a tireless advocate for the American worker and the American farmer. He was reelected to eleven successive Congresses, serving in the United States House of Representatives from February 5, 1966, until his death in 1992. He was a Member of the House Agriculture Committee and served as chairman of the Merchant Marine and Fisheries Committee from the 97th through the 100th Congresses. As chairman of the Merchant Marine and Fisheries Committee, Walter Jones committed himself to ensuring the United States maintained a viable merchant marine fleet and maritime industry.

His stewardship of the Merchant Marine and Fisheries Committee was recognized for its fairness and openness. I had the pleasure of serving under Chairman Jones on the Merchant Marine Committee. He was not only known for his dedication, hard work, humility and humanity, but he also had a quiet way about him that oftentimes brought great results.

Walter B. Jones was one of the most respected and accomplished Members ever to

serve in the House of Representatives, and H.R. 840 is a fitting and appropriate tribute to his honor.

I urge passage of H.R. 840.

Mr. GILCHREST. Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. OBERSTAR] for his very kind and most appropriate words to one of the finest Members of this Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Speaker, I thank the gentleman from Maryland [Mr. GILCHREST], the gentleman from Ohio [Mr. TRAFICANT], and the gentleman from Minnesota [Mr. OBERSTAR]. This obviously is a very special privilege for me, one that I doubt very few sons in the history of the Congress have. I am honored and humbled, quite frankly, to be on the floor at this time to say thank you to the U.S. House for remembering my father in such a special and very permanent way.

The gentleman from Minnesota [Mr. OBERSTAR] was right about my father. He loved the Congress, he loved the people in the Congress, and was a man that has served, that did serve, I should say, for 26 years. I certainly must tell my colleagues that not only am I and my family honored by them remembering my father, but also the constituents that elected my father to 13 terms in the U.S. House of Representatives.

My father appreciated the work of this wonderful and great institution and the men and women that made this institution and are today making this institution so great. My father also appreciated the staff that worked with him as chairman of the Committee on Merchant Marine and Fisheries, and also the staff in his office, both in the district and also in Washington, as well as the members of the staff that work around the House and the Capitol and the women that operate the elevators. He was a man that appreciated his fellow man and a person that never forgot his roots, and that is why I think my father for so many years, even when his health because of age was beginning to fail him and he had to campaign, quite frankly, in a wheelchair back in the district, and many times candidates much younger would oppose my father. Yet my father would get better than 70 percent of the vote each and every time, and the reason for that was because my father never forgot the people back home that gave him the privilege and the honor to represent them.

So I say to my colleagues again that this is an honor for me to be on this floor to thank my colleagues of the U.S. House of Representatives, that they thought so much of my father that they would want to remember him in this very special way. If I may close, because I see one of my father's many friends, and before I close let me say that it has been a very humbling experience to have men and women from both sides of the aisle to tell me how much they respected and thought of my father, and the two words that they used that made me feel so proud of my father was that he was a gentleman and that he was fair. That to me, they are two of the best words that can be said about a person, that he is a gentleman and that he is a fair person.

I see my good friend, the gentleman from Mississippi [Mr. TAYLOR], who among many that came down to my father's funeral, and I think the second or third month that I was here, maybe in February or March, that GENE came up to me, and he handed me this index card, and he said, ''WALTER, I think it is only appropriate that you have this,'' and I would like to close with this, if I may, Mr. Speaker.

GENE handed me this, and he said, ''It is a note that I took at your father's funeral,'' and he said, ''I wrote it down right after the minister used this quote from Everett Hale,'' and the quote is, and I think this fits my father and many of us that served in the U.S. House of Representatives; it says: ''I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I should do, and, with the help of God, I will do it.''

Mr. Speaker, I close with that because I think they are very powerful words, and again I know I am being repetitious, but this is a very emotional time for me. I can only say in very simple, simple words, ''Thank you so very much.''

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. JONES. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Speaker, I have no prepared statement. In fact I wandered into the Chamber on another matter, but, in knowing that this is in recognition of the gentleman's father, I felt compelled to stand up and say that, when I entered Congress in 1980, as a Republican, a freshman Republican, and was on the Merchant Marine and Fisheries Committee, the gentleman's father took me aside, as he did everyone who served under his tutelage, and gave advice, and was helpful and lent guidance, and he always did it with great compassion for the constituencies that we represented, and he always did it with a great deal of honor. When we look around the Chamber, the people who served under the gentleman's father, Republican, Democrat, liberal or conservative, there is universal admiration for what his father represented, and we are all very appreciative.

Mr. JONES. Mr. Speaker, I thank the gentleman from Texas [Mr. FIELDS].

☐ 1545

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank the gentleman from North Carolina [Mr. JONES] for his compliment. His dad meant a lot to me, as he did to every Member of this body. I must confess I was not smart enough to remember what the preacher said, but I was smart enough to ask the preacher for his notes that day, and they actually came from one of the two ministers who presided over your father's funeral.

I was always very much impressed with your father's desire to serve the public. I really noticed at your father's funeral that everyone I spoke to there always mentioned that your dad was there to serve his fellow citizens; in this day of cynicism and skepticism, where people run for Congress based on saying how terrible a place it is and that they are the only good one, that so many people felt so strongly and so positively about your dad, and I am glad we did not have to wait the full 5 years to see to it that your father is honored.

I want to compliment the sponsor of this bill, and above all, I want to compliment your dad for being a great American, and hope that you turn to be every bit as great as your father.

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

Mr. Speaker, many of us around here, just speaking off the cuff, loved Walter Jones. I did not serve on the committee with him, but because one of his probably closest allies. He imparted much advice and counsel to me, many times advising me to shut up and sit down, and cautioning me on some of the unusual behavior traits I employed to try and help my district in my early days in the Congress.

Without reading from a prepared text, like many others, I loved Walter Jones. He embodied what a Congressman should be like. I think back of Bill Natcher, Walter Jones, and Jamie Whitten and individuals like that, and we conjure up in our minds great leaders from our country that many times had gone without a whole lot of fanfare and much recognition. I am absolutely honored to be the sponsor of this legislation.

In addition to that, Mr. Speaker, I am absolutely honored to find that such a fine son is here to carry on the legacy for North Carolina. The attitude that he brings is much like his dad's. I guess the apple does not fall too far from the tree.

I am proud of the fact that we are doing this today. This is right that we should do this. We passed this legislation last year. I cannot understand the reason why we had to revisit this, but because of some of the political dynamics occurring in the other body. Let there be no political dynamics that would in fact derail this particular piece of legislation. This is fitting. I am proud to be associated with it.

I thank the gentleman from Maryland [Mr. GILCHREST] and all who played a part in helping to bring this legislation to the floor. I ask all to support it.

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

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

When I first came to the Congress in 1983 and was assigned to the Committee on Merchant Marine and Fisheries and attended its first meeting, Mr. Speaker, I was almost taken aback by the fact that Walter Jones, the chairman, had bothered to look at the biographies of those members who were being assigned to his committee and had learned that I was indeed born in his district in North Carolina. He reminded me of that fact.

I would say to my colleagues that in people like Walter Jones, if we were to emulate them in all of our activities here in the Congress, our work product would be improved, the atmosphere of this institution would be more in keeping with what it should be, and the American people would hold us in a higher regard. Walter Jones, as someone mentioned, was indeed a great gentleman.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I had a few words to say. Walter Jones for many, many years was a very close friend of mine. We worked very closely together. What a lot of people do not realize was what a great sense of humor Walter Jones had.

If I would be permitted, I would just like to give a little story. We had a Member, and I will not quote any names, but the Member had a tendency and he would say, ''If there was a good, qualified candidate in my district, I just would not run this year.'' He continued to say that.

One day we were having lunch and he said, ''If there was a good, qualified candidate in my district, I wouldn't run anymore.'' Walter said, ''Let me name off a few.'' So that is the last time. He named off about five or six different well-qualified people that lived in that district. That was the last time it was ever brought up, if there was ever a qualified candidate.

Walter Jones, as his son said, was a fair man. He was a good man. We have a saying down in North Carolina: He is the kind of man, if you had to be away from home for a week, that you would like to have Walter Jones agree to do up your things for you. He was a gentleman, he was a fair man, and we miss him. I think this is more than appropriate, what we are doing for him today. I thank the gentleman for yielding time to me.

Mr. BATEMAN. I am delighted to have yielded.

Mr. Speaker, let me conclude. I will not take the 5 minutes allocated, but let me conclude by saying that my personal disagreements with the very esteemed Walter Jones were very, very few; but one of the things that is a mark of the fact that he was a great gentleman, and his great sense of how this institution should conduct itself, that never was there any occasion when in any disagreement there was anything disagreeable. He was a wonderful, wonderful man, and like all my previous colleagues, I miss him sorely.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to an esteemed colleague, the gentleman from North Carolina [Mr. COBLE], to speak on behalf of the bill.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, if I appear out of breath, I am out of breath. I was in my office and I turned on the television in the office while I was working and saw my good friend, the gentleman from Ohio, whom I know was one of Walter's dearest friends, but my volume was not turned on so I could not hear what the gentleman was saying. I usually listen to the gentleman when he is talking.

Subsequently the gentleman from North Carolina, [Mr. JONES], young WALTER, came on. My volume was not tuned up as well. Then when I finally did activate the volume, I learned that we were over here honoring the late Walter Jones, and I ran over here. I am still huffing and puffing, Mr. Speaker, but I would be remiss if I did not say a word or two about him.

I used to refer to WALTER junior, when I would talk to his dad, as ''young Walter.'' ''How is young Walter doing? '' I would ask old Walter from time to time. One time he said to me, he always called me Coble, and he said ''Coble, I wish you would not refer to him as young Walter, because by definition, that makes me old Walter.'' I did not break that habit. I still call him young WALTER, even to this day.

But Walter Jones probably conducted the most, I guess evenhanded would be an accurate way to describe him, evenhanded, fair, hearings, and his hearings and meetings were always very, very nonpartisan. Oftentimes, Mr. Speaker, people will be critical of certain committees in the House: ''Oh, they are too partisan.'' That in and of itself does not bother me. This is a partisan body. We are supposed to be partisan from time to time. I think some of these committee chairmen, though, could take a lesson from the late Walter Jones. I think sometimes we are overly partisan in expressing our own views and the views of our colleagues.

I am very pleased and honored to take part in this, I say to my friend, the gentleman from Maryland, and my friend, the gentleman from Ohio, and of course, my good friend, the gentleman from eastern Carolina, WALTER JONES, Jr. The building is in Greenville, NC, home of East Carolina University, where many of us attended Walter Jones' funeral when we laid him to rest that day. The funeral was in Greenville and the interment, I think, was in Farmville, subsequently. But Walter was a good man, beloved by many, beloved by all who knew him.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GILMAN].

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

Mr. GILMAN. Mr. Speaker, I have had a great regard for Walter Jones over the years, a true gentleman and one that was always willing to reach a hand out to advise all of us in this Chamber, so I am pleased to join with the gentleman with regard to honoring Walter Jones.

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

Mr. Speaker, my last comments would be to echo those of my colleagues who addressed Mr. Jones, Chairman Jones, Congressman Jones as a fine man, one who fought throughout the course of his career and his life for justice, for tolerance, for freedom, for fairness, for liberty. And it is quite obvious here this afternoon, Mr. Speaker, that he was also a very fine father, because he raised a fine son who is now a Member of this Chamber.

On behalf of the present gentleman from North Carolina [Mr. JONES], I urge my colleagues to vote ''aye'' on this bill.

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

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 840.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THOMAS D. LAMBROS FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 869) to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, OH, as the ''Thomas D. Lambros Federal Building and U.S. Courthouse'', as amended.

The Clerk read as follows:

H.R. 869

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

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 125 Market Street in Youngstown, Ohio, shall be known and designated as the ''Thomas D. Lambros Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Thomas D. Lambros Federal Building and United States Courthouse''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 869, as amended, a bill to designate the Federal Building and Courthouse located in Youngstown, OH, as the ''Thomas D. Lambros Federal Building and United States Courthouse.'' Judge Lambros was born and raised in Ashtabula, OH. He attended Fairmont State College in Fairmont, WV and received his law degree from Cleveland Marshall law School in 1952.

Prior to his career as a judge, he served in the U.S. Army from 1954 to 1956. In 1960, Judge Lambros began his career in public service with his election to the Court of Common Pleas in Ashtabula County. In light of Judge Lambros' excellent reputation as a fair and dedicated jurist, President Lyndon B. Johnson nominated him in 1967 to the U.S. District Court for the Northern District of Ohio. As a district court judge, Judge Lambros was responsible for several important legal reforms such as the voluntary public defender program, which provided indigent criminal defendants with free counsel. This reform eventually became law in the landmark U.S. Supreme Court decision of Gideon versus Wainwright. Judge Lambros became Chief Judge of the Northern District of Ohio in 1990, and officially resigned from this position in February 1995. Judge Lambros also received numerous honors and awards throughout his career including the Cross of Paideia presented by the Greek Orthodox Archdiocese of North and South America, and an honorary doctorate of law from Capital University Law and Graduate Center.

It is a fitting tribute to name this building after Judge Lambros because he played such an instrumental role in its construction. Prior to the opening of the U.S. courthouse in Youngstown, citizens had to travel at least 65 miles to Cleveland to seek justice in the Federal court system. Judge Lambros recognized the hardship this imposed on many people, especially senior citizens and the indigent. I strongly urge all Members to support this bill.

□ 1600

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member.

Mr. OBERSTAR. Mr. Speaker, I compliment the gentleman from Ohio [Mr. TRAFICANT], the leader on our side, for persisting on this legislation and bringing it forward once again. It passed the House in the last Congress and again did not muster support in the Senate.

I appreciate the role that the gentleman from Maryland [Mr. GILCHREST] has played in assuring that we again consider this legislation and bring it to the floor and I appreciate his support for the bill.

Mr. Speaker, it certainly is appropriate to honor Judge Lambros, who played a role in a very important area of law that often is poorly understood and overlooked, and that is the voluntary public defender program that provides free counsel for indigent criminal defendants. Judge Lambros was responsible for reforms in this area of the law that are very significant, and he laid the groundwork for, but his work preceded the landmark U.S. Supreme Court decision in Gideon versus Wainwright that guaranteed free counsel to indigent criminal defendants.

It is often difficult for us to understand and to take up the cause of those who are indigent and who have committed a crime, but nonetheless they deserve in our legal system legal counsel.

For a judge who provided that kind of distinguished leadership in an often neglected and poorly understood area of the law, it is appropriate to honor Judge Lambros by naming a Federal building and courthouse in his honor. He is a good friend of the Democratic leader on the subcommittee, Mr. TRAFICANT, who has been an advocate for this cause, and I compliment the gentleman, and I know that today we will again pass this legislation so justly deserved.

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

Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. OBERSTAR] for his comments and remarks.

Mr. Speaker, throughout the distinguished career of Judge Lambros, who retired in February, he embraced the rule of law, human rights, and social justice for all citizens. I cannot think of a more appropriate way to honor him than to name this courthouse and have this courthouse bear his name.

Judge Lambros was born in Ashtabula, OH, where he graduated from Ashtabula High School. He attended Fairmont State College in Fairmont, WV, and received his law degree from Cleveland Marshall Law School in 1952. From 1954 to 1956 he served in the U.S. Army; distinguished service, I might add. In 1960, Judge Lambros was elected judge of the Court of Common Pleas in Ohio's Ashtabula County. He was reelected to a second full term without opposition, as his reputation for fairness continued to grow.

In 1967, that fairness was nevertheless recognized by former President Lyndon B. Johnson, who nominated Judge Lambros to the Federal bench, U.S. District Court, Northern District of Ohio. As a district court judge, as so aptly stated by the gentleman from Minnesota [Mr. OBERSTAR], Judge Lambros was responsible for many important reforms, such as the voluntary public defender program to provide indigent criminal defendants with free counsel. His groundbreaking work, Members, in this area preceded the landmark U.S. Supreme Court decision, Gideon versus Wainwright, which guaranteed free counsel to indigent criminal defendants.

In 1990, Judge Lambros became chief judge in the Northern District of Ohio. From there he officially retired in February 1995.

Mr. Speaker, this is a most beautiful man. His efforts in the field of law will be remembered for years. I urge all to support this legislation.

I thank the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Minnesota [Mr. OBERSTAR] and all of those who participated for such help and ask for an ''aye'' vote.

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

Mr. GILCHREST. Mr. Speaker, we have no more speakers on this bill. I want to thank the gentleman from Ohio [Mr. TRAFICANT] for his work on this, and I too urge an ''aye'' vote on this bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 869, as amended.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore (Mr. EVERETT). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ROMANO L. MAZZOLI FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 965) to designate the Federal building located at 1600 Martin Luther King, Jr., Place in Louisville, KY, as the ''Romano L. Mazzoli Federal Building.''

The Clerk read as follows:

H.R. 965

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

SECTION 1. DESIGNATION.

The Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, shall be known and designated as the ''Romano L. Mazzoli Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the Under States to the Federal building referred to in section 1 shall be deemed to be a reference to the ''Romano L. Mazzoli Federal Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 965, a bill which designates the Federal building located in Louisville, KY, as the ''Romano L. Mazzoli Federal Building.'' Romano L. Mazzoli was born and raised in Louisville, KY. After graduating from the University of Notre Dame, he served in the Army for 2 years before returning to attend law school at the University of Louisville. Ron was admitted to the Kentucky bar in 1960, and began practicing law in Louisville. In 1967, he began his career in public service by being elected to the Kentucky Senate, where he served from 1968 to 1970. In 1970, he was elected to join the House of Representatives, and the people of Kentucky's 3d Congressional District returned him to Washington in 11 subsequent elections, where he served from 1970 to his retirement in 1994.

Mr. Mazzoli may be best remembered for his tireless efforts on immigration issues. He was also an active voice on issues concerning campaign finance reform, smoking in public places, and cigarette advertising. Romano Mazzoli built a strong reputation as one of the most dedicated ethical and courageous Members ever to serve in Congress. Naming this Federal Building in his honor would be a fitting tribute to this distinguished former Member of Congress. I urge all Members to support this bill.

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

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking Democrat on the committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], our senior Democrat on the subcommittee, for bringing forth this legislation, and the gentleman from Maryland [Mr. GILCHREST] for his support of the legislation to honor Ron Mazzoli.

Mr. Speaker, I came to know Ron Mazzoli, a very distinguished and special man, when I served on the staff of the Committee on Public Works and on the staff of my predecessor, John Blatnik, when I was administrative assistant and who took Mr. Mazzoli under his wing when Ron was first elected and counseled him in his early days serving in the Congress.

I think what the gentleman from Maryland [Mr. GILCHREST] said of Ron Mazzoli epitomizes his service in the Congress; Honor, integrity, respect for the institution, a person who approached each issue on the basis of the merits of the case. He studied every issue that he was about to vote on the House floor, often agonized over votes where there was a conflict, at least ideologically, between a national issue and the views of his constituency.

He always made sure that the vote he cast was the right vote, not just for his district, but also for the national interests. He left a great example that all of us could well follow.

Clearly, his great legacy will be that in the field of immigration. The Simpson-Mazzoli Act that shapes the current body of immigration laws is one that scholars, attorneys, and Federal agency administrators will pour over for years to come. It was his great legacy, along with many other issues that were listed by our chairman.

For me, this is a very personal matter. Ron was a graduate of Notre Dame. I am very proud of his education at Notre Dame. When my son graduated from high school, Notre Dame was at the top of his list of universities that he wanted to attend, and he was a little uncertain about Notre Dame and I arranged for Ron to visit with him. It was Ron's encouragement, painting a picture of the quality of education, but especially the values.

Whether you agree with Notre Dame on football or basketball or any other sports activity, on the matter of values I think there can be no question of the standard set by Notre Dame. It was that that persuaded Ted, and he entered Notre Dame on a scholarship, graduated with distinction, is now pursuing a master's degree in theology, and with very fond and very warm memories of Ron Mazzoli.

I mention that because so often I saw him take time with young people to talk to them about education, about career, and about values, and about what is important in life. That we name a Federal building in his honor is a tribute to his service to this country and to his care and concern for what this institution is all about, the people we represent. No one served them better than Ron Mazzoli.

Mr. GILCHREST. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS], a colleague of Mr. Mazzoli.

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

Mr. Speaker, as the dean of the Kentucky delegation this year, I am honored today to rise and strongly support this bill and praise my most immediate predecessor as the dean of the delegation, our friend Ron Mazzoli.

Kentucky, Mr. Speaker, has been blessed with many outstanding Representatives in the Congress during the 20th century. The names are in history. Carl Perkins, Tim Lee Carter, John Sherman Cooper, and of course the unparalleled Bill Natcher, to name just a few. There have been many others of an outstanding nature as well, but Ron Mazzoli is another Member who distinguished our State and certainly this body.

First elected in 1970, Ron served nearly a quarter of a century in the Congress, representing Louisville and most of Jefferson County. As many of my colleagues know, Ron retired last year to return to Louisville to spend more time with his wonderful wife, Helen, and their children and grandchildren. He was and still remains a great man, admired at home and certainly here in Washington.

☐ 1615

Ron, as the gentleman from Minnesota [Mr. OBERSTAR] has said, was a very conscientious and very determined legislator. He stood fast to his beliefs and dealt honorably with supporters and adversaries alike. If he made his mind up to vote a certain way on a bill, it did not matter who was President or who was Speaker or who was chairman of this or whatever, Ron Mazzoli would vote his conscience regardless of the consequences. That is what made him a very valued and valuable Member of the U.S. House of Representatives.

Even in the heat of battle, Ron's principled manner drew nothing but cooperation and respect from all Members of this body.

He pursued with intelligence and vigor the different issues of our Nation's immigration policies as chairman of that subcommittee on Judiciary. He became the foremost expert, in fact, on immigration, something completely unrelated to his district in Louisville, but it was his responsibility here in the Congress that was assigned to him, and he did it to the utmost ability that he had, which was great. And so he became the foremost expert on that very arcane subject and his work is reflected in the major laws that govern immigration in this country to this day.

Ron was also a sentry for the disadvantaged, working on any number of issues for more than 20 years of service on the Committee on the Judiciary. First and foremost, however, he worked for the Third District of Kentucky, for the people who honored him with their many years of devoted support.

In Ron's last speech to the Congress on November 29, 1994, he said, ''This is the kind of day that is steeped in nostalgia, as we look backward, but also look forward to new lives.''

That is Ron Mazzoli. Always remembering the good times with a warm heart but looking forward to new challenges and new opportunities with a smile.

I am very pleased to join Ron's many friends here in this body to this day. I know of no Member who made more friends across that aisle than did Ron Mazzoli. I am very pleased to join many of them here today as we seek to pass this legislation to name the Federal building that has been designated for our friend Ron Mazzoli. It is an honor he has earned through his years of dedication and service for the people of his district, for Kentucky, and for our Nation.

So I hope today we pass this legislation as a symbol of the respect that Ron Mazzoli earned along the way.

Mr. Speaker, I am here to help us pass our bill, and that bill is a large one indeed that we owe to Ron Mazzoli for service to his Nation.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. WARD] the outstanding individual who has succeeded our fine past Member Ron Mazzoli.

Mr. WARD. I thank the gentleman from Ohio for yielding me the time.

Mr. Speaker, I am proud to join my friends and colleagues, especially proud to follow my colleague, the gentleman from Kentucky [Mr. ROGERS], in speaking on behalf of this bill today.

I urge all of my colleagues to support this legislation which will serve as a lasting tribute to such a distinguished Member who served in this body for 24 years.

Ron Mazzoli, as many Members who had the privilege to serve with him know, earned the reputation as one of the most devoted and ethical Members ever to serve in this House. His work on immigration issues and campaign finance reform will continue to serve as a lasting testament to his years of public service for many years to come.

I have had the pleasure of succeeding Ron Mazzoli here and of being, I hope, associated with the kind of commitment that he had by virtue of that succession. I also served in the Kentucky legislature where Congressman Mazzoli served with great distinction for 4 years.

I serve in this Congress and feel that it is a great honor to be able to say when I introduced myself to my new colleagues upon arrival that I have Ron Mazzoli's seat.

As an unassuming man, Ron Mazzoli would never ask for this distinction or seek to have it bestowed upon him. But no one is more deserving of such an honor.

I urge all Members to support this legislation because by doing so this Congress will give me the privilege of going to my district office by walking into the Romano L. Mazzoli Federal Building.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. ENGEL]. Due to travel schedules, he had a little rough time getting here exactly on time. He is one of the sponsors of the legislation honoring and naming the building after Judge Thurgood Marshall and will speak out order on that bill as well as on this bill.

Mr. ENGEL. I thank my friend from Ohio for yielding me the time.

Mr. Speaker, I want to also add my voice in the designation of H.R. 965, to designate the Federal building in Louisville, KY, as the Romano Mazzoli Federal Building.

Having served with Ron Mazzoli, I can think of no greater or fitting honor and I am just delighted that this bill is here this afternoon. I know that all of our colleagues will support it, because Ron was truly one of the great members of Congress with which many of us served.

I am here today also now to thank my colleagues for the passage of the bill which commemorates one of the most distinguished Americans of this century, and that is the designation of the U.S. courthouse in White Plains, NY, as the Thurgood Marshall U.S. Courthouse. As representatives of the Westchester, NY, area I am here on behalf of Congresswomen NITA LOWEY, SUE KELLY, and Congressman BEN GILMAN to urge the bestowal of this honor in memory of an historic and influential man, and the ideals for which he stood.

Mr. Marshall, as we know, began his distinguished career in private practice. Specializing in civil rights cases, he represented clients who very often could not afford to pay for his services. As the national counsel of the NAACP, Mr. Marshall spent much of his time in the South furthering the cause of civil rights and challenging segregated education. In 1954, Mr. Marshall's struggle for integrated education culminated in his argument before the Supreme Court in the landmark Brown versus Board of Education case. Following this decision, he focused his energies on the elimination of segregation and discrimination in voting, housing, public accommodations, as well as within our defense.

He chose to fight the battle of civil rights on a different front when he accepted President Kennedy's appointment to the U.S. Court of Appeals for the Second Circuit. He continued to break down the walls of segregation on the other side of the bench, accepting posts traditionally held by white males. As solicitor general he argued such cases as the Voting Rights Act of 1965, abolishing literacy requirements, voter qualification tests, and poll taxes.

On June 13, 1967, Thurgood Marshall, the great grandson of an African man brought to this country as a slave, was appointed to the Supreme Court of the United States, the first African-American to hold that position. As a Supreme Court Justice, Mr. Marshall continued his work in the name of individual rights for minorities, women, and all those who for so long did not have a voice in our Government.

Mr. Speaker, these are but a few of the highlights in the distinguished career of a man who earned the respect of his colleagues through his intelligence, hard work, and commitment to the civil rights of all Americans. Mr. Marshall said of himself that he hoped to be thought of as one who did the best he could with what he had. We know that he deserves a better and more lasting memory.

The Westchester County Board of Legislators, the Common Council of the City of White Plains, the African-American Federation of Westchester, the White Plains-Greenburgh Federation of the NAACP, and the constituents of Westchester County have asked that we name the courthouse at 300 Quarropas Street as a lasting memorial to Mr. Marshall's legacy. Sixty years ago Mr. Marshall was at the forefront of a movement at its inception. The struggle for civil rights for minorities is one which we continue today. What tribute could be more fitting for a man who fought tirelessly for the cause of civil rights than to provide a tangible symbol of the principles of law and justice which will be defended within the walls of the courthouse.

I again thank my colleagues for passing this bill. I thank the gentleman from Ohio [Mr. TRAFICANT] for his hospitality. I urge the passage of this other fitting tribute to Ron Mazzoli.

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

Mr. Speaker, as a sponsor of the bill, I am very proud to bring this legislation forth. I believe the record, as has been depicted in the statements made here by so many Members, justifiably brings forth the great contributions that Ron Mazzoli has made to the Nation and to his district.

I was a very good friend of Ron's. Being that he was an old Notre Dame grad and I was a University of Pittsburgh grad, we had certainly debated a lot about Pitt-Notre Dame games. But in addition to that we worked very hard on some common issues.

Maybe a little bit off the record here, I had the occasion to have a call from his mom, 83 years old. She was just so tickled that her son would be memorialized in such a fashion to have a building named after his distinguished record.

I think that that phone call basically said it all. There are many people that take tremendous interest in what we do here. Sometimes we overlook the contributions that many of them made to help many of us get here to serve our Nation. I am sure Mrs. Mazzoli back in Kentucky today is very proud. I would like to thank Mrs. Mazzoli for producing such a fine American who served so well in the Congress of the United States, ladies and gentlemen. I urge all to support this bill.

With that, Mr. Speaker, I yield the balance of my time.

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

I, too, urge an ''aye'' vote on this bill and would like to echo the sentiments of my good friend, the gentleman from Ohio [Mr. TRAFICANT], to restate that Mr. Mazzoli, a Member of Congress, epitomizes what all of us would seek to be like, an honorable man, a just man, and without a doubt a good friend.

I urge support for the bill.

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

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 965.

The question was taken.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

JUDGE ISAAC C. PARKER FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1804) to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, AR, as the ''Judge Isaac C. Parker Federal Building''.

The Clerk read as follows:

H.R. 1804

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

SECTION 1. DESIGNATION.

The United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, shall be known and designated as the ''Judge Isaac C. Parker Federal Building''.

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office-Courthouse referred to in section 1 shall be deemed to be a reference to the ''Judge Isaac C. Parker Federal Building''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

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

Mr. Speaker, I rise in strong support of H.R. 1804, a bill to designate the United States Post Office—Courthouse located in Fort Smith, AR, as the ''Judge Isaac C. Parker Federal Building.'' Judge Parker is a legendary figure in Arkansas, and his fame extends to the surrounding States as well. He was a soldier, a lawyer, a member of Congress, and a judge. In 1875 after his retirement from Congress, President Ulysses Grant appointed him Chief Justice of the Utah Territory. However, at the President's request, he resigned to accept appointment to the United States Court for the Western District of Arkansas. The Western District Court had fallen into disrepute due to the actions of Judge Parker's predecessor, Judge William Story. Under the threat of impeachment, Judge Story had departed. The jurisdiction of the court covered the western half of Arkansas and what is now the entire State of Oklahoma. Judge Parker dedicated himself to reestablishing the court as a power in the land. During his service the court disposed of a grand total of 13,500 cases, of which 12,000 were criminal. Of the 12,000 criminal charges, 8,600 resulted in criminal convictions, either by jury trials or guilty pleas. Judge Parker is best known for his reputation and nickname as the ''hanging judge.'' Reportedly, he sentenced more men to the gallows than any other jurist in United States history. This reputation is particularly interesting in light of reports that he did not believe in capital punishment. But he did believe in the law, and is quoted as saying ''I've never hanged a man, it is the law that has done it.'' Judge Parker died in November 1896. Perhaps nothing illustrates more vividly the legacy of Judge Parker than the request of the citizens of Fort Smith, almost 100 years later, to name the Federal building in their city in his honor. I strongly urge my colleagues to support this bill.

□ 1630

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT], the ranking member on the subcommittee, and the chairman, the gentleman from Maryland [Mr. GILCHREST], for bringing forth this bill.

This is certainly a case of a tribute long delayed and an honor bestowed in a manner that certainly is appropriate. When a man is so great that the people of a community a century later ask that he be memorialized in a particular way, then certainly the Congress ought to respond to that appeal as we are doing today by naming the Federal building at Fort Smith, AR, in honor of Judge Parker, whose great career, whose remarkable career has been spelled out by Chairman GILCHREST.

I urge support of the legislation.

Mr. GILCHREST. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, let me first say I appreciate your assistance in bringing this bill to the floor today. I would also like to thank Chairman SHUSTER, as well as ranking member OBERSTAR and subcommittee ranking member TRAFICANT for their assistance.

This bill, H.R. 1804, would name the Federal building in Fort Smith, AR, after Judge Isaac Parker. Judge Parker is a great figure in Arkansas and the surrounding States. He was a soldier, a Congressman, a lawyer, and a judge.

In 1875 after his retirement from the U.S. Congress, President Grant appointed Isaac Parker as chief justice of the Utah Territory. However, at the request of the President, Parker resigned to accept appointment as judge of the United States Court for the Western District of Arkansas.

The court had fallen into disrepute because of the actions of Parker's predecessor. The President asked Parker to ''stay a year or two in Fort Smith and get things straightened out.''—Ended up staying 21 years.

When he assumed office Judge Parker dedicated himself to the reestablishment of the court as a power in the land. The court calendar tells the story. It was a court of no vacations except for Sundays and Christmas. During his service the court disposed of a grand total of 13,500 cases, of which 12,000 were criminal. Of the 12,000 criminal charges 8,600 resulted in convictions.

However, Judge Parker is best known for his reputation as the ''hanging judge.'' He unquestionably sentenced more men to the gallows than any other jurist in United States history. His nickname is particularly interesting in light of reports that Parker himself did not believe in capital punishment. But he did believe in the laws, and is quoted as having said, ''I've never hanged a man. It is the law that has done it.''

Off the bench, Judge Parker was known as a humorous and friendly man, devoted to his family and respected by all as a man of incorruptible integrity. He was active in local affairs and served for several years as president of the Fort Smith School Board.

The year or two that President Grant requested him to stay stretched out to 21, until his death in 1896. He had accomplished the goal of the President, as well as his own, to restore respect to the court and the law of the land, and to safeguard the citizens of his jurisdiction.

Judge Parker is buried in the national cemetery in Fort Smith near the court that he had so faithfully served for over two decades.

Perhaps nothing illustrates the legacy of Judge Parker more than the request of the citizens of Fort Smith, almost 100 years later, to name the Federal building in his honor. This is a remarkable and fitting tribute.

Finally, Mr. Speaker, I would like to take this opportunity to pay tribute to another Arkansan, Mr. Larry Degen. The city of Fort Smith is currently planning events to mark the 100th anniversary of Judge Parker's death. The naming of the city's Federal building is one of the main initiatives that is being planned in connection with this anniversary.

Larry Degen was a very active leader in planning this celebration. In particular, he was one of the first people who contacted me requesting legislation to name the Federal building in honor of Judge Parker.

Larry continued to call and write me, encouraging Congress to move forward with this legislation in time for the anniversary. His last call was on October 27th. Tragically, Larry died on October 31st at the very young age of 47. A businessman, church member, community activist, father, and grandfather, Larry Degen represents the true spirit of the people of Fort Smith. I am sure Judge Parker would've been honored to know that a man of Larry's caliber worked on the legislation that honors his name.

I would urge my colleagues to support this measure.

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

Mr. Speaker, there is an old saying: When Judge Parker got through with those cold-blooded killers, there was no recidivism.

We have talked and we have heard the phrase coined so many times in referring to judges throughout America as the hanging judges. Ladies and gentlemen, that is, this was, the hanging judge, and I believe that he was revered not only by his colleagues but also by the frontier community which he served.

I think that he blazed a trail to let everybody respect the law, and sometimes you have got to get people's attention, and I think we have got the Nation's attention now to the contributions made by Judge Parker.

I support this bill and ask all Members to unanimously support the bill.

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

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

Mr. Speaker, I would like again to echo the sentiments of the gentleman from Ohio [Mr. TRAFICANT] that we recognize a man such as Judge Parker who did blaze a trail in the early years of this country to establish justice and law.

I want to thank my colleague, the gentleman from Arkansas [Mr. HUTCHINSON], for being extremely relentless and persistent, consistently, to get this bill pushed through the House. I thank him for all of his efforts. I urge a ''yes'' vote on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 1804.

The question was taken.

Mr. GILCHREST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 308, H.R. 255, H.R. 395, H.R. 653, H.R. 840, H.R. 869, H.R. 965, and H.R. 1804, the bills just considered.

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

There was no objection.

SENIOR CITIZENS' RIGHT TO WORK ACT OF 1995

Mr. BUNNING of Kentucky. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2684) to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2684

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 ''Senior Citizens' Right to Work Act of 1995''.

SEC. 2. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

''(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

''(i) for each month of any taxable year ending after 1995 and before 1997, $1,166.66⅔,

''(ii) for each month of any taxable year ending after 1996 and before 1998, $1,250.00,

''(iii) for each month of any taxable year ending after 1997 and before 1999, $1,333.33⅓,

''(iv) for each month of any taxable year ending after 1998 and before 2000, $1,416.66⅔,

''(v) for each month of any taxable year ending after 1999 and before 2001, $1,500.00,

''(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

''(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking ''the taxable year ending after 1993 and before 1995'' and inserting ''the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)''; and

(B) in subclause (II), by striking ''for 1992'' and inserting ''for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)''.

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking ''the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof'' and inserting the following: ''an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 2 of the Senior Citizens' Right to Work Act of 1995 had not been enacted''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 3. ESTABLISHMENT OF DISABILITY INSURANCE CONTINUING DISABILITY REVIEW ADMINISTRATION REVOLVING ACCOUNT.

(a) CONTINUING DISABILITY REVIEW ADMINISTRATION REVOLVING ACCOUNT FOR TITLE II DISABILITY BENEFITS IN THE FEDERAL DISABILITY INSURANCE TRUST FUND.—

(1) IN GENERAL.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following new subsection:

''(n)(1) There is hereby created in the Federal Disability Insurance Trust Fund a Continuing Disability Review Administration Revolving Account (hereinafter in this subsection referred to as the 'Account'). The Account shall consist initially of $300,000,000 (which is hereby transferred to the Account from amounts otherwise available in such Trust Fund) and shall also consist thereafter of such other amounts as may be transferred to it under this subsection. The balance in the Account shall be available solely for expenditures certified under paragraph (2).

''(2)(A) Before October 1 of each calendar year, the Chief Actuary of the Social Security Administration shall—

''(i) estimate the present value of savings to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund which will accrue for all years as a result of cessations of benefit payments resulting from continuing disability reviews carried out pursuant to the requirements of section 221(i) during the fiscal year ending on September 30 of such calendar year (increased or decreased as appropriate to account for deviations of estimates for prior fiscal years from the actual amounts for such fiscal years), and

''(ii) certify the amount of such estimate to the Managing Trustee.

''(B) Upon receipt of certification by the Chief Actuary under subparagraph (A), the Managing Trustee shall transfer to the Account from amounts otherwise in the Trust Fund an amount equal to the estimated savings so certified.

''(C) To the extent of available funds in the Account, upon certification by the Chief Actuary that such funds are currently required to meet expenditures necessary to provide for continuing disability reviews required under section 221(i), the Managing Trustee shall make available to the Commissioner of Social Security from the Account the amount so certified.

''(D) The expenditures referred to in subparagraph (C) shall include, but not be limited to, the cost of staffing, training, purchase of medical and other evidence, and processing related to appeals (including appeal hearings) and to overpayments and related indirect costs.

''(E) The Commissioner shall use funds made available pursuant to this paragraph solely for the purposes described in subparagraph (C).''.

(2) CONFORMING AMENDMENT.—Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended in the last sentence by inserting ''(other than expenditures from available funds in the Continuing Disability Review Administration Revolving Account in the Federal Disability Insurance Trust Fund made pursuant to subsection (n))'' after ''is responsible'' the first place it appears.

(3) ANNUAL REPORT.—Section 221(i)(3) of such Act (42 U.S.C. 421(i)(3)) is amended—

(A) by striking ''and the number'' and inserting ''the number'';

(B) by striking the period at the end and inserting a comma; and

(C) by adding at the end the following: ''and a final accounting of amounts transferred to the Continuing Disability Review Administration Revolving Account in the Federal Disability Insurance Trust Fund during the year, the amount made available from such Account during such year pursuant to certifications made by the Chief Actuary of the Social Security Administration under section 201(n)(2)(C), and expenditures made by the Commissioner of Social Security for the purposes described in section 201(n)(2)(C) during the year, including a comparison of the number of continuing disability reviews conducted during the year with the estimated number of continuing disability reviews upon which the estimate of such expenditures was made under section 201(n)(2)(A).''.

(b) EFFECTIVE DATE AND SUNSET.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply for fiscal years beginning on or after October 1, 1995, and ending on or before September 30, 2002.

(2) SUNSET.—Effective October 1, 2002, the Continuing Disability Review Administration

Revolving Account in the Federal Disability Insurance Trust Fund shall cease to exist, any balance in such Account shall revert to funds otherwise available in such Trust Fund, and sections 201 and 221 of the Social Security Act shall read as if the amendments made by subsection (a) had not been enacted.

(c) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of such Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

''Chief Actuary

''(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

''(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.''.

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 4. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking ''was living with or''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking ''or'' at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting ''; or''; and

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

''(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the sixth month after the month in which the Commissioner of Social Security receives formal notification of such divorce.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to notifications of divorces received by the Commissioner of Social Security on or after the date of the enactment of this Act.

SEC. 5. RECOMPUTATION OF BENEFITS AFTER NORMAL RETIREMENT AGE.

(a) IN GENERAL.—Section 215(f)(2)(D)(i) of the Social Security Act (42 U.S.C. 415(f)(2)(D)(i)) is amended to read as follows:

''(i) in the case of an individual who did not die in the year with respect to which the recomputation is made, for monthly benefits beginning with benefits for January of—

''(I) the second year following the year with respect to which the recomputation is made, in any such case in which the individual is entitled to old-age insurance benefits, the individual has attained retirement age (as defined in section 216(l)) as of the end of the year preceding the year with respect to which the recomputation is made, and the year with respect to which the recomputation is made would not be substituted in recomputation under this subsection for a benefit computation year in which no wages or self-employment income have been credited previously to such individual, or

''(II) the first year following the year with respect to which the recomputation is made, in any other such case; or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting '', and as amended by section 5(b)(2) of the Senior Citizens' Right to Work Act of 1995,'' after ''This subsection as in effect in December 1978''.

(2) Subparagraph (A) of section 215(f)(2) of the Social Security Act as in effect in December 1978 and applied in certain cases under the provisions of such Act as in effect after December 1978 is amended—

(A) by striking ''in the case of an individual who did not die'' and all that follows and inserting ''in the case of an individual who did not die in the year with respect to which the recomputation is made, for monthly benefits beginning with benefits for January of—''; and

(B) by adding at the end the following:

''(i) the second year following the year with respect to which the recomputation is made, in any such case in which the individual is entitled to old-age insurance benefits, the individual has attained age 65 as of the end of the year preceding the year with respect to which the recomputation is made, and the year with respect to which the recomputation is made would not be substituted in recomputation under this subsection for a benefit computation year in which no wages or self-employment income have been credited previously to such individual, or

''(ii) the first year following the year with respect to which the recomputation is made, in any other such case; or''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to recomputations of primary insurance amounts based on wages paid and self employment income derived after 1994 and with respect to benefits payable after December 31, 1995.

SEC. 6. ELIMINATION OF THE ROLE OF THE SOCIAL SECURITY ADMINISTRATION IN PROCESSING ATTORNEY FEES.

(a) ACTIONS BEFORE THE COMMISSIONER.—Section 206(a) of the Social Security Act (42 U.S.C. 406(a)) is amended—

(1) in paragraph (1), by striking the fourth and fifth sentences;

(2) by striking paragraphs (2), (3), and (4);

(3) by inserting after paragraph (1) the following new paragraph:

''(2)(A) No person, agent, or attorney may charge in excess of $4,000 (or, if higher, the amount set pursuant to subparagraph (B)) for services performed in connection with any claim before the Commissioner under this title, or for services performed in connection with concurrent claims before the Commissioner under this title and title XVI.

''(B) The Commissioner may increase the dollar amount under subparagraph (A) whenever the Commissioner determines that such an increase is warranted. The Commissioner shall publish any such increased amount in the Federal Register.

''(C) Any agreement in violation of this paragraph shall be void.

''(D) Whenever the Commissioner makes a favorable determination in connection with any claim for benefits under this title by a claimant who is represented by a person, agent, or attorney, the Commissioner shall provide the claimant and such person, agent, or attorney a written notice of—

''(i) the determination,

''(ii) the dollar amount of any benefits payable to the claimant, and

''(iii) the maximum amount under paragraph (2) that may be charged for services performed in connection with such claim.''; and

(4) by redesignating paragraph (5) as paragraph (3).

(b) JUDICIAL PROCEEDINGS.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(1) in the first sentence of subparagraph (A), by striking ''representation,'' and all that follows and inserting the following: ''representation. In determining a reasonable fee, the court shall take into consideration the amount of the fee, if any, that such attorney, or any other person, agent, or attorney, may charge the claimant for services performed in connection with the claimant's claim when it was pending before the Commissioner.'';

(2) in the second sentence of subparagraph (A), by striking ''or certified for payment'';

(3) by striking subparagraph (B); and

(4) by striking ''(b)(1)(A)'' and inserting ''(b)(1)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 223(h)(3) of such Act (42 U.S.C. 423(h)(3)) is amended by striking all that follows ''obtained)'' and inserting a period.

(2) Section 1127(a) of such Act (42 U.S.C. 1320a–6(a)) is amended by striking the last sentence.

(3) Section 1631(d)(2)(A) of such Act (42 U.S.C. 1383(d)(2)(A)) is amended—

(A) by striking ''(other than paragraph (4) thereof)''; and

(B) by striking all that follows ''title II'' and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) any claim for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act, the supplemental security income program under title XVI of such Act, or the black lung program under part B of the Black Lung Benefits Act that is initially filed on or after the 60th day following the date of the enactment of this Act, and

(2) any claim for such benefits filed before such 60th day by a claimant who is first represented by any person, agent, or attorney in connection with such claim on or after such 60th day.

SEC. 7. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

''(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.''.

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

''(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) that prevents the individual from managing such benefits.''.

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking ''entitled to benefits'' and all that follows through ''under a disability'' and inserting ''described in paragraph (1)(B)''.

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows ''15 years, or'' and inserting ''described in paragraph (1)(B).''.

(D) Section 205(j)(4)(A)(i)(II) (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking ''entitled to benefits'' and all that follows through ''under a disability'' and inserting ''described in paragraph (1)(B)''.

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Section 222 of such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

''Treatment Referrals for Individuals with an Alcoholism or Drug Addiction Condition

''(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).''.

(4) CONFORMING AMENDMENT.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply with respect to monthly insurance benefits under title II of the Social Security Act based on disability for months beginning after the date of the enactment of this Act, except that, in the case of individuals who are entitled to such benefits for the month in which this Act is enacted, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed on or after the date of the enactment of this Act.

(C) If an individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination with respect to such individual pursuant to the procedures of such title.

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

''(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.''.

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

''(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) that prevents the individual from managing such benefits.''.

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking ''eligible for benefits'' and all that follows through ''is disabled'' and inserting ''described in subparagraph (A)(ii)(II)''.

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows ''15 years, or'' and inserting ''described in subparagraph (A)(ii)(II).''.

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking ''eligible for benefits'' and all that follows through ''is disabled'' and inserting ''described in subparagraph (A)(ii)(II)''.

(3) TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

''TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION

''SEC. 1636. In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).''.

(4) CONFORMING AMENDMENTS.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act based on disability for months beginning after the date of the enactment of this Act, except that, in the case of individuals who are eligible for such benefits for the month in which this Act is enacted, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed on or after the date of the enactment of this Act.

(C) If an individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase ''supplemental security income benefits under title XVI of the Social Security Act'' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(c) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $100,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 8. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second taxable year beginning after December 31, 1995. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1995, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402(c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1995, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 9. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

(a) IN GENERAL.—During a 2-year period beginning as soon as practicable in 1996, the Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) ANNUALIZED STATEMENTS.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the

study one annualized statement, setting forth the following information:

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(b) INCLUSION WITH MATTER OTHERWISE DISTRIBUTED TO BENEFICIARIES.—The Commissioner shall ensure that reports provided pursuant to this subsection are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(c) REPORT TO THE CONGRESS.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. BUNNING] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. JACOBS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, it is my honor to speak on behalf of the Senior Citizens' Right To Work Act of 1995, because I am also speaking on behalf of the 1 million people who are affected by the Social Security earnings limit.

Over a year ago, we promised working seniors financial relief from the punitive earnings limit which is imposed on many older Americans who must work to make ends meet.

Today we are taking one more step toward fulfilling that promise with the Senior Citizens' Right To Work Act.

H.R. 2684 is a fair and balanced bill. It is fair to the working seniors. It is fair to the financial soundness of the Social Security trust fund.

This legislation enjoys widespread support among the senior community, because they, too, know it is good policy to do what is right for working seniors.

The members of the Ways and Means Committee know it is good policy, too, because it passed the committee unanimously on a vote of 31 to 0.

I urge my colleagues to follow the example of the Ways and Means Committee and pass the Senior Citizens' Right To Work Act of 1995.

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

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

Mr. Speaker, I, of course, support this legislation as well, and I commend the gentleman from Kentucky as well as the gentleman from Texas who are longstanding supporters of the concept, and I cannot think of a better example of a legislative accommodation to various points of view.

There were those of us, and still are, who believe that it is improper to repeal the retirement test altogether, those of us who believe that retirement benefits should, in fact, go to people who are retired. But the compromise this bill represents is a very happy one, as the gentleman from Kentucky has said, for practically any reasonable person who has dealt with this issue over the years. This is a happy moment for the American people. It is a proud moment for the Congress, and it might not be a bad example for the people moving across the hall here to negotiate the whole budget.

There has been give and take. There has been friendship. And there has been accomplishment, and we have arrived at that accomplishment today.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

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

I rise today not in the manner that I would have liked. I support this bill. I support final passage of this bill.

But I am truly disappointed that the bill came up under suspension, because it gives us no opportunity to amend the bill, and I had planned to testify today before the Committee on Rules to ask that we could have an amendment to continue equity for the blind people of this Nation. Up to this point, people in America who are blind have the same situation on earnings test limits as those who are 65 and older, and my amendment would have maintained this current link between senior citizens and the blind for the purposes of Social Security earnings.

This Social Security earnings test link was put forth originally by our own chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER]. He had this idea that this was a very good thing for the blind to have this same type of situation, and it became law nearly 20 years ago. Unfortunately, the bill before us will break that link, and the blind will no longer have the same work incentive our senior citizens should and will enjoy.

Earlier in the year I submitted a similar amendment before the Committee on Rules during consideration of the Contract With America, and the amendment was not permitted on the floor of the House. Today, again, I tried to get an amendment before the Committee on Rules, but, unfortunately, the decision was made to have this come under suspension.

Mr. Speaker, I feel this is unfortunate for the blind of this country not to be allowed to have the vote, but, more importantly, the link is broken. So I would like to say today, whereas it was not found possible to do this, the blind are very interested in this piece of legislation and would certainly like to reestablish this link. I would hope somewhere down the line this could come up again and we could have something that will work and continue.

□ 1645

Mr. BUNNING of Kentucky. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas [Mr. ARCHER] the chairman of the full Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank my friend from Kentucky for yielding me time.

Today is truly a banner day for this House of Representatives and for the country. As my friend, the gentleman from Indiana, ANDY JACOBS, said, we should find more opportunities to work together for the betterment not only of our senior citizens, but for all Americans.

Today is particularly a sentimental day for me, because over 20 years ago I initiated the effort to eliminate the retirement test. I felt very strongly that this country was losing tremendous talent available in its senior citizens who, if they did work, were penalized by losing their Social Security benefits and paying the highest effective marginal tax rate as a result of any age group in the country.

Today, after all of those years, we are making a move in the right direction, and it is a result of the work of the gentleman from Kentucky, JIM BUNNING, our subcommittee chairman, cooperating with the gentleman from Indiana, ANDY JACOBS, the ranking Democrat on the committee.

But it is also a sentimental day for Barry Goldwater. I hope in some way that he may be watching today, because year after year he was the lead Senate sponsor of this legislation, until he retired from the Senate.

This earnings limit brings about the most odious administrative nightmare in every Social Security office across this country. If you talk to people who who are there day by day, having to deal with Social Security problems, you will find that they will tell you that this is the toughest thing they have to deal with, just from a standpoint of administrative redtape.

When fully phased in, this will eliminate about 50 percent of the people who have to comply with it and bring about these mountainous files of uncertainty.

Seniors who want to work after the passage of this bill will be able to continue to do so up to earning $30,000 a year. That is a giant step forward. It will unlash an awful lot of talent, an awful lot of resources, to help push this country forward in the years ahead.

Mr. Speaker, I could not be more gratified with the response on a bipartisan basis, where this bill came out of our committee on a 31-to-0 vote, to send it to the Senate, where hopefully

they will pass it speedily and put it on the desk of the President so it can be signed soon this year.

Mr. BUNNING of Kentucky. Mr. Speaker, I have the good fortune to yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I rise today in support of this most important piece of legislation. It has been late in coming, but it is certainly an answer to many of our commitments to our senior citizens.

For many it is very difficult to live on Social Security and then be limited to $11,000 a year in earnings limits, as existing law provides. By increasing this over 7 years to $30,000, we are recognizing the fact that many of our seniors want to continue to work, can continue to work, and can live a much better and fuller life if they are able to work. It is high time that this legislation pass.

I compliment the chairman and the gentleman from Indiana [Mr. JACOBS] for working on this, in a bipartisan way, to bring this most important piece of legislation to the House floor.

Mr. JACOBS. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the bill before us is not very controversial. The base bill does provide for an increase in the earnings limit for senior citizens. I guess we could debate, and possibly the Senate will debate, whether or not it should go to $30,000 over a period of 7 years. But the point I want to raise with the body today is, No. 1, the process on how the bill got before us today, and then two of the components which are very troublesome to me.

We were notified, I believe last week, that this bill would be coming before the Committee on Rules today at 2:30, at which time Members who were interested could approach the Committee on Rules and ask for various amendments to be made in order.

That is the usual process when we are amending bills and debating bills. However, for whatever reason, unbeknownst to this speaker, the Committee on Rules canceled that hearing on this particular bill and it was rushed to the House under a procedure we call suspension of the rules. The suspension of the rules procedure does not permit any amendments to be offered to the legislation being debated.

So essentially what the Republican majority has done is cut some of us off, some of us who wanted to propose some constructive changes to the legislation we were debating.

You ask what are those changes? What do you want to change about the bill? There are two major changes I think that have to be addressed.

One was already spoken to by the gentlewoman from Connecticut [Mrs. KENNELLY], and it is something we did discuss before the committee and I am sad to say to no avail. But under current law and under an amendment back to 1977 that was proposed by my good friend, the gentleman from Texas [Mr. ARCHER], the chairman of the committee, there was a linkage formed between the blind and the earnings test for Social Security recipients. However, although that linkage has proved very beneficial to the blind involved and it has been in the law since 1977, for some reason, unbeknownst to me, that linkage is ending with the passage of this bill.

If you look at the plight of a blind person who has tried to struggle in a low paying job, to not permit them to earn more as we are doing for retired people I think is absurd. In fact, the example I used before the Committee on Ways and Means during markup was take the situation of a blind person who is not going to get better in his or her lifetime, unless a miracle would occur, a blind person who is trying to increase their stand in this country, and they try to get a job earning more money. But they know full well they are going to lose. A person who is blind who is trying to earn will lose Social Security benefits.

However, a retired person who is, say, 66 years old, very, very healthy, not blind, will over a 7-year period be able to earn $30,000, and I think the unlinking of the two is totally unfair. However, because of the Republican procedure today, the blind people will not get a separate vote on their request to my office and many others to keep this linked.

The other problem with the bill has nothing to do with the earnings test. However, under current law for attorneys who represent people in Social Security disability cases, they receive their reimbursement for the representation through a separate check from the Social Security Administration. That is being done away with. It does not save any money. We are told it might cost some money, but we are going to save some man-hours. We did want to offer before the Committee on Rules a proposal wherein we take the one disability check going to the beneficiary, have two payees listed on the check, and if in fact that did not cover the cost we would provide for a $20 fee. That was not permitted. That is sad.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I must say that this is a day that many of us in this body can stand and say promises made, promises kept, because both sides of the aisle have promised our seniors we would give them relief in their earnings ability by allowing them to continue to work and earn extra money and not be penalized for such.

It comes from both sides of the aisle. As has been mentioned, both in the subcommittee and the full committee, there was not a dissenting vote. Again, this is how this body can work.

I go back to just 10 days ago, on Sunday evening in this same body when on a unanimous consent we sent a continuing resolution down to the White House that would do the same thing, promises made, promises kept. That is why we all agreed to a 7-year balanced budget. I look forward to the day we stand here unanimously and say we fulfilled that promise also.

Mr. BUNNING of Kentucky. Mr. Speaker, I now have the pleasure of yielding 1 minute to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in strong support of H.R. 2684, legislation that will raise the Social Security earnings limit for working seniors who right now face higher real tax rates than millionaires in the current system.

While senior citizens are the primary beneficiaries of this legislation, I am pleased to say another important sector of our work force will also benefit, and that is members of the clergy.

H.R. 2684 includes a provision that I have advocated that would provide a 2-year open season for members of the clergy to enroll in Social Security. Some members of the clergy elected not to participate in Social Security early in their careers, before they fully understood the ramifications of opting out. Because the election process is irrevocable, there is no way for them to participate in the program under current law. Clergy typically have the most modest earnings throughout their working lives, and would be among those most likely to rely on Social Security. This legislation would give them an opportunity to enroll.

Mr. BUNNING of Kentucky. Mr. Speaker, I have the pleasure of yielding 1 minute to the gentleman from Texas [Mr. SAM JOHNSON] a member of the Subcommittee on Social Security and a member of the full committee.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I appreciate the gentleman yielding time.

Mr. Speaker, the only thing that is more important than repealing the 16th amendment and getting rid of the IRS is fixing it so our citizens have the right to work and earn whatever they want to. This bill, believe it or not, allows anyone between 65 and 70, which is what we are talking about, to hit $14,000 as a salary limit this year, this next year, instead of having to wait until the year 2002, which is what current law does.

You know what that does? That helps 20 percent of those involved in that category, which is 925,000 people. That means those guys are not going to have to pay any more tax. That means they can work at Wendy's and McDonald's or wherever they want to and earn money without being subject to the Federal Government of this Nation.

Mr. Speaker, I think we have to pass it. It is a duty that we have.

Mr. BUNNING of Kentucky. Mr. Speaker, I have the pleasure of yielding 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the distinguished chairman for yield me time.

Mr. Speaker, I rise today in strong support of this legislation. One provision of this bill, Mr. Speaker, cuts off benefits for those individuals considered disabled solely based on their addiction to either drugs or alcohol. I strongly support this provision.

Mr. Speaker, as a recovering alcoholic who spends a great deal of my time with other alcoholics and addicts who are still suffering the ravages of chemical addiction, I can tell you that paying cash benefits to these people is not the kind of help that they need. In fact, cash benefits only make the problem of addiction worse, only serve to enable, to fuel the addiction.

Those addicted to drugs or alcohol do not need cash, they need treatment. This bill, Mr. Speaker, provides $200 million in additional money to the States through an existing block grant program for the prevention and treatment of substance abuse.

So I commend my distinguished colleague on the Committee on Ways and Means, the chairman of the Subcommittee on Social Security, for bringing this thoughtful piece of legislation to the floor, and I urge all of my colleagues to give substance abusers the help that they need. Support this legislation.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I thank my friend from Indianapolis for yielding me time. There is not a man nor woman on that particular side from the gentleman's party whom I respect more, and whom I am going to dearly miss after his retirement this year.

Mr. Speaker, today represents another step in our efforts to increase the Social Security earnings limit. Currently senior citizens between the ages of 65 and 69 lose $1 in Social Security benefits for every three they make over $11,280. This important piece of legislation we are considering today will change that. It will raise the earnings limit for those ages 65 to 69 to $30,000 by year 2002, thereby removing this disincentive to work and allowing seniors to keep more of their hard-earned dollars.

This bill is especially important to the folks I represent back in Nebraska. The Omaha area is currently experiencing a labor shortage. With unemployment hovering around 2 percent, our efforts to raise the earnings limit will allow more seniors to enter the work force without being punished by the Federal Government, thereby providing Nebraska businesses with experienced employees rich in talent and full of ability.

□ 1700

Simply put, lifting the earnings limit for our Nation's seniors is the right thing to do. And as my friend from Georgia earlier said, promises made, promises kept.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, I thank the distinguished gentleman for yielding. I rise in support of the Senior Citizens Right to Work Act which will raise the earnings limit for seniors.

This legislation accomplishes two important tasks: First, it ends the policy of subsidizing drug and alcohol abuse with Social Security funds; and, second, and very importantly, it ends the practice of punishing seniors who want to work.

Currently, seniors who want to remain a vital part of the work force will lose $1 of their Social Security contributions for every $3 they earn over $11,280. This legislation will remove the disincentive to work placed upon seniors by raising that limit.

American seniors have worked hard to pay into the Social Security trust fund. This legislation not only protects their investment and honors our commitment to them, it also encourages seniors to continue their contribution to our Nation's work force.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Speaker, I thank my chairman for yielding me time. I am proud to stand in support of the Senior Citizens Right to Work Act, and I am proud to have been an original cosponsor of this bill. Not only does it raise the earnings limit for our senior citizens between the ages of 65 and 70, just as importantly as allowing them to have hard-earned money to help them in these years, it gives the added benefit of allowing them to continue working to allow the senior citizens to do the things they want to do in their golden senior years.

Mr. Speaker, that is a benefit that is healthy to them beyond the financial earnings. And in that I cite as an example of my own father who today is working at age 76. This law does not apply to them because seniors above the age of 70 are not subjected to earnings limits. But I see senior citizens who find it healthy for their own day-to-day happiness and well-being to be working, and I am proud to support this bill, and I urge my colleagues to support it.

Mr. JACOBS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Speaker, I thank the gentleman for yielding me this time. This is a wonderful piece of legislation. It has simply taken too long to come to the floor of the House. It is bipartisan. It came out of our Committee on Ways and Means with a vote of 31 to 0, and it is time, in fact, beyond time, that this legislation go into effect.

I support this legislation largely because I think it is just plain wrong to penalize our most experienced and dedicated workers for continuing to work and contribute to a better livelihood for themselves and also to a better future for the United States.

Seniors across the country want to work beyond age 65 because a fixed Social Security income alone these days often does not provide adequate financial security. I think also the younger people in the workplace gain a lot through the experience of those folks who continue to work. It is good for all of us.

Unfortunately, currently the earnings limit discriminates against some of our senior citizens and prevents us from being able to benefit from the talents of millions of experienced professional. The earnings limit punishes seniors after they have earned $11,280 by hitting them with an additional effective tax of 33 percent. It is too long that this has gone on. Now is the time to change it.

Mr. Speaker, I do want to make one note about an amendment that was accepted unanimously in the Committee on Ways and Means that is included in this legislation, a provision I offered during our consideration by our committee, that is, in effect, a sunshine amendment. It is designed to help seniors better understand their contributions and benefits under the Social Security system.

The lack of information currently provided to seniors simply is unacceptable. My parents and seniors around this country have a desire, a need, and certainly a right to know about the status of their participation in the system, and so the amendment we proposed outlines the total income earned by each senior.

Mr. Speaker, the provisions that we have added to this bill that would give further information on Social Security are: The total income earned by the individual receiving benefits, the total Social Security contributions by that individual and separately by that individual's employer, and, finally, the total dollars that have been received back by the beneficiary from Social Security.

I think, Mr. Speaker that it will open up a degree of information that has never been available before. It will help people understand what their return is on the current Social Security compared to what they have paid in. Numerous seniors in my district find it ironic that other retirement benefit programs, like mutual funds and IRAs, provide this type of information in writing on a quarterly basis.

Our proposal is a study for a period of 2 years with not more than 600,000 recipients. We will see how it works, and I hope continue to provide this and further information.

Mr. Speaker, I urge my colleagues to vote for this proposal. it is, as I said, way beyond its time. It will be good for seniors and good for all of us.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEINEMAN].

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

Mr. HEINEMAN. Mr. Speaker, I thank the gentleman for giving me this time.

I rise in strong support of this legislation. I am a cosponsor of the bill and I urge my colleagues to strongly, strongly support the bill.

I am proud to be an original cosponsor of this legislation, which helps to fulfill a solemn pledge I made to the senior citizens in the Fourth Congressional District of North Carolina to remove this burdensome tax targeted at our working senior citizens.

Mr. Speaker, as a senior citizen myself I know that current law penalizes seniors who want to work by imposing an earnings limit on the amount of outside income they can receive while still obtaining their full Social Security benefits. Seniors between the ages of 65 and 69 currently lose $1 in Social Security benefits for every $3 they earn above $11,280. This kind of earnings limit amounts to an additional 33 percent tax on top of existing income taxes.

I know from first hand experience that many seniors continue to lead active and productive lives and contribute in important ways to our community. We should be supporting seniors who want to work, not penalizing them. H.R. 2684 will raise the current earnings limit from $11,280 to $30,000 by the year 2002. After the year 2002, the earnings limit will be indexed to the growth in average wages.

Mr. Speaker, this is a modest, but critical reform, and I am pleased to lend my support to this much needed legislation.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

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

Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of the increase in the earnings limit for Social Security recipients.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT], who has worked for the last 8 years to make this bill law.

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

Mr. HASTERT. Mr. Speaker, this certainly is a red letter day for this Congress, but certainly, even more than that, a red letter day for the seniors of this country. It would not have happened, and I want to thank specifically the gentleman, who, after we passed this bill out of this House with over 400 votes on it, and the funding mechanism was rejected by the Senate, the gentleman from Kentucky [Mr. BUNNING] came back, worked with the staff diligently and made it work. We need to thank him profusely for that effort to make sure that this bill is on this floor today so that we can pass it and move it on.

I also want to thank other Members, the gentleman from Texas, DICK ARMEY, who carried this bill for years in the House; and another gentleman from Texas, BILL ARCHER, who carried it for 20 years in the House as an important piece.

What this bill does, ladies and gentleman, it helps working seniors, seniors who do not have pension income or stocks and bonds tacked away; people who have never had the chance to save and invest, and yet when they want to work to bring up their standard of living, to be part of this country, to share in the economy, to help their grandchildren, to take a vacation, to buy a car, when they go to earn those extra dollars, they get hit with a marginal tax rate of 56 percent when they exceed the limit of $11,000. Fifty-six percent, nearly twice the rate that millionaries pay today. Those seniors who live off investment incomes are not impacted by the earnings limit.

Mr. Speaker, this is not just a right. America's working seniors should not be punished just because they never had money to tuck away and must now keep working to make ends meet. This tax relief for working seniors is sorely needed.

Even though we know working seniors will pay more into our economy and more than offset the cost associated with lifting the earnings limit, the Congressional Budget Office will not allow this dynamic method of scoring. The gentleman from Kentucky [Mr. BUNNING] has worked to put together a proposal that meets the CBO budget rules and has also looked at that extra dynamic.

Ladies and gentlemen, this is a salute to senior citizens, people who have worked their whole life, people who have yet to give information and education and leadership to people who are younger, that they can be the person that they look up to in a work force in a small store, a candy store, a McDonald's, the Sears area, all of those people who endorse this piece of legislation.

I again salute the gentleman from Kentucky for his tremendous leadership and his staff for bringing this piece of legislation together and salute the seniors of this country so that they can make a statement in their behalf as well.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague from Kentucky for yielding me this time.

Mr. Speaker, the earnings test limit is unfair and unjust. It is, effectively, a mandatory retirement mechanism for a country no longer in need of it. It precludes greater flexibility for the elderly worker, and also prevents America's full use of the eager, experienced, and educated elderly worker. Finally, it deprives the U.S. economy of the additional income which would be generated by the elderly worker.

Mr. Speaker, I am an original cosponsor of this bill, and I certainly want to applaud my colleague from Kentucky, Mr. BUNNING; and, of course, the gentleman from Illinois, Mr. DENNIS HASTERT, who has labored in the vineyards for many years. When I came here in 1989, we worked so hard to get this bill forward, and I think now we have an opportunity to pass a great bill, to gain economic equality for those elderly workers who either want to work or must work in order to maintain a decent lifestyle.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to speak on behalf of this legislation which our senior citizens of the United States have been waiting for. The income eligibility raising is certainly an idea whose time has arrived.

I have to congratulate all those colleagues who have been working so long and hard to make this legislation a reality. The fact is that seniors should be able, under 70 years of age, to earn more than $11,280. Under this legislation it will raise the income limit up to $30,000 without having the deduction from their Social Security.

Anything we can do to help the seniors, who have helped us have the right to be here in Congress and to serve, certainly need our attention, our respect and admiration. I thank the individuals who have brought this legislation forward: the gentleman from Illinois, DENNIS HASTERT, the gentleman from Kentucky, Mr. BUNNING, and others, the gentleman from Indiana, Mr. JACOBS. I appreciate all their help in making this day possible and urge all my colleagues to support the legislation.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

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

Mr. GOSS. Mr. Speaker, I am overjoyed to rise today in strong support of the Senior Citizens Right to Work Act. This is very good news for seniors in Florida and all across America.

The issue here is very, very simple. Big brother, the Federal Government, is no longer going to punish seniors who choose to remain a productive part of the American work force. The new majority in Congress made a promise to our Nation's seniors that we would fix the unfair earnings test process and that is what is happening.

Mr. Speaker, today's action provides one more example of promises made, promises kept, as we have said before. By raising the earnings test threshold from the meager $11,280 to $30,000 over the next 6 years we are sending a clear message to seniors that hard work and self-reliance are still valued qualities in the United States of America.

Although I feel strongly that we should abolish the earnings test limit altogether, because there should be no

additional tax penalty for work just because an individual has reached a certain age, this legislation does move us much further to that ultimate goal.

Mr. Speaker, I urge a ''yes'' vote and very much commend the gentleman from Kentucky [Mr. BUNNING], the gentleman from Illinois [Mr. HASTERT], and the gentleman from Indiana [Mr. JACOBS], for their strong, persistent, smart leadership in this matter.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

□ 1715

Mr. FOLEY. Mr. Speaker, I appreciate the work of the gentleman from Kentucky on this issue. My father is 73 and a principal of a school in Palm Beach County, FL, very active. For those between the age of 66 and 69, they should have the same opportunities.

Mr. Speaker, we have commended people for work in America. Many of our bills talk about work being an honorable occupation. Go out and work. Get a job. But somehow when we hit 66, we are told, ''Sorry, unless you are going to be penalized, you do not need to pursue gainful employment.''

So, I think this Congress is on the right track. Restoring dignity. Instead of telling people just because they hit a magic number, this age, that they are no longer wanted, now we are saying they continue to be wanted. They will be productive. They will continue to pay taxes and they will have a benefit to society.

Public supermarkets in my district employ many seniors in assisting in grocery checkouts and other items. People are proud to have that opportunity to continue to remain active in their communities and the job market.

Mr. Speaker, I commend the chairman for his leadership on this and urge passage.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I really hate to be the skunk at the Republican picnic this afternoon, but in my previous remarks I indicated that this bill is basically noncontroversial. But, also, one of the bad things that this bill that we are going to be voting on does is delink the earnings test for the blind.

Mr. Speaker, we have 17,000 people, it is not a heck of a lot, but we have 17,000 blind Americans who qualify for this program today and they are being delinked. Yet after I made those comments, not one Republican would stand up and defend that law change. That is sad.

The Speaker of this House, when he addressed the National Federation of the Blind, back in February of this year, indicated that removing the linkage for the blind was a major mistake and that he would make sure that was taken out. That is all we have heard for the last half hour is this gushing, gushing for our senior citizens. We have heard that through this measure we are going to salute our senior citizens. This is the same party, my friends, that is cutting Medicare for the senior citizens by $270 billion. Doubling their premiums, cutting $185 or $182 billion out of Medicaid, which provides nursing home care. Where were the salutes then? Where was the support and all the gushing then?

Through this bill, the seniors are going to have to work to pick up what they are losing in their health care program. This is ridiculous.

Mr. BUNNING of Kentucky. Mr. Speaker, would the Chair please give us the time remaining on both sides?

The SPEAKER pro tempore (Mr. EVERETT). The gentleman from Kentucky [Mr. BUNNING] has 2½ minutes, the gentleman from Indiana [Mr. JACOBS] has 5 minutes remaining.

Mr. JACOBS. Mr. Speaker, I have no further requests, and I yield back the balance of my time.

Mr. BUNNING of Kentucky. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, just in response to the gentleman from Wisconsin [Mr. KLECZKA], there are over 120 organizations currently trying to get the nonblind disabled to the same level of earnings that are under this bill for the blind disabled. The blind disabled in this bill continue to have the same limit on earnings that are in the current law. In other words, their limit on earnings will rise to $14,400 by the year 2002. The nonblind disabled are stuck at $6,000.

The cost of raising the nonblind disabled to the blind disabled currently is approximately $10 billion. We do not have the money to do that. To take them to where the gentlewoman from Connecticut [Mrs. KENNELLY] would like to take them, the cost would run approximately $20 billion over just the next 5 years. We do not have the money to do that.

The bill preserves the indexing of the limitation on earnings for blind disabled recipients in the future. So, in answer to the gentleman from Wisconsin, blind disabled recipients lose nothing as the result of this bill.

In summary, I would first like to thank everybody that has worked on this bill: the staff, Phil Moseley, Valerie Nixon, Kim Hildred, Katherine Keith, Mary Anne Gee, Ken Morton, Janice Mays, Sandy Wise, and Cathy Noe; but most of all I would like to thank my colleague, the gentleman from Indiana [Mr. JACOBS]. Without his help we could not have gotten this bill together and accomplished on a bipartisan basis, both in the subcommittee and in the full committee.

When we get a bill that comes out of our subcommittee almost on a unanimous vote, and a bill that comes out of the full Committee on Ways and Means, this day and age on a unanimous vote, I am certainly very proud of that fact. And it is because of the leadership of the gentleman from Indiana on his side that we were able to accomplish that.

We know that the gentleman is going to retire, and maybe we could name this the Andy Jacobs retirement bill. The fact of the matter is I am sorry to see him leave, and I am very proud to have worked with the gentleman over the past 5 years on the Subcommittee on Social Security.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of this legislation to raise the Social Security earnings limit. Under this bill, the annual income senior citizens will be allowed to earn, without penalty, will rise from $11,280 to $30,000 over the next 5 years.

In this day and age, I cannot believe that there would be anybody in this Chamber who wants to discourage people from working. Yet the earnings limit does precisely that. It is a foolish policy and one which creates perverse economic incentives. H.R. 2684 represents a solid first step and goes a long way toward lifting the burden placed on those seniors who continue to work and make contributions to America's economic activity.

Under current law, seniors under the age of 70 who choose to work lose $1 out of every $3 they earn over some arbitrary and bureaucratic limit—currently set at $11,280 a year. To punish these folks, who have racked up years of experience, wisdom, and institutional knowledge makes no sense whatsoever. By raising the limit to $30,000, we begin to ease the penalty and, I hope, make definite strides to eliminating the earnings test altogether.

The elections that swept Republicans into the majority were about rearranging our priorities and keeping our promises. We promised to raise the earnings limit in the Contract With America, and this bill, of which I am proud to be an original cosponsor, is symbolic of our efforts to keep our promises and fix a Government which all too often sends hardworking citizens the wrong signals.

H.R. 2684, Mr. Speaker, is only a partial fix and only the beginning of corrective action which is long overdue. Last year, I cosponsored legislation—H.R. 300—which would have fully repealed the earnings limit and again this year, I cosponsored legislation—H.R. 201—to fully repeal the earnings test. For years, we have heard people argue that raising the earnings limit or repealing the earnings test would only benefit the wealthy. What these people either forget or ignore is the fact that under current law, income derived from private pensions and investments is not subjected to the limit at all. Therefore the argument that this bill would only benefit the wealthy is completely without merit. In fact, the ultrawealthy can and already do earn as much as they want from their investments, but middle-class hardworking men and women who want to keep a job are penalized for moneys they earn. H.R. 2684 addresses this inequity and restores fairness for those who want to work.

For many of our elderly citizens, the additional wages they will be allowed to earn, without penalty, is important. But for many more there is an even greater reward: The dignity of working, earning, and keeping an honest buck. There is a spiritual as well as a health benefit to be derived from keeping active, working and being fairly compensated. Why the Federal Government would punish people for this is beyond me.

Mr. Speaker, H.R. 2684 also corrects a number of other injustices as well. Like the

fact that under current law, alcoholics and drug abusers can receive Social Security disability cash payments. As I said earlier, Republicans were elected to change our priorities, and here is a clear-cut case of mixed up priorities. Punish seniors who decide to work, but give cash benefits to drug and alcohol abusers? These people need treatment and counseling. Under H.R. 2684, people addicted to alcohol or drugs will no longer be eligible to receive benefits due to disability. Instead, the bill redirects some of that funding to various drug and alcohol treatment programs so that people get the type of help they need.

Mr. Speaker, in closing I would reiterate that this bill on the whole is a solid piece of legislation that can and should receive bipartisan support. It is unfortunate that during the years that the Democrats controlled the House this legislation was never brought to the floor for a vote and thus people continued to pay penalties at a very low threshold. Today, I am proud to be a cosponsor of H.R. 2684, and I look forward to building upon this achievement and eliminating the irrational earnings test altogether.

Mr. MARTIN. Mr. Speaker, I am pleased to come before you today to express my support for the Senior Citizens' Right to Work Act of 1995.

The time has come to defend the working seniors of America—seniors that have been penalized for their productive contributions to society.

The current Social Security earnings limit of $11,280 has demonstrated Government's apathy toward those seniors who continue to work in retirement out of necessity. We must never forget that, for many seniors, work is not a choice.

More importantly, the wisdom of our Nation's seniors is needed in today's work force. America benefits from their work ethic and their experience.

I urge support for this legislation, and commended those seniors who have continued to offer their ideas and services beyond retirement. These reforms in Social Security reflect our values to allow personal responsibility and opportunity.

Mr. POMEROY. Mr. Speaker, it is with great pleasure that I offer my support for H.R. 2684, the Senior Citizens' Right to Work Act.

For many senior citizens, their retirement years are not golden and filled with leisure. Many of our elderly who cannot make ends meet with their savings and Social Security benefits have no other choice but to continue working. This legislation will help low-income senior citizens, especially single women, who are at risk of living in poverty during their retirement years.

As the safety net for the elderly begins to fray due to cuts in Medicare and other programs, the least we can do is allow those who need to work to keep more of their benefits. I am pleased the Ways and Means Committee was able to forge a bipartisan bill on this important issue.

Mr. PORTMAN. Mr. Speaker, I rise today in support of H.R. 2684, the Senior Citizens' Right to Work Act. As you know, in 1935 Congress passed the Social Security Act to provide a stable source of income to older Americans. This program, however, includes an earnings limit that unfairly penalizes those senior citizens who want to work beyond the retirement age. Mr. Chairman, by raising the Social Security earnings limit to $30,000 by the year 2002, H.R. 2684, in part, fulfills our promises made to senior citizens in the Contract With America. Let me explain.

First, it is a matter of fairness for seniors. Under current law, a senior citizen loses $1 in benefits for every $3 earned, above the $11,280 limit. This limit hurts low and middle-income senior citizens the most. These are individuals who work out of necessity—and need the income. Raising the earnings limit will enable these individuals to work so that they can make ends meet.

Second, the low earnings limit penalizes senior citizens for remaining in our workforce. Our economy suffers from the loss of experience and skills that seniors bring to the work force. I have heard first hand from constituents in my district, that the earnings limit actually inhibits some seniors from working because the lose a portion of their Social Security benefits.

Third, raising the earnings limit will help stimulate the economy. Obviously , senior citizens will be paying more taxes if they are working, and at the same time, have more money in their pockets to spend.

Significantly, this legislation is paid for by spending cuts that make sense. Among other things, the bill eliminates the current practice of providing disability benefits to individuals that are considered disabled only because they are alcoholics or drug addicts. It also creates a revolving fund to finance continuing disability reviews to determine whether individuals receiving disability benefits are still disabled. Based on government studies, these reviews will result in fewer beneficiaries and substantial savings to the taxpayer.

Mr. Speaker, I strongly urge my colleagues to support this legislation. By increasing the Social Security earnings limit, it lessens the penalty for many senior citizens and it does so, in the most fiscally responsible manner.

Mr. BUYER. Mr. Speaker, I rise in strong support of this important legislation. The current earnings limit has been a disincentive for seniors to continue to be productively employed. In particular, the present earnings limit imposes a hardship on middle and lower-income retirees, who often rely on earnings from work to supplement their Social Security benefits. The earnings penalty is in reality a huge marginal tax on working seniors. It discourages work and it is discriminatory between earned (wages) and unearned (dividends, interest, etc.) income.

I support this legislation which will allow our seniors to continue to work and not be penalized for it. The ''Senior Citizens' Right to Work Act of 1995'' is long overdue and is just one piece of our puzzle as we bring tax fairness back to America's tax code. Again, I am pleased to support this legislation which will allow Indiana seniors the right to work.

Mr. FLANAGAN. Mr. Speaker, I rise in strong support of H.R. 2684, the Senior Citizens' Right to Work Act. This bill will help alleviate the uncalled for economic discrimination against senior citizens between the ages of 65 and 69. It is outrageous that seniors in that age bracket are unduly punished by having their Social Security earnings reduced by one dollar for every three dollars they earn above $11,280.

This bill will increase the earnings limitation from $11,280 to $30,000 by the year 2002. The first increase will occur in 1996 when the limit will be raised from the current $11,280 to $14,000. Each year thereafter, through 2000, the limit will increase by another $1,000. Thus, in 2000 the limit be up to $18,000. In 2001 the earnings limitation will jump up by some $7,000, going from $18,000 to $25,000. Finally, in 2002 the limit will be increased from $25,000 to $30,000.

After 2002, the earnings limit will be indexed to the growth in average wages. In this way, the earnings limitation will be able to keep up with the times.

I have long been an advocate and supporter of raising the earnings limitation for seniors. Earlier this year I cosponsored H.R. 8, the Senior Citizens Equity Act, which contained a provision raising the earnings limit to $30,000 by 2002. This provision was incorporated into H.R. 1215, the Tax Fairness and Deficit Reduction Act which passed the House on April 5, 1995, by a vote of 246 in favor, 188 against. I voted in favor of H.R. 1215. Since the fate of this legislation is still undetermined, I believe it is wise that the House is trying another venue, H.R. 2684, the Senior Citizens' Right to Work Act, in the effort to raise the earnings limitation.

The current low earnings limitation is an economic disincentive to work for many of our Nation's seniors. It puts a limit on the full use of their capabilities, as many who want to work more are put off by the reduction in their Social Security benefits. It is an absurd situation. This country should encourage, not discourage, seniors from earning more than $11,280 per year. Seniors who work are contributing mightily to our economy. They earn money and pay taxes on what they earn. They should not be penalized for their initiative and industry.

In addition to raising the earning limit for seniors, the legislation contains another much needed reform. It prohibits the consideration of drug addicts and alcoholics as disabled in determining eligibility for entitlements to cash Social Security and Supplemental Security Income [SSI] disability benefits if the addiction is the contributing factor to the disability. This should put an end to having SSI disability being misused by drug and alcohol addicts to support their habits.

Mr. Speaker, H.R. 2684, the Senior Citizens' Right to Work Act is a giant stride forward in the direction of helping our senior citizens between the ages of 65 and 69. It will enable them to earn more money without fear of having a substantial reduction in their Social Security benefits. The Senior Citizens' Right to Work Act will give our seniors the opportunity to live better lives because they will be able to have higher incomes and still retain their Social Security benefits without reductions. I urge my colleagues to support this legislation.

Ms. DELAURO. Mr. Speaker, I strongly support the Senior Citizens' Right to Work Act urge the measure's unanimous passage today. This essential legislation increases the amount that senior citizens under age 70 may earn without having their Social Security benefits reduced.

Under current law, Social Security beneficiaries aged 65 through 69 who earn too much lose $1 in benefits for every $3 they earn above specified limits. The limit is indexed so that it increases annually to reflect the increase in average wage growth. The current limit is approximately $11,000.

Seniors who are able to work should be encouraged to do so. Without this measure, the

Federal Government is telling our elderly citizens to stay at home, and not to pursue gainful employment. That is not the message that I want to send to the seniors in the 3d Congressional District of Connecticut.

Mr. Speaker, our Nation's seniors have too much to offer for us to simply turn them away. We need their wisdom, their expertise and their zeal.

Older Americans have tremendous potential to contribute to our communities, both in terms of professional expertise and productivity. It is a shame to lose those invaluable resources. Furthermore, Seniors who are active live longer and lead happier lives.

I strongly support the Senior Citizen's Right to Work Act, and I urge my colleagues to vote in favor of this important legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to voice some concerns with H.R. 2684, the Senior Citizens' Right to Work Act. Although I will support the bill on final passage, I am concerned about the effect that some of the more obscure provisions in the legislation may have on the rights of senior citizens.

Included in this bill are provisions which remove the Social Security Administration from the process of payment of attorneys' fees. Currently, the Social Security Administration [SSA] approves the fees that an attorney may charge to represent a person in administrative proceedings, usually related to a denial of disability benefits. When the applicant is successful, SSA withholds the lesser of $4,000 or 25 percent of the benefits to pay the attorney. H.R. 2684 would change the law such that SSA would no longer be involved in the process and attorneys could negotiate fees up to a $4,000 limit.

This portion of H.R. 2684, while seeming sublime on the surface, may result in attorneys choosing to stop representing disabled individuals in their administrative proceedings. Since the fee would no longer be withheld, attorneys are fearful that they may not be paid for the service they provide, and thus may choose to avoid this type of representation.

While I will support the legislation, I regret that the leadership has chosen to bring this legislation to the floor in such a fashion so as to preclude amendments, and I hope to work with the Senate and the White House concerning the availability of competent representation for Social Security claimants.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 2684, the Senior Citizens Right to Work Act of 1995, and commend its sponsor, the gentleman from Kentucky [Mr. BUNNING] for all of his hard work on this measure.

Under current law, this country's senior citizens from age 65 to age 69 are limited to earn only $11,280 in additional income before they suffer penalties of $1 in Social Security benefits for every $3 of income earned above that limit. Mr. BUNNING's measure will allow seniors by the year 2000, to earn up to $30,000 in outside income without being forced to give up Social Security benefits.

While this bill is certainly a step in the right direction, I believe that we should go further and eliminate this anachronistic limitation and thereby allow our seniors to continue to work to the best of their capabilities in order to sustain themselves in a time of an increasing cost of living. We must allow older Americans who choose to work to earn appropriate pay without losing any of their hard-earned Social Security benefits.

Mr. BEILENSON. Mr. Speaker, the bill before us obviously enjoys very broad support among our colleagues. However, we ought to pause for a moment and give serious thought to what we are doing by passing this measure.

The Congressional Budget Office projects that we will spend more than $350 billion on Social Security benefits in 1996—more than one-fifth of the budget, and more than we are spending on any other single Federal program. Working Americans—no matter how little they make—6.2 percent of their paycheck—with their employers paying the same amount—to finance these benefits. Yet not only have we taken this huge program off the budget negotiating table, we are now actually moving to increase it—at a time when we are trying to cut back just about everything else the Government spends money on.

We need to give serious thought to whether it makes sense to increase these benefits—when the majority of that increase will go to those who are already relatively well off—at a time when we are moving to cut benefits for people who really need them.

We also need to give serious thought to whether it is wise to make what will be a huge move toward turning Social Security into a benefit which one is automatically entitled to receive upon reaching age 65, rather than a program to compensate for lost earnings due to retirement, as was originally intended. We need to ask: Does it make sense to do that when people are living so much longer than they used to, and when our population of older Americans is going to begin growing enormously in just a few years?

And, we ought to consider whether we are inviting early retirees—ages 62–64—to ask for the same thing we are about to grant retirees aged 65–69. Once we increase the earnings limitation for recipients who are aged 65–69, will early retirees ask for a liberalization of the definition of ''retired'' using the very same arguments that are being made by those aged 65–69?

The title of this bill, the Senior Citizens' Right to Work Act, is a misnomer. Senior citizens have every right to work; what this does is give older working Americans the right to collect more Social Security benefits than they are currently entitled to. At a time when we ought to be curbing entitlement spending, not expanding it, passing this legislation seems most unwise.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. BUNNING] that the House suspend the rules and pass the bill, H.R. 2684, as amended.

The question was taken.

Mr. BUNNING of Kentucky. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BUNNING of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2684, the bill just considered.

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

There was no objection.

PRIVILEGES OF THE HOUSE—REQUEST FOR REPORT FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING COMPLAINTS AGAINST SPEAKER

Mr. PETERSON of Minnesota. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution—on behalf of myself and the gentleman from Florida [Mr. JOHNSTON]—which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established;

Whereas—although complaints against Speaker Gingrich have been under consideration for more than 14 months—the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities—and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas a resolution calling for a status report on the Gingrich investigation was tabled by the House without debate on November 17, 1995;

Whereas a second resolution calling for a status report on the Gingrich investigation was tabled by the House without debate on November 30, 1995;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than December 19, 1995, concerning:

(1) the status of the Committee's investigation of the complaints against Speaker Gingrich;

(2) the Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation;

(3) a timetable for Committee action on the complaints.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the

chair in the legislative schedule within 2 legislative days its being properly noticed. The Chair will announce designation at a later time. In the meantime, the form of the resolution proffered by the gentleman from Florida will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at the time designated by the Chair for consideration of the resolution.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–381) on the resolution (H. Res. 289) waiving points of order against the conference report to accompany the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, 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.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1058, PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–382) on the resolution (H. Res. 290) waiving points of order against the conference report to accompany the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which the motion was entertained.

Votes will be taken in the following order:

H.R. 869, by the yeas and nays; H.R. 965, by the yeas and nays; H.R. 1804, by the yeas and nays; and H.R. 2684, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THOMAS D. LAMBROS FEDERAL BUILDING AND U.S. COURTHOUSE

The SPEAKER pro tempore. The pending business in the question of suspending the rules and passing the bill, H.R. 869, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill H.R. 869, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 18, as follows:

[Roll No. 834]

YEAS—414

Abercrombie	Crane	Gutknecht
Ackerman	Crapo	Hall (OH)
Allard	Cremeans	Hall (TX)
Andrews	Cubin	Hamilton
Archer	Cunningham	Hancock
Armey	Danner	Hansen
Bachus	Davis	Harman
Baesler	de la Garza	Hastert
Baker (CA)	Deal	Hastings (FL)
Baker (LA)	DeLauro	Hastings (WA)
Baldacci	DeLay	Hayes
Ballenger	Dellums	Hayworth
Barcia	Deutsch	Hefley
Barr	Diaz-Balart	Hefner
Barrett (NE)	Dickey	Heineman
Barrett (WI)	Dicks	Herger
Bartlett	Dixon	Hilleary
Barton	Doggett	Hilliard
Bass	Dooley	Hinchey
Bateman	Doolittle	Hobson
Becerra	Dornan	Hoekstra
Beilenson	Doyle	Hoke
Bentsen	Dreier	Holden
Bereuter	Duncan	Horn
Berman	Dunn	Hostettler
Bevill	Durbin	Houghton
Bilbray	Edwards	Hoyer
Bilirakis	Ehlers	Hunter
Bishop	Ehrlich	Hutchinson
Bliley	Emerson	Hyde
Blute	Engel	Inglis
Boehlert	English	Istook
Boehner	Ensign	Jackson-Lee
Bonilla	Eshoo	Jacobs
Bonior	Evans	Jefferson
Bono	Everett	Johnson (CT)
Borski	Ewing	Johnson (SD)
Boucher	Farr	Johnson, E. B.
Brewster	Fattah	Johnson, Sam
Browder	Fawell	Johnston
Brown (CA)	Fazio	Jones
Brown (FL)	Fields (LA)	Kanjorski
Brown (OH)	Fields (TX)	Kaptur
Brownback	Filner	Kasich
Bryant (TN)	Flake	Kelly
Bunn	Flanagan	Kennedy (MA)
Bunning	Foglietta	Kennedy (RI)
Burr	Foley	Kennelly
Burton	Forbes	Kildee
Buyer	Ford	Kim
Callahan	Fox	King
Calvert	Frank (MA)	Kingston
Camp	Franks (CT)	Kleczka
Canady	Franks (NJ)	Klink
Cardin	Frelinghuysen	Klug
Castle	Frisa	Knollenberg
Chabot	Frost	Kolbe
Chambliss	Funderburk	LaFalce
Christensen	Furse	LaHood
Chrysler	Gallegly	Lantos
Clay	Ganske	Largent
Clayton	Gejdenson	Latham
Clement	Gekas	LaTourette
Clinger	Gephardt	Laughlin
Clyburn	Geren	Lazio
Coble	Gibbons	Leach
Coburn	Gilchrest	Levin
Coleman	Gillmor	Lewis (CA)
Collins (GA)	Gilman	Lewis (GA)
Collins (IL)	Gonzalez	Lewis (KY)
Collins (MI)	Goodlatte	Lightfoot
Combest	Goodling	Lincoln
Condit	Gordon	Linder
Conyers	Goss	Lipinski
Cooley	Graham	Livingston
Costello	Green	LoBiondo
Cox	Greenwood	Lofgren
Coyne	Gunderson	Longley
Cramer	Gutierrez	Lowey
Lucas	Paxon	Smith (TX)
Luther	Payne (NJ)	Smith (WA)
Maloney	Payne (VA)	Solomon
Manton	Peterson (FL)	Souder
Manzullo	Peterson (MN)	Spence
Markey	Petri	Spratt
Martinez	Pickett	Stark
Martini	Pombo	Stearns
Mascara	Pomeroy	Stenholm
Matsui	Porter	Stockman
McCarthy	Portman	Stokes
McCollum	Poshard	Stump
McCrery	Pryce	Stupak
McDade	Quillen	Talent
McDermott	Quinn	Tanner
McHale	Radanovich	Tate
McHugh	Rahall	Tauzin
McIntosh	Ramstad	Taylor (MS)
McKeon	Rangel	Taylor (NC)
McKinney	Reed	Tejeda
McNulty	Regula	Thomas
Meehan	Richardson	Thompson
Meek	Riggs	Thornberry
Menendez	Rivers	Thornton
Metcalf	Roberts	Thurman
Meyers	Roemer	Tiahrt
Mfume	Rogers	Torkildsen
Mica	Rohrabacher	Torres
Miller (CA)	Ros-Lehtinen	Towns
Miller (FL)	Rose	Traficant
Minge	Roth	Upton
Mink	Roybal-Allard	Velazquez
Moakley	Royce	Vento
Molinari	Sabo	Visclosky
Mollohan	Salmon	Volkmer
Montgomery	Sanders	Vucanovich
Moorhead	Sanford	Walker
Moran	Sawyer	Walsh
Morella	Saxton	Wamp
Murtha	Scarborough	Ward
Myers	Schaefer	Waters
Myrick	Schiff	Watt (NC)
Neal	Schroeder	Watts (OK)
Nethercutt	Schumer	Waxman
Neumann	Scott	Weldon (FL)
Ney	Seastrand	Weldon (PA)
Norwood	Sensenbrenner	Weller
Nussle	Serrano	White
Oberstar	Shadegg	Whitfield
Obey	Shaw	Wicker
Olver	Shays	Williams
Ortiz	Shuster	Wise
Orton	Sisisky	Wolf
Owens	Skaggs	Woolsey
Oxley	Skeen	Wynn
Packard	Skelton	Yates
Pallone	Slaughter	Young (AK)
Parker	Smith (MI)	Young (FL)
Pastor	Smith (NJ)	Zimmer

NOT VOTING—18

Bryant (TX)	McInnis	Torricelli
Chapman	Nadler	Tucker
Chenoweth	Pelosi	Waldholtz
DeFazio	Roukema	Wilson
Dingell	Rush	Wyden
Fowler	Studds	Zeliff

☐ 1747

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended as to read: ''A bill to designate the Federal building and United States courthouse located at 125 Market Street in Youngstown, OH, as the 'Thomas D. Lambros Federal Building and United States Courthouse'.''.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. EWING). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may

be taken on each additional motion to suspend the rules on which the Chair has postponed earlier proceedings.

ROMANO L. MAZZOLI FEDERAL BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 965.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 965, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 17, as follows:

[Roll No. 835]

YEAS—415

Abercrombie	Collins (IL)	Gallegly
Ackerman	Collins (MI)	Ganske
Allard	Combest	Gejdenson
Andrews	Condit	Gekas
Archer	Conyers	Gephardt
Armey	Cooley	Geren
Bachus	Costello	Gibbons
Baesler	Cox	Gilchrest
Baker (CA)	Coyne	Gillmor
Baker (LA)	Cramer	Gilman
Baldacci	Crane	Gonzalez
Ballenger	Crapo	Goodlatte
Barcia	Cremeans	Goodling
Barr	Cubin	Gordon
Barrett (NE)	Cunningham	Goss
Barrett (WI)	Danner	Graham
Bartlett	Davis	Green
Barton	de la Garza	Greenwood
Bass	Deal	Gunderson
Bateman	DeLauro	Gutierrez
Becerra	DeLay	Gutknecht
Beilenson	Dellums	Hall (OH)
Bentsen	Deutsch	Hall (TX)
Bereuter	Diaz-Balart	Hamilton
Berman	Dickey	Hancock
Bevill	Dicks	Hansen
Bilbray	Dixon	Harman
Bilirakis	Doggett	Hastert
Bishop	Dooley	Hastings (FL)
Bliley	Doolittle	Hastings (WA)
Blute	Dornan	Hayes
Boehlert	Doyle	Hayworth
Boehner	Dreier	Hefley
Bonilla	Duncan	Hefner
Bonior	Dunn	Heineman
Bono	Durbin	Herger
Borski	Edwards	Hilleary
Boucher	Ehlers	Hilliard
Brewster	Ehrlich	Hinchey
Browder	Emerson	Hobson
Brown (CA)	Engel	Hoekstra
Brown (FL)	English	Hoke
Brown (OH)	Ensign	Holden
Brownback	Eshoo	Horn
Bryant (TN)	Evans	Hostettler
Bunn	Everett	Houghton
Bunning	Ewing	Hoyer
Burr	Farr	Hunter
Burton	Fattah	Hutchinson
Buyer	Fawell	Hyde
Callahan	Fazio	Inglis
Calvert	Fields (LA)	Istook
Camp	Fields (TX)	Jackson-Lee
Canady	Filner	Jacobs
Cardin	Flake	Jefferson
Castle	Flanagan	Johnson (CT)
Chabot	Foglietta	Johnson (SD)
Chambliss	Foley	Johnson, E. B.
Christensen	Forbes	Johnson, Sam
Chrysler	Ford	Johnston
Clay	Fox	Jones
Clayton	Frank (MA)	Kanjorski
Clement	Franks (CT)	Kaptur
Clinger	Franks (NJ)	Kasich
Clyburn	Frelinghuysen	Kelly
Coble	Frisa	Kennedy (MA)
Coburn	Frost	Kennedy (RI)
Coleman	Funderburk	Kennelly
Collins (GA)	Furse	Kildee
Kim	Murtha	Shaw
King	Myers	Shays
Kingston	Myrick	Shuster
Kleczka	Neal	Sisisky
Klink	Nethercutt	Skeen
Klug	Neumann	Skelton
Knollenberg	Ney	Slaughter
Kolbe	Norwood	Smith (MI)
LaFalce	Nussle	Smith (NJ)
LaHood	Oberstar	Smith (TX)
Lantos	Obey	Smith (WA)
Largent	Olver	Solomon
Latham	Ortiz	Souder
LaTourette	Orton	Spence
Laughlin	Owens	Spratt
Lazio	Oxley	Stark
Leach	Packard	Stearns
Levin	Pallone	Stenholm
Lewis (CA)	Parker	Stockman
Lewis (GA)	Pastor	Stokes
Lewis (KY)	Paxon	Stump
Lightfoot	Payne (NJ)	Stupak
Lincoln	Payne (VA)	Talent
Linder	Peterson (FL)	Tanner
Lipinski	Peterson (MN)	Tate
Livingston	Petri	Tauzin
LoBiondo	Pickett	Taylor (MS)
Lofgren	Pombo	Taylor (NC)
Longley	Pomeroy	Tejeda
Lowey	Porter	Thomas
Lucas	Portman	Thompson
Luther	Poshard	Thornberry
Maloney	Pryce	Thornton
Manton	Quillen	Thurman
Manzullo	Quinn	Tiahrt
Markey	Radanovich	Torkildsen
Martinez	Rahall	Torres
Martini	Ramstad	Towns
Mascara	Rangel	Traficant
Matsui	Reed	Upton
McCarthy	Regula	Velazquez
McCollum	Richardson	Vento
McCrery	Riggs	Visclosky
McDade	Rivers	Volkmer
McDermott	Roberts	Vucanovich
McHale	Roemer	Walker
McHugh	Rogers	Walsh
McInnis	Rohrabacher	Wamp
McIntosh	Ros-Lehtinen	Ward
McKeon	Rose	Waters
McKinney	Roth	Watt (NC)
McNulty	Roukema	Watts (OK)
Meehan	Roybal-Allard	Waxman
Meek	Royce	Weldon (FL)
Menendez	Sabo	Weldon (PA)
Metcalf	Salmon	Weller
Meyers	Sanders	White
Mfume	Sanford	Whitfield
Mica	Sawyer	Wicker
Miller (CA)	Saxton	Williams
Miller (FL)	Scarborough	Wise
Minge	Schaefer	Wolf
Mink	Schiff	Woolsey
Moakley	Schroeder	Wynn
Molinari	Schumer	Yates
Mollohan	Scott	Young (AK)
Montgomery	Seastrand	Young (FL)
Moorhead	Sensenbrenner	Zimmer
Moran	Serrano	
Morella	Shadegg	

NOT VOTING—17

Bryant (TX)	Nadler	Tucker
Chapman	Pelosi	Waldholtz
Chenoweth	Rush	Wilson
DeFazio	Skaggs	Wyden
Dingell	Studds	Zeliff
Fowler	Torricelli	

☐ 1756

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

JUDGE ISAAC C. PARKER FEDERAL BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1804.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 1804, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 40, answered ''present'' 2, not voting 17, as follows:

[Roll No. 836]

YEAS—373

Abercrombie	Dickey	Hyde
Ackerman	Dicks	Inglis
Allard	Dixon	Istook
Andrews	Doggett	Jackson-Lee
Archer	Dooley	Jacobs
Armey	Doolittle	Johnson (CT)
Bachus	Dornan	Johnson (SD)
Baesler	Doyle	Johnson, Sam
Baker (CA)	Dreier	Johnston
Baker (LA)	Duncan	Jones
Baldacci	Dunn	Kanjorski
Ballenger	Durbin	Kaptur
Barcia	Edwards	Kasich
Barr	Ehlers	Kelly
Barrett (NE)	Ehrlich	Kennedy (MA)
Bartlett	Emerson	Kennedy (RI)
Barton	English	Kennelly
Bass	Ensign	Kildee
Bateman	Eshoo	Kim
Beilenson	Evans	King
Bentsen	Everett	Kingston
Bereuter	Ewing	Kleczka
Berman	Farr	Klink
Bevill	Fawell	Klug
Bilbray	Fazio	Knollenberg
Bilirakis	Fields (TX)	Kolbe
Bliley	Flanagan	LaFalce
Blute	Foley	LaHood
Boehlert	Forbes	Lantos
Boehner	Fox	Largent
Bonilla	Frank (MA)	Latham
Bono	Franks (CT)	LaTourette
Borski	Franks (NJ)	Laughlin
Boucher	Frelinghuysen	Lazio
Brewster	Frisa	Leach
Browder	Frost	Levin
Brown (CA)	Funderburk	Lewis (CA)
Brown (OH)	Furse	Lewis (KY)
Brownback	Gallegly	Lightfoot
Bryant (TN)	Ganske	Lincoln
Bunn	Gejdenson	Linder
Bunning	Gekas	Lipinski
Burr	Gephardt	Livingston
Burton	Geren	LoBiondo
Buyer	Gibbons	Longley
Callahan	Gilchrest	Lowey
Calvert	Gillmor	Lucas
Camp	Gilman	Luther
Canady	Goodlatte	Maloney
Cardin	Goodling	Manton
Castle	Gordon	Manzullo
Chabot	Goss	Markey
Chambliss	Graham	Martinez
Christensen	Green	Martini
Chrysler	Greenwood	Mascara
Clayton	Gunderson	Matsui
Clement	Gutknecht	McCarthy
Clinger	Hall (OH)	McCollum
Coble	Hall (TX)	McCrery
Coburn	Hamilton	McDade
Coleman	Hancock	McDermott
Collins (GA)	Hansen	McHale
Combest	Harman	McHugh
Condit	Hastert	McInnis
Cooley	Hastings (WA)	McIntosh
Costello	Hayes	McKeon
Cox	Hayworth	McNulty
Cramer	Hefley	Meehan
Crane	Hefner	Meek
Crapo	Heineman	Menendez
Cremeans	Herger	Metcalf
Cubin	Hilleary	Meyers
Cunningham	Hobson	Mica
Danner	Hoekstra	Miller (CA)
Davis	Hoke	Miller (FL)
de la Garza	Holden	Minge
Deal	Horn	Moakley
DeLauro	Hostettler	Molinari
DeLay	Houghton	Mollohan
Dellums	Hoyer	Montgomery
Deutsch	Hunter	Moorhead
Diaz-Balart	Hutchinson	Moran

Morella Roberts Stupak
Murtha Roemer Talent
Myers Rogers Tanner
Myrick Rohrabacher Tate
Neal Ros-Lehtinen Tauzin
Nethercutt Rose Taylor (MS)
Neumann Roth Taylor (NC)
Ney Roukema Tejeda
Norwood Roybal-Allard Thomas
Nussle Royce Thornberry
Oberstar Sabo Thornton
Obey Salmon Thurman
Olver Sanford Tiahrt
Ortiz Sawyer Torkildsen
Orton Saxton Traficant
Owens Scarborough Upton
Oxley Schaefer Vento
Packard Schiff Visclosky
Pallone Schroeder Volkmer
Parker Schumer Vucanovich
Pastor Seastrand Walker
Paxon Sensenbrenner Walsh
Payne (VA) Shadegg Wamp
Peterson (FL) Shaw Ward
Peterson (MN) Shays Watts (OK)
Petri Shuster Waxman
Pickett Sisisky Weldon (FL)
Pombo Skaggs Weldon (PA)
Pomeroy Skeen Weller
Porter Skelton White
Portman Smith (MI) Whitfield
Poshard Smith (NJ) Wicker
Pryce Smith (TX) Williams
Quillen Smith (WA) Wise
Quinn Solomon Wolf
Radanovich Souder Woolsey
Rahall Spence Yates
Ramstad Spratt Young (AK)
Reed Stark Young (FL)
Regula Stearns Zeliff
Richardson Stenholm Zimmer
Riggs Stockman
Rivers Stump

NAYS—40

Barrett (WI) Foglietta Payne (NJ)
Bishop Ford Sanders
Bonior Gonzalez Scott
Clay Gutierrez Serrano
Clyburn Hastings (FL) Slaughter
Collins (IL) Hilliard Stokes
Collins (MI) Hinchey Thompson
Conyers Jefferson Torres
Coyne Johnson, E. B. Towns
Engel Lewis (GA) Velazquez
Fattah Lofgren Waters
Fields (LA) McKinney Watt (NC)
Filner Mfume
Flake Mink

ANSWERED ''PRESENT''—2

Brown (FL) Rangel

NOT VOTING—17

Becerra Fowler Tucker
Bryant (TX) Nadler Waldholtz
Chapman Pelosi Wilson
Chenoweth Rush Wyden
DeFazio Studds Wynn
Dingell Torricelli

☐ 1807

Messrs. TORRES, ENGEL, CONYERS, and SCOTT, Ms. VELÁZQUEZ, and Messrs. TOWNS, STOKES, COYNE, HINCHEY, and SERRANO changed their vote from ''yea'' to ''nay.''

Mr. RANGEL changed his vote from ''yea'' to ''present.''

Mr. HASTINGS of Florida and Mr. FLAKE changed their vote from ''present'' to ''nay.''

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SENIOR CITIZENS' RIGHT TO WORK ACT OF 1995

The SPEAKER pro tempore (Mr. EVERETT). The pending business is the question of suspending the rules and passing the bill, H.R. 2684, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. BUNNING] that the House suspend the rules and pass the bill, H.R. 2684, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 4, not voting 17, as follows:

[Roll No 837]

YEAS—411

Abercrombie Costello Goodlatte
Ackerman Cox Goodling
Allard Coyne Gordon
Andrews Cramer Goss
Archer Crane Graham
Armey Crapo Green
Bachus Cremeans Greenwood
Baesler Cubin Gunderson
Baker (CA) Cunningham Gutierrez
Baker (LA) Danner Gutknecht
Baldacci Davis Hall (OH)
Ballenger de la Garza Hall (TX)
Barcia Deal Hamilton
Barr DeLauro Hancock
Barrett (NE) DeLay Hansen
Barrett (WI) Dellums Harman
Bartlett Deutsch Hastert
Barton Diaz-Balart Hastings (FL)
Bass Dickey Hastings (WA)
Bateman Dicks Hayes
Becerra Dixon Hayworth
Bentsen Doggett Hefley
Bereuter Dooley Hefner
Berman Doolittle Heineman
Bevill Dornan Herger
Bilbray Doyle Hilleary
Bilirakis Dreier Hilliard
Bishop Duncan Hinchey
Bliley Dunn Hobson
Blute Durbin Hoekstra
Boehlert Edwards Hoke
Boehner Ehlers Holden
Bonilla Ehrlich Horn
Bonior Emerson Hostettler
Bono Engel Houghton
Borski English Hoyer
Boucher Ensign Hunter
Brewster Eshoo Hutchinson
Browder Evans Hyde
Brown (CA) Everett Inglis
Brown (FL) Ewing Istook
Brown (OH) Farr Jackson-Lee
Brownback Fattah Jacobs
Bryant (TN) Fawell Jefferson
Bunn Fazio Johnson (CT)
Bunning Fields (LA) Johnson (SD)
Burr Fields (TX) Johnson, E.B.
Burton Filner Johnson, Sam
Buyer Flake Jones
Callahan Flanagan Kanjorski
Calvert Foglietta Kaptur
Camp Foley Kasich
Canady Forbes Kelly
Cardin Ford Kennedy (MA)
Castle Fox Kennedy (RI)
Chabot Frank (MA) Kennelly
Chambliss Franks (CT) Kildee
Christensen Franks (NJ) Kim
Chrysler Frelinghuysen King
Clay Frisa Kingston
Clayton Frost Kleczka
Clement Funderburk Klink
Clinger Furse Klug
Clyburn Gallegly Knollenberg
Coble Ganske Kolbe
Coburn Gejdenson LaHood
Coleman Gekas Lantos
Collins (GA) Gephardt Largent
Collins (IL) Geren Latham
Collins (MI) Gibbons LaTourette
Combest Gilchrest Laughlin
Condit Gillmor Lazio
Conyers Gilman Leach
Cooley Gonzalez Levin
Lewis (CA) Ortiz Skeen
Lewis (GA) Orton Skelton
Lewis (KY) Owens Slaughter
Lightfoot Oxley Smith (MI)
Lincoln Packard Smith (NJ)
Linder Pallone Smith (TX)
Lipinski Parker Smith (WA)
Livingston Pastor Solomon
LoBiondo Paxon Souder
Lofgren Payne (NJ) Spence
Longley Payne (VA) Spratt
Lowey Peterson (FL) Stark
Lucas Peterson (MN) Stearns
Luther Petri Stenholm
Maloney Pickett Stockman
Manton Pombo Stokes
Manzullo Pomeroy Stump
Markey Porter Stupak
Martinez Portman Talent
Martini Poshard Tanner
Mascara Pryce Tate
Matsui Quillen Tauzin
McCarthy Quinn Taylor (MS)
McCollum Radanovich Taylor (NC)
McCrery Rahall Tejeda
McDade Ramstad Thomas
McDermott Rangel Thompson
McHale Reed Thornberry
McHugh Regula Thornton
McInnis Richardson Thurman
McIntosh Riggs Tiahrt
McKeon Rivers Torkildsen
McKinney Roberts Torres
McNulty Roemer Towns
Meehan Rogers Traficant
Meek Rohrabacher Upton
Menendez Ros-Lehtinen Velazquez
Metcalf Rose Vento
Meyers Roth Visclosky
Mfume Roukema Volkmer
Mica Roybal-Allard Vucanovich
Miller (CA) Royce Walker
Miller (FL) Sabo Walsh
Minge Salmon Wamp
Mink Sanders Ward
Moakley Sanford Waters
Molinari Sawyer Watts (OK)
Mollohan Saxton Waxman
Montgomery Scarborough Weldon (FL)
Moorhead Schaefer Weldon (PA)
Moran Schiff Weller
Morella Schroeder White
Murtha Schumer Whitfield
Myers Scott Wicker
Myrick Seastrand Williams
Neal Sensenbrenner Wise
Nethercutt Serrano Wolf
Ney Shadegg Woolsey
Norwood Shaw Yates
Nussle Shays Young (AK)
Oberstar Shuster Young (FL)
Obey Sisisky Zeliff
Olver Skaggs Zimmer

NAYS—4

Beilenson LaFalce
Johnston Watt (NC)

NOT VOTING—17

Bryant (TX) Nadler Tucker
Chapman Neumann Waldholtz
Chenoweth Pelosi Wilson
DeFazio Rush Wyden
Dingell Studds Wynn
Fowler Torricelli

☐ 1814

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1815

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MCINNIS). 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.

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 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 Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

[Mr. ABERCROMBIE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

PRESIDENT DUTY-BOUND TO BALANCE BUDGET

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 think one of the difficult things that Members of this Congress have to face is how to conceive of the extent of the national debt of this country. Given the budget negotiations that are ongoing, I think it might be prudent to call to the attention of the Members and of the Speaker the fact that as of 3 o'clock this afternoon, the national debt is $4,988,891,675,281.12. That is the official figure from the Bureau of Public Debt and the Department of the Treasury.

It is next to impossible for many of us to conceive of how large a number that is, and frankly, it was difficult for me even to realize how difficult it was just to mount the number on a piece of wood. It is over 15 characters. In fact, the piece of lumber that Matthew and Lisa are holding in front of me is over 10 feet in length. Just to carry it from the office, I was unable to take it through the revolving door, leaving the Cannon Building. I was unable to use the elevator in this building; we had to work our way up the staircases, get some help from some of the security guards, just to navigate the normal hallways of Congress.

I think that with the negotiations that are ongoing and given the work that has been done in this Congress to attempt to devise a reasonable plan by which we can balance the Federal debt, I would like to urge, Mr. Speaker, that the President has a duty to this country and to this Congress, given the fact that the Republicans have come up with a 7-year plan to balance the Federal budget, a plan that has been certified by the Congressional Budget Office to be fiscally in balance, I feel it is incumbent on the President to give us his view of how he would balance the budget in 7 years.

It is not enough to criticize what we have done; I think the President is duty-bound to step to the plate and tell us what he would do. What are his priorities?

I have to say very frankly, Mr. Speaker, as a Member of this body who is an American first and a member of his political party second, I would welcome the President's initiative, because I feel that as a Member of Congress I should have the right to choose between two competing points of view; and that is what this great Chamber is dedicated to, and that is what this great Chamber is being deprived of today by the failure of the administration to step forward and honestly tell us how they would balance the budget. Given the size of this debt, I think it is imperative that they do so.

Mr. Speaker, I did some quick calculations with a calculator just before I came on the floor. If I had a business that started at the time of the birth of Christ and spent $1 million a day, I would still not spend even $1 trillion. In fact, I would need just about another 11,000 years to even approach the figure that we have accumulated in terms of the national debt today.

Another way of looking at it is that over the next 7 years under a Republican or Democratic version of a budget, this Government could be spending $12 or $13 trillion. In effect, our national debt exceeds over 40 percent of every nickel and dime that this Government will spend over the next 7 years.

In tribute to Matthew and Lisa, who represent the youngsters of this country who literally and figuratively are carrying the burden of this debt, I think again it is incumbent upon us as adults and as responsible citizens to do our duty in the democratic process.

Mr. Speaker, I want to end on this note: Our hearts and prayers are all with the American service men and women who are being sent overseas and deployed into harm's way in Bosnia. I noted this morning that there was information from the White House to suggest that the President was planning to visit the troops in Bosnia once they were deployed following the peace treaty.

Again, I applaud and commend that initiative on the part of the President, but I would also suggest to the President that his duties as Commander in Chief and as President of this great country call on him to also come to the Congress and tell us honestly, Mr. Speaker, how he would balance the Nation's budget.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

MISPLACED BUDGET PRIORITIES

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 was listening to the remarks of my colleague with regard to the national debt, and I certainly agree with him that we need to balance the budget. However, I would suggest that we all agree that the budget needs to be balanced, and in fact, the President has also said many times that he wants the budget balanced. The problem is how do we do it. That is where the priorities come into place.

One of the points that President Clinton has made and that I have made and that many of the Democratic leaders have made is that we have to look at this budget in human terms. What are the impacts? What do the numbers mean in real terms in terms of working American families, students, older Americans, the environment and many of the other priorities that President Clinton has articulated.

The bottom line is that if we look at the Republican budget that passed this House and the Senate and is now on the President's desk, the priorities are misplaced. Too much of the emphasis is on cutting taxes or on giving tax breaks primarily for wealthy Americans and not enough emphasis is being placed on helping the average working person. Many of the cuts are on programs for senior citizens, education, particularly for student loans for students that want to go on to colleges or universities, and for the environment.

One of the things that I keep pointing out is how much of the impact in terms of tax cuts or tax breaks go to wealthy Americans. According to the numbers of the Joint Committee on Taxation, 51 percent of taxpayers with incomes under $30,000 would, as a group, have a net tax increase under the Republican budget plan and nearly half of the benefits under the Republican tax package or under the budget, 48 percent, that is, go to the top 12 percent of families, those with incomes of $100,000 or more.

So we certainly want to balance the budget, but we want to do it in a way that does not give tax breaks to the wealthy and does not cut critical programs that are important to seniors, to students, and also to the environment, among other things.

One of the things that received a lot of attention today in this regard was the Medicaid Program. Medicaid was the health care program that the Federal Government and States pay for for low-income people. Nearly 37 million people are currently covered by Medicaid, and about half of them are children.

Well, surprisingly, in a way, but I am not surprised, because I know that doctors do care about health care for low-income people, today the American Medical Association, the main national association of physicians, came out with a statement that was very critical of the Republican Medicaid plan. Basically, they criticized the fact that under the Republican proposal as part of this budget, Medicaid would no longer be guaranteed, no longer be an entitlement, and it would be up to the

States to decide who they were going to cover. So for those 37 million Americans who now receive Medicaid payments or Medicaid benefits, all of a sudden, some of them may not receive it, and it would be up to the States to decide.

President Clinton has asserted that it is crucial to maintain a Federal guarantee for Medicaid for those 37 million people, and that is one of the reasons he is going to or is likely to veto this bill, because it does not guarantee their coverage. Basically, what the doctors are saying, what the AMA is saying, is that they are concerned that States, because of the budget crunch, because they may not have the money to make up for the loss of Federal dollars that are going to come to the States in a block grant under the Republican proposal, will simply cut back on the number of people who are eligible, or on the quality of care. Basically, what they are saying is that because of the budget crisis that States face, they are going to have the same problem and they are not going to be able to actually cover all of these people.

The AMA said today in The New York Times that the Federal Government should establish basic national standards of uniform eligibility for Medicaid, and should prescribe the minimum package of benefits that would be available to poor people in all States, basic standards of uniform, minimum, adequate benefits of Medicaid recipients.

So what they are saying is that there should be a Federal standard, there should be a Federal guarantee for who is eligible for Medicaid, who gets the health insurance, and what kind of quality care will be provided for those low-income people.

The trustees of the AMA also said, there needs to be an appropriate balance between States interest in securing increased flexibility in light of fewer Federal funds for Medicaid and the very real needs of the people the Medicaid program is intended to serve, most of whom have no other means of access to health care coverage.

One of the arguments that the Republican leadership have put forth is that Medicaid should be more flexible and that is why it should go back to the States. However, what the doctors are saying is, it is very nice to have flexibility, but we have to make sure that the people who are covered by Medicaid now do have health care coverage. I know that that is going to be an important consideration for the President during these negotiations.

BUDGET REQUIRES GOOD-FAITH NEGOTIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, the gentleman from New Jersey [Mr. PALLONE] just gave some figures, and although I know he is well intentioned, I think some of the information that he gave out is not quite accurate.

I would like to give a few figures to the people who may be paying attention to my colleagues. For instance, the earned income tax credit. In 1995 we are spending almost $20 billion on the earned income tax credit, and my good friend, the gentleman from Ohio [Mr. HOKE], the head of the Theme Team, points out that it is going to go up to $25.4 billion. That is a 28-percent increase.

They keep talking about cuts.

□ 1830

It is an increase of 28 percent. The School Lunch Program is going from $4.5 billion to $6.17 billion. That is a 37-percent increase. Student loans, they keep saying we are cutting student loans. They are going from $24.5 billion to $36.5 billion. That is almost a 50-percent increase.

Medicaid, they beat on Medicaid all the time. Medicaid, we are spending $89 billion, it is going to $127 billion. That is a 43-percent increase. And Medicare, they are trying to scare the senior citizens to death in this country. Medicare, we are spending in 1995 $178 billion and it is going up over $111 billion. That is a 63-percent increase over the next 7 years.

Think about that. All we hear is how we are cutting, and we are increasing all of these programs from 28 percent up to 63 percent. Medicare is going up from $178 billion to $290 billion. So do not believe all the baloney you are hearing from my Democrat colleagues.

Let me talk about something that I think is extremely important. On November 19, 2 weeks ago, President Clinton, in writing, agreed to negotiate a 7-year balanced budget using Congressional Budget Office figures. He agreed to that on November 19.

On November 20, the next day, his chief of staff, Leon Panetta, said that maybe we could reach an agreement on 7 or 8 years and he went on to say, ''But I don't think the American people ought to read a lot into what was agreed to last night.'' In other words, he was starting to back away from the agreement the President signed the day before.

Two days later, on Wednesday, Secretary of the Treasury Robert Rubin began talking to reporters about a 9-year budget. Three days before the President agreed to a 7-year budget and he agreed to use Congressional Budget Office figures. Here we are, 3 days later, his Treasury secretary said, ''I think our 9-year budget is every bit as valid as their premise. I've never understood how 7 years got canonized.''

But the President already signed the agreement, Mr. Secretary Rubin. He had signed the agreement. Yet 3 days later you are saying, ''Well, it's not really that important.''

Then on Tuesday, November 28, the Washington Post reported ''a senior administration official said yesterday'' that an outcome without a reconciliation bill, balanced budget act, preserves our priorities and not theirs. Once again they are moving away from it.

The Post went on to say even President Clinton in two interviews this month made the case that operating the government under reduced spending bills and leaving the big budget issues until 1997 would not be a bad outcome. In other words, he is not going to negotiate a 7-year balanced budget agreement as he said he would because he said it would be better to run the government on short-term spending bills through the elections in 1996, I guess for political reasons, because he thinks it would be good for him.

But then let us see what the head of the Federal Reserve said, Alan Greenspan. He testified before Congress in November and he warned that failure to reach a balanced budget agreement would lead to higher interest rates, higher home mortgage rates, and that the economy would go downhill and suffer.

So as the President made this agreement for a balanced budget in 7 years using CBO figures, he and his staff knew that it was just to get over the hump that we had caused by closing down the government. He did not really mean it. That is why they are not negotiating in good faith. They have not sent up anything.

Chairman KASICH of the Committee on the Budget has held up our agreement time and time again on television saying, ''Here is our proposed budget. Where is the President's?'' And it was a blank hand he held up in conjunction with that.

We need to have a proposal from the President to get to a balanced budget in 7 years, as he agreed to, using CBO figures, and cut out this politics. If we do not do it, according to the Federal Reserve Chairman Greenspan, we are likely to see people buying homes having to pay much higher monthly payments, much higher mortgage rates. Interest rates on everything would go up. As a result, sales and the economy will go downhill.

Mr. Speaker, if the President does not begin negotiating in good faith, the budget talks will break down. This will lead or could lead to another Government shutdown. It could also cause severe economic problems. If this happens, the American people should and I hope will hold President Clinton accountable.

COMPREHENSIVE ANTITERRORISM ACT OF 1995

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, today I am, along with my Judiciary Committee colleagues, BILL MCCOLLUM, LAMAR SMITH, and BOB BARR introducing a revised antiterrorism bill.

On June 20, the Judiciary Committee favorably reported the Comprehensive Antiterrorism Act of 1995 (H.R. 1710). Since that date, concerns have been raised by a number of Members about certain provisions in H.R. 1710. Responding to these concerns, BOB BARR and I have developed a new compromise version of the bill. The new language responds to the concerns voiced by several Members, yet maintains the effectiveness of the bill to deter future terrorist acts. The new bill does the following:

Requires the marking of plastic explosives to allow for more effective detection;

Prohibits the possession, importation, and sale of nuclear materials;

Prohibits foreign terrorist organizations from raising money in the United States;

Prevents entry into the United States by members and representatives of foreign terrorist groups;

Reforms asylum laws to stop their manipulation by foreign terrorists;

Establishes a special deportation procedure for alien terrorists that satisfies due process and protects our national sovereignty;

Encourages the development of a machine-readable visa and passport system;

Authorizes an employer engaged in the business of providing private security services to investigate an employment applicant's legal status and his authorization to work;

Authorizes lawsuits by Americans against foreign nations responsible for state-sponsored terrorist activity; and

Provides for the expedited expulsion of illegal aliens from the United States.

Importantly, the bill also:

Adds Habeas Corpus reform provisions;

Adds the Victim Restitution Act of 1995 (H.R. 665);

Adds the Criminal Alien Deportation Improvements Act of 1995 (H.R. 668);

Deletes the enhanced wiretap authorizations, including emergency wiretap expansion and roving wiretap modifications;

Deletes the authorization of military involvement in civilian law enforcement situations;

Deletes the overly broad definition of terrorism;

Deletes funding for a domestic counterterrorism center and for additional FBI personnel; and finally,

Deletes the 40-percent civil penalty surcharge intended to fund the Digital Telephony law.

Important and significant changes have been made in this bill. The revised version deserves broad support. A ''yes'' vote on this legislation is a vote for a more secure America and the fight against crime.

I urge your support for this important measure.

CONGRESSIONAL HEARINGS TO FOCUS ON NUCLEAR WASTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, as chairman of the Subcommittee on Military Research and Development of the Committee on National Security, I rise to highlight a series of hearings that will begin tomorrow in our main hearing room that I think are of landmark significance not just to this country but to the entire world community.

One of the byproducts of the military buildup of the 1960's, 1970's, 1980's and into the 1990's has been the huge amount of nuclear waste that has been generated from our nuclear material, equipment, and the ships and technologies that we have had available to our military establishments throughout the world. The problem that we now face is what do we do with this waste that has been generated, especially as both America and in the case of the officially Soviet Union, Russia, dispose of this nuclear waste, and how do we deal with that.

The hearing that we will be holding tomorrow, both for the Subcommittee on Military Research and Development in cooperation with the Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources, will for the first time focus on what is in fact a worldwide problem. The hearing will be international in scope.

Beginning at 1:30 p.m. tomorrow afternoon in hearing room 2118, we will hear from the distinguished environmental activist from Russia, Dr. Aleksai Yablokov. Dr. Yablokov is a member of the Russian National Security Council. He is a key adviser to President Yeltsin, and he has traveled to America to tell us about his findings in terms of the problem the Russians have been having in disposal of their nuclear waste and their spent nuclear fuel.

Dr. Yablokov was a chairman of the Yablokov Commission, which for the first time in Russia's history documented extensively 30 years of deliberate dumping of nuclear waste into the Arctic Ocean, the Sea of Japan, and other bodies that border the former Soviet states. Dr. Yablokov is an outspoken critic of those policies in the former Soviet Union that have led to environmental degradation. He will share with us his work and the work of others like him in Russia in attempting to understand and deal with these international environmental problems.

Joining with Dr. Yablokov on our first panel will be Kaare Bryn, the director general and ambassador of the resources department from the Norwegian Ministry of Foreign Affairs. He will testify before us as to the concerns that the Norwegian people have with the problems internationally of dumping nuclear waste in our oceans.

Following that, we will have our Government respond to highlight some of the things that we are doing to assist in more fully understanding the problem of nuclear waste around the world, not just off of Russia but even off of our own shores, and what we are doing through the Department of Defense, the Department of State, and the Environmental Protection Agency to provide protection for the American people and cooperation with other nations who have similar concerns.

Then, finally, we will have an assessment panel of technical experts who will highlight for us the specific technologies and efforts that are now under way to deal with this potentially devastating situation around the world.

This is a landmark hearing, Mr. Speaker. I am proud to have assembled what I think will be an expert panel of witnesses to fully highlight this worldwide problem and to show that we are in fact working with the world community to find solutions. Bringing together Russia, the European Community, and also working with the Japanese Diet and the United States Congress, we are trying to find solutions that allow us to come to grips with the disposal of spent nuclear fuel and nuclear waste.

Preceding the hearing at 12:30, Dr. Yablokov and I will join with the Ballona Foundation, a Norwegian nonprofit organization that just recently documented land-based nuclear pollution extensively at Russian military facilities. The information that has been accumulated by the Ballona Foundation is so devastating that the Russian security apparatus invaded Ballona's headquarters in Moscow and 1 month ago confiscated photographs and all of their documentation.

Together, Dr. Yablokov and I will work to assure the American people and our media that we are outraged that these actions have occurred, and that we in fact should be working with the Ballona Foundation and Russian leaders like Dr. Yablokov to assist Russia in understanding the complexity of their environmental nuclear problem and, more importantly, how we can work together to solve it. It is a problem that is monumental, that needs immediate attention, and that potentially could cause a threat to the entire population of this earth.

I invite my colleagues to participate in that hearing, and welcome the support of Vice President AL GORE. At this point in time, Mr. Speaker, I would like to enter into the RECORD his letter to me supporting this series of hearings by Subcommittee on Research and Development on ways that we can assist the environmental community, working with our military, to understand and deal with these international environmental problems.

THE VICE PRESIDENT,
Washington, DC, December 6, 1995.

Hon. CURT WELDON,
Chairman, Subcommittee on Military Research, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the topics on which the Committee will focus during this series of hearings have been of interest to me for some time, and I am pleased to have this opportunity to share my perspective. As President Lyndon Baines Johnson said during his tenure, ''The waters which flow between the banks belong to all the people.'' While the President was speaking about a domestic issue at the time, his message resonates today.

Oceans cover 71 percent of the Earth's surface, and we face a common threat to this precious resource. In this time of lean budgets, creative efforts to exploit existing research and technology efforts for dual purposes are not only sensible but essential. The

United States has tremendous resources which only have to be harnessed, and the Committee's hearings represent a significant step in that direction.

As we approach the 21st Century, I welcome efforts to ensure that our country is well prepared to act on the basis of the very best data. I particularly want to thank you for your efforts in this regard. Your ideas and insight on these issues are important to me, and your continued support is essential.

Again, please accept my very best wishes for a productive series of hearings.

Sincerely,

AL GORE.

AMERICAN INVOLVEMENT IN THE BOSNIAN WAR

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, you will notice that the gentleman from Pennsylvania [Mr. WELDON] and I are not in tuxedos. A lot of the membership from both sides of the aisle are down at the White House tonight in tuxes at the Christmas party.

The last time I was at a Christmas party was 3 years ago tomorrow night. George Bush's personal Pearl Harbor was that December 7 Christmas party, and I touched him for the first time in his Presidency, put my hands on his shoulders and I said, ''Mr. President, I'm going to run for President in 1996 for one reason, to avenge you, a 58-combat-mission Naval carrier attack pilot being defeated by a triple avoider of serving his country who let three high school kids from Hot Springs and Fayetteville go in his place.''

The reason I asked you to stay for a second in the well, CURT, you are a subcommittee chairman under Chairman FLOYD SPENCE of National Security. It used to be Armed Services—it still is in the Senate—Committee on Armed Services. There are five of us. We did away with Oversight.

I nicknamed us the Marshals. You can pick a Napoleonic field marshal image with batons, or I prefer the Old West being a westerner. In Pennsylvania you have sheriffs still, do you not?

Mr. WELDON of Pennsylvania. Yes.

Mr. DORNAN. So we are his 5 marshals. His deputies. So the two of us on the floor means we have 40 percent of the subcommittee chairmen on the House.

I just came from a CAT meeting. That is one of these new unofficial groups that is supposed to be the toughest tigers, panthers, leopards on the hill, Conservative Action Team, CAT. They do not know what to do over Bosnia.

I am putting you on the spot because you know I respect you. I think you are a Russian expert. Nobody tracked the Kremlin harder than you did when the bad guys were in power, and now that the bad guys are still all over the place with different titles and we have a Communist taking over the Secretary-Generalship of NATO, fought to keep Spain out of NATO, you described to me, because I am on your R&D subcommittee, you described to me before I had to leave to go to a 2-hour intelligence briefing on Bosnia and Chechnya, that it was a nightmare beyond description, the nuclear waste problem all across Russia and Siberia.

Mr. WELDON of Pennsylvania. Will the gentleman yield?

Mr. DORNAN. I will. I want to hear a little bit more about it in a dialog.

Mr. WELDON of Pennsylvania. The problem is so extensive that the security forces of Russia went into the headquarters of this Norwegian non-government organization, Ballona, which was about ready to release a report, confiscated all of their computers, all of their software, all of their data and their photographs. They were able to save a significant portion of that which we will release tomorrow at 12:30 which in fact show photographs of spent nuclear fuel that have been exposed in the outdoors for 30 years, of nuclear waste on land that is sitting with no protection.

The situation is so severe in the area of the Northern Fleet up in the area of Murmansk and the ports where the Northern Fleet is headquartered—Severodmorsk is the other port—that Dr. Yablokov and the Yablokov Commission report estimated that perhaps as much as 10 million curies of radioactive nuclear waste is currently being stored because the Russians have no capacity to safely dispose of it.

By comparison, Three Mile Island at its worst only gave off a few curies, relatively speaking, to the Russian threat that is there. So there is a terrible problem as the Russians downsize their military, as there are nuclear-powered submarines that are being decommissioned. They do not have any way to deal with this.

□ 1845

The point that we have to understand is, as we look at those nuclear weapons that are still in Russia, and we are concerned about the command and control of those nuclear weapons, certainly when you look at the way they are treating the waste gives you some indication that there are serious problems in the way that Russia deals with its nuclear power as well as its nuclear waste, and, as you know, I say to the gentleman from California [Mr. DORNAN], and as a member of our subcommittee, we have been extensively looking at Russian command and control.

In January of next year, our subcommittee will have a hearing that will be the conclusion of a 4-month investigation where we have interviewed over 40 witnesses on the issue of intelligence gathered and provided to Congress on command and control of the Russian nuclear arsenal. Some of the results of those interviews are startling in terms of the lack of security and the concerns that many of us had which now, in fact, may be verified that Russia does not have adequate control and that perhaps the potential for an accidental or a rogue launch, or even worse, a sale of one of those systems to a rogue nation is, in fact, something we have to look at in a serious vein. That hearing we will hold in January will even consist of people who have worked in the administration.

Mr. DORNAN. Hearing under which subcommittee?

Mr. WELDON of Pennsylvania. R&D subcommittee, which Chairman SPENCE asked me to chair, took testimony from at least three people whose stories have been corroborated that perhaps there has been some dumbing down of intelligence reports relative to Russian command and control. So the purpose of the hearing tomorrow is not to just look at the environmental problems of Russia and to work with those good people like Dr. Yablokov, who are not afraid to stand up and speak the truth, but also to point up the fact that we in this country who want improved long-term relations with the Russians, and I certainly do as chairman of the Russian-American energy caucus and as a member of the environmental caucus that works with Russian duma member Nikolai Veronsov on environmental issues, that we must never oversee the way that Russia deals with the most potent force that they have, and that is their nuclear arsenal. Dr. Yablokov, who is in our country right now to be present at the press conference and hearing tomorrow is the prime person in all of Russia who has been willing to stand up and question the leadership.

Just last week I read the FIBITS reports, as I do everyday, on Russia.

Mr. DORNAN. Flesh out that acronym.

Mr. WELDON of Pennsylvania. That is the foreign intelligence reports that we get summarizing all the foreign media.

Mr. DORNAN. Broadcast from all around the world in English.

Mr. WELDON of Pennsylvania. There were three specific articles from Russia, all three quoted Dr. Yablokov by name. One of them was highlighting the fact Dr. Yablokov has stated on the record that Russia has as much as 100,000 tons of chemical weapons despite the fact the military leadership only says they have 40,000 tons. Dr. Yablokov has come out publicly in Moscow and said that cannot be correct. Dr. Yablokov has also come out and publicly criticized the leadership over the small nuclear weapons that Russia, in fact, has accessible to it. So he is not afraid to speak his mind. He is someone for whom I have the highest respect. He is with us. He will be with us tomorrow at the hearing. He will be very candid and tell us what he feels are the problems of his country.

But I also expect him to be very candid about problems we, in fact, have in

our country. We are not totally without blame. In fact, part of our hearing tomorrow, I expect, will focus on the 30,000 barrels of nuclear waste that were dumped off the San Francisco coast a few years ago and what we are doing to monitor that. We, in this country, have been very critical of the Russians because of their lack of control over the *Komsmolensk* when it went down off of Norway, yet we have not been willing to discuss openly the fact that we have two nuclear subs on the bottom of the ocean floor, the *Thresher* and *Scorpion*.

We are saying we must join together to understand the problems created through the use of nuclear technology. This will be a first step tomorrow. I am looking forward to having the gentleman whose special order I am infringing on to be there, as he so eloquently is on all of our national security issues, to help us understand what is happening in the former Soviet states as relates to these and other issues involving nuclear power and nuclear weapons.

Mr. DORNAN. For letting you get in those extra words, I wanted everyone in the million people watching C–SPAN, not only our distinguished Speaker pro tempore in the chair, to know that, but I wanted to read you something. This is the price you are going to have to pay to bounce this off you, if you knew about this particular atrocity: Bosnian Serbs swept into Moslem and Croat villages, 3,800 of them, and engaged in Europe's worst atrocities since the Nazi Holocaust. Serbian thugs raped at least 20,000 women and girls. In barbed wire camps, men, women, and children were tortured and starved to death.

To me, the sickest thing in the world is not only murdering an innocent person in cold blood, but torturing them for hours knowing you are going to kill them anyway. Girls as young as six were raped repeatedly. I am reading from Readers Digest, the October issue. In one case, three Moslem girls were chained to a fence, raped by Serbian soldiers for 3 days, then drenched with gasoline and set on fire.

Now, for all of my Serbian-American friends, and I have plenty, I know you cringe at the sound of these atrocities, and I know because you have got them in Pennsylvania as I do in California, great Americans of Serbian heritage, and they say, well, what about the atrocities committed following the battle of Kovoso, June 28, 1389, 606 years and 5 months ago. Yes, the Ottoman Turks committed atrocity after atrocity. Then the Serbs began to give as good as they were taking it, and then it became a three-way split with Catholic Croatians fighting orthodox Serbs, back and forth, Austria, the province of Styria, holding the line, look at the big army in Groz, in Austria, it shows there, 400 or 500, half a millennium of defending Christendom from Islamic warriors coming up from Istanbul.

However, this is the 20th century, and no matter 600 years of suppression and persecution and then Tito's crimes, you do not do that to women and children. You do not target innocent people, and although, and this is the best ballpark figure until I am disabused of this, although five percent of the atrocities are committed by Moslems, they can quibble 4, 3, let us just say 5, and 10 percent by Coatians, they can quibble it down to 8, 9, 85 percent is Serbian atrocities. And they now are going to get to keep maybe half of the 3,800 villages where they destroyed the minaret and destroyed every shred of culture, town halls, anything that would be a memory draw to bring people back when the killing was over.

We are putting our young men and women into that, and I will tell you, Mr. Speaker, from this chairman, if CAT, the conservative action team, cannot figure out what to do, then I want everybody within the sound of my voice, I am telling you for the first time, I got my 50 signatures today to have a conference tomorrow. I, BOB DORNAN, circulated the letter on this floor those last 5 votes. I got 64 signatures. All I needed, 50, under Republican rules, no Democrats, just Republicans, tomorrow to discuss Bosnia. The feeling I am getting around here, we are going to do nothing. We have already voted twice. We had a vote 243 to 171, we are not doing anything. The freshmen are telling me we are not in yet. Let us have 1 more vote tomorrow while only the enabling advanced team is in. I hate to put you on the spot. Do not you think, in the midst of this budget talk, the impending second train crash on December 15, possibly that we should talk Bosnia tomorrow for at least an hour?

Mr. WELDON of Pennsylvania. If the gentleman will yield further, absolutely. As a matter of fact, as he knows, last week, I believe it was on Monday or Tuesday, I did a 45-minute special order on Bosnia where I expressed my outrage at portions of the President's speech. The gentleman from California just acknowledged the atrocities that have occurred against human beings, and what offended me most was when President Clinton went before the American people and made the case of how kids and women have been abused and tortured in ethnic cleansing.

In a bipartisan manner on this House floor, we have been saying that for 3 years, and in bipartisan votes on three separate occasions this body and the other body voted to have the administration lift the arms embargo so that there at least would be a leveling of the playing field so people could defend themselves. All of those three times over the past 3 years, the administration failed to listen to us.

But now, all of a sudden, they want to put American sons and daughters in between these warring factions. I would say to my colleague from California, as he knows, I have developed legislation which I will be back on the House floor tomorrow to present to this body which, in fact, will call for a vote.

Mr. DORNAN. Good.

Mr. WELDON of Pennsylvania. As you know, the President, I voted with my colleague from California on three occasions to say we do not want ground troops in Bosnia; unfortunately, again, the President is not listening. He has told the American people it is going to be between 20,000 and 25,000. They are not the numbers. The numbers are 32,000 ground troops, with about 20,000 support troops, for a total of somewhere over 50,000 American kids.

Here we are sending 50,000 American kids into a region that borders Germany where they are sending 4,000 Germans. To me, it is not just unfair, it is outrageous.

Mr. DORNAN. Are you going to the Christmas party?

Mr. WELDON of Pennsylvania. No.

Mr. DORNAN. My I publicly make a presentation of a gift to you? As I come down to the well to give it to you, do you feel any problem with being told you are not supporting the troops, the First Armored Division, Old Ironsides, if you somehow or other vote to stop them from going there?

Mr. WELDON of Pennsylvania. If the gentleman will further yield, I will tell you what I said to Secretary Perry in very emphatic words in our hearing last week. I said, ''Mr. Secretary,'' he asked me what do we tell the troops if this Congress were to vote against the President's policy, and I said, ''Mr. Secretary, let me say this to you, you go back and tell those troops that this Congress and our national security committee supports those troops with every ounce of energy in our bodies to the core and bone of our bodies.'' In fact, if I have my way, we will have a vote this week, as my good friend and colleague knows, and that vote will be on having this Congress go on record to say that we will give the theater command officer in Bosnia with the President sending our troops there, General Joulwan, every resource, piece of equipment and support that he feels he needs to protect our troops. Secretary Perry said, ''We do not need that. I will do that.'' I said to the Secretary we were told that three years ago, and because the Secretary of Defense said the climate was not right, politically, in Washington, he denied the support that was requested of him by the commanding officer in charge of the Somalia theater that led to not only the deaths of 18, actually 19, young Americans, but had their bodies dragged through the streets of Mogadishu. So we are going to support the troops, and we are going to support them most emphatically, because we are not going to let this administration repeat Somalia.

Mr. DORNAN. Let me tell the audience here something, and the Speaker, because foreign affairs went first, and now named international relations, they got most of the coverage that

night on C–SPAN. We went in the afternoon. You sit to my immediate left, to the senior position, going up toward FLOYD SPENCER, our great chairman, and they wired the mikes all the way down to your mike for C–SPAN. Remember, I said, I am not using my mike. I want to use your mike. I want the C–SPAN cameras to hear my voice clearly, the sound on tape. They came up to me afterward and heard me lean over to you, when you asked the question of Christopher, the Secretary of State, what about Somalia, and I leaned to you, and I said, ''We learned our lesson in Somalia,'' half a second later Christopher said, ''We learned our lessons in Somalia.'' I went, ''Oh, my gosh, yes, over the dead bodies of 19 men.''

What have we learned in Vietnam, for God's sake? What have we learned in Grenada, Panama; what did we learn in every single conflict? We are always learning from the immediate last prior struggle. We learned the U.N. command structure is flawed.

What I am going to do with this patch of *Old Ironsides* is, on my blazer, it looks funny on a suit, I am going to make everybody else pay me three bucks, yours is free, because it is a House floor presentation.

Mr. WELDON of Pennsylvania. I will pay you.

Mr. DORNAN. No; no.

Mr. WELDON of Pennsylvania. Remember the gift ban.

Mr. DORNAN. You pay me for the cloisonne, $6. I am going to get a little cloisonne pins, regimental pins they wear up here for the First Armored Division. On my blazers, it looks good on a blue blazer with gray slacks, I am going to sew this on my blazers for the next 11 months. Nobody is going to tell BOB DORNAN I do not support the troops. You and I are going to probably take a codel over there after New Year's, maybe New Year's Day. We can arrive there as Clinton did in Moscow in 1969, New Year's, to welcome in 1970. We are going to go over there and meet these guys and tell them, ''Gentlemen,'' and they are men and women; we call them kids because we love the young guys and gals. They are men and women.

Did you see this picture in the weekend papers of Clinton leading the troops in Germany? Do you know what he had to do to get this picture? The most offensive picture, even worse than the whole Joint Chiefs of Staff and our late pal Les Aspin on the stage at Fort McNair, to abuse SAM NUNN's law, and IKE SKELTON and us on homosexuals in the military, to twist it into ''Don't ask, don't tell,'' a confusing policy designed to lose in the courts; he, worse than that, Fort McNair, July 19, 1993, was May 4, ending Operation.

Hope, Restore Hope, in Somalia, end of George Bush's operation, only three men killed in action on patrol, 27 more to go, 19 on the third, fourth and sixth of October, he lined up 30 Marines, including about 8 lady Marines, lined abreast in his new blue suit, he marched down the lawn of the White House 50 feet or more to a prepositioned mike.

□ 1900

You know how he got this one? He meets with the division commander of the 1st Armored and all the officer corps division level of *Old Ironsides*, and he says, using infantry Fort Benning, GA words, gentleman, would you follow me for a second? And he turns his back on them for a second and says follow me, and walks down this driveway at their command headquarters in Germany.

Here is one of the White House people that screwed up the Waco hearings, the gentleman from Massachusetts, PETER BLUTE, just recognized him, from twisting all the Waco joint hearings here in the early summer; he starts walking down, he gets that look with his chin in the air, flexes his jaw muscles, and poses just like he did in 1993. It is December, and I nominate this as the most offensive photo opportunity using our military men and women that I have seen this year. That is the worst staged thing I have seen. But he does not say follow me all the way to Bosnia, because he is on his way home to be at the Kennedy Center last night. He says follow me down this driveway to the camera, thank you for the photo op, and enjoy your Christmas in the snow of Tuzla, 5 kilometers from the biggest chlorine plant in all of the 8 provinces of former Yugoslavia that a Green Beret who is over there helping the Muslims told me, and nobody has contradicted it, one bomb or terrorist attack on that chlorine plant and poison gas starts down the valley to Tuzla, and it can kill everybody in town and every American man and woman in the whole area. I hope to God we are going to secure that plant.

Mr. WELDON of Pennsylvania. If the gentleman will yield, I just want to add, I agree, there is the worst administration photo op I have seen. It offends me, not just a photo op like that, and I share my colleague's feelings about that, but that we would in a case of having our troops deployed overseas ever deny adequate backup and support as requested by the on-scene commander.

In the 9 years I have been here, that has only happened one time, and that was in Somalia. We in the Congress did not find out about it until after it was over. That led to the resignation of Les Aspin, who was a good friend of both of ours. That is never going to happen again. As I said to Secretary Perry and Christopher and General Shalikashvili, this President, through his chain of command, has put General Joulwan in charge of that theater of operations.

Mr. DORNAN. We helped to make that happen. It is under NATO because of us.

Mr. WELDON of Pennsylvania. Whatever General Joulwan wants, this Congress and this administration better give it to him. And we will be watching every request that comes over from General Joulwan, who has been given the responsibility to protect our troops and give them the resources we need. And this Congress, and I know the gentleman shares my feelings as chairman of the Subcommittee on Military Personnel and perhaps no one speaks more eloquently for our men and women in the military than the gentleman, and with the experience he has had and with the background he has had, he is the perfect chairman of that subcommittee, but that we will make sure that we will not have a repeat of Somalia in this operation, even though the overwhelming majority of our colleagues disagree with sending ground troops there in the first place.

Mr. DORNAN. Mr. Speaker, just one thing, before the chairman goes, infringing on his time again, because I have always found that a dialogue is more interesting to watch only C–SPAN than a monologue, and I am going to give them one hell of a monologue here in a minute, the gentleman and I both know one of the biggest misconceptions, although the American people are beginning to understand if you look at the polling data, that we are expending massive treasury in that whole Balkans area. I am trying to tell people if you want to get down the debate, think of it in couplets. Sealift, 95 percent ours, and airlift, 95 percent United States of America taxpayers. Sea power, the Adriatic. You notice that PAT SCHROEDER, bless her heart, finally starts asking good questions after she announced her retirement. I whispered to the gentleman they will not answer this question, and they did not. We have the 6th fleet in the Med. We always have people up there. It is steaming longer, they are costing more money at sea. The minute your put a carrier battle group out there, that is another 6,000 men on top of everything else.

Mr. WELDON of Pennsylvania. Easy 6,000, probably closer to 7,000. How about air strikes that we provided?

Mr. DORNAN. That is next. Sealift, airlift, sea power, air power. Close air support. I was at Aviano August 30. I am told again that the two French pilots, Frederique and Jose, are probably beaten to death, murdered, and they were known prisoners. I held up their pictures on the floor here the other day. Captain Chiffot and Lieutenant Jose Savignon.

These two pilots, this is day 90 they are missing in action. If these were American pilots, particularly if one was a woman, that is the way Americans respond to a woman in trouble, Clinton would not be marching at this photo op in front of the 1st Armored. He would not be doing it if those were American pilots.

Well, what are these Frenchmen, allies of ours or not? They were flying under our command or control, our AWACS, our airborne control centers, our combat control out of Aviano.

They took off from Villaparte, maybe 10 more air minutes to fly over Aviano, and they are gone. They are lost. They disappeared. And the war criminals know where they are, because I have got all their faces picteled out, so the Serbs turned over the pictures to Perry Match. So that is the first quadrant of it. Sea power, air power, sea lift, air lift.

Now, food. What are we? 80 percent? 70 percent? 90 again? Fuel, what are we? 70, 80, 890 percent, supplied and transported there?

Now down to hospitals. I told you we are going to go back to Zagreb. I hope to God there is never a person in there as badly wounded as BOB DOLE was just a few kilometers across the Adriatic in mid-Italy. I hope we do not fill up the hospital in Zagreb. We have most of the hospital supplies.

The whole other range of logistics. You know I am on my 7th year that NEWT extended me on Intelligence. We are 95 percent or more of the intelligence. We have the no-longer-secret unmanned aerial vehicles, that is under my other subcommittee chairmanship, Technical and Tactical Intelligence. Our satellite architecture, which you are an expert on, that is ours.

I mean air power, sea power, sealift, airlift, fuel, food, logistics. Here is the other one. The war will spread. Certainly not across the Adriatic. The 6th Fleet is there. Will it go south into Greece? No, because we have got 500 men and women in Macedonia, a blocking action. What are they? Chopped liver? We have men on the ground hemming them in.

They are not going to blow through Hungary. TOM LANTOS will stop that and take over a CO–DEL and physically stand on the line to stop that. What are they going to do, charge into Romania and Bulgaria? They are not going to come through Croatia. They got their clock cleaned in the whole Krajina area, the old former Slavonia. Slovenia is not going to let them come up there. They are begging to come into NATO. More than NATO, they want to be a United States ally, just like Albania.

Where are they going? Nowhere. In other words, we are doing everything except putting our men and women on the ground in the toughest quadrant around Tuzla in harm's way. I think that I as a Member feel blackmailed, CURT, that when NATO says to me, and Senator MCCAIN repeated it this weekend, that NATO said they would not go without us.

Vice President GORE said on the show, the expanded Nightline, Viewpoint, with Ted Koppel, well, look, we had to go over there in World War I. My dad was wounded three times. We had to go in World War II.

CURT, do you like to go in European museums? Have you ever seen so much culture in your life, from Greece to the British Parliament? These people we are told they are incapable of not slitting one another's throats unless they have Americans standing between them. We are going to end this century in Sarajevo, well, the French get that, Sarajevo or Tuzla, the way we began it in Sarajevo.

It is offensive to be blackmailed and be told by intelligent Europeans, a bigger population than we have, bigger gross domestic or area product than we have, to be told unless you are, there, we are not going, and the raping of little 6-year-old girls can continue. We want you in the trenches.

Mr. WELDON of Pennsylvania. If the gentleman will yield on that point, that was the second major problem I had with President Clinton's speech. He said that those who oppose his policy are isolationists.

Nothing could be further from the truth. He knows that this Congress has gone on record three times saying to lift the arms embargo over the past three years. He knows that since August this Congress has gone on record three times. The most recent vote garnered 315 in favor, Democrats and Republicans alike, saying do not send ground troops in.

This Congress has said America should not be asked to do it all alone. When you add up the amount of troops that you have just outlined, and you total in the ground troops, we are talking in excess of 50,000 American troops, costing the taxpayers between $2 and $3 billion, that we are going to incur for this Bosnian operation.

The question that made me so upset as I thought through this whole situation, was why are the Germans only putting in 4,000 and why does the Bundestag have to approve that before they can go? Why are the Italians putting in 2,100, and why does the Italian parliament have to approve that before those 2,100 can go? Why are the Scandinavians only putting in a collective total of 2,000, and certain of the Scandinavian countries have said we will come, but you have to pay for our travel, our food and our lodging?

Why are these other countries in Europe putting all of these conditions and providing so few troops, when America is putting again 50,000 young American sons and daughters on the line. And the French, who I will admit are putting 7,500 in, are the same French that denied us access to their air space when we wanted to go down to Libya to pay Quadafi back for the terrorism he caused. The same people we are now joining with, because they feel it is important for America to be there, denied us that air space.

Let me just say that is what we are concerned about. And this President, as he usually does, twists that around and convolutes it to say we are isolationists who do not care about human rights abuses. It is outrageous.

The real mistake here was when this President 3 years ago opened his mouth and said, ''If need be, I will put American ground troops on the ground for a peace agreement.'' Long before the negotiations began we all knew that was a given. That is what we all found so offensive, that we never had a chance to play a role in this process, because the President committed the ground troops long before any leader in the Balkans decided they were going to come to terms for a peace agreement.

Unfortunatley, young kids are going to lose their lives over that. That is why you and I, as chairman of appropriate defense subcommittees, have got to use every ounce of energy in our body to protect those kids. And we will do that.

Mr. DORNAN. You know where the Germans are going? Croatia. There is no fighting in Croatia now around Zagreb. They will live in Croatian military barracks and hard facilities because of their cozy relationship during the Second World War. I am not going to bring up the ghost of the Istasa, the Coatian gestapo. They had their sins, so did the Serbs under Tito. The Muslims were importing terrorism early on, just like World War I, fiddling around with the terrorist groups in the Middle East. Every side there has plenty of guilt.

But this is the German relationship. The German Embassy is in Zegreb, Croatia, is the biggest one here. Here may be the dreaded gray hand behind all of this, the European Economic Community. The EEC is interested in one thing, bigger import into the United States then we export to Europe. More Volkswagens and Mercedes and Volvos coming in here than we are putting out there. They see this area as a trade area.

One thing I have said for 3 years, 4 years, I told Bush, the Europeans are dragging their feet and demanding we put our people in danger on the ground because they simply do not want a Muslim State in the European area west of the Ural Mountains. They do not want it. So now that we are down to the place divided up, half of the villages where atrocities took place going the other way, Clinton said last week something that made my blood curdled again.

He said ''We have fought all these wars.'' Not we. He wasn't there when this country called him. And it is not that he has to say you folks and get in a Ross Perot problem. All he has to say is ''America has fought these wars.''

A lot of people are calling my office and saying ''Are you going to impeach him, Congressman DORNAN,'' because I read this on the floor? This is an article from Mr. Phil Merrill, in the Wall Street Journal, November 14, it seems like a long time ago, 22 days ago, ''Bosnia, we shouldn't go,'' Phillip Merrill, the former Assistant Secretary General of NATO.

The new Secretary General of NATO is a former Spanish communist who fought to keep Spain out of NATO. Suddenly he has been picked to be the head of NATO, and he is Clinton's candidate. I read this on the floor 3 weeks ago. These are former Deputy Secretary General Phillip Merrill's words.

''It is very doubtful that the Balkans can sustain a multi-ethnic society of

the kind envisioned by Clinton. The U.S. has no strategic stake in this fight and cannot and should not be the military arbiter. Our policy seems to be,'' and I wish Mr. Speaker, Americans would memorize this, ''to simultaneously threaten the Serbs from the air. The Aviano-Villaparte-Brindisi air threat is still there. You do something wrong, we tear you up from the air.''

Two: Now we are going to act as peacekeepers on the ground.

Three, we are going to train the Croatian Army. We have been doing that. I witnessed it in August. We are going to arm the Bosnian military.

When Ted Koppel on the aforementioned Friday or Thursday show last week said ''how are we going to do that, Mr. Vice President,'' he seemed very uncomfortable, Mr. GORE, and he said ''Well, with third parties.'' And he said ''Well, who would those be?'' And there was this long uncomfortable pause, and he said contractors.

Contractors. Like Vernell? Are we going back to RMKBRW, the big huge conglomerate that LBJ built out of Texas and Idaho and other firms, to put in 20 10,000 foot runway bases and a couple of parallel 13,000 runway bases at Bien Hoa and Cam Ranh Bay so he could come in in a 747 to visit with the troops?

□ 1915

Mr. Speaker, I am hearing all of the Vietnam doublespeak, all the McNamara crazy rationalizations, and this time one of my staffers said to me, BOB DORNAN, isn't this your dream when you were 31 years old, after the Tonkin Gulf, that you wished you were in Congress as a forceful articulate voice to stop men dying? You thought it would be a couple thousand, turned out to be 58,000 plus, and 8 women engraved on that wall down there, and friends of mine, like David Hrdlicka left alive behind in Laos, Charlie Shelton, Eugene Deburen.

No. I am here now, and I want to see if I cannot do what I thought I could do as a young man if I had only come to the Congress, which was 10 years ahead of the curve in those days.

So after we threaten the Serbs from the air, act as peacekeepers on the ground in the toughest quadrant of all, around Tuzla, train the Croatian army, arm the Bosnian military, then we are going to make sure that the Dayton peace negotiations are implemented, and then we are not going to go out of our way to seek out or hunt down, like a good tough Simon Wiesenthal, these people that sanctioned the raping of children and the burning alive of women who had been desecrated, hanging on a fence for days. No, we will not hunt them down, and we are going to try not to bump into them, but if we find them in the room with us, we will arrest them, these 53 Serbian and 3 Croatian war criminals.

Now, as Mr. Merrell continued, any one of these policies is defensible. Taken together they are incoherent. As flareups occur, these inherently conflicting policies will leave us powerless in the end to act effectively, even if we do not have any casualties, which I pray to God we will not. I do not want one first armored division, Old Ironsides, same name as that great naval ship of the line that still is a commissioned naval fighting vehicle up there in Boston Harbor that they take out and turn around every six months so the sun bakes both sides equally. That Old Ironsides is where this armored division—actually, it is Patton's tank battalion from World War I, that my dad tried to get into because he was an automobile man from New York City and did not make it. This is the outgrowth. Our very first armored division commissioned before World War II grew out of the prophetic statements of General George S. Patton of what would happen in the next war with armor.

Now, here is the way Merrell closed, and I read it on the floor, so a lot of people across America say BOB DORNAN is the man to carry the articles of impeachment against Clinton. I read these words of Ambassador Phillip Merrell. To endorse the President's policy comes close to an act of murder of young Americans, who have sworn allegiance to our country but who will serve and die under circumstances that will neither advance U.S. interests nor the cause of freedom.

Certainly not if we are going to fail to arrest the war criminals guilty of astrocities and invite the big kahuna war criminal Milosevic to Dayton.

When the American body bags start coming home, it will be a political disaster for those who did not oppose sending troops to Bosnia. What does that mean; that Senator BOB DOLE, who at this point in time has a percentage lock on the Republican nomination to challenge Clinton, does it mean that Clinton is doomed; that he will add to the two Democratic Presidents who have gotten a second consecutive term since Andy Jackson, when he got his second term in the election of 1832? Only Roosevelt and Woodrow Wilson have gotten a second consecutive term, so that means Clinton does not get a second term? Maybe he can make a comeback in the year 2000 like Grover Cleveland, another Democrat. Separated terms.

Does that mean that DOLE does not win? What does it mean; that Ross Perot is going to be emboldened; that United We Stand America will grow into the major party and eclipse the other two; because hearing the haunting twang of Alabama's George Wallace, there is not a dime's worth of difference between the two of them; that the Senate votes a resolution to support and the House goes impotent and silent, neutered, we do not do anything?

He says should President Clinton send American troops into Bosnia without congressional approval, he should be impeached. The time to face the choice is now, before we enter this war and before American blood is shed.

If he sends them in without a congressional approval, which the gentleman from Pennsylvania, Mr. WELDON, Chairman WELDON, just said the French have to do and the Germans have to do—by the way, the most foreign ownership of property in this country is British. The mother country. It makes some sense. Guess who is right up there with the Japanese. I think they own more property. The Netherlands. The Dutch. Holland. The Netherlands, where in the Hague, in their capital, Richard Goldstone, the distinguished justice of South Africa, is conducting the war crimes tribunal.

The Netherlands are sending 180 troops only, and their parliament will have to approve their going. No aircraft will be flying in harm's way over the SAM sites along the Danube, being tracked by radar sites from inside Melosevic's Serbia proper.

Here is the map, Mr. Speaker. It is not classified. I swear in the next Congress, if we get a freshman class as big and as aggressive as this, I will get you to sign on a letter for me, Mr. Speaker, where we can have, within reason, with tightly written rules, a Congress man or woman on this floor saying I would like the camera to come in, with your best lenses, and I will hold it steady, we would have it on a tripod, and come in and cover this map frame-to-frame on the camera, like I used to do on my Emmy award winning television show 27 years ago.

Here is the footprint of the Dayton line. They are going to get the Croatians to give back this huge chunk of yellow territory. This is Croatia, the beige, and this big chunk of yellow was where the Croatians, with American training, cleaned the clock of the Serbians along the Krajina area.

Krajina is Serb-Croat language for border. That is all it means, the borders. The fighting of the vicious border line between the vicious Ottoman empire, the corrupt killers, and the equal killing vengeance forces developed from Austria all along this area. Hungarian knights. Croatian knights. Remember, we got our neckties from Croatia. When they rode with Napoleon, he loved it that they put their cravats on their lances and their scarves from their women around their wrists or their throats. And that was the beginning of neckties, Croatian forces fighting with Napoleon.

Now, Mr. Speaker, here, what used to look like a country that was shaped like an arrowhead, the penetration of the Islamic Ottoman arrowhead into the belly of Europe, an arrowhead shape, it now looks like a very sick amoeba with some big tumors on it from the Bihac pocket all the way down past beautiful Dubrovnik, which I visited in 1972 and thought it was a dream village, and then the Serbs pounded the blazes out of it and burned down monasteries that were 500 and 600 years old, and here they had survived both the world wars of this period.

Here is Montenegro. I met with one of the freedom fighters from there 3 weeks ago. They want to break away from Serbia. Here is the blown-up map of the city, with neighborhoods cut in two, just like Clinton visited Belfast for the first time. I have been there nine times. Shot in the back with a rubber bullet the week after Bloody Sunday in February 1972. I have walked along the Shankle. I have been in Derry. Not Londonderry, but Derry. I understand what it is like when a neighborhood builds corrugated steel walls and people hate each other from apartment building to building.

There are 100,000 people demonstrating in Sarajevo saying they will not accept the Dayton map lines through this city of Sarajevo. Here is Pale, the Serb capital, just a hop, skip, and jump over the Igman Mountain area into the area. That is where the French pilots were shot down in the Mirage 2,000. Pale. Probably beaten to death and murdered by Serbs. That is a war crime, to kill a prisoner of war. They both had leg damage. In the pictures I showed last week on the floor we could see they were being held up. Again, the camera could not come in close. Trust me, I will change that.

Now we have the Postojna corridor. Then this chloride plant. The biggest in all of the eight provinces of Yugoslavia. That means the Hungarian province, Vojvodina; Kosovo, which is 90 percent Albanian, although attached to Serbia. Those were the two autonomous regions. Serbia makes three; Bosnia-Herzegovina, four; Croatia, five; Montenegro, six; Macedonia, seven; and Serbia itself eight. Those are the eight areas.

This was the biggest plant, and it is just a few miles from Tuzla. Right there, Ruckevach. That is where it is that can kill everybody in that area, if somebody decides to hit that with a missile from Serbia. So, hopefully, we will secure that plant. I will go over there around New Year's and make sure we do.

So there is the Dayton line. They have built a corridor out to Gorazde. We have written off Srebrenica. I have just found out it meant silver. That was a big silver plant contracted by the Germans. The Venetians had it first. All of this area, what Churchill called the tinderbox of Europe, and the Europeans cannot solve that problem themselves.

Mr. Speaker, this is the script, the written text, of Steve Kroft on 60 Minutes, a piece entitled ''Over There'', the song from my dad's period, interviewing two people who worked hard over there, Lieutenant Colonel Bob Stewart, the British commander, and Canadian General Louis McKenzie, a great sports car driver, I might add, with a love for MG sports cars, as this Congressman has, and I passed it on to my son.

Here are the words of General McKenzie and Colonel Stewart saying you will be in there for 30 years, just like Cyprus. And I thought, no, we will not. Clinton is going to pray, and I will be praying right along with him, that not a single man or woman from Old Ironsides is hurt, and that he will be back in time for the election. He will hope that Haiti does not explode. So I want to put in the words of General McKenzie and Colonel Stewart.

Mr. Speaker, here is the paper from over the weekend, that same photo-op. I was at Normandy watching young soldiers shake Clinton's hand. Afterward, I said do you like this guy? They said, no, he beat it out of the service. He did not serve. We love Reagan. But, hey, he is the President. I want to send a picture home to my mom. I want to say I shook the President of the United States' hand. He is the Commander-In-Chief. Meanwhile, Tom Brokaw was saying these GI's love him. They cannot get enough of him.

Well, here is something. This is why he loves these photo-ops. These GI's are so good, they will do their best to make him look good in spite of himself. The troops saved their most enthusiastic response. Roars of hoo-ah for Clinton's description of rules of engagement. Now, this is dangerous, Mr. Speaker. That will allow them to protect themselves against perceived threats.

We are coming to Clinton's exact words. Their orders, Clinton said, spell out the most important rule of all in big bold letters. If you are threatened with attack, you may respond immediately and with decisive force. Everyone should know that when America comes to help make the peace, America will look after its own. In his speech a week ago last night he said we will meet fire with fire and then some.

Mr. Speaker, this is what costs men's lives. We cannot tell the youngest troopers in this armored division, with their tanks all locked up in a tank park, or left behind in Germany because they cannot get across some of those bridges in that area with a 70-ton M–1 Abrams tank, to tell young people that if you perceive a threat, fire. It is not going to work.

This division commander, and I am going to go visit with him before we have somebody killed over there, or a woman shot at night, or a child shot, or somebody trying to come over to our camp for food shot at night by some nervous GI who watched his friends step on a mine the day before. Remember that Lieutenant Calley, who should have been shot for what he did to the U.S. Army and to his unit and to his men? Remember what Calley's unit did? They had not been in serious fighter fights, having their men shot up with AK–47's. They had been stepping on land mines for months, an unseen enemy. Men screaming, their private parts and their legs all shredded. That is what built up in the tension where suddenly he could turn to people like Paul Meadlow, who told him get lost, Lieutenant, and walked away, a real hero, but told other people, kill that little boy over there throwing his leg over his brother.

☐ 1930

Kill that Buddhist monk. And then they asked later, ''What was that Buddhist monk saying?'' And he was saying, ''Please, please, please, help me. Please don't hurt me. I'm a man of religion.'' And they murdered him.

That is what happens when you tell troops loose rules of engagement. Again, nice man; wrong man for this job: Warren Christopher, saying we learned our lesson from Somalia. I am going to ask permission to put in this Reader's Digest article. That is October. I understand the November issue is just as bloodcurdling.

I am lucky enough to have on my staff one of the greatest young authors to come out of the Vietnam conflict, Al Santoli. He is masterful with oral history. Here is a chapter from his book, ''Leading the Way: Lessons Learned.'' About real leaders.

He interviewed Schwarzkopf and Colin Powell for this book. Here is First Sergeant Anthony McPike, Saudi Arabia, 1990 to 1991. Tank leader, C Company, first tank battalion. I think they did have Abrams tanks, but it is Marines. First marine division.

He says, ''In one incident,'' the first sergeant says, Sergeant McPike, ''I was on road security. There were two captains, a warrant officer, gunny, a master sergeant and me. We found some enemy prisoners of war who surrendered. These two captains did one of the stupidist things I have ever seen. Without even securing the area, one captain tried to order some troops that were flanking outside the POWs'' which they were doing correctly, but the captain grabs a rifle and runs across the field. He did not even know what was in front of him. ''Myself, and the other first sergeant saw that, we shook our heads. We went back to the Humvees and just sat there.''

It is nice to have sergeants that understand combat to keep some rather aggressive young officers in check.

''Something else that I felt important to keep in check was that a lot of troops wanted to open fire. The first sergeant and I talked to a lot of them. We said, 'Y'all don't understand. The minute you pull that trigger and kill somebody, your life is changed forever. That's a feeling you'll never get rid of.''' To kill a human being.

'''You might think it's funny now, but it's not. You might take the life of another human being that is not even offering a threat to you. I can understand if a man is running at you with his weapon blazing or with a fixed bayonet. But if he's standing there with his hands on top of his head, don't tell me you are just going to take him out.''

''They said, 'Hell, Top, he's the enemy.''' These are Marines now, Mr. Speaker. ''I said, 'That's right. But you've got to realize that enemy should be treated humanely. You are an American fighter. You are not a paid killer. How about if somebody did that to your child?'''

''They said, 'Wow, Top, we didn't think of it like that.'''

''In Saudi Arabia, a chaplain gave us a class on combat leadership. I think that this class should be mandatory. He said, 'There is a fine line between reality and fantasy. Once you cross that line, all the psychiatrists in the world will do nothing but get wealthy on you.'''

''Under the stress of combat, anyone can cross that [psychological] line without realizing it . . . If that young man is allowed to mess up, you defeat yourself. Because it affects the whole platoon. And once a leader loses the respect of his troops, he'll never get it back.''

God forbid we kill some innocent Moslems, innocent Serbs, or innocent Croatians in this Tuzla hot area soon to be under heavy snow cover in another terrible, pneumonia-producing Balkan winter. Because if we get some young trooper that kills some innocent people and the Army decides to court-martial him, you know what he is going to say? He is going to say that he was in Germany in the first week of December in 1995, and he heard Mr. Clinton, who managed to avoid service and have his draft induction date of July 28, 1969 politically reversed and suppressed, he will say, ''Here the president's words were: The most important rule of all, in big bold letters, if you are threatened with an attack, you may respond immediately, even if you perceive it to be a threat.''

These are the wrong rules of engagement for peacekeepers. But then the first armored division was trained to take on the best Russia could throw at us in the Fulda Gap to save Europe with American lives for a half century after the Nuremberg trials, which started two weeks ago 50 years ago.

Here is a letter from IKE SKELTON, to show that this is bipartisan angst here against what Clinton is doing. He writes to Secretary Perry, ''If the U.S. Department of State insists on arming and training the Croat-Moslem federation, will an American guarantee and coordination of the effort, as testified by Secretary Christopher yesterday, will the 20,000 American soldiers in the Bosnia-Herzegovina region be forewarned of this additional security risk? Will they be informed of the possibility of vengeful acts by Serbs or of hostilities from Moslems expecting, but denied, favorable treatment? This is a major security issue.''

He has two sons on active duty, Army officers. ''I urge the Department of Defense to issue memoranda to each soldier to be on extra alert as this State Department policy will put them at higher risk.''

I would like to put in the RECORD, Mr. Speaker, a background paper from the Heritage Foundation that I think is great, questioning the Bosnia peace plan. I want these questions asked and answered in print. If it is too expensive, I will get permission on the House floor tomorrow to put it in.

We are talking about saving lives. Then here is the House Republican Conference issue brief. ''Bosnia: Questioning the Clinton Plan, But Supporting Our Troops.'' The reason, again, Mr. Speaker, and you will be there, that I want this conference, unless you are on the floor in the chair, that I want this conference tomorrow, is that we have got to decide how we draw a line. Do we support the troops, all 50,000-plus of them in the Adriatic, in the skies flying air patrols out of Aviano, and everybody on the ground? The first armored and all the troops. We support them. We want to keep them safe, but we disagree with this policy, even though the division commanders are gung-ho to go. The young privates that I saw, except for a few sergeants who do not want to leave their little, tiny children at Christmastime. Those holidays, it is only about from the second birthday to the tenth where Christmas is a dazzling event. We only get eight of those from God with each individual child, and we miss one, that is one-eighth of a great heart-tugging memory gone. Then we try to look at the shaky video that our young wife took of the kids.

Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman has 4 minutes left.

Mr. DORNAN. Mr. Speaker, let me read this segment on Bosnia. If I run out of time, I ask for unanimous consent to put it in the RECORD.

This is Readers Digest from Dale Van Atta. I know Dale. He is a good reporter. This is not an excerpted article from a news magazine. This is commissioned by Readers Digest and it is about the United Nations. And I have always avoided beating up on the United Nations, because we have had some good Americans serve up there. But this is the most unregulated, financially unaccounted for group in the history of civilization. It has dictatorships in there. Castro is in there. These people submit bills. Nobody ever audits them. They are all overpaid. Boutros Boutros-Ghali makes $344,000 tax-free a year, double the President, if we include that Chelsea Clinton does not get $12,675 a year tax free.

It is outrageous, the corruption at the United Nations, and these are the people that Clinton wanted our troops under. We beat his brains out in this House. Is that is why they are under General Joulwan instead of some U.N. command? Implementation force sounds like one of these U.N. names, but it is not.

The section on Cambodia I may read tomorrow night, and then Rwanda and then Somalia, and then I will get the November issue. But I will trail off reading until my time runs out on Bosnia.

June 1991, Croatia declared its independence. I had just left there a few weeks before. Was recognized by the U.N. Serbia-dominated Yugoslavian Army invaded Croatia ostensibly to protect its Serbian minority. The Serbs agreed to a cease-fire. The United Nations sent in a 14,000 member UNPROFOR [U.N. Protection Force] to build a new nation.

The mission has since mushroomed to more than 40,000 personnel. I was all over their headquarters like a cheap suit meeting with Yasushi Akashi. It became the most expensive and extensive peacekeeping operation ever. After neighboring Bosnia declared its independence in March of 1992, the Serbs launched a savage campaign of ethnic cleansing against the Moslems and Croats, who made up 61 percent of the population. Rapidly, the Serbs gained control of two-thirds of Bosnia. Bosnian Serbs swept into Moslem and Croatian villages, 3,800, and engaged in Europe's worst atrocities since the Nazi Holocaust. Serbian thugs raped at least 20,000 women.

I will skip ahead of this. The 6-year-olds. The Serbian women hung on the fence drenched with gasoline and set on fire alive.

While this was happening, the UNPROFOR troops stood by and did nothing to help. Designated military observers counted artillery shells and the dead. Meanwhile, evidence began to accumulate that there was a serious corruption problem, like Cambodia. Accounting procedures were so loose that the U.N. overpaid $1.8 million on a $21 million fuel contract.

Kenyan peacekeepers stole 25,000 gallons of gas worth $100,000; sold it to the Serb aggressors. Corruption charges routinely dismissed as unimportant by U.N. Officials. Sylvana Foa, F–O–A, then spokesperson for the U.N. Human Rights Commission in Geneva said, ''It was no surprise,'' get this quote, ''that out of 14,000 pimply 18–year–old kids, a bunch of them should get up to hanky-panky.''

That sounds like some good old boy, not a woman. Like black market dealings and going to brothels. When reports persisted, the United Nations finally investigated. November 1993, a month after Mogadishu, a special commission confirmed that some terrible but limited mistakes had occurred. Four Kenyans and 19 Ukrainian soldiers were dismissed from the U.N. force.

The commission found no wrongdoing. I will continue this tomorrow, and point out that the Russian commander, Mr. Speaker, is the man responsible for the atrocities in Chechnya, he is going to be in our zone commanding a brigade, a battalion of 800 Russian troops. What a massive problem to dump into the arms of our fine young American officers and men who are eager to please.

The State Department announced today, that one way or another, the Bosnian peace talks, currently going on in Dayton, Ohio, will come to a close tomorrow. If that sounds like an ultimatum, it is.

For 19 days, the Chief U.S. negotiator, Richard Holbrook, has literally forced the three warring factions to negotiate a peace

treaty to end the war. If the talks fail, presumably that's it. If the talks succeed, President Clinton has pledged to send 20,000 U.S. troops over there, as part of a NATO force to keep the peace; actually, most of them are already over there, stationed in Germany, waiting to be told what to do next.

As the talks near to climax, we wanted to find out what American soldiers could be getting into. In a quarter of the world few Americans knew much about, until the Serbs, the Croats and the Bosnian Muslims started killing each other. No one know that better than the two men you're about to meet.

60 MINUTES

''OVER THERE''

Steve Kroft: Canadian General Louis McKenzie and British Lieutenant Colonel Bob Stewart, who we met in London, have both commanded peacekeeping troops in Bosnia for the United Nations. And the U.S. military thought enough of their experience to have them give advice to American officers who might serve in Bosnia. In 1992, Stewart led a battalion of British troops responsible for delivering humanitarian aid.

Colonel Bob Stewart: ''You know, it's not a question about me not getting through, it's a question of whether I—how much damage I do.''

Steve Kroft: He knows what it's like to lose friends, and to witness atrocities.

Lt. Colonel Bob Stewart: ''But no man can kill a child . . . and a woman like this.''

Interpreter: ''They died because they're Muslims.''

Stever Kroft: When we talked to him in London this weekend, both he and General McKenzie told us the Americans have to be prepared to take casualties.

Lt. Colonel Bob Stewart: My soldiers were shot up by all three sides. You mustn't just deploy soldiers into the middle of a war zone, and think it's just like someone escorting a kid to school in the morning. I'm quite sure the American military are fully aware of that.

Steve Kroft: General Louis McKenzie was the first UN Commander in Sarajevo, back in 1922; a Veteran of nine peace-keeping missions in places like Gaza, Cyprus and Vietnam. But nothing prepared him for the former Yugoslavia.

General Louis McKenzie: There is a level of—of hatred that certainly, I have never seen before in any other theater of operations.

Steve Kroft: McKenzie's opinions on potential U.S. involvement there have been solicited by two U.S. congressional committees. His most recent appearance was before the House National Security Committee last month.

You told the House committee, not too long ago, that you didn't think the United States Government should get involved militarily in Bosnia. Do you still feel that way?

General Louis McKenzie: Yes, I do. From a military—I—I have to emphasize, from a military point of view, they didn't invite me down there to give them political advice; they had plenty of folks doing that. And I appreciated that they'd painted themselves into a corner politically. And I think they were gonna have to get involved. But from a soldier's point of view, I said, ''don't touch it with a ten-foot pole.''

Steve Kroft: If there's an agreement signed in Dayton between the warring parties, it will be a triumph of politics and diplomacy. But General McKenzie and Colonel Stewart both caution against euphoria. They say what's going on in Dayton is the easy part. The hard part will be making it work on the ground. General McKenzie says he negotiated nine different cease fires in Sarajevo, and was delighted if they held for 24 hours.

Can these parties be trusted to keep a peace agreement?

General Louis McKenzie: No, they can't be trusted. There is a history of lying. It depends what their agenda is. And their agenda is—it's not predictable, and it changes.

Steve Kroft: We can't trust any of these people?

Lt. Colonel Bob Stewart: No, that's a perfect—perfect way to describe it. If you want a philosophy, don't trust them til they prove their actions on the ground.

Steve Kroft: Unlike the U.N. forces, American troops training for deployment in the former Yugoslavia, will not be peacekeepers. Their job will be to enforce the agreement, and if necessary, punish violators. They'll have to insert themselves between warring armies, and assist in the treacherous job of moving people in and out of areas, that the agreement decrees will be set aside for Croats, Muslims and Serbs. And not everything will be spelled out in the manual.

General Louis McKenzie: They will be delivering babies, they'll be delivering food, they'll be moving families, they'll be evacuating burning hospitals, they will be doing all kinds of things that aren't within their terms of reference, because they're going to be the only game in town.

Steve Kroft: The situation is fraught with peril for the Americans. It was the Duke of Wellington who said, ''Big countries shouldn't involve themselves in small wars.'' The United States would be risking its military credibility in a situation, General McKenzie believes, isn't worth it.

General Louis McKenzie: In Bosnia, every side there wants America on their side. Forget about NATO for a second; they want America on their side. And to target American soldiers and make it look like one of the other two sides is doing it, is extremely easy. You can hire somebody across the line, in the other ethnic group to fire at American soldiers. And America, historically, has reacted very forcefully to that, and will go after the side that they think is targeting them. And that is the beginning of a slippery slope. So, I think that American soldiers will be subjected, to a degree of risk out of all proportion, to any other nation represented in the NATO force.

Lt. Colonel Bob Stewart: These guys are out of control. That's clear. People on the ground don't give a damn. They're in a position; they're bored. They might just take pot shots because they feel like it. No one is going to bring them to book for it. I haven't heard of anyone being brought to task by their own side. There are no rules of engagement. We talked ages and ages about rules of engagement. There are no rules of engagement for them. And there's no comeback when they fire.

Steve Kroft: The NATO troops are expected to remain impartial. But that won't be easy. The American military knows it already has enemies in Bosnia; the Serbs, for example.

Steve Kroft: Last summer, NATO warplanes, mostly American war planes, pounded Bosnian Serb military positions, and inflicted heavy damage.

Lt. Colonel Bob Stewart: How many Bosnia Serbs, sons, brothers and husbands, were killed? And how many children, women? But sure as hell, someone at the far end has lost someone. Someone's got a grudge. And that person will not be under control necessarily, when Americans go in.

Steve Kroft: Is that realistic, to expect that the—that the United States can go in there and be a neutral force?

General Louis McKenzie: On the first day you arrive, you could well be impartial. But on the first evening of the first day that you arrive, and one side targets you, Corporal Jones and Lieutenant Smith are probably not going to be terribly impartial.

Lt. Colonel Bob Stewart: If you act at all, you'll lose your impartiality. I'll give you an example: When I was there, our blood . . .

Steve Kroft: Colonel Stewart told us his Battalion ran into a situation where it had some surplus blood. Rather than throw it away, they decided to give it to the local hospital.

Lt. Colonel Bob Stewart: Now, that's a pretty neutral thing to do, you would imagine. No. The next thing I had was the local Bosnian Croat commanders and also the mayor of the town, complaining like hell, that I had given our blood to a hospital that was predominantly Muslim. So, in reality, in order to act at all, you should somehow get a third of the blood supply to Bosnia Croats, Bosnia Muslims, and Bosnian Serbs.

General Louis McKenzie: I have never run up against that problem in any other mission area. Through Central America, the Middle East, Vietnam, etcetera, where even talking to one side during the negotiation process is seen as collaboration by the other side.

Steve Kroft: So, it's possible then, in our function there, that we could end up with everyone against us.

Lt. Colonel Bob Stewart: Well, that would be perfect.

General Louis McKenzie: Yeah. Like the General said, ''That would be perfect . . .''

Lt. Colonel Bob Stewart: Then you're neutral.

General Louis McKenzie: If you can get everybody to just dislike you equally, then you—you're on the right track.

Steve Kroft: They aren't laughing because it's funny. It's called gallows humor.

To make sure American soldiers aren't put in indefensible positions, they would bring with them, massive fire power . . . Some of that firepower, was on display a few weeks ago, during live fire exercises in Germany.

And the Pentagon is promised that American troops would be able to use that firepower. If attacked, they would be able to respond decisively and immediately.

The Secretary of Defense, Perry, says we are going to be the meanest dog on the block. Is that—is that what's needed?

Lt. Colonel Bob Stewart: Well, I could be quite crude and answer that, ''you can be the meanest dog in the block, but when someone's got you between—between their legs, you howl like hell. Surely, weren't the American troops, the meanest dog in the block in Vietnam. I don't wish to say there's a—some kind of parallel here, but you're not necessarily fighting a war that's a standard conventional war in Bosnia. You're not meant to be fighting. In a way, you're meant to be in between. And in between, standing there, trying to get peace, is dangerous, and people get hurt.

General Louis McKenzie: I'm not sure that the meanest dog in the block is the right analogy; maybe a seeing eye dog. Maybe a seeing eye dog could help these folks, because they're the ones that have to make the peace and keep the peace. It's not—you can't—you can't impose peace more than you can impose morality. You can't kill people to make peace. It just doesn't work very well.

Steve Kroft: What you need in Bosnia, General McKenzie says, is patience; lots of patients; and realistic expectations about the prospects for long-term peace in the Balkans.

General Louis McKenzie: I don't think I was exaggerating when I said three or four years ago, if Americans gets involved in this particular game, maybe they should start training their grandchildren as peacekeepers. Because this—I mean, we've been in Cyprus for over 30 years now, on a U.N. mission, and I—it won't surprise me if we're in Bosnia for over 30 years.

Steve Kroft: President Clinton said this is a gonna be one-year commitment.

General Louis McKenzie: Everyone—everyone agrees that that's for domestic consumption. It's just no way you're gonna be out of there in one year.

Steve Kroft: So, you're saying that you believe that there will be United States troops in Bosnia taking casualties, during a Presidential Election?

General Louis McKenzie: I—I hope there are no casualties. But I believe there will—if you go in, in the near future, there will be United States troops in Bosnia during the—the Presidential Election, and another Presidential Election, and another Presidential Election.

Steve Kroft: Do you agree?

Lt. Colonel Bob Stewart: Absolutely.

Steve Kroft: Is it a mistake to say that you're gonna be out in a year?

Lt. Colonel Bob Stewart: Well, I don't think it's a mistake, but I don't think any—any—I think it's rather foolish statement to—to say, that—there is a time limit. Because I don't think you can actually necessarily put a time limit on something, when we don't even understand—we don't even know what's going to happen there tomorrow.

Steve Kroft: President Clinton and his State department have heard these dire assessments before. Some have even come from American military officers. But the President and his Administration are taking their cues from history; and their belief that an abdication of responsibility in Europe, could destroy the NATO alliance, and weaken America's position in the world. And even former military commanders, who have spent time on the ground in Bosnia, believe that argument has some merit.

General Louis McKenzie: With all due respect to NATO—and I served nine years in NATO—I mean, it is looking for a mission. And if it passes this one up, it might be a long time before another one comes along. So this is a defining moment for NATO, overworked phrase, but I think it is.

Steve Kroft: Is this a situation where the Europeans said, ''This is too tough a problem for us to solve. Let's let the Americans do it?''

I think, Colonel Stewart, a lot of people probably are thinking that.

Lt. Colonel Bob Stewart: Yeah. I think it's possibly true. I mean, quite frankly, I don't care. Really, I don't care who leads. But pray to God, someone does, and we get something done. I don't care.

Lt. Colonel Bob Stewart: All I want—I personally, and I know General Lewis is the same, want peace restored to this area. We actually feel quite strongly about the place. We know that the vast majority of the people are crying out for the fighting to stop.

Steve Kroft: And finally, there is the moral argument; 200,000 people killed, 1.8 million driven from their homes. Does the world's last superpower have a moral duty to end the suffering? Is there a chance that the Serbs, the Croats and Muslims really are finally tired of the bloodshed.

General Louis McKenzie: There's a whole bunch of things involved here, just in addition to doing the right thing. I mean, there's the American political process which is unique. There is NATO looking for a role. There's a country that self-destructed over the last three years, and is looking for some help. There's a whole bunch of very brave non-governmental organization working their butts off in the former Yugoslavia, delivering medicine and food, et cetera, et cetera, and all that comes together in Dayton, with three people that we agree we don't trust.

BOSNIA: QUESTIONING THE CLINTON PLAN . . . BUT SUPPORTING OUR TROOPS!

Republicans don't question the President's authority, as Commander-and-Chief, to send U.S. troops to Bosnia. We do question his judgment. For an operation that will place American lives at risk, the ''Clinton Plan'' for Bosnia is fraught with difficult-to-swallow Administration ''assurances'' and too many unanswered questions. However, as much as we may disagree with the President's decision, there should be no mistake that Republicans will strongly support our troops once they are on the ground.

The Process—The President's promise to send 25,000 U.S. ground forces to Bosnia was made in an ill-conceived and off-hand remark more than two years ago. It became a commitment in search of a mission. Clinton made this promise without gaining the support of the American people and before consulting Congress. As a result, both Congress and the American people have been shutout of the process that now involves sending American men and women to Bosnia. This problem is highlighted by the numerous polls indicating close to 60 percent of Americans continue to disapprove of the Clinton plan to send U.S. troops to Bosnia.

U.S. Troops As Targets—There are inherent problems with using American soldiers as ''peacekeepers.'' As Washington Post Columnist Charles Krauthammer has written, ''If you are unhappy with the imposed peace, there is nothing like blowing up 241 Marines or killing 18 U.S. Army Rangers to make your point.'' The lessons of Beirut and Somalia are simple—when the United States, the world's only remaining superpower, sends troops to unstable regions of the world, they immediately become targets for those seeking either attention for their cause or retribution for past events, such as NATO-led bombings.

Can U.S. Peacekeepers Remain Neutral?—The Clinton Plan calls for U.S. forces to act as neutral enforcers of the peace while the U.S. also helps arm and train the Bosnian Muslims so they will be able to defend themselves once American troops leave. This scenario, however, ignores the role America played prior to this peace accord. It was American planes that bombed the Bosnian Serbs into submission in order to force them to the bargaining table.

As for arming the Bosnian Muslims, the Clinton Administration contends that the Bosnians need arms to defend themselves once American forces leave. But if peace has broken out, and the American ''enforcers'' are no longer needed, exactly who will the Bosnians be defending themselves from? The fact that the Clinton plan recognizes that the Bosnian people will need to defend themselves from the Serbs once the American forces are gone illustrates just how illusory this peace really is.

Is There Really a Peace?—While peace may exist on paper, it is unclear as to whether it exists in the hearts of the Balkan people. Recent news reports indicate that the peace plan is not receiving a very enthusiastic endorsement from the Bosnian Serbs, especially those living near Sarajevo. And it is still unclear to most Americans why 60,000 heavily-armed, combat-ready soldiers are needed to ''enforce'' a ''peace'' agreement.

The Clinton Plan Is Poorly Defined—Before our troops are fully deployed, Republicans will continue to insist that the President outline a clear and achievable objective and define what encompasses a successful mission. Finally, the President needs to develop an exit strategy that is more comprehensive than the simple goal of having our troops home in one-year.

Republicans Support Our Troops—While Republicans continue to question the wisdom of the President's decision to send U.S. forces to Bosnia, we understand that it is a foregone conclusion that they will go. Indeed, close to 1,500 troops have already begun to arrive in the former Yugoslavia. There should be no doubt that Republicans will unconditionally support our troops once they are in Bosnia. We will make sure our troops have every resource available and as much leeway as they feel they need to defend themselves should they be attacked. Again, there should be no mistake: Republicans will support our troops in Bosnia and we will continue to work to ensure their safety throughout this mission.

NATIONAL HEALTH CARE: WE SHOULD NOT SURRENDER THE DREAM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we have 10 days left on our countdown until the budget deal is made. Ten days left, and it appears certain that there will be some great disappointments among a majority of the American people. The majority will be swindled by this budget deal, but I am here tonight to send a message that we should not be discouraged.

The budget deal that is going to be made is not a surrender, it is a retreat. It is temporary. The dream and the vision of the American people to have a better society, a society which makes use of all of the resources of our tremendously rich industrialized economy should not be surrendered. It still can be realized.

Last year we drove for a while, for the first two years of the Clinton administration, toward a national health care plan. The national health care plan's dream was to realize universal health coverage for the first time in the United States of America. Most of the industrialized nations of the world do have universal health care coverage, or something close to it.

Because of the fact that the legislation which is before us now, the legislation which is likely to be agreed upon, the negotiations dealing with the legislation and the appropriation when it is all finished, we will be a long ways away from that universal health care dream.

We should not surrender the dream though. We should only understand that it is a temporary stalemate. It is a retreat which we continue to insist that this country is rich enough, this country has the resources, and the people of this country deserve a national health care plan which guarantees health care for all who need it.

☐ 1945

That is a next step in our civilization that we should not ever turn our backs on. The fact that the deal is going to be made and we are going to be far short of that should not deter us. The deal will be made and no matter what it is,

it certainly will leave us without universal health care coverage.

I only hope that we are not so far away that it may take us another 10 years to regain the territory that we lose. I only hope that we do not lose the Medicaid entitlement. The Medicaid entitlement is the first step that was taken 30 years ago toward health care coverage for all who need it. If we lose the Medicaid entitlement, if we no longer are willing to say to every poor American that if you are in need of health care and you are poor, you qualify by a means test, which tests whether or not you really are eligible, if you qualify, you get the health care coverage, you get taken care of. You are not left to die. You are not left without a nursing home, if you cannot afford it. Medicaid pays for health care for poor families, but Medicare also pays for most, two-thirds of Medicare goes for nursing homes and the care of the people with disabilities. So people with disabilities and the elderly who need nursing homes are as much beneficiaries as poor families of Medicaid. So we should not forget that. The Medicaid brings us closer to the realization of universal health care than any other Government program in health care. If Medicaid entitlements are lost, we will experience a great setback. So step one is to hope that in the negotiations which grow more questionable each day, there is less to negotiate with as the days go by. We had the defense appropriation as part of the negotiation at one time and as long as the President did not sign the bill, we were waiting for him to veto the bill, then you had the possibility of a $7 billion process there, $7 billion that the President clearly felt was not needed. It was not in his budget, $7 billion which represented things like the B–2 bomber that everybody agreed we did not need.

We had the flexibility of at least starting negotiations with $7 billion on the table that could be transferred from wasteful defense expenditures to expenditures that were more meaningful in education or health care, et cetera. That is gone. The defense bill has become a part of law. The defense appropriation now has been, sort of by default, since the President did not veto it, the time period lapsed and now that is off the table. So without a doubt, we are in a little weaker position than we were before the defense bill was allowed to pass through.

That is why I say that as we move toward the deadline of December 15, every day of the countdown brings us a little closer to a situation where we are weaker than we should be. And, therefore, the outcome is inevitably going to be a dissatisfactory one. It is going to be a disappointing one. It is only a matter of how much are we going to give up, how much are we going to hold on to.

Whatever the outcome is, we should insist that it is only a temporary setback. It is only a retreat. It is not a total defeat. We will not surrender. We will insist that we come back and, when the Democrats regain the House of Representatives in 1996, health care will be back on the table. We will move again toward universal health care coverage. It cannot be surrendered. We cannot envisage an America which does not care about the sick, an America which does not care about the elderly and what kind of nursing homes they have. We have to insist on maintaining that standard for our civilization. We have to get back to the fight, and we have to get back to it with gusto.

The majority have made it clear that they do not want to retreat on health care. The majority have made it clear that they do not want the Medicare and the Medicaid cuts. More than 70 percent of the people have said that they do not want the health care cuts in Medicare and Medicaid. The majority have said they do not want cuts in education. The majority have said they want the President to veto many of the bills that he has already signed, but certainly those that are left, basically the health, education, and human services budget, certainly the one they most of all want him to veto.

The majority has made it pretty clear that they think that the movement of the Republican majority to dismantle the programs that were created by Franklin Roosevelt in the New Deal and by Lyndon Johnson in the Great Society, the rapid movement of the Republican majority to dismantle and to wreck these programs, the majority has indicated they do not agree with. They do not think that this kind of extremism is necessary. They do not accept the artificial crisis that has been created.

The majority have made it clear that they are not on board and they are very much against this. Yet it sort of creeps forward because that is the way our Republic works. The people who have been elected can ignore the majority for a while. They can get away with it.

So I want to just reaffirm the fact that we need health care for every American. We can have health care for every American. The country can afford it, and we should not accept whatever happens when the deal is finally completed as being final.

Health care in many cities and many areas of the country right now is already undergoing some drastic changes for the worse. Even while the debate is taking place and no final decision has been made about what funds will be available and what new rules will be in place, health care systems are being dismantled in rural areas. Health care systems are being drastically changed in urban areas. And in New York City, there is a great dramatic change taking place now. Health care administrators in large numbers are leaving. Restructuring of hospitals is taking place. Super HMO's are being developed to swallow up small HMO's.

All of it represents a great deal of energy, a great deal of change, which has very little to do with the improvement of health care. The restructuring is all about how the funding will take place. The restructuring is about who will make profits. The restructuring is about how will you save money by giving the patients minimum service and maximizing the profits for the providers.

It is a very unfortunate situation. There was an article that appeared in the New York Times on Friday, November 3, which I think sort of sums it up, ''Can Someone Save My Hospital,'' is the op-ed article's title. The dismantling of New York City's health care system has already begun.

The mayor has a plan to privatize and drastically change the hospitals. They are going to be closing city hospitals. Many of the city hospitals are getting ready to sell themselves or to be sold. HMO's are being developed that will compete with each other for patient dollars.

I will just quote from this article, ''Can Someone Save My Hospital,'' by Gary Calcutt who is a physician. He is medical director of a special care AIDS clinic at North Central Bronx Hospital. And one paragraph in his article reads as follows:

> This plan will no doubt take some time to carry out, but in fact the dismantling of the city hospital system is now underway. Because of State Medicaid cuts and a reduction in city subsidies, the Health and Hospitals Corp. has had a budget shortfall of $950 million over the last 2 years, forcing it to slash services and to cut personnel. Twice in the past year nearly all the agency's employees have been offered a severance package. The second buyout offer in May was accompanied by a letter from Dr. Bruce Segal, who was then president of the Health and Hospitals Corp., strongly urging employees to take the severance package in order to avoid layoffs. The agency's managers must approve each layoff but in North Central Bronx Hospital, I don't know of any employee who has been denied a severance buyout. This has led to devastating losses in some crucial departments.

He goes on and on. I have had my constituents come to me and say, look, you must come and visit Kings County Hospital. I go there quite often, but they wanted me to make a special visit and walk around in various departments and look around carefully. They said, you can visit, you can see the chaos, you can see why patients are bound to be suffering because the chaos is so great; the overworked personnel are so obviously tired. There is so much, the morale is so low until it is visible. And they were right. You could feel it in the hospital. You could feel that this hospital is no longer the way it once was.

I have been there many times. Kings County Hospital has a history of being one of the finest hospitals in the Nation; 40 years ago people came from all over the country to be treated at Kings County Hospital, a public hospital. But now it is in chaos, and it may be in better shape than many of the city's hospitals.

So the process has begun. The suffering has begun. But I am saying we

should not surrender. I am saying that this too must pass. When the budget deal is made, we should not surrender. We should not give up on health care.

We should not give up on education. We know already that the Federal Government only pays a small percentage of the total educational bill. The total funding for education, over $360 billion the last year, is borne by State governments and local governments. The Federal Government is responsible for only about 7 percent of the bill. So when you look at the cuts in education and you say that there is $4 billion cut in 1 year, it is a large amount to cut from the Federal budget. I think it is a 16-percent cut. But it does not represent a 16-percent cut across the Nation in education expenditures by itself.

But what has happened is the Federal Government's cut, its statement that education is of less importance, the Republican majority's indication that education is of less importance, that we pay lip service to the fact that education is an investment in the future of the country, education guarantees that young people will be able to survive in a very complex society, they will be able to qualify for the high technology jobs created, we have all of the rhetoric on both sides, Republicans, Democrats say the same thing. But the Republican majority has indicated they really do not believe it.

If you can make cuts of that magnitude at the Federal level, you send a message down to the State levels and the local levels. So they have begun to cut, too. In New York City, the school system has been cut by almost $2 billion over the last 2 years. New York City has almost a million students, and the budget at one time was up to $8 billion for the million students. But those drastic cuts have taken place so you have obvious hardships.

When the school term started last September, 8,000 youngsters in the New York City high schools had no place to sit. Right now there are classes of 40 and 45 students. And there are still problems with just getting places for children to sit. An editorial recently in the New York Times talked about the fact that every time it rains, the New York City schools literally wash away. You have the rains going through the crevices of the old buildings and the sand and the cement is drained away. The bricks start to fall. So after every rain you have large numbers of bricks falling from these old buildings. So the New York City schools are literally falling down. There is no hope in sight in terms of new construction because the budget cuts in construction preceded the other cuts.

All of this is taking place in education. But I say, we should not surrender. We should not accept the fact that the Federal Government is retreating in this one budget. Which is under the control of the Republican majority. We should hold onto the dream that the Federal Government, although it never will play a major role in funding of education, it has a role to play. It never will play the predominant role but it has a major role to play.

The Federal Government still is the only place where you are going to have any long-term research and development to improve schools. The Federal Government is still the only place where you are going to have the kinds of financing for higher education that you need, infrastructure of colleges and universities are in deep trouble, updating of equipment of colleges and universities. There are a number of things that need to be done on a scale that will require help from the Federal Government. Otherwise, the help will not be coming. Private industry and private donations will not be able to do it, and certainly States and localities will not be able to do it.

We should not surrender and say that it is never going to be done by the Federal Government. We should not say that we are forever going to have B–2 bombers that are not wanted by the Joint Chiefs of Staff, the Secretary of Defense does not want it. The President does not want it. We are going to forever continue to fund B–2 bombers and neglect education.

We should not surrender and believe that that is going to happen. I do not think it is going to happen. The majority want education to be made a priority in the expenditure of Federal funds and Government funds at every level. The majority will ultimately prevail.

□ 2000

We must hold on and understand that the fight has just begun, the public opinion has just begun to manifest itself. They are just waking up here in Washington to the fact that the American public means it when they said that education is a top priority for Government expenditure, they mean it when they say that health care is a top priority. It is not just an idle piece of energy thrown away when people reply to polls. They are replying to polls and telling them the truth, we mean it. Education ought to be a top priority. Right now it is No. 1 in the polls; health care, No. 2. From week to week they rotate, they alternate. Health care and education clearly are No. 1 priorities. If the decisionmakers here in Washington, if the Republican majority, respected the majority of American people, then certainly we would not be in this dilemma.

So the majority should not sit, but the majority should not give up. They should wait, and in the process of waiting we should assert ourselves. The majority should continue to make certain that the public opinion polls register what you believe.

In the process of continuing the fight I think I cannot stress too often that there is a bedrock basic piece of information that we should always fall back on. We should not accept the theory that America is in a state of fiscal crisis. We should not accept the notion that the country is about to go bankrupt, that Medicare and Medicaid cannot be funded. We should not accept the notion that the Federal Government will go bankrupt because it helps poor people. All of this is just not true.

We should understand that there is a problem, there is a problem in terms of taxes being too high for individuals with families, and we should deal with that problem. There is a problem of waste in Government, and we should deal with waste wherever waste is. The waste is in the B–2 bombers that nobody wants. The waste is in the CIA that continues to spend at the same level it was at during the cold war while it does more and more harm.

Mr. Speaker, the CIA is one example of an agency that ought to be streamlined and downsized before it does more harm. The CIA's latest revelation about the incompetence and the evil of the CIA has been manifest in a ''60 Minutes'' exposé of a fact that the CIA had on its payroll the head of the organization in Haiti called FRAPH.

FRAPH is an organization that demonstrated, and brought guns and terrorized the pier in Haiti when the first ships were sent to Haiti with Canadian and New York City personnel, New York State—I mean United States personnel, some police from Canada and police from the United States, and engineers from the United States Army were supposed to be the first peaceful contingent landing in Haiti, and that was part of a peaceful plan that had been agreed to at Governors Island. But they were greeted on the docks by this demonstration of men with guns who roughed up the Embassy officials from the United States Embassy in Haiti, and they made all kinds of threats, and the *Harlan County* ship decided to turn around and not dock at the port there in Port-au-Prince, Haiti. They did not dock because the intelligence that we received was that that group that was demonstrating on the dock was a very dangerous group. The intelligence that come from the CIA was that great harm would come to American personnel and Canadian personnel if they had landed that day. That was what the CIA said.

Mr. Penizullo, who was then the President's envoy for the Haitian problem, he was dealing with the Haitian problem. He insisted that it was just theater, that this group had no depth, that there was no danger from this group, and that the *Harlan County* should go ahead and dock, we should proceed with the implementation of the Governors Island agreement as we agreed upon it. But the CIA insisted that, no, this group represents a real threat, great harm could come to America forces, and since this incident was following the Somalia debacle where 18 Americans have lost their lives in Somalia, the President accepted the advice of the CIA and ordered the *Harlan County* to turn around. So you had a great American ship being turned around by handful of thugs in the Port-au-Prince harbor because the CIA had said that those thugs represent a large armed threat.

The CIA insisted on this, and it turns out that all along the CIA knew better. The CIA knew because the leader of the group that met the *Harlan County* ship in the port was on the payroll of the CIA. They knew who Emmanuel Constant was because Emmanuel Constant had been recruited by the CIA, and the CIA had its own policies separate from the White House's policies and programs, and the CIA thwarted the first peaceful attempt to restore the legiti-

mate Government of Haiti to power. That peaceful attempt, if it had been allowed to go forward, would have saved the United States at least a billion-and-a-half, maybe $2 billion, because a year later almost exactly a year later, the liberating forces of the United States went into Haiti, 20,000 strong, armed with equipment, et cetera, because of the fact that the first plan, a peaceful plan which would have cost much less, would not have involved large amounts of troops, and equipment, and et cetera. That plan had been thwarted by a group that the CIA knew was a very small group because they had recruited it and they had the head of the group on the payroll.

Emmanuel Constant is now in prison here in the United States. Emmanuel Constant has confessed and told all as to how he was recruited, how he was urged to run for President of Haiti, and I believe the story 100 percent. The CIA of course has not denied it; they just have no comment. They do admit that they sometimes hire people in foreign countries to get information from them. The implication is that Emmanuel Constant might have been on the payroll of the CIA, but all they wanted from him was information. There was no further plot to undermine the legitimate Government of Haiti.

I cite this one example as just one more of several examples I have cited over the past of blunders of the CIA which are costly and also dangerous. I need not go back and tell the story of Aldrich—and recount the story of Aldrich Ames. Mr. Ames is in prison now.

Mr. Ames even recently, with all of his arrogance, wrote a book review on a spy novel, and the book review was in, I think, the Washington Post, a book review of a spy novel where he chastises the author of the novel as being an amateur, et cetera. I found it sickening that a man who was in prison as a result of serving for 10 years as a Russian spy; you know, he was in charge of CIA spying on the Soviet Union in Eastern Europe, and he was in the employ of the soviet Union in Eastern Europe. They admit that at least 10 agents lost their lives as a result of Mr. Ames' betrayal of his country. There is nothing lower than a traitor, you know, and I cannot see how this traitor is now being allowed in prison to write book reviews and to parade his ego over the pages of the media showing what a smart guy he is.

But Aldrich Ames was there for 10 years. Aldrich Ames was not detected despite the fact that he was an alcoholic, he used the CIA safe houses for his trysts, his rendezvous with his women. He did all the things wrong that you are not supposed to do, even failed a lie detector test, and still the CIA did not detect that he was spying for the Soviet Union. He had a bank account which allowed him to own very lavish homes and cars, something he could never afford on the CIA salary, the CIA on his salary of course, but who knows what the CIA has paid. All things which affect CIA are secret, so you really do not know what was paid, but it was agreed that Aldrich Ames really did not earn enough money to have the kind of luxurious lifestyle that he had.

Despite all that, alcoholic, betrayal of CIA codes with respect to sex and safe houses, lavish living, he was only accidentally sort of discovered, and of course there are still revelations about the harm that was done by Aldrich Ames. Not only did at least 10 agents die as a result of his betrayal and his activities, but we now know that he passed on information from some of the agents that were in question that was not correct information, and he led the United States Government to expend large sums of money on various activities, probably like star wars, and counter warfare, submarine warfare, and a number of things that were based on information deliberately fed to our Government to make our Government spend money on activities to counteract Russian achievements in military hardware which did not exist.

So in every way Aldrich Ames is an example of a blundering CIA that not only is costly, but is also dangerous.

The other example I have given of the CIA blundering is the fact that they discovered that the CIA had a slush fund, a petty cash fund, of at least $1.5 billion. Everything is secret again, but we know they confessed, and the press has pretty much established that it was at least $1.5 billion in petty cash or in an account that was treated like a petty cash account that nobody knew about in high places. The Director of the CIA did not know about the petty cash account, and the President did not know about the petty cash account. How can you have a fund of $1.5 billion and it not be known in the circles above you, the supervising circles that are there? Who had it and where are they? Who was put in jail as a result of harboring this $1.5 billion slush fund? And if they had a $1.5 billion slush fund that nobody knew about, the likelihood that they were also at the same time had more money and were misusing funds is great, but of course, everything is secret, and we still do not know exactly what happened.

I am only giving this example as an example of a place where there is obvious waste, there is dangerous waste, and, if you want to save money, then downsize the CIA, streamline the CIA, cut the budget of the CIA. It is just one example of many where you can cut the budget appropriately.

So we should not surrender, we should not admit, that it is impossible. We should not accept the big lie that it is impossible for America to ever provide health care for everybody, you cannot have universal health care in America. You can have it in Germany, you can have it in Japan, you can have it in Italy, you can have it in France, but you cannot have it in America. You can never have education paid for all the way through 4 years in college as they have in France or a few other nations. You cannot have that in America. We are too poor. Do not accept that big lie no matter what happens in the budget negotiations and where we end up on December 15.

I am saying the majority of the American people, the great majority out there, people who I call the caring majority, should never accept this. The dream should not be surrendered. We should just understand it is a temporary setback and we will continue. We will continue the quest for Federal involvement in education at every level, we will continue the quest to guarantee that our society provides maximum opportunity for all and that we also meet the threat of a changing economy which requires job training and readjustment for large numbers of people.

I wanted to talk about continuing the process of forging ahead and not accepting the temporary setback without having to use my chart tonight. I think you probably have grown weary of seeing the chart which reflects a large part of the answer to the problem of both the deficit and the excessive taxation of Americans. I hope you have not grown weary because it needs to be branded into the memory of every policymaker in America. It needs to also be clearly branded into the memory of every American voter. There is a basic story told by this chart, and whereas I wanted to sort of take a recess and not bring it tonight; today I read an article in the New York Times. I was a little late in reading the Sunday Times, and I read an article which really upset me greatly, and I in the process of reading that article determined I have to go back one more time before this session is over and explain this chart.

I have to explain the chart because the writer of the article in the New York Times; it was Sunday, December 3, and the name of the author is Keith Bradsher; it is not a op-ed page article, so I assume he is a journalist, a reporter, or an analyst for the New York Times. He chose to write an article about Democrats and Republicans and how we have created the deficit together over the last three decades.

☐ 2015

The title of the article is ''Deficit Partnership,'' and the subtitle is ''The Republicans and the Democrats Dug the Budget Hole Over Three Decades.''

As I read the article, I could not help but boil with fury because of the fact that here is a very long-winded analysis. They use a large chart here showing over a period from 1965 to 1995, a 30-year period, what happened. A lot of thought has obviously gone into the article. Why a journalist, an analyst of this caliber, maybe he has some economic training, why or how he can discuss this problem of the deficit over a 30-year period and not deal with the whole problem of revenues and the problem with the fact that the American people were swindled in the methods used to collect revenues. He talks only about expenditures.

The Republicans and the Democrats dug the budget hole over decades. He talks about how Republicans and Democrats together have increased the expenditures. He does not talk about what happened with the revenues and how, while expenditures were increasing for various reasons, some of them good, a great drop took place in the revenues; and the revenues did not drop in the area of personal or individual and family income taxes, the revenue went up in the area of individual and family income taxes.

The revenue dropped drastically in the area of corporate income taxes. The story of the great drop in corporate income taxes as a percentage of the revenue collected by the Federal Government is a story that nobody wants to tell. The New York Times reporter, analyst, journalist, whatever he is, does not want to talk about it. You will not find the commentators on television, the talk show hosts, nobody wants to talk about the fact that taxes in 1943, and I did not go back as far as he went and this article went back, actually this article went back to 1965, 30 years; 1943 goes all the way back, World War II was still underway in 1943. The income taxes being paid by corporations were up to 39.8 percent, almost 40 percent, while the income tax being paid by individuals and families was 27.1 percent. I have gone over this many times, but you just have to get the red bar and the blue bar clearly focused in your mind in order to understand the nature of the great swindle that took place.

In 1943 corporations were paying 40 percent of the burden, the income tax burden, but in 1983, 40 years later, the corporations are paying only 6.2 percent of the tax burden. Only 6.2 percent of the income tax burden is being borne by corporations, and the individual's share of the taxes has shot up from 27.1 percent to 48.1 percent. That was the highest point of taxes on families and individuals. This was when Ronald Reagan was in his heyday on his trickle-down economics, the rising tide will lift all boats, and if you will cut the taxes for corporations they will create jobs, and those jobs will fuel an economic revolution, a miracle, and everybody will benefit.

Mr. Speaker, individuals and families did not benefit. They ended up paying more taxes. They paid 48.1 percent of the taxes in 1983, while corporations dropped to an all-time low of 6.2 percent. Now corporations are up, up from 6.2 percent to 11.2 percent, which is, thank God, a slight increase, but individuals are still up at 43.7 percent.

We have Mr. Bradsher discussing the deficit partnership and how the deficit took place, and at no time does he talk about this dramatic change that took place in the tax structure, in the burden, the percentage of the tax burden that shifted from corporations to individuals. How can a learned journalist, analyst, economist make such a discussion without discussing the obvious? If the physical sciences, physics and chemistry, proceeded in the same way, we would probably be 30 or 40 years behind in our technology. If you take a major factor in a discussion and ignore it completely, then you certainly cannot be said to be participating in any scientific reasoning process. You certainly be said to be proceeding in a logical manner when you just leave out a great portion of the argument.

Mr. Bradsher is intent on blaming both Democrats and Republicans. I would concede that from the beginning. Whatever has happened in America over the last 30 years, 40 years, it certainly has been both Democrats and Republicans. Yes, in 1983 Ronald Reagan was President and that is why you have corporations' share of the income taxes go down to an all-time low of 6.2 percent, but Democrats were in control of the House Committee on Ways and Means, where all tax policies originated, so if we had a scandalous situation where the income taxes for individuals and families went up to 48.1 percent while the taxes for corporations dropped to 6.2 percent, then both the hands of the Democrats who controlled the Committee on Ways and Means and the Democrats in the House who voted for it are dirty in this situation where the American people as a whole, the great majority, were swindled. This is something that I would concede.

Mr. Bradsher, from the very beginning, I would say yes, the Democrats and Republicans were both guilty. My problem is not with that assertion. The problem is why do you go on and on and you do not even mention the fact that there was a great revolution taking place in terms of the shifting of the tax burden.

I am going to read a few paragraphs, excerpts from Mr. Bradsher's article:

> Democrats in Congress have repeated for years the mantra that President Reagan pushed the deficit out of control by cutting taxes while raising military spending.

Democrats have said that. That is true.

To continue with Mr. Bradsher, though;

> Republicans have recited just as regularly the view that Democrats voted for ever-larger deficits during their 40 years of control in the House.

The deficits did get larger, but when Jimmy Carter left office, it was less than—it was around $70 billion per year versus when Ronald Reagan left office, it was almost at $400 billion per year, the deficit. But he is right, the deficits did get larger:

> Among experts who have studied the history of American budget deficits, there is fairly broad agreement that both sides are partly right. Neither party has clean hands, and the slower economic growth over the last 20 years has made the situation worse. The current budget negotiations between the Republican Congress and a Democratic President, stalled in large measure over handling the deficit, are a reminder that the budget policy of the United States is made by compromise.

Yes, that is true. Some of the biggest decisions that continue to feed the budget deficit were made by Republican Presidents with Democratic Congresses, notably during the Richard Nixon and Ronald Reagan administrations. He goes on to point out what I have just already conceded, that both Democrats and Republicans were guilty. But all Mr. Bradsher discusses in terms of the creation of the problem is expenditures.

He talks about the fact that—

> There was a competition between the Republicans and Democrats at one time on expenditures for the elderly, a rivalry between Richard Nixon and Wilbur Mills. Wilbur Mills was the Democratic chairman of the Committee on Ways and Means who made a brief bid for the Presidency in 1972. That rivalry between Nixon and Mills contributed to the decision to increase payments to Social Security recipients by 15 percent in 1969, by 10 percent in 1970, and by 20 percent in 1972. In each case the administration advocated a generous increase, and the Congress added a little more.

I am not going to criticize the Congress or Nixon for the increase in Social Security payments. They were far too low. I think that is an example of expenditures going up that was very badly needed. The expenditures were far too low for Social Security recipients who were in very dire straits, and that increase was certainly a noble increase, a reasonable increase, a justifiable increase.

As Medicare and Social Security costs have grown they have squeezed out Federal spending on other programs like transportation and education. Medicare and Medicaid expenditures, however, were raised when the Congress and the Presidents competed in terms of increasing expenditures in the area of expanding Medicaid to include pregnant women, pregnant women who were not necessarily on AFDC, the elderly in nursing homes, and all those expenditures were added to Medicare after it had first been created.

I would not quarrel with the Democrats or the Republicans for adding those uncovered people who were very important to the Medicare Program. Those expenditures I think were justifiable. All of the expenditures that are cited in terms of domestic discretionary expenditures in this article are not necessarily justifiable, but 90 percent of them are. He is talking about

expenditures for people, expenditures as an investment in education, an investment in health care, an investment in programs for the elderly.

If he were talking about expenditures for *Sea Wolf* submarines or for F–22 fighter planes and for star wars, then he would be talking about expenditures that we could have done without. If he was talking about expenditures for the CIA and the intelligence operation on a large scale after the cold war was over, then I would say he was talking about expenditures that we could certainly do without.

The point is that Mr. Bradsher goes on and on about expenditures and never does he once cite the fact that a revolutionary change in revenue collection took place, that we fell in our revenue collection from 39.8 percent for corporations and went up to 48 percent for individuals in 1983. Even now, in 1995, after some adjustment was made by the Clinton administration, corporations are paying only 11.2 percent of the total tax burden and individuals are paying 43.7 percent.

Why is this important? Because this is the bedrock of the dilemma that we face. This is where you end as you go backwards in the discussion to its foundation. The agreement that is going to finally be made by the Democratic President and the Republican-controlled Congress is going to have to do something about the question of tax cuts. Who will get the tax cuts is the question, or should anybody get tax cuts? That is the question that emerges from the editorial pages of more and more newspapers. We are down to a situation now where if you are going to have a balanced budget in 7 years, then you have to surrender the tax cut.

I am a Democrat. I am described as an old-fashioned liberal, but I think the American people ought to get a tax cut. I think you ought to have a tax cut for families and individuals. I think the tax cuts proposed by President Clinton that were related to education are very much appropriate. I think the tax cuts proposed which relate to children are very appropriate, if you were to rewrite them in a way which allows families that do not owe taxes to also benefit.

To rewrite the Republican tax bill would be almost impossible. I think you could build a compromise on President Clinton's tax cut proposals. Those tax cut proposals would give some relief to the American families and individuals who have financed the cold war and gone through quite a bit, and saw their taxes rise from 27 percent in 1943 to 48 percent in 1983, and to 43 percent, almost 44 percent, today. They deserve some relief. Individuals and families should get a tax cut. When all is said and done and the deal is made, individuals and families need some tax cut. It ought to be the individuals and families who are at the lowest levels in the economic strata, the middle-income and lower-income people, who get the tax cut.

At the same time, you cannot balance the budget unless you deal with the fact that everybody insists on ignoring, and that is that corporations have gotten away with a big swindle. If you follow the Congressional Black Caucus alternative budget, you can raise this 11.2 percent be first ending all subsidies to corporations by the taxpayers. We have a situation where taxpayers' moneys are used to subsidize corporations in certain activities. You can raise this amount by getting rid of those subsidies. You can raise the amount again if you close tax loopholes, starting with the loopholes that deal with foreign corporations.

□ 2030

Foreign corporations have advantages that our own home-based American corporations do not have.

There are a number of loopholes that can be closed which have been developed over the years, with the help of the Committee on Ways and Means and Ronald Reagan, primarily, while he was in office. Those loopholes can be closed now. If we merely raise the corporate share of the revenues from 11.2 percent up to 16 percent, we could lower this 43.7 percent, at the same time we raise the corporate up to just about 16 percent, and thereby give a tax cut.

When we do this, according to the calculations that were accepted using CBO figures, the Congressional Black Caucus alternative budget shows, we do not have to cut Medicare and we do not have to cut Medicaid. We do not have to cut Medicare and we do not have to cut Medicaid, and we can increase education.

The dream does not have to be surrendered on universal health care. We can keep the entitlement for Medicaid, and we can go further in terms of an additional amount of involvement of the Federal Government in education.

The Congressional Black Caucus alternative budget increased education by 25 percent. The President says that he wants to increase education by even more. Over a 7-year period, he talks about an increase of more than $40 billion in education. I have not figured the percentage on that, but the President is on course. The President is following the rhetoric of both the Republicans and the Democrats.

We all say that education is an investment in the Nation's security. Education is also an absolute necessity if our economy is to be able to compete, and what the President is doing is following the rhetoric and the philosophy and the ideology instead of ignoring it, although both parties have expounded along the same lines.

Education was deemed a priority by Ronald Reagan. He was the first one who sounded the trumpet and said, we are a nation at risk if we do not act to revamp our entire education system. Ronald Reagan was the one who led the way. George Bush followed by saying he wanted to be the education president. He called a conference and set forth six goals. Bill Clinton was at that same conference. He continued what George Bush started.

So why are we on the verge of a $4 billion cut in education for the next budget year? Why are we on the verge of a tremendous 20 percent or more cut in education over a 7-year period?

We can give that up. We do not have to have those cuts. If we were to take a look at the hard facts of what has happened in America from 1943 to 1995, we would see that we have allowed ourselves to be swindled.

The share of the taxes paid by corporations could go up and nobody would suffer. Wall Street is booming. Everybody has indicated that we are in an unprecedented growth period. The Dow Jones average is above 5,000. A record-setting pace has been established.

So who is making the money? The corporations. The red bar is where the action is. The red bar is where the money is. Why did Slick Willie rob banks? Because that is where the money is. If we want to revitalize the American economy, then the revenue should come from the bustling sector of the corporate world where the money is. That is where we can solve the problem of the deficit: We can give a tax cut, and at the same time we can avoid the draconian cuts in programs.

Mr. Speaker, we are going to destabilize the whole society. We are refusing to recognize that poor people need health care, poor people need education.

We have a problem with the minimum wage, that I talked about last time, which does not contribute to the deficit at all, has very little to do with this chart, except if we were to increase the minimum wage, the profits of corporations would go down a little bit. However, at the same time, we would benefit greatly by having to expend far less on unemployment compensation and various other benefits that are provided to poor people, food stamps, et cetera.

Mr. Speaker, in short, I want to conclude by saying, we are 10 days from a final budget deal, and the outcome of that deal is going to be disappointing. We expect our Democratic President to make certain that we do not have a total debacle. We will not have a Dunkirk; we do not expect to surrender the Philippines. There are a lot of terrible things that will not happen, but it is going to be disappointing, it is going to be a temporary setback.

The important thing to remember is that the majority of the American people have already made it clear in the public opinion polls. They do not think that we have a crisis that merits the draconian cuts that are taking place. They do not think that we need to move against the elderly and cut Medicare. They do not think we need to move against the poor who are sick and cut Medicaid so drastically. They do not think we need to throw away our

education policies of the last two decades and desert public education or desert higher education.

All of these draconian moves are being made by people who have a vision of America which is an incorrect vision, a vision that is not the vision of the majority of the people. The caring majority knows that their welfare and their best interests lie in rejecting these cuts.

That is why the polls clearly show that at least 60 percent of the American people want the cuts to be vetoed and rejected. At least 70 percent of the American people do not want Medicare and Medicaid cut.

If we were to follow the common sense of the American people, they would make the budget cuts in the areas where there is real waste instead of insisting that the defense budget be increased by $7 billion while we are cutting the education budget by $4 billion. They would insist that we cut the CIA and obviously wasteful agencies instead of making the cuts in the area of Head Start, summer youth employment programs, and Medicaid.

The current majority knows that the Medicaid entitlement means exactly what it says. People are entitled to health care if they are poor; if they pass a means test and they qualify for the service, they are entitled to health care, the legislation that is before the President now. The appropriations bill before the President will take away that entitlement.

We have already almost lost the entitlement for Aid to Families with Dependent Children, and now on the chopping block we have the entitlement for Medicare. We should not surrender that entitlement. Everything possible should be done. Everybody should make certain that they register their opinions and that they communicate with their Congressmen and the President and the White House, everybody, to let it be known that one clear indication of a giant step backwards that cannot be accepted by the American people is a surrender of the entitlement for Medicaid. We will not surrender that entitlement.

However, even if there should be a catastrophe happening and we have a loss of that entitlement, I am here to say that it is only a setback, it is only a retreat. The majority will win in the end. We should get our forces and begin to reassemble and march on toward the dream.

America can have universal health care; America can have a budget which is a budget which seeks to take care of the interests of all of the people. This is the richest nation that ever existed in the history of the world. There is no reason why every American cannot have opportunity and decent health care, and we dedicate ourselves to that purpose, no matter what happens on December 15.

BOSNIAN CONFLICT IS CIVIL WAR

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 60 minutes.

Mr. SOUDER. Mr. Speaker, I rise to discuss my opposition to sending our troops to war in Bosnia. As one of the new freshman Members, I do not pretend to have the experience of our earlier speaker, the gentleman from California [Mr. DORNAN], who has traveled to many of these areas and has much knowledge about our military.

I am a country boy from a small town in Indiana of 700. I come here on behalf of common-sense Hoosiers who are very concerned about what our President has committed us to do. I want to make a couple of general comments first before plunging into some specifics.

The first and core question is, is sending ground troops in our vital national interest? I think not. The primary question regarding the United States role in Bosnia is whether this is a civil war or is an act of aggression between two sovereign nations.

This conflict is a civil war because the Bosnian Serbs are fighting with the Bosnian Moslems and the Bosnian Croats over political control, power and authority. Since the conflict is a civil war, there is no legal obligation for the United States to get involved.

President Clinton even admitted the conflict in Bosnia is a civil war in an interview with Rita Braver of CBS News on April 20, 1994, stating the President of the United States as follows: ''I think this is a civil war in the sense that people who live within the confines of the nation we have recognized are fighting each other for territory and power and control. It is clearly a civil war.'' That is not a Republican stating that; that is the President of the United States.

Although the United States has numerous interests in a peaceful resolution of the Bosnian war, for example, ending the atrocities, preventing further human rights abuses and ending the suppression of minority groups. Much of this, I think, is coming out of a heartfelt concern for those who are hurting in other nations and watching the terrible torture. The conflict does not in fact threaten our national security.

Given the terrible nature of war, I am supportive of sending troops into combat situations only when there is a vital national security interest at stake and when a clear military objective is achievable.

So then the next question is, has the President provided a clear mission or exit strategy, which will place our troops in imminent danger because he has not provided such a mission or strategy. He has promised to commit at least 20,000 troops. We have heard 30,000, but it appears to be 20,000 here at the beginning, before an agreement was reached, instead of designing a plan that could coordinate troops with this specific goal. In other words, it was a mission looking for a purpose.

Clinton's implementation force has no clear mission. In theory, they are poised to act as buffers between warring sides, and in reality, they are targets for snipers. His is an arbitrary time period for exit and not a national exit strategy, which means anybody who wants to wait out the last months can do that. The potential for United States troops becoming targets for those who have no interest in bringing peace to the area is simply far greater than any national security interest in Bosnia.

Mr. Speaker, let me tell a local story that has ties to northeast Indiana. Marine Lance Corporal Jeff Durham of Fort Wayne, who graduated from Blackhawk High School, was involved in the rescue of Air Force Captain Scott O'Grady. The 20-year-old Durham and other members of the 24th Marine Expeditionary Unit were awakened on board a carrier in the Adriatic Sea around 3 a.m., were briefed, and departed for a mission 2 hours later.

Jeff was on board a backup helicopter which was prepared to defend the rescue team against the enemy if things went wrong. Their mission was to get between the rescue chopper and the enemy. Fortunately, O'Grady made a clean escape and the Marines did not have to get out of the chopper.

We may have a voluntary army, but it is wrong to view our troops as missionaries or use them in missions that do not have clear American interests at stake.

I know that the people of Fort Wayne and Jeff's family do not consider him a disposable asset, a mercenary just to be thrown around in the process of pursuing whims by our President. I also believe we have shown that there is strong congressional and public opposition to sending ground troops.

The House has voted on three separate occasions in opposition to United States involvement in Bosnia. In the DOD appropriations bills, the original House-passed bill contained the Neumann amendment by MARK NEUMANN, a fellow freshman from Wisconsin, which will restrict the use of funds for deployment of United States forces in Bosnia without the prior approval of Congress. It passed by a vote of 294 to 125 on January 7, 1995. In conference, this was modified twice to become a nonbinding provision and then was dropped completely.

By the way, many of us who opposed that DOD Conference Report the first time, one of the three main criteria that we opposed it on was the pulling of that Bosnia language.

Part of the agreement that came out of that was H. Resolution 247, which expressed the sense of the House that there should be no presumption by the parties to any peace negotiation that the enforcement of any peace agreement will involve the deployment of U.S. forces and emphasized that no

U.S. troops should be deployed to the region without prior congressional approval. This passed by 315 to 103; that is, no troops should be deployed to the region without prior congressional approval. Clearly, this has been ignored.

H.R. 2606 prohibited the use of funds appropriated to the Department of Defense to be used for the deployment or implementation of United States ground forces to the Balkans as part of a peacekeeping operation unless such funds have been specifically appropriated by Congress for that purpose. That passed by a vote of 243 to 171.

□ 2045

We have made our will known. We are not being heeded.

Hoosiers in northeast Indiana do not support sending the ground troops to Bosnia, either. Ninety-four percent of those contacting my offices have expressed strong opposition to the President's plan. We have hundreds of calls, up to three times as many as we normally get. We have letters.

In the last week I was on three different talk shows where 80 percent of the calls were on Bosnia. Outrage is being expressed by the people in Indiana that this President could ignore the will of the American people and to send our boys at risk of a potential war.

I also wanted to show, I know that Congressman DORNAN showed this map earlier, of a couple of noteworthy geographical points that have probably been made a number of times but I want to make them again.

First of all, the so-called Dayton line named after Dayton, OH—talk about interjecting ourselves in international foreign policy, we now have the line between the nations being named after an American city—snakes around making Vietnam look clearly defined. It goes for over a thousand miles. We are not quite sure because they are still sorting out these borders how many miles exactly, but it snakes around all over the place.

Then I asked in one of our briefings, I am on the oversight subcommittee over the Defense and State and CIA, chaired by the gentleman from New Hampshire [Mr. ZELIFF]. This is Croatia around in a U.

Is there anywhere else in the world where you have a nation with a U around another nation? The answer is no. You have Pakistan, it has been divided, it and Bangladesh, and you have other situations but no U situation like this.

Another core question is, since this part is tied with the Serbs, which is over on this side, what would have happened if we had not gone in? We were told that most likely Croatia would have drawn a line somewhere like this. Well, these yellow pockets are where Croatia had already advanced, that clearly the Serbs were vulnerable in this area, and that if this was what would have logically happened and if Croatia is in a situation like this U, what exactly do we feel is going to keep Croatia from doing a fairly logical geographical move over time?

Well, there are supposedly a couple of different arguments. One is that these areas are Moslem and that while they are working with the Croatians, although they were just fighting them, now they are working with them apparently again, that there was more concern by Croatia that this area would be taken over by the Moslems than the Serbs.

This is what you call to some degree hopefulness, because these areas have been fighting all between themselves and partly what we are banking on is that Croatia will not do the logical geographical close because all of a sudden they are going to decide, well, maybe we don't want to fight the Moslems anymore or the Serbians anymore even though we have been doing so for hundreds of years and we view them as occupying our nation's land.

It is a little bit hopeful thinking to think that when one army probably was going to win, when one army still has that incentive through history of many years of war, to suddenly say, ''Oh, we think now they're going to be good'' and maintain this kind of unusual geographical layout. Anybody who looks at this goes and say, ''Why exactly are we putting our troops in here?''

One other thing that is kind of interesting. We were told, and this map may be slightly different because there were two things still being negotiated. As is apparent, there is a very narrow part in here between the two parts of the areas controlled by the Serbian Bosnians, and the two areas that were still being debated and which are going to be the most difficult are this area right in here and Sarajevo. So the two places they have not defined are the two most difficult and the two most strife-ridden.

The Russian troops are going to be somewhere in here and the American troops are up here. This is a very difficult region to monitor. It is where the Germans were when they came down and lost so many troops, 70,000, trying to subdue this region. They came down through this area. We are putting ourselves right across from the Russian troops in an area where we are still negotiating the borders, where the narrow strip is, very narrow connecting, and you look at this and say, if you already have not established a compelling national interest and you already have a bunch of difficulties with this, would just logic not tell you in looking at this map that you are walking into an unbelievable potential nightmare of a situation for the U.S. Armed Forces?

In the briefings that we have had, a number of other things have been interesting talking about the mines that are there and the question of why are Americans going to be involved in taking out these mines?

Well, partly apparently we are going to ask all those who had been combatants in this to take out the mines first, but there are a couple of problems. One is that they do not exactly know where the mines are. Second, they do not have the equipment to detect the mines.

So since we have the equipment and since our troops are going to have to go through these areas as well as France and Britain, we are going to wind up having to go through the mines, and that is probably what the President was warning us, that we are going to lose lives trying to locate these mines that we do not know where they are and we do not exactly know how to find them, although, quote, they are in logical places. In other words, it is not as though they are randomly sorted. They are at where the front lines were, but since the front line has moved all over the place on this map, it is very difficult for us to know where the mines are. So we are going to have deaths related to the mines. There is no question of that.

Another question is whether or not the American troops will be targets After all, it was the American Air Force that bombed many of these cities.

One of the things that was kind of enlightening to me was, is that one of the reasons the administration is apparently arguing that our American troops may not be targets is very simple. We are going to rebuild their country. And so if they think that we are going to rebuild the buildings that we bombed out and helped build their nation again, then maybe we will not be targets because the Americans are nice guys and if they shoot us, we will not give them money.

We have heard $60 million, then we have heard $600 million. Estimates have certainly been floating around on the floor of the House as high as $6 billion. At a time when we are trying to figure out how not to cut the budget, to respond to the earlier Speaker, but how to slow the growth of the budget, it is pretty tough to go back to Indiana and say, ''Oh, by the way, we're having to slow down a little bit of the growth in these different programs, we're having to do this, we're having to do this but we're going to rebuild everything we just bombed over in Bosnia.'' It is a very tough sell on one hand to say we are tight on the budget, and on the other hand where there is not a clear compelling national interest that we are spending all this money rebuilding it.

Plus I just thought this quote was kind of interesting. It was in the New York Times, Friday, December 1. This was a young lady, when asked what she thought about the troops coming in, when asked what she thought of the Americans arrival, she said, ''It's cool. It's great. All the Bosnian boys are going to be very jealous. We don't date them anymore. We met some Swedish soldiers but these American soldiers will have everything. Cars and money.''

This ought to do great relations. We have already bombed their country. We

are coming in there rebuilding it, and now their young soldiers who are coming back and having to supposedly lay down their arms are finding that their girlfriends are all interested in the American soldiers, which is certainly going to lead to extra peace. It is not a major item, but it is just every single thing you hear is not working in our direction.

I read the book ''Balkan Ghosts,'' which I recommend to others to read. It is very interestingly written about this whole region. What strikes you is the violence that has occurred here over many, many centuries between the different nations, the different backgrounds, and the deep-seated hatred.

I think what struck me most is that so many times, in one case, I cannot remember what century or what war, one of the nations in overpowering the other basically slaughtered all the young children below 2 years old, much like King Herod did in Biblical times. In other cases they took groups into slaughterhouses, an actual butcher place, and butchered them, cutting off their legs and arms and heads and hung up the severed limbs like it was a meat locker.

Well, those memories are in these different nations. And often when they go to battle, they will go into their churches, whether it is a Catholic church or an Orthodox church or a Moslem church or some blend thereof because this is a holy war. The enemy that they are fighting has murdered their children, has murdered their grandfathers, it has been in a brutal way, and it is not going to all of a sudden be solved by a 1-year cease-fire if indeed it ever turns into a cease-fire completely, but it is not going to be solved because underneath it there are centuries of very emotional religious and ethnic conflict.

Another thing that I never really fully understood until I read that book and got some briefings is why do all of these countries fight over some of these areas?

Croatia at its peak went way down this way. Serbia at its peak came way over this way. Hungary came down, Bulgaria at its peak, Romania at its peak, Greek at its peak, the Ottoman Empire at its peak, all at one time or another claimed a bunch of this territory. When they would expand in, they would plant people from their nations to plant seeding in those different areas, so you have mixed nationalities in there to boot.

Basically to summarize the battlegrounds, every country merely wants back what they once had. It is impossible to meet that goal. It is much like the Russians saying when they were Communists that they only wanted the land next to theirs. Each of these countries want to go back to maps that overlap and which are not going to be resolved by some kind of miraculous agreement in Dayton, OH.

One other thing. In hoping to go over to Bosnia, which we instead got to stay here in Congress over the weekend which was about as bad as going over to Bosnia, that we had a luncheon where the Speaker was at as well, with the President of Montenegro and a representative from Croatia as the Speaker, Mr. TAYLOR of North Carolina asked, because we heard that it was critical, that we put backing behind this or there would be no peace agreement. You asked whether or not we could do this with air and naval power, and he basically said yes, probably could.

I asked the question in one of our briefings why we could not just do that. They first said, and I do not believe they were supposed to say this, retreated, I do not think it is classified or anything, ''Well, it's because this was an American agreement, and the European forces said since this was an American agreement that, therefore, we had to put ground troops in.''

''Wait a minute. What do you mean this is an American agreement?''

''Well, this was made in Dayton, OH. This was the American President's agreement.''

They do not think, for example, we should be rearming the Bosnian Serbs. So we are having to put ground troops in because our President brought the peace treaty process to America, it is called the Dayton line, it is an American agreement, that made us put ground troops in, not because they are essential to the peace there but they are essential to the American version of the peace because we may have needed to have some firepower behind it, which is still debatable, but we would not have necessarily had ground troops.

There is one other thing that I had learned and kind of reinforced what I had been hearing was we heard a very compelling story from people from Montenegro and it was very impressive how they were getting along and how they had taken things. Then it came around to the representative from Croatia who absolutely ripped into Montenegro how they had pillaged their museums and raped their women and so on.

And the response was, ''Yeah, but this happened before 1992,'' which showed me the intensity here even though that apparently was, if I recall correctly, a 1991 incident, that the intensity between these countries is not just going to go away because we wished it to go away and temporarily put some troops there.

I also wanted to insert a couple of articles for the RECORD and I want to read a couple of quotes from this.

I was very impressed by an op-ed article on Tuesday, November 28, by James Webb, a former Assistant Secretary of Defense under Ronald Reagan and Secretary of Navy in the Reagan administration.

He reiterates a couple of points out of the Nixon doctrine that we have apparently drifted away from not only quite frankly under this President but under our last one, that we honor all treaty commitments in responding to those who invade the lands of our allies. That is one reason that we would put our own troops in.

Second, that we provide a nuclear umbrella to the world against the threats of other nuclear powers.

The third reason would be, finally, provide weapons and technical assistance to other countries where warranted, but do not commit American forces to local conflicts.

Bosnia fits none of these. There is no NATO treaty agreement. They are not part of NATO. There is no threat of nuclear war in this situation.

Finally, it is indeed a local conflict, so maybe we provide technical assistance but we certainly do not provide ground troops.

Another point in this article, it says that we are told, and this is what I alluded to earlier in another context,

> We are told that other NATO countries will decline to send their own military forces to Bosnia unless the United States assumes a dominant role, which includes sizable combat support and naval forces backing it up. This calls to mind the decades of over-reliance by NATO members on American resources, and President Eisenhower's warning in October 1963 that the size and permanence of our military presence in Europe would, quote, continue to discourage the development of the necessary military strength Western European countries should provide for themselves.

NATO has substantially changed since there was a direct Communist threat. We have to always be on guard. Russia could be immediately another Communist power and we would be back in the Cold War. But things have changed and other nations around the world need to take more responsibility. We cannot be a policeman everywhere.

I also wanted to read a couple of quotes from Friday, December 1, Washington Times article by Thomas Sowell referring to the lapse of historic savvy by our President.

He takes a couple of quotes. For example, the President said, ''Bosnia lies at the very heart of Europe.'' Not if you know any geography. It is basically on the fringes of Europe. It is not primary in either importance or geography. It has been a place where there have been battles where other powers have chosen to get themselves involved as we are but it is hardly central to Europe in either geography or politics.

I was very disturbed, for example, when the President at the tail end of his speech made a quote that I have no doubt is accurate from the Pope which was that this century started with a war in this area and we do not want it to end with a war in this area.

□ 2100

The question is what is the best way to keep us from not having a war? I do not have a lot of confidence that quote was used in context.

If these countries are fighting among themselves, it could get very messy; for example, if Serbia loses control of

this area and moves over to here, there may be centuries of conflict between Serbia and Croatia over where this line could be, and lot of lives unnecessarily lost. If the Moslems are overrun in these areas, in a sense persecuted by either Croatia or by Serbia and flee to other nations, they could be at risk of what they could do. They could be much like the Palestinians and be wandering, searching for a place to land. It is a messy area.

But if you put Russian troops right here and American troops right here and you have a change of power in Russia and you have a conflict where this group are allies of Russia and this group, with their more Catholic tradition, are allies of the United States, you are looking at the potential for war. That is how you get into world wars, not by letting these countries fight over their battles and the terrible things that may happen to those countries but by putting two major nuclear powers right across from each other in a very tense situation in defending potential client states. That is how you get a war, and the way to avoid ending this century with a nuclear war is not by us going in there, it is by us staying out.

As Thomas Sowell points out, that first off, Yeltsin is at best lukewarm with this. Furthermore, anybody who watches the news realizes the government in Russia is not necessarily stable. Part of their challenge is they are not being aggressive enough and nationalistic enough in approaching relations with our country, that any notion that all of a sudden we are going into Bosnia because there was this peace accord is belied, as Thomas Sowell points out, that Mr. Clinton advocated such action years before the Yugoslav leaders even set foot in Dayton and even before he became President.

He is depending on us to forget what he said before. Obviously, he depends on that many weeks out of the year. In this particular case, he has advocated this policy. He has now made it come to fruition and dragging all of America along with him under the guise of something totally different. Our claim that our mission is clear and limited, to quote Thomas Sowell again, as Mr. Clinton put it, is true only if everything goes according to plan. The same would have been true in Vietnam if everything had been according to plan. We would have simply defended the existing government until they got on their feet and then pulled out.

You know, many of us and a lot of the media have asked why are so many of the freshman conservative Republicans so upset about this war. Many of us who came through the Vietnam era reacted in different ways. I was a conservative during that period, as were many others, but we did not really like how the war was being fought either. We saw a lot of our friends being killed over something where we basically abandoned later on and learned some lessons there. That is pick you fights, have a clear mission, back up your troops, do not get in situations where you are the sitting ducks, and some people say, and this is a core question and I am going to touch on this for a minute, is this like Vietnam or is this like Afghanistan or is this like Lebanon or is this like Korea?

Let me suggest, first of all, on Korea, the line in Korea does not wander around in different angles, coming back like an odd-shaped ''U'' or a ''V.'' And the reason the line in Korea held is because we went all the way up to the Chinese border. The Chinese and the North Koreans were afraid that at any time the American military might again invade North Korea or into China, therefore, they dug in behind the line to keep us from advancing. It was not an arbitrary line put on by our Government in peace negotiations.

In Vietnam, when we tried to do that, it failed.

The case, and some Marines have compared this to Lebanon, more like we are supposed peacekeeping troops, sitting down basically in valleys and mountainous regions where our guys are sitting ducks for land mines, occasional snipers and random people who have not disarmed, maybe like Lebanon. There can be a case like Afghanistan; Russia went in trying to subdue a rebellion. The rebellion had been going on between different forces for many years. Some of the troops fighting in Afghanistan are now in this area, as we learned by the CBS, I believe, TV commentator captured by some of them the other day, almost shot, that there are roaming bands in this same area of Afghanistan fighters. You see many of the logistics.

For me, since I most relate to Vietnam, it sure seems a lot like Vietnam.

I heard the President say the other night, ''My fellow Americans.'' A chill goes up my spine because many of us heard ''My fellow Americans'' once too many times already. I now, for the first time, understand how some of those liberal Democrats who I did not like at the time felt when they felt they were pulled into Vietnam under votes in their protest, and all of a sudden their patriotism was challenged because they were questioning a war they did not want to get in in the first place. We in Congress have voted three times we did not want this war.

At what point do you say, ''Look, we are elected by the American people as well; at what point is there a joint government?'' You do not have an immediate threat to the security of United States. It is not as though we have troops already in combat in threat of being killed and the President has to go in. You can argue Nixon went into Cambodia because he was protecting troops on the ground. You can do a number of arguments the President has to have flexibility. Does he have to have flexibility to start us into a potential Vietnam?

One of the things he said, partly, I think, to shore up his conservative base, if any of our people get killed, we are going to go after them with everything we have. He said that to the troops the other day as he was launching them on their mission. The question is: Is that not what happened in Vietnam? We were their to support Vietnamization, help stabilize the southern, pretty soon, 20,000 troops are not going to be able to stabilize this area, maybe we will need 38,000; someone gets killed, we will have to go up in the mountains. The guys in the mountains, particularly, Afghan Moslems and others who are going to flee into the mountains, Hitler took tons of troops until he finally gave up trying to subdue them. Pretty soon, we are up to 75,000, 100,000 not because we are trying to start a war, but because we are chasing people who killed American soldiers, and we are demanding retribution. This leads to bigger battles. This is how wars start. It is not how wars are avoided, because we are in an extremely vulnerable situation in an area that has had conflict for hundreds and hundreds of years.

I also really resented the President's comments about the Olympics in Sarajevo, talking about how peaceful it used to be. It used to be a Communist country. It was hammered together by Tito. None of us voted to elect President Clinton the new Tito. It is not his job to hammer this nation back together through the force of gunpower, which is how this nation was put together in the first place. You can have different views on Tito. Clearly, one advantage of Tito was he provided stability. That is not the mission of this U.S. Congress, this House, this Senate, or this President, to be the new Tito, and I urge our President to lose his Tito complex.

I also listened to his tortured logic to try to address why we are getting into this war. Roughly, it went like this: Europe is essential to our stability, NATO is essential to Europe, we are essential to NATO; therefore, we have to put ground troops in. First off, it does not establish the Balkans are essential to Europe. Second, he did not make a very good case that at this time Europe is essential or that Europe is threatened. Third, he did not establish that we have to have ground troops as part of NATO to be supportive of NATO.

Maybe because of the peace agreement he agreed to, there is pressure now for us to put ground troops in, but maybe we should have let the Europeans negotiate the agreement that is in Europe. Let them figure out how to do it, and we back them up rather than us being the world policeman who brings them to Dayton OH, and then has all the obligations to be the policeman of Europe. I do not think his logic worked in any way.

I also want to read a little bit of a letter that I got from Ralph Garcia. He is the chairman of my veterans' affairs advisory panel. He is president of the Vietnam Veterans' Chapter 698 in

northeast Indiana and on the State council of Vietnam veterans. He said to me that the entire group adamantly agrees that we should not send U.S. troops into Bosnia. He also said that he described, as a Vietnam veteran, as a former CIA employee, that this looks like Vietnam all over again. ''We all agree that is no clearly defined national interest. Bosnia is a European problem. Nor is there a clear, quantifiable objective or mission statement. We will have casualties. The slowing of the Bosnian war process is not worth the cost of U.S. lives or scarce fiscal resources, because peace cannot be enforced.''

I hear this most intensely from veterans in my district. As I look at what happened in Vietnam and as I look now at our young American men and women going into a war-torn land in the middle of winter, feeling doubt about going in, it has to be discouraging to them to hear us fighting among ourselves, of questioning their mission, and that is not what we are trying to do here. I honestly believe we need in this House to cut off funding now before there lives are lost.

I believe I am defending those American men and women by pushing before any of them are killed. Once the gunshots start, we have got to rally behind our troops. I understand that. I am going to fight every day up until gunshots start. Even if it is embarrassing for us to withdraw, better to have the embarrassment than to get caught in a long war with many American lives, and I believe that is defending our troops.

But what we need to remember is, just like in Vietnam where our leaders messed up and where our leaders are tripping over themselves apologizing for this and apologizing for that, it should take nothing away from those troops who go in to defend American honor, who do what they are asked to do in service of their country. We need to be supportive of them. Our leadership maybe should hang their head, but our soldiers should hold there heads up high and know they are doing what they are being asked to do and they are doing their best jobs.

When I was a student in high school at the little high school of Leo High School, and my high school class had 68 members, that shows how little the school was, we did a chain letter to those who graduated from our little school who were over in Vietnam. One of the commitments I made in my district, I hope other Members will as well, anybody who can get me the address of anybody from our region of, for that matter, Indiana, who is in Bosnia. I want to write them a personal note of support to them individually. I hope others will.

If I cannot get the Armed Services to give me who is there, I need people to let me know who is there.

Another thing we will do is we will collect letters, particularly over the Christmas season, particularly from people from northeast Indiana, to send them. If nothing else, we will give them to the Armed Forces so they can send them to the troops there. This is not a question of supporting our men and women who are serving our Nation with courage, bravery, at high risk, separated from their families. This is a question of trying to protect them, protecting our national interest, to keep us from bogging down in another war where literally there is terrible tragedy all over the world. We can go into almost every country any time. We can go into our American cities that have terrible tragedies. The question is: What is the role of our Armed Forces of the United States?

It is a travesty of justice, an embarrassment to our country, to see this President use it like it is the Arkansas State Police trying to put down rebellions all over the world. I am very disappointed at our inability in the House to bring this up to another tough vote now. We have got to cut this money. We are the last line of defense for our troops where their lives are being put at stake during this tough season. Unless we can chop off the money here in the House and try and get the Senate to go along, unless the American people will rise up and speak out and tell their Representatives they do not want their supposed peace mission to turn into a major war, it is very difficult. As I used to sit home before I ran for Congress and then I also was growing up, I used to say, ''Boy, you know, it is really frustrating being out here in Indiana, not being able to influence things and not being able to change.'' Then you come to Washington. You get in there and you see us bail out in Mexico and not be able to stop it. You hear all of this baloney about cuts and how we are gutting Medicare and gutting social security and gutting student loans, all of which are not true, and you think how can I combat this. Then you see our troops going into what I believe will be a war, and we are not able to stop it.

I do not feel a whole lot different than I did back in Indiana. Only now I am a Member of Congress. That is really a sad commentary on our political system.

I remember in reading Barry Goldwater's memoirs, talking about a conversation he had with Richard Nixon, who said he thought, after having been a House Member and a Senate Member, finally became President of the United States, he could ultimately make these decisions. What he found was he could not even get the type of pencil he wanted. Haldeman would go to the staff and say he would forget about it next week. He could not get the pencils he wanted. It is very frustrating being here, trying to change this, knowing the American people are outraged. They want a change. We are your elected Representatives. There are many of us here who are going to continue to battle, not because of any disrespect to our Armed Forces but because of great respect of our Armed Forces, because we want them to be served in the most important things, which are to defend our Nation, defend our national interests, and when it is unnecessary, to be able to spend their time with their families and have their full lives to look forward to.

LAPSE OF HISTORIC SAVVY

(By Thomas Sowell)

Bill Clinton's speech on Bosnia was an insult to the intelligence of the American people. Virtually every point made in that speech depended on being able to take advantage of ignorance, amnesia, or an inability to deal with simple logic.

''Bosnia lies at the very heart of Europe,'' said the president. That claim can be taken seriously only by those ignorant of geography. The Balkans are on the fringes of Europe, geographically and otherwise.

Sarajevo is less than 600 miles from the Bosphorous, where Asia begins. It is farther than that from Berlin or Paris, and more than a thousand miles from London.

Mr. Clinton's geographical fraud was not incidental. It was part of a whole false picture he painted, in which we must intervene in order to prevent the war in Bosnia from spilling over in the rest of Europe around it. Not only is Bosnia not in the heart of Europe, its many wars over many centuries have not spilled over into other countries.

On the contrary, it was the intervention of other countries in the Balkans that turned a local assassination in Sarajevo in 1914 into the First World War. Today, it is our intervention that risks creating another international confrontation, if Russia resumes its historic role as an ally of the Serbs.

The fact that Russian president Boris Yeltsin has gone along grudgingly with Western policy in the Balkans thus far is no guarantee that he will continue to do so, as events unfold next year—which is an election year in Russia, as well as in the United States. Moreover, either another candidate or another heart attack can take Mr. Yeltsin completely out of the picture.

There are far more belligerent Russian politicians waiting in the wings, eager to restore Russia's power and its historic role as a force backing the Serbs in the Balkans. What would we do then, with 20,000 young American soldiers as sitting ducks in Russia's backyard?

We have a huge national interest in avoiding any such situation.

We have no other national interest in that part of the world. Not one American's safety will be endangered if we stay out. Not one American's livelihood will be jeopardized.

The notion that we are going into Bosnia because of a ''peace'' accord reached recently in Dayton is falsified by the simple fact that Mr. Clinton was urging such action years before any Yugoslav leaders ever set foot in Dayton, and even before he became president. Again, Mr. Clinton is depending on our forgetfulness.

Other gambits in the president's speech include picturing the Dayton accords as some kind of achievement ''as a result of our efforts.'' Nothing has been easier than to get agreements in the Balkans—and nothing harder than getting the parties to live up to them. Calling this latest accord ''a commitment to peace'' is another reliance on amnesia.

One of the few claims with any semblance of fact or logic behind it is that, if the United States pulls out of its own commitments, this will make our word less reliable in the future. The larger question, however, is: Reliable for what purpose?

Do we want people to rely on us to run around the world engaging in these military adventures?

The need to back up the president's words with American troops cuts two ways. We can either sacrifice young lives for the sake of presidential rhetoric or the president can learn to keep his big mouth shut, in order to spare those lives until they need to be risked for something that truly threatens the American people.

If this president can't keep his mouth shut, then we need one who can.

There is a far greater danger to the people of this country from terrorists from the Balkans striking in the United States, as a result of our intervention, than from the war in that region spilling over the Atlantic Ocean. Thinly-veiled threats of this sort have already been made.

The claim that ''our mission is clear and limited,'' as Mr. Clinton put it, is true only if everything goes according to plan. The same would have been true in Vietnam if everything had gone according to plan: We would have simply defended the existing government until they got on their feet and then pulled out.

But wars that go strictly according to plan are the rare exceptions. The big question is: What is our Plan B? What if we can't put the genie back in the bottle and just get caught in the crossfire?

The haste with which the Clinton administration is getting ready to put its troops in place suggests that they will deal with that question by relying on the American tradition of supporting our soldiers, once they have been committed. In other words, Plan B is to present us with a fait accompli, so that it will be considered unpatriotic to fail to back up the president as he flounders in another quagmire.

[From the New York Times, Nov. 28, 1995]

REMEMBER THE NIXON DOCTRINE

(By James Webb)

ARLINGTON, VA.—The Clinton Administration's insistence on putting 20,000 American troops into Bosnia should be seized on by national leaders, particularly those running for President, to force a long-overdue debate on the worldwide obligations of our military.

While the Balkan factions may be immersed in their struggle, and Europeans may feel threatened by it, for Americans it represents only one of many conflicts, real and potential, whose seriousness must be weighed, often against one another, before allowing a commitment of lives, resources and national energy.

Today, despite a few half-hearted attempts such as Gen. Colin Powell's ''superior force doctrine,'' no clear set of principles exists as a touchstone for debate on these tradeoffs. Nor have any leaders of either party offered terms which provide an understandable global logic as to when our military should be committed to action. In short, we still lack a national security strategy that fits the post-cold war era.

More than ever before, the United States has become the nation of choice when crises occur, large and small. At the same time, the size and location of our military forces are in flux. It is important to make our interests known to our citizens, our allies and even our potential adversaries, not just in Bosnia but around the world, so that commitments can be measured by something other than the pressures of interest groups and manipulation by the press. Furthermore, with alliances increasingly justified by power relationships similar to those that dominated before World War I, our military must be assured that the stakes of its missions are worth dying for.

Failing to provide these assurances is to continue the unremitting case-by-case debates, hampering our foreign policy on the one hand and on the other treating our military forces in some cases as mere bargaining chips. As the past few years demonstrate, this also causes us to fritter away our national resolve while arguing about military backwaters like Somalia and Haiti.

Given the President's proposal and the failure to this point of defining American stakes in Bosnia as immediate or nation-threatening, the coming weeks will offer a new round of such debates. The President appears tempted to follow the constitutionally questionable (albeit effective) approach used by the Bush Administration in the Persian Gulf war: putting troops in an area where no American forces have been threatened and no treaties demand their presence, then gaining international agreement before placing the issue before Congress.

Mr. Clinton said their mission would be ''to supervise the separation of forces and to give them confidence that each side will live up to their agreements.'' This rationale reminds one of the ill-fated mission of the international force sent to Beirut in 1983. He has characterized the Bosnian mission as diplomatic in purpose, but promised, in his speech last night, to ''fight fire with fire and then some'' if American troops are threatened. This is a formula for confusion once a combat unit sent on a distinctly noncombat mission comes under repeated attack.

We are told that other NATO countries will decline to send their own military forces to Bosnia unless the United States assumes a dominant role, which includes sizable combat support and naval forces backing it up. This calls to mind the decades of over-reliance by NATO members on American resources, and President Eisenhower's warning in October 1963 that the size and permanence of our military presence in Europe would ''continue to discourage the development of the necessary military strength Western European countries should provide themselves.''

The Administration speaks of a ''reasonable time for withdrawal,'' which if too short might tempt the parties to wait out the so-called peacekeepers and if too long might tempt certain elements to drive them out with attacks causing high casualties.

Sorting out the Administration's answer to such hesitations will take a great deal of time, attention and emotion. And doing so in the absence of a clearly stated global policy will encourage other nations, particularly the new power centers in Asia, to view the United States as becoming less committed to addressing their own security concerns. Many of these concerns are far more serious to long-term international stability and American interests. These include the continued threat of war on the Korean peninsula, the importance of the United States as a powerbroker where historical Chinese, Japanese and Russian interests collide, and the need for military security to accompany trade and diplomacy in a dramatically changing region.

Asian cynicism gained further grist in the wake of the Administration's recent snubs of Japan: the President's cancellation of his summit meeting because of the budget crisis, and Secretary of State Warren Christopher's early return from a Japanese visit to watch over the Bosnian peace talks.

Asian leaders are becoming uneasy over an economically and militarily resurgent China that in recent years has become increasingly more aggressive. A perception that the United States is not paying attention to or is not worried about such long-term threats could in itself cause a major realignment in Asia. One cannot exclude even Japan, whose strong bilateral relationship with the United States has been severely tested of late, from this possibility.

Those who aspire to the Presidency in 1996 should use the coming debate to articulate a world view that would demonstrate to the world, as well as to Americans, an understanding of the uses and limitations—in a sense the human budgeting of our military assets.

Richard Nixon was the last President to clearly define how and when the United States would commit forces overseas. In 1969, he declared that our military policy should follow three basic tenets:

Honor all treaty commitments in responding to those who invade the lands of our allies.

Provide a nuclear umbrella to the world against the threats of other nuclear powers.

Finally, provide weapons and technical assistance to other countries where warranted, but do not commit American forces to local conflicts.

These tenets, with some modification, are still the best foundation of our world leadership. They remove the United States from local conflicts and civil wars. The use of the American military to fulfill treaty obligations requires ratification by Congress, providing a hedge against the kind of President discretion that might send forces into conflicts not in the national interest. Yet they provide clear authority for immediate action required to carry out policies that have been agreed upon by the government as a whole.

Given the changes in the world, an additional tenet would also be desirable: The United States should respond vigorously against cases of nuclear proliferation and state-sponsored terrorism.

These tenets would prevent the use of United States forces on commitments more appropriate to lesser powers while preserving our unique capabilities. Only the United States among the world's democracies can field large-scale maneuver forces, replete with strategic airlift, carrier battle groups and amphibious power projection.

Our military has no equal in countering conventional attacks on extremely short notice wherever the national interest dictates. Our bases in Japan give American forces the ability to react almost anywhere in the Pacific and Indian Oceans, just as the continued presence in Europe allows American units to react in Europe and the Middle East.

In proper form, this capability provides reassurance to potentially threatened nations everywhere. But despite the ease with which the American military seemingly operates on a daily basis, its assets are limited, as is the national willingness to put them at risk.

As the world moves toward new power centers and different security needs, it is more vital than ever that we state clearly the conditions under which American forces will be sent into harm's way. And we should be ever more chary of commitments, like the looming one in Bosnia, where combat units invite attack but are by the very nature of their mission not supposed to fight.

RULES OF PROCEDURE FOR THE COMMITTEE ON SCIENCE FOR THE 104TH CONGRESS

(Mr. WALKER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, pursuant to rule XI(2)(a) of the Rules of the House of Representatives, I submit for the RECORD the amended Rules Governing Procedure for the Committee on Science for the 104th Congress.

RULES GOVERNING PROCEDURE FOR THE COMMITTEE ON SCIENCE—104TH CONGRESS

GENERAL

1. The Rules of the House of Representatives, as applicable, shall govern the committee and its subcommittees, except that a motion to recess from day to day and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in the committee and its subcommittees. The rules of the Committee, as applicable, shall be the rules of its subcommittees.

COMMITTEE MEETINGS

Time and place

2. Unless dispensed with by the Chairman, the meetings of the committee shall be held on the 2nd and 4th Wednesday of each month the House is in session at 10:00 a.m. and at such other times and in such places as the Chairman may designate.

3. The Chairman of the committee may convene as necessary additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business.

4. The Chairman shall make public announcement of the date, time, place and subject matter of any of its hearings at least one week before the commencement of the hearing. If the Chairman, with the concurrence of the Ranking Minority Member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the Chairman shall make the announcement at the earliest possible date. Any announcement made under this Rule shall be promptly published in the Daily Digest, and promptly entered into the scheduling service of the House Information Systems.

5. The committee may not sit, without special leave, while the House is reading a measure for amendment under the five minute rule.

Vice chairman to preside in absence of chairman

6. The Member of the majority party of the committee or subcommittee thereof designated by the Chairman of the Full Committee shall be Vice Chairman of the committee or subcommittee as the case may be, and shall preside at any meeting during the temporary absence of the Chairman. If the Chairman and Vice Chairman of the committee or subcommittee are not present at any meeting of the committee, or subcommittee, the Ranking Member of the majority party on the committee who is present shall preside.

Order of business

7. The order of business and procedure of the committee and the subjects of inquiries or investigations will be decided by the Chairman, subject always to an appeal to the committee.

Membership

8. A majority of the majority Members of the committee shall determine an appropriate ratio of majority Members of each subcommittee and shall authorize the Chairman to negotiate that ratio with the minority party; Provided, however, that party representation on each subcommittee (including any ex-officio Members) shall be no less favorable to the majority party than the ratio for the Full Committee. Provided, further, that recommendations of conferees to the Speaker shall provide a ratio of majority party Members to minority party Members which shall be no less favorable to the majority party than the ratio for the Full Committee.

Special meetings

9. Rule XI 2(c) of the Rules of the House of Representatives is hereby incorporated by reference (Special Meetings).

COMMITTEE PROCEDURES

Quorum

10. (a) One-third of the Members of the committee shall constitute a quorum for all purposes except as provided in paragraphs (b) and (c) of this Rule.

(b) A majority of the Members of the committee shall constitute a quorum in order to: (1) report or table any legislation, measure, or matter; (2) close committee meetings or hearings pursuant to Rules 18 and 19; and (3) authorize the issuance of subpoenas pursuant to Rule 32.

(c) Two Members of the committee shall constitute a quorum for taking testimony and receiving evidence, which, unless waived by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee, shall include at least one Member from each of the majority and minority parties.

Proxies

11. No Member may authorize a vote by proxy with respect to any measure or matter before the committee.

Witnesses

12. The committee shall, insofar as is practicable, require each witness who is to appear before it to file twenty-four (24) hours in advance with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation to a five-minute summary of his or her statement, provided that additional time may be granted by the Chairman when appropriate.

13 Whenever any hearing is conducted by the committee on any measure or matter, the minority Members of the committee shall be entitled, upon request to the Chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

Investigative hearing procedures

14. Rule XI 2(k) of the Rules, of the House of Representatives is hereby incorporated by reference (right of witnesses under subpoena).

Subject matter

15. Bills and other substantive matters may be taken up for consideration only when called by the Chairman of the committee or by a majority vote of a quorum of the committee, except those matters which are the subject of special-call meetings outlined in Rule 9.

16. No private bill will be reported by the committee if there are two or more dissenting votes. Private bills so rejected by the committee will not be reconsidered during the same Congress unless new evidence sufficient to justify a new hearing has been presented to the committee.

17. (a) It shall not be in order for the committee to consider any new or original measure or matter unless written notice of the date, place and subject matter of consideration and to the extent practicable, a written copy of the measure or matter to be considered, has been available in the office of each Member of the committee for at least 48 hours in advance of consideration, excluding Saturdays, Sundays and legal holidays.

(b) Notwithstanding paragraph (a) of this Rule, consideration of any legislative measure or matter by the committee shall be in order by vote of two-thirds of the Members present, provided that a majority of the committee is present.

Open meetings

18. Each meeting for the transaction of business, including the markup of legislation, of the committee shall be open to the public, including to radio, television, and still photography coverage, except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would tend to defame, degrade or incriminate any person or otherwise would violate any law or rule of the House. No person other than Members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This Rule does not apply to open committee hearings which are provided for by Rule 19 contained herein.

19. Each hearing conducted by the committee shall be open to the public including to radio, television, and still photography coverage except when the committee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, and Rule 9, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony.

(1) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security or violate Rule XI 2(k)(5) of the Rules of the House of Representatives; or

(2) may vote to close the hearing, as provided in Rule XI 2(k)(5) of the Rules of the House of Representatives. No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this Rule for closing hearings to the public: Provided, however, that the committee or subcommittee may be the same procedure vote to close one subsequent day of the hearing.

(3) Whenever a hearing or meeting conducted by the committee is open to the public, these proceedings shall be open to coverage by television, radio, and still photography, except as provided in Rule XI 3(f)(2) of the House of Representatives. The Chairman shall not be able to limit the number of television, or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations in which case pool coverage shall be authorized).

Requests for rollcall votes at full committee

20. A rollcall vote of the Members may be had at the request of three or more Members or, in the apparent absence of a quorum, by any one Member.

Automatic rollcall vote for amendments which affect the use of Federal resources

21. (a) A rollcall vote shall be automatic on any amendment which specifies the use of

Federal resources in addition to, or more explicitly (inclusively or exclusively) than that specified in the underlying text of the measure being considered.

(b) No legislative report filed by the committee on any measure or matter reported by the committee shall contain language which has the effect of specifying the use of Federal resources more explicitly (inclusively or exclusively) than that specified in the measure or matter as ordered reported, unless such language has been approved by the committee during a meeting or otherwise in writing by a majority of the Members.

Committee records

22. (a) The committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the Rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any Member of the committee.

Publication of committee hearings and markups

23. The transcripts of those hearings conducted by the committee which are decided to be printed shall be published in verbatim form, with the material requested for the record inserted at that place requested, or at the end of the record, as appropriate. Any requests by those Members, staff or witnesses to correct any errors other than errors in transcription, or disputed errors in transcription, shall be appended to the record, and the appropriate place where the change is requested will be footnoted. Prior to approval by the Chairman of hearings conducted jointly with another congressional committee, a memorandum of understanding shall be prepared which incorporates an agreement for the publication of the verbatim transcript. Transcripts of markups shall be recorded and published in the same manner as hearings before the committee and shall be included as part of the legislative report unless waived by the Chairman.

Opening statements; 5-minute rule

24. Insofar as is practicable, the Chairman, after consultation with the Ranking Minority Member, shall limit the total time of opening statements by Members to no more than 10 minutes, the time to be divided equally among Members present desiring to make an opening statement. The time any one Member may address the committee on any bill, motion or other matter under consideration by the committee or the time allowed for the questioning of a witness at hearings before the committee will be limited to five minutes, and then only when the Member has been recognized by the Chairman, except that this time limit may be waived by the Chairman or acting Chairman. The rules of germaneness will be enforced by the Chairman.

Requests for written motions

25. Any legislative or non-procedural motion made at a regular or special meeting of the committee and which is entertained by the Chairman shall be presented in writing upon the demand of any Member present and a copy made available to each Member present.

SUBCOMMITTEES

Structure and jurisdiction

26. The committee shall have the following standing subcommittees with the jurisdiction indicated.

(1) SUBCOMMITTEE ON BASIC RESEARCH.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to science policy including: Office of Science and Technology Policy; all scientific research, and scientific and engineering resources (including human resources), math, science and engineering education; intergovernmental mechanisms for research, development, and demonstration and cross-cutting programs; international scientific cooperation; National Science Foundation; university research policy, including infrastructure, overhead and partnerships; science scholarships; government-owned, contractor-operated non-military laboratories; computer, communications, and information science; earthquake and fire research programs; research and development relating to health, biomedical, and nutritional programs; to the extent appropriate, agricultural, geological, biological and life sciences research; and the Office of Technology Assessment.

(2) SUBCOMMITTEE ON ENERGY AND ENVIRONMENT.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to energy and environmental research, development, and demonstration including: Department of Energy research, development, and demonstration programs; federally owned and operated nonmilitary energy laboratories; energy supply research and development activities; nuclear and other advanced energy technologies; general science and research activities; uranium supply, enrichment, and waste management activities as appropriate; fossil energy research and development; clean coal technology; energy conservation research and development; science and risk assessment activities of the Federal Government; Environmental Protection Agency research and development programs; and National Oceanic and Atmospheric Administration, including all activities related to weather, weather services, climate, and the atmosphere, and marine fisheries, and oceanic research.

(3) SUBCOMMITTEE ON SPACE AND AERONAUTICS.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to astronautical and aeronautical research and development including: national space policy, including access to space; sub-orbital access applications; National Aeronautics and Space Administration and its contractor and government-operated laboratories; space commercialization including the commercial space activities relating to the Department of Transportation and the Department of Commerce; exploration and use of outer space; international space cooperation; National Space Council; space applications; space communications and related matters; and earth remote sensing policy.

(4) SUBCOMMITTEE ON TECHNOLOGY.—Legislative jurisdiction and general and special oversight and investigative authority on all matters relating to competitiveness including: standards and standardization of measurement; the National Institute of Standards and Technology; the National Technical Information Service; competitiveness, including small business competitiveness; tax, antitrust, regulatory and other legal and governmental policies as they relate to technological development and commercialization; technology transfer; patent and intellectual property policy; international technology trade; research, development, and demonstration activities of the Department of Transportation; civil aviation research, development, and demonstration; research, development, and demonstration programs of the Federal Aviation Administration; surface and water transportation research, development, and demonstration programs; materials research, development, and demonstration and policy; and biotechnology policy.

Referral of legislation

27. The Chairman shall refer all legislation and other matters referred to the committee to the subcommittee or subcommittees of appropriate jurisdiction within two weeks unless, the Chairman deems consideration is to be by the Full Committee. Subcommittee chairmen may make requests for referral of specific matters to their subcommittee within the two week period if they believe subcommittee jurisdictions so warrant.

Ex-officio members

28. The Chairman and Ranking Minority Member shall serve as ex-officio Members of all subcommittees and shall have the right to vote and be counted as part of the quorum and ratios on all matters before the subcommittee.

Procedures

29. Unless waived by the Chairman, no subcommittee shall meet for markup or approval when any other subcommittee of the committee or the Full Committee is meeting to consider any measure or matter for markup or approval.

30. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the committee on all matters referred to it. Each subcommittee shall conduct legislative, investigative, and general oversight, inquiries for the future and forecasting, and budget impact studies on matters within their respective jurisdictions. Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meetings or hearings wherever possible.

31. Any Member of the committee may have the privilege of sitting with any subcommittee during its hearings or deliberations and may participate in such hearings or deliberations, but no such Member who is not a Member of the subcommittee shall vote on any matter before such subcommittee, except as provided in Rule 28.

32. During any subcommittee proceeding for markup or approval, a rollcall vote may be had at the request of one or more Members of that subcommittee.

Power to sit and act; subpoena power

33. The committee and each of its subcommittees may exercise the powers provided under Rule XI 2(m) of the Rules of the House of Representatives, which is hereby incorporated by reference (power to sit and act; subpoena power).

National security information

34. All national security information bearing a classification of secret or higher which has been received by the committee or a subcommittee shall be deemed to have been received in Executive Session and shall be given appropriate safekeeping. The Chairman of the Full Committee may establish such regulations and procedures as in his judgment are necessary to safeguard classified information under the control of the committee. Such procedures shall, however,

ensure access to this information by any Member of the committee, or any other Member of the House of Representatives who has requested the opportunity to review such material.

Sensitive or confidential information received pursuant to subpoena

35. Unless otherwise determined by the committee or subcommittee, certain information received by the committee or subcommittee pursuant to a subpoena not made part of the record at an open hearing shall be deemed to have been received in Executive Session when the Chairman of the Full Committee, in his judgment, deems that in view of all the circumstances, such as the sensitivity of the information or the confidential nature of the information, such action is appropriate.

REPORTS

Substance of legislative reports

36. The report of the committee on a measure which has been approved by the committee shall include the following, to be provided by the committee:

(1) the oversight findings and recommendations required pursuant to Rule X 2(b)(1) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(A)];

(2) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and identified, if the measure provides new budget authority or new or increased tax expenditures as specified in [Rule XI 2(l)(3)(B)];

(3) a detailed, analytical statement as to whether that enactment of such bill or joint resolution into law may have an inflationary impact on the national economy [Rule XI 2(l)(4)];

(4) with respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those Members voting for and against, shall be included in the committee report on the measure or matter;

(5) the estimate and comparison prepared by the committee under Rule XIII 7(a) of the Rules of the House of Representatives, unless the estimate and comparison prepared by the Director of the Congressional Budget Office prepared under subparagraph 2 of this Rule 34 has been timely submitted prior to the filing of the report and included in the report [Rule XIII 7(d)];

(6) in the case of a bill or joint resolution which repeals or amends any statute or part thereof, the text of the statute or part thereof which is proposed to be repealed, and a comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended [Rule XIII 3]; and

(7) a transcript of the markup of the measure or matter unless waived under Rule 22.

37. (a) The report of the committee on a measure which has been approved by the committee shall further include the following, to be provided by sources other than the committee:

(1) the estimate and comparison prepared by the Director of the Congressional Budget Office required under section 403 of the Congressional Budget Act of 1974, separately set out and identified, whenever the Director (if timely, and submitted prior to the filing of the report) has submitted such estimate and comparison of the committee [Rule XI 2(l)(3)(C)];

(2) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under Rule X 2(b)(2) of the Rules of the House of Representatives, separately set out and identified [Rule XI 2(l)(3)(D)].

(b) Notwithstanding paragraph (a) of this Rule, if the committee has not received prior to the filing of the report the material required under paragraph (a) of this Rule, then it shall include a statement to that effect in the report on the measure.

Minority and additional views

38. If, at the time of approval of any measure or matter by the committee, any Member of the committee gives notice of intention to file supplemental, minority, or additional views, that Member shall be entitled to not less than 3 calendar days (excluding Saturday, Sundays, and legal holidays) in which to file such views, in writing and signed by that Member, with the clerk of the committee. All such views so filed by one or more Members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which shall include all supplemental, minority, or additional views, which have been submitted by the time of the filing of the report, and shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under paragraph (a) of Rule 35) are included as part of the report. However, this rule does not preclude (1) the immediate filing or printing of a committee report unless timely requested for the opportunity to file supplemental, minority, or additional views has been made as provided by this Rule or (2) the filing by the committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

39. The Chairman of the committee or subcommittee, as appropriate, shall advise Members of the day and hour when the time for submitting views relative to any given report elapses. No supplemental, minority, or additional views shall be accepted for inclusion in the report if submitted after the announced time has elapsed unless the Chairman of the committee or subcommittee, as appropriate, decides to extend the time for submission of views beyond 3 days, in which case he shall communicate such fact to Members, including the revised day and hour for submissions to be received, without delay.

Consideration of subcommittee reports

40. Reports and recommendations of a subcommittee shall not be considered by the Full Committee until after the intervention of 48 hours, excluding Saturdays, Sundays and legal holidays, from the time the report is submitted and printed hearings thereon shall be made available, if feasible, to the Members, except that this rule may be waived at the discretion of the Chairman.

Timing and filing of committee reports

41. It shall be the duty of the Chairman to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken the necessary steps to bring the matter to a vote.

42. The report of the committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by the majority of the Members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the Chairman of the committee notice of the filing of that request.

43. (a) Any document published by the committee as a House Report, other than a report of the committee on a measure which has been approved by the committee, shall be approved by the committee at a meeting, and Members shall have the same opportunity to submit views as provided for in Rule 38.

(b) Subject to paragraphs (c) and (d), the Chairman may approve the publication of any document as a committee print which in his discretion he determines to be useful for the information of the committee.

(c) Any document to be published as a committee print which purports to express the views, findings, conclusions, or recommendations of the committee or any of its subcommittees must be approved by the Full Committee or its subcommittees, as applicable, in a meeting or otherwise in writing by a majority of the Members, and such Members shall have the right to submit supplemental, minority, or additional views for inclusion in the print within at least 48 hours after such approval.

(d) Any document to be published as a committee print other than a document described in paragraph (c) of this Rule: (1) shall include on its cover the following statement: ''This document has been printed for informational purposes only and does not represent either findings or recommendations adopted by this Committee;'' and (2) shall not be published following the sine die adjournment of a Congress, unless approved by the Chairman of the Full Committee after consultation with the Ranking Minority Member of the Full Committee.

Notification to Appropriations Committee

44. No later than May 15 of each year, the Chairman shall report to the Chairman of the Committee on Appropriations any departments, agencies, or programs under the jurisdiction of the Committee on Science for which no authorization exists for the next fiscal year. The Chairman shall further report to the Chairman of the Committee on Appropriations when authorizations are subsequently enacted prior to enactment of the relevant annual appropriations bill.

Oversight

45. No later than February 15 of the first session of a Congress, the Committee shall meet in open session, with a quorum present, to adopt its oversight plans for that Congress for submission to the Committee on House Oversight and the Committee on Government Reform and Oversight, in accordance with the provisions of clause 2(d) of Rule X of the House of Representatives.

46. The Chairman of the committee, or of any subcommittee, shall not undertake any investigation in the name of the committee without formal approval by the Chairman of the committee after consultation with the Ranking Minority Member of the Full Committee.

Other procedures and regulations

47. During the consideration of any measure or matter, the Chairman of the Full Committee, or of any Subcommittee, or any Member acting as such, shall suspend further proceedings after a question has been put to the Committee at any time when there is a vote by electronic device occurring in the House of Representatives.

48. The Chairman of the Full Committee, after consultation with the Ranking Minority Member, may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the Committee.

LEGISLATIVE AND OVERSIGHT JURISDICTION OF THE COMMITTEE ON SCIENCE

''Rule X. Establishment and jurisdiction of standing committees

''The Committees and Their Jurisdiction.

''1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) by referred to such committees, as follows:

* * * * *

''(n) COMMITTEE ON SCIENCE.

''(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

''(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

''(3) Civil aviation research and development.

''(4) Environmental research and development.

''(5) Marine research.

''(6) Measures relating to the commercial application of energy technology.

''(7) National Institute of Standards and Technology, standardization of weights and measures and the metric system.

''(8) National Aeronautics and Space Administration.

''(9) National Space Council.

''(10) National Science Foundation.

''(11) National Weather Service.

''(12) Outer space, including exploration and control thereof.

''(13) Science Scholarships.

''(14) Scientific research, development, and demonstration, and projects therefor.

''In addition to its legislative jurisdiction under the proceeding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development.''

SPECIAL OVERSIGHT FUNCTIONS

3.(f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. FOWLER (at the request of Mr. ARMEY), for today and the balance of the week, on account of the death of her father.

Mrs. CHENOWETH (at the request of Mr. ARMEY), for today, on account of illness.

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. ABERCROMBIE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. COBURN) to revise and extend their remarks and include extraneous material:)

Mr. LONGLEY, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day, today and on December 6, 7, and 8.

Mr. HYDE, for 5 minutes, today.

Mr. GOODLING, for 5 minutes, on December 6.

Mr. MCKEON, for 5 minutes, on December 6.

Mr. SMITH of Michigan, for 5 minutes, each day, on December 6 and 7.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COBURN) and to include extraneous matter:)

Mr. LEWIS of California in two instances.

Mr. ROGERS.

Mr. GILMAN in three instances.

Mr. RAMSTAD.

Mr. COBLE.

Mr. DAVIS.

Mr. SHUSTER in two instances.

Mr. HEINEMAN.

Mr. FLANAGAN.

Mr. LAHOOD.

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. GEJDENSON.

Mr. LANTOS.

Mr. FOGLIETTA in two instances.

Mr. ORTIZ.

Mr. TORRES.

Mr. STARK in two instances.

Mr. YATES.

Mr. BARRETT of Wisconsin.

Mr. HAMILTON.

Mr. KENNEDY of Massachusetts in two instances.

Mr. POSHARD in two instances.

Ms. DELAURO.

Mr. GEPHARDT.

Ms. EDDIE BERNICE JOHNSON of Texas.

Mrs. COLLINS of Illinois.

Mr. MORAN.

(The following Members (at the request of Mr. SOUDER) and to include extraneous matter:)

Mr. ROHRABACHER.

Mr. NEY.

Mr. STUPAK.

Mrs. KENNELLY.

ADJOURNMENT

Mr. SOUDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 14 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 6, 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:

1764. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting a report on the status of various savings associations, pursuant to 12 U.S.C. 1441a(k)(9); to the Committee on Banking and Financial Services.

1765. A letter from the Secretary of Education, transmitting final regulations—vocational rehabilitation service projects for American Indians with disabilities, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1766. A letter from the Secretary of Education, transmitting final regulations—William D. Ford Federal Direct Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1767. A letter from the Secretary of Education, transmitting final regulations—Client Assistance Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1768. A letter from the Secretary of Education, transmitting final regulations—Federal Family Education Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1769. A letter from the Secretary of Education, transmitting final regulations—student assistance general provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Economic and Educational Opportunities.

1770. A letter from the Administrator, Health Care Financing Administration, transmitting the Administration's report entitled ''Rural Health Care Transition Grant (RHCTG) program,'' pursuant to 42 U.S.C. 1395ww note; to the Committee on Commerce.

1771. A letter from the Secretary of Health and Human Services, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1772. A letter from the Secretary of the Interior, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, together with the Secretary's report on audit follow-up, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1773. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–155, ''Closing of a Portion of G Street, N.W., and a Portion of a Public Alley in Square 454, S.O. 95–1, Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1774. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–156, ''Solid Waste Facility Permit Temporary Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1775. A letter from the Chairman, Consumer Product Safety Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1776. A letter from the Attorney General, Department of Justice, transmitting the semiannual report of the inspector general for the period April 1, 1995, through September 30, 1995, and the management report for the same period, pursuant to 5 U.S.C. app.

(Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1777. A letter from the Chairman, Merit Systems Protection Board, transmitting a copy of a statistical report on the U.S. Merit Systems Protection Board's [MSPB] cases decided in fiscal year 1994, pursuant to 5 U.S.C. 1204(a)(3); to the Committee on Government Reform and Oversight.

1778. A letter from the Chairman, Panama Canal Commission, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1779. A letter from the Chairman, Thrift Depositor Protection Oversight Board, transmitting the board's annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1780. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation entitled the ''Consular and Immigration Efficiency Act of 1995''; to the Committee on the Judiciary.

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. LIVINGSTON: Committee on Appropriations. Revised subdivision of budget totals for fiscal year 1996 (Rept. 104–380). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee on Rules. House Resolution 289. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–381). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 290. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes (Rept. 104–382). Referred to the House Calendar.

Mr. HYDE: Committee on the Judiciary. H.R. 1710. A bill to combat terrorism; with an amendment (Rept. 104–383). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE (for himself, Mr. MCCOLLUM, Mr. SMITH of Texas, and Mr. BARR):

H.R. 2703. A bill to combat terrorism; to the Committee on the Judiciary.

By Mrs. COLLINS of Illinois (for herself and Mr. HASTERT):

H.R. 2704. A bill to provide that the U.S. Post Office building that is to be located on the 2600 block of East 75th Street in Chicago, IL, shall be known and designated as the ''Charles A. Hayes Post Office Building''; to the Committee on Government Reform and Oversight.

By Mr. FATTAH:

H.R. 2705. A bill to provide that Federal contracts and certain Federal subsidies shall be provided only to businesses which have qualified profit-sharing plans; to the Committee on Government Reform and Oversight, and in addition to the Committee on 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 Mrs. LINCOLN:

H.R. 2706. A bill authorize the Secretary of the Interior to accept from a State donations of services of State employees to perform hunting management functions in a National Wildlife Refuge in a period of Government budgetary shutdown; to the Committee on Resources.

By Mr. MONTGOMERY:

H.R. 2707. A bill to amend the Internal Revenue Code of 1986 to increase the minimum amount of the State ceiling on tax-exempt private activity bonds; to the Committee on Ways and Means.

By Mr. RIGGS:

H.R. 2708. A bill to provide for character development; to the Committee on Economic and Educational Opportunities.

H.R. 2709. A bill to provide for the conveyance of certain land to the Del Norte County Unified School District of Del Norte County, CA; to the Committee on Resources.

H.R. 2710. A bill to provide for the conveyance of certain land in the State of California to the Hoopa Valley Tribe; to the Committee on Resources.

H.R. 2711. A bill to provide for the substitution of timber for the canceled Elkhorn Ridge timber sale; to the Committee on Agriculture, and in addition to the Committee on Resources, 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. RIGGS (for himself, Mr. DOOLITTLE, Mr. POMBO, Mr. TAYLOR of North Carolina, and Mr. RADANOVICH):

H.R. 2712. A bill to promote balance between natural resources, economic development, and job retention in northwest California, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, 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. RIGGS (for himself, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. COX, Mr. TALENT, Mr. STOCKMAN, and Mr. FLANAGAN):

H.R. 2713. A bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to stimulate economic growth in depressed areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, and Banking and Financial Services, 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. SANDERS (for himself, Mr. FRANK of Massachusetts, Mr. MILLER of California, Mr. YATES, Mr. GONZALEZ, Mr. OWENS, Ms. NORTON, Ms. KAPTUR, Mr. LIPINSKI, Mr. STARK, Mr. HINCHEY, Mr. CONYERS, Mr. TRAFICANT, Ms. VELÁZQUEZ, Mr. EVANS, Mr. BROWN of Ohio, Mr. DELLUMS, Mr. BROWN of California, Mr. WATT of North Carolina, Ms. RIVERS, Mrs. MINK of Hawaii, Mr. FILNER, Mr. VENTO, Mr. BONIOR, Ms. MCKINNEY, Mr. SPRATT, Mr. RAHALL, Mr. NADLER, Mr. DEFAZIO, Mr. FATTAH, Mr. HOLDEN, Mr. OLVER, Ms. BROWN of Florida, and Ms. ROYBAL-ALLARD):

H.R. 2714. A bill to require the inclusion of provisions relating to worker rights and environmental standards in any trade agreement entered into under any future trade negotiating authority; to the Committee on Ways and Means.

By Mr. TORKILDSEN (for himself, Mrs. MEYERS of Kansas, Mr. TALENT, Mr. MANZULLO, Mrs. SMITH of Washington, Mr. ZELIFF, Mr. EWING, Mr. JONES, Mr. LOBIONDO, Mr. BARTLETT of Maryland, Mr. MEEHAN, Mr. CHRYSLER, Mr. METCALF, and Mr. RAMSTAD):

H.R. 2715. A bill to amend chapter 35 of title 44, United States Code, popularly known as the Paperwork Reduction Act, to minimize the burden of Federal paperwork demands upon small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and other persons through the sponsorship and use of alternative information technologies; to the Committee on Government Reform and Oversight, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 2716. A bill to extend the provisions of the Chinese Student Protection Act of 1992 to certain aliens who entered the United States without inspection; to the Committee on the Judiciary.

By Mr. HYDE:

H.J. Res. 130. Joint resolution providing for the establishment of a Joint Committee on Intelligence; to the Committee on Rules.

By Mr. SMITH of New Jersey (for himself, Mr. GILMAN, Ms. PELOSI, Mr. WOLF, Mr. SOLOMON, Mr. LANTOS, Mr. COX, Mr. BERMAN, Mr. ROHRABACHER, and Mr. GEJDENSON):

H. Con. Res. 117. Concurrent resolution concerning writer, political philosopher, human rights advocate, and Nobel Peace Prize nominee Wei Jingsheng; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII,

182. The SPEAKER presented a memorial of the Senate of the State of Mississippi, relative to Senate Concurrent Resolution No. 547: a concurrent resolution post-ratifying amendment XIII to the Constitution of the United States prohibiting the practice of slavery within the United States except as punishment for a crime whereof the party shall have been duly convicted; and for related purposes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Miss COLLINS of Michigan:

H.R. 2717. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the Vessel *The Summer Wind;* to the Committee on transportation and Infrastructure.

By Mr. GILLMOR:

H.R. 2718. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Island Star;*

to the Committee on Transportation and Infrastructure.

By Mr. TAYLOR of Mississippi:

H.R. 2719. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Courier Service;* to the Committee on Transportation and Infrastructure.

By Mr. WELDON of Florida:

H.R. 2720. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Water Front Property;* to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Florida:

H.R. 2721. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Broken Promise;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. GOODLATTE.

H.R. 104: Mr. HANCOCK and Mr. HOLDEN.

H.R. 123: Mr. BILIRAKIS.

H.R. 294: Mr. LEWIS of Georgia.

H.R. 357: Mr. LEVIN.

H.R. 359: Mr. MFUME.

H.R. 394: Mr. FRISA and Mr. QUILLEN.

H.R. 528: Mr. GRAHAM, Mr. BARTON of Texas, Mr. TAUZIN, Mr. MCKEON, Mr. KING, Mr. DORNAN, Mr. BUNNING of Kentucky, Mr. TALENT, Mr. DREIER, Mr. SHUSTER, Mr. COYNE, Ms. FURSE, Mrs. LINCOLN, Mr. EVANS, Mr. CRANE, and Ms. NORTON.

H.R. 820: Mr. FRANKS of New Jersey, Mrs. SEASTRAND, and Mr. BISHOP.

H.R. 885: Mr. SOLOMON, Mr. GILMAN, and Mrs. LOWEY.

H.R. 1003: Mr. ANDREWS.

H.R. 1061: Mr. KENNEDY of Rhode Island and Mr. JOHNSTON of Florida.

H.R. 1073: Mr. THORNTON, Ms. BROWN of Florida, and Mr. OBERSTAR.

H.R. 1074: Mr. OBERSTAR.

H.R. 1305: Ms. RIVERS and Mr. OWENS.

H.R. 1656: Mr. WYNN, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. ACKERMAN, Ms. BROWN of Florida, Ms. LOFGREN, and Mr. EVANS.

H.R. 1718: Mr. CLINGER, Mr. FATTAH, Mr. MASCARA, Mr. KLINK, Mr. FOX, Mr. BORSKI, Mr. MURTHA, Mr. MCHALE, Mr. ENGLISH of Pennsylvania, Mr. MCDADE, Mr. HOLDEN, Mr. COYNE, Mr. DOYLE, and Mr. GEKAS.

H.R. 1745: Ms. DUNN of Washington.

H.R. 1776: Mr. TOWNS, Mr. FRAZER, Ms. RIVERS, Mr. RUSH, Ms. BROWN of Florida, and Mr. EVANS.

H.R. 1856: Mr. OLVER, Mr. FOX, Mr. FUNDERBURK, and Mrs. JOHNSON of Connecticut.

H.R. 1883: Mr. PACKARD.

H.R. 1933: Mr. ACKERMAN.

H.R. 1972: Mr. GRAHAM, Mrs. ROUKEMA, and Mr. QUILLEN.

H.R. 1998: Mr. HAYWORTH, Mr. ALLARD, Mr. HEFLEY, Mr. KOLBE, Mr. CHRYSLER, and Mr. MCINNIS.

H.R. 2071: Ms. NORTON.

H.R. 2197: Mr. MARTINI.

H.R. 2200: Mr. STOCKMAN, Mr. MILLER of Florida, Mr. BARRETT of Nebraska, and Mr. MCKEON.

H.R. 2245: Mr. SERRANO, Mr. MCDERMOTT, and Mr. OWENS.

H.R. 2276: Mr. DOYLE and Mr. MASCARA.

H.R. 2323: Mr. GOODLING.

H.R. 2407: Mr. FROST, Mr. MORAN, Ms. ROYBAL-ALLARD, Mrs. KENNELLY, Mr. HINCHEY, Mr. FRANKS of New Jersey, and Mr. MARTINEZ.

H.R. 2433: Mr. SPRATT, Mr. OBERSTAR, Mrs. THURMAN, Mr. EMERSON, Mrs. LOWEY, Mr. FRANKS of New Jersey, Mr. DELLUMS, Ms. ROYBAL-ALLARD, Mr. BROWDER, Mr. KLECZKA, Mrs. MINK of Hawaii, and Mrs. MORELLA.

H.R. 2458: Mr. HOUGHTON, Mr. DURBIN, Ms. KAPTUR, Mr. SOUDER, and Mr. MCHUGH.

H.R. 2473: Mr. DOYLE, Mr. KLINK, and Mr. MASCARA.

H.R. 2508: Mr. MONTGOMERY.

H.R. 2531: Mr. RIGGS, Mr. BEREUTER and Mr. MANZULLO.

H.R. 2551: Mr. LEWIS of Georgia, Mr. SERRANO, Mr. ACKERMAN, and Mr. GIBBONS.

H.R. 2651: Mr. BEVILL, Mr. DEAL of Georgia, Mr. RAHALL, and Mr. LANTOS.

H.R. 2654: Mr. HOLDEN, Mr. JOHNSTON of Florida, Mr. EVANS, Ms. RIVERS, Ms. JACKSON-LEE, Ms. MCKINNEY, Mr. ACKERMAN, and Ms. DELAURO.

H.R. 2664: Mr. ACKERMAN, Mr. FATTAH, Ms. LOFGREN, Mr. MANZULLO, Mr. SAM JOHNSON, Mr. REED, Mr. PACKARD, Mr. SCHIFF, Mr. CLEMENT, Mr. BROWNBACK, Mrs. LINCOLN, Mr. JOHNSTON of Florida, and Mr. GREENWOOD.

H.R. 2676: Mr. COOLEY and Mr. COMBEST.

H.R. 2682: Mr. MCNULTY, Mr. HOUGHTON, Mrs. KELLY and Mr. SERRANO.

H.J. Res. 89: Mr. SMITH of New Jersey.

H.J. Res. 127: Mr. BARTLETT of Maryland and Mr. BILIRAKIS.

H. Con. Res. 63: Mr. TALENT, Mr. TORKILDSEN, Mr. SMITH of New Jersey, and Mr. STOCKMAN.

H. Con. Res. 100: Mr. LUCAS, Mr. SHAW, Mr. HALL of Texas, Mr. CLINGER, Mr. SKEEN, Mr. BARTON of Texas, Mr. BATEMAN, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. CALLAHAN, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. HANSEN, Mr. CRAMER, Mr. DORNAN, Mrs. KELLY, Mr. KIM, Mr. KINGSTON, Mr. KLUG, Mr. MCHUGH, Mr. MANZULLO, Mrs. MYRICK, Mr. NORWOOD, Mr. PAYNE of Virginia, Mr. POMBO, Mr. RADANOVICH, Mr. RICHARDSON, Mr. SANFORD, Mr. SAXTON, Mr. SCHAEFER, Mrs. SEASTRAND, Mr. SISISKY, Mr. STEARNS, Mr. TEJEDA, Mr. THORNBERRY, Mr. TIAHRT, Mr. WHITFIELD, and Mr. WOLF.

H. Res. 285: Mrs. CLAYTON, Mr. TORKILDSEN, Mr. MFUME, Ms. PELOSI, Mr. WATTS of Oklahoma, Mr. WARD, Mr. FATTAH, Mr. FROST, Mr. BACHUS, Mr. VENTO, Mr. BALDACCI, Mr. PETERSON of Minnesota, Mr. FARR, Mr. EVERETT, Ms. LOFGREN, Mr. UNDERWOOD, Mr. FRANK of Massachusetts, Mr. FILNER, Ms. WOOLSEY, Mr. SANDERS, and Mr. CLAY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1710

OFFERED BY: MR. HYDE

AMENDMENT NO. 1: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Antiterrorism Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

''Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.''.

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder''.

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§ 2339B. Providing material support to terrorist organizations

''(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows or should have known is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

''2339B. Providing material support to terrorist organizations.''.

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§ 2339A. Providing material support to terrorists

''(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, 2332a, or 2332b of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both.

''(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.''.

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§ 2332b. Acts of terrorism transcending national boundaries

''(a) PROHIBITED ACTS.—

''(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

''(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

''(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

''(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

''(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

''(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

''(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

''(3) the victim, or intended victim, is the United States Government, a member of the

uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

''(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

''(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

''(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

''(c) PENALTIES.—

''(1) Whoever violates this section shall be punished—

''(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

''(B) for kidnapping, by imprisonment for any term of years or for life;

''(C) for maiming, by imprisonment for not more than 35 years;

''(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

''(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

''(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

''(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

''(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

''(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

''(e) PROOF REQUIREMENTS.—

''(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

''(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

''(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

''(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

''(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

''(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

''(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

''(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

''(5) the term 'Federal crime of terrorism' means an offense that—

''(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

''(B) is a violation of—

''(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

''(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

''(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

''(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

''2332b. Acts of terrorism transcending national boundaries.''.

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking ''any offense'' and inserting ''any non-capital offense'';

(2) striking ''36'' and inserting ''37'';

(3) striking ''2331'' and inserting ''2332'';

(4) striking ''2339'' and inserting ''2332a''; and

(5) inserting ''2332b (acts of terrorism transcending national boundaries),'' after ''(use of weapons of mass destruction),''.

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting '', 956(a), or 2332b'' after ''section 924(c)''.

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking ''In addition to any other'' and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

''§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

''(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

''(2) The punishment for an offense under subsection (a)(1) of this section is—

''(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

''(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

''(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.''.

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

''956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.''.

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and later found in the United States'';

(2) so that paragraph (2) reads as follows:

''(2) There is jurisdiction over the offense in paragraph (1) if—

''(A) a national of the United States was aboard the aircraft;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.''; and

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

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking '', if the offender is later found in the United States,''; and

(2) by inserting at the end the following the following: ''There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.''.

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

''(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting '''national of the United States','' before ''and''; and

(2) in subsection (e), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting '''national of the United States','' before ''and''; and

(2) in subsection (d), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''; and

(2) by adding at the end the following: ''For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' before ''the offender is later found in the United States''; and

(2) by inserting ''; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))'' after ''the offender is later found in the United States''.

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by adding the following at the end:

''(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''AGAINST A NATIONAL OR WITHIN THE UNITED STATES'' after ''OFFENSE'';

(B) by inserting '', without lawful authority'' after ''A person who'';

(C) by inserting ''threatens,'' before ''attempts or conspires to use, a weapon of mass destruction''; and

(D) by inserting ''and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce'' before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking ''section 921'' and inserting ''section 921(a)(4) (other than subparagraphs (B) and (C))'';

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

''(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;'';

(4) by redesignating subsection (b) as subsection (c); and

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

''(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.''.

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking ''or extortion;'' and inserting ''extortion, murder, or destruction of property by means of explosive or fire;''.

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after ''an offense under'' the following: ''section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),'';

(2) by inserting after ''section 215 (relating to commissions or gifts for procuring loans),'' the following: ''section 351 (relating to Congressional or Cabinet officer assassination),'';

(3) by inserting after ''section 793, 794, or 798 (relating to espionage),'' the following: ''section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),'';

(4) by inserting after ''section 875 (relating to interstate communications),'' the following: ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'';

(5) by inserting after ''1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'' the following: ''section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),'';

(6) by inserting after ''section 1203 (relating to hostage taking),'' the following: ''section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),'';

(7) by inserting after ''section 1708 (theft from the mail),'' the following: ''section 1751 (relating to Presidential assassination),'';

(8) by inserting after ''2114 (relating to bank and postal robbery and theft),'' the following: ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),''; and

(9) by striking ''of this title'' and inserting the following: ''section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code''.

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking ''commerce,'' and inserting ''interstate or foreign commerce, or in or affecting interstate or foreign commerce,''.

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''and the activity is not prohibited as a crime by the State in which the activity takes place''; and

(2) in clause (iii), by striking ''the activity takes place on a ship flying the flag of a foreign country or outside the United States,''.

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

''(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having

reasonable cause to believe that the explosive materials were stolen.''.

SEC. 112. STUDY TO DETERMINE STANDARDS FOR DETERMINING WHAT AMMUNITION IS CAPABLE OF PENETRATING POLICE BODY ARMOR.

The National Institute of Justice is directed to perform a study of, and to recommend to Congress, a methodology for determining what ammunition, designed for handguns, is capable of penetrating police body armor. Not later than 6 months after the date of the enactment of this Act, the National Institute of Justice shall report to Congress the results of such study and such recommendations.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

''(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

''(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

''(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

''(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.''.

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking ''fined under this title or imprisoned not more than five years, or both'' and inserting ''imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both''.

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3295. Arson offenses

''No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.''.

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3295. Arson offenses.''.

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting ''or conspires'' after ''attempts''.

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking ''or attempted kidnapping'' both places it appears and inserting '', attempted kidnapping, or conspiracy to kidnap''.

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking ''or attempted murder'' and inserting '', attempted murder, or conspiracy to murder''.

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking ''and 1113'' and inserting '', 1113, and 1117''.

(4) Section 175(a) of title 18, United States Code, is amended by inserting ''or conspires to do so,'' after ''any organization to do so,''.

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting ''or conspiring'' after ''attempting''.

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting ''or conspiring to commit'' after ''committing''.

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended—

(1) by inserting ''or having reasonable cause to believe'' after ''knowing''; and

(2) by striking ''imprisoned not more than 10 years, fined in accordance with this title, or both.'' and inserting ''subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.''.

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.''.

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) APPLICATION.—Section 3122(b)(2) of title 18, United States Code, is amended by inserting ''or foreign counterintelligence'' after ''criminal''.

(b) ORDER.—

(1) Section 3123(a) of title 18, United States Code, is amended by inserting ''or foreign counterintelligence'' after ''criminal''.

(2) Section 3123(b)(1) of title 18, United States Code, is amended in subparagraph (B), by striking ''criminal''.

SEC. 302. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following:

''SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

''(a) IDENTITY OF FINANCIAL INSTITUTIONS.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing a consumer reporting agency to furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency. The court or magistrate judge shall issue the order if the court or magistrate judge finds, that—

''(A) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

''(B) there are specific and articulable facts giving reason to believe that the consumer—

''(i) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

''(ii) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(b) IDENTIFYING INFORMATION.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge shall issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing a consumer reporting agency to furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the court or magistrate judge finds, that—

''(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

''(B) there is information giving reason to believe that the consumer has been, or is, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—(1) Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be

no lower than Assistant Special Agent in Charge), a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, after the court or magistrate finds, in a proceeding in camera, that—

''(A) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

''(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

''(i) is an agent of a foreign power; and

''(ii) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(d) CONFIDENTIALITY.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c).

''(2) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

''(e) PAYMENT OF FEES.—The Federal Bureau of Investigation is authorized, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

''(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except—

''(1) to the Department of Justice or any other law enforcement agency, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

''(2) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

''(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

''(h) REPORTS TO CONGRESS.—On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

''(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to any person harmed by the violation in an amount equal to the sum of—

''(1) $100, without regard to the volume of consumer reports, records, or information involved;

''(2) any actual damages sustained by the person harmed as a result of the disclosure;

''(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

''(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

''(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

''(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State notwithstanding.

''(l) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following new item:

''624. Disclosures to the Federal Bureau of Investigation for foreign counterintelligence purposes.''.

SEC. 303. DISCLOSURE OF BUSINESS RECORDS HELD BY THIRD PARTIES IN FOREIGN COUNTERINTELLIGENCE CASES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 121 the following:

''CHAPTER 122—ACCESS TO CERTAIN RECORDS

''Sec.

''2720. Disclosure of business records held by third parties in foreign counterintelligence cases.

''§ 2720. Disclosure of business records held by third parties in foreign counterintelligence cases

''(a)(1) A court or magistrate judge may issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to furnish any records in its possession to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the court or magistrate judge finds that—

''(A) such records are necessary for counter-terrorism or foreign counterintelligence purposes; and

''(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is—

''(i) a foreign power; or

''(ii) an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(b) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or any officer, employee, or agent of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, shall disclose to any person, other than those officers, agents, or employees of the common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under this section.

''(c)(1) The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside the Federal Bureau of Investigation, except—

''(A) to the Department of Justice or any other law enforcement agency, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

''(B) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

''(2) Any agency or department of the United States obtaining or disclosing any information in violation of this paragraph shall be liable to any person harmed by the violation in an amount equal to the sum of—

''(A) $100 without regard to the volume of information involved;

''(B) any actual damages sustained by the person harmed as a result of the violation;

''(C) if the violation is willful or intentional, such punitive damages as a court may allow; and

''(D) in the case of any successful action to enforce liability under this paragraph, the costs of the action, together with reasonable attorney fees, as determined by the court.

''(d) If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

''(e) As used in this section—

''(1) the term 'common carrier' means a locomotive, rail carrier, bus carrying passengers, water common carrier, air common carrier, or private commercial interstate

carrier for the delivery of packages and other objects;

''(2) the term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests;

''(3) the term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof; and

''(4) the term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use, to the public or any segment thereof.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 121 the following new item:

''122. Access to certain records ..... 2720''.

SEC. 304. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 305. APPLICATION OF STATUTORY EXCLUSIONARY RULE CONCERNING INTERCEPTED WIRE OR ORAL COMMUNICATIONS.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: ''This section shall not apply to the disclosure by the United States in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, if any law enforcement officers who intercepted the communication or gathered the evidence derived therefrom acted with the reasonably objective belief that their actions were in compliance with this chapter.''.

SEC. 306. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF ''ELECTRONIC COMMUNICATION''.—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by inserting ''or'' at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

''(D) information stored in a communications system used for the electronic storage and transfer of funds;''

(b) DEFINITION OF ''READILY ACCESSIBLE TO THE GENERAL PUBLIC''.—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting ''or'' at the end of subparagraph (D);

(2) by striking ''or'' at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 307. ACCESS TO TELEPHONE BILLING RECORDS.

(a) SECTION 2709.—Section 2709(b) of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by inserting ''local and long distance'' before ''toll billing records'';

(2) by striking ''and'' at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(4) by adding at the end a new paragraph (3), as follows:

''(3) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director or the Director's designee (in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized international terrorism investigation (as defined in section 2331 of this title).''.

(b) SECTION 2703.—Section 2703(c)(1)(C) of title 18, United States Code, is amended by inserting ''local and long distance'' before ''telephone toll billing records''.

(c) CIVIL REMEDY.—Section 2707 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''customer'' and inserting ''any other person'';

(2) in subsection (c), inserting before the period at the end the following: '', and if the violation is willful or intentional, such punitive damages as the court may allow, and, in the case of any successful action to enforce liability under this section, the costs of the action, together with reasonable attorney fees, as determined by the court''; and

(3) by adding at the end the following:

''(f) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.''.

SEC. 308. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

''(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.''.

SEC. 309. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting ''(not including any intermediate Saturday, Sunday, or legal holiday)'' after ''five days'' and after ''three days''.

SEC. 310. REWARD AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking sections 3059 through 3059A and inserting the following:

''§ 3059. Reward authority of the Attorney General

''(a) The Attorney General may pay rewards and receive from any department or agency, funds for the payment of rewards under this section, to any individual who provides any information unknown to the Government leading to the arrest or prosecution of any individual for Federal felony offenses.

''(b) If the reward exceeds $100,000, the Attorney General shall give notice of that fact to the Senate and the House of Representatives not later than 30 days before authorizing the payment of the reward.

''(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the amount of any reward authorized shall not be subject to judicial review.

''(d) If the Attorney General determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as the Attorney General deems necessary to effect such protection.

''(e) No officer or employee of any governmental entity may receive a reward under this section for conduct in performance of his or her official duties.

''(f) Any individual (and the immediate family of such individual) who furnishes information which would justify a reward under this section or a reward by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program under chapter 224 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the items relating to section 3059 and 3059A and inserting the following new item:

''3059. Reward authority of the Attorney General.''.

(c) CONFORMING AMENDMENT.—Section 1751 of title 18, United States Code, is amended by striking subsection (g).

SEC. 311. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 312. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''nuclear material'' each place it appears and inserting ''nuclear material or nuclear byproduct material'';

(2) in subsection (a)(1)(A), by inserting ''or the environment'' after ''property'';

(3) so that subsection (a)(1)(B) reads as follows:

''(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;'';

(4) in subsection (a)(6), by inserting ''or the environment'' after ''property'';

(5) so that subsection (c)(2) reads as follows:

''(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;'';

(6) in subsection (c)(3), by striking ''at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and'';

(7) by striking ''or'' at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking ''nuclear material for peaceful purposes'' and inserting ''nuclear material or nuclear byproduct material'';

(9) by striking the period at the end of subsection (c)(4) and inserting ''; or'';

(10) by adding at the end of subsection (c) the following:

''(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.'';

(11) in subsection (f)(1)(A), by striking ''with an isotopic concentration not in excess of 80 percent plutonium 238'';

(12) in subsection (f)(1)(C) by inserting ''enriched uranium, defined as'' before ''uranium'';

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

''(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;'';

(15) by striking ''and'' at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

''(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.''.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

''(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

''(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

''(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

''(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

''(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

''(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

''(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

''(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.''.

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

''(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

''(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

''(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

''(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

''(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

''(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.''.

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

''(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''(l), (m), (n), or (o) of section 842 and subsections'' after ''subsections'';

(2) in subsection (a)(1), by inserting ''and which pertains to safety'' before the semicolon; and

(3) by adding at the end the following:

''(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

''(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

''(A) research, development, or testing of new or modified explosive materials;

''(B) training in explosives detection or development or testing of explosives detection equipment; or

''(C) forensic science purposes; or

''(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.''.

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

''Sec. 507. Appeals.
''Sec. 508. Detention and custody.'';

and

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

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

''DEFINITIONS

''SEC. 501. In this title:

''(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

''(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

''(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

''(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

''(5) The term 'special removal court' means the court established under section 502(a).

''(6) The term 'special removal hearing' means a hearing under section 505.

''(7) The term 'special removal proceeding' means a proceeding under this title.

''ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

''SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

''(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

''(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

''(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

''(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The special removal court shall provide for the designation of a panel of attorneys each of whom—

''(1) has a security clearance which affords the attorney access to classified information, and

''(2) has agreed to represent permanent resident aliens with respect to classified information under sections 506 and 507(c)(2)(B) in accordance with (and subject to the penalties under) this title.

''APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

''SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing with the special removal court of a written application described in subsection (b) that seeks an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

''(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

''(1) The identity of the Department of Justice attorney making the application.

''(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

''(3) The identity of the alien for whom authorization for the special removal proceeding is sought.

''(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

''(A) the alien is an alien terrorist and is physically present in the United States, and

''(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States.

''(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

''(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

''CONSIDERATION OF APPLICATION

''SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

''(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

''(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

''(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States.

''(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

''(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

''(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

''(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

''SPECIAL REMOVAL HEARINGS

''SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

''(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

''(c) RIGHTS IN HEARING.—

''(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

''(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

''(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

''(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

''(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

''(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (e).

''(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

''(A) Asylum under section 208.

''(B) Withholding of deportation under section 243(h).

''(C) Suspension of deportation under section 244(a) or 244(e).

''(D) Adjustment of status under section 245.

''(E) Registry under section 249.

''(d) SUBPOENAS.—

''(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

''(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially

unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

''(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

''(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

''(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

''(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

''(1) IN GENERAL.—Classified information that has been summarized pursuant to section 506(b) and classified information for which findings described in section 506(b)(4)(B) have been made and for which no summary is provided shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary (if any) provided pursuant to such section. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and after coordination with the originating agency, elect to introduce such evidence in open session.

''(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

''(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceeding the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

''(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

''(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

''(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

''(f) INCLUSION OF CERTAIN EVIDENCE.—The Federal Rules of Evidence shall not apply to hearings under this section. Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under section 504 used to obtain the order for the hearing under this section.

''(g) ARGUMENTS.—Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

''(h) BURDEN OF PROOF.—In the hearing the Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

''(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

''CONSIDERATION OF CLASSIFIED INFORMATION

''SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

''(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

''(1) PREPARATION.—The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security.

''(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

''(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

''(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

''(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

''(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

''(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

''(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

''(i) the continued presence of the alien in the United States, and

''(ii) the provision of the required summary,

would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

''(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

''(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

''(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

''(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

''(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney (as defined in section 501(4)), (and the alien facing deportation under these procedures, may choose which special attorney shall be so designated, if the alien makes that choice not later than 45 days after the date on which the alien receives notice that the Government intends to use such procedures) to assist the alien and the court—

''(A) by reviewing in camera the classified information on behalf of the alien, and

''(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

''(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

''(A) shall not disclosure the information to the alien or to any other attorney representing the alien, and

''(B) who discloses such information in violation of subparagraph (A) shall be subject to a fine under title 18, United States Code, and imprisoned for not less than 10 years nor more than 25 years.

''APPEALS

''SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

''(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

''(1) any determination by the judge pursuant to section 506(a)—

''(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

''(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

''(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

''(c) APPEALS OF DECISION IN HEARING.—

''(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

''(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

''(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

''(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

''(d) GENERAL PROVISIONS RELATING TO APPEALS.—

''(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

''(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

''(A) the entire record shall be transmitted to the Court of Appeals, and

''(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

''(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

''(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

''(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

''(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

''(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

''(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

''(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

''(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

''(f) APPEALS OF DETENTION ORDERS.—

''(1) IN GENERAL.— The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

''(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

''(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

''(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

''DETENTION AND CUSTODY

''SEC. 508. (a) INITIAL CUSTODY.—

''(1) UPON FILING APPLICATION.—Subject to paragraphs (2) and (3), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

''(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

''(A) the alien, if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee, and

''(B) the alien's release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

''(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

''(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

''(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

''(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

''(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

''(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

''(c) CUSTODY AND RELEASE AFTER HEARING.—

''(1) RELEASE.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

''(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

''(2) CUSTODY AND REMOVAL.—

''(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

''(B) REMOVAL.—

''(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

''(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

''(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

''(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

''(d) CONTINUED DETENTION PENDING TRIAL.—

''(1) DELAY IN REMOVAL.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

''(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

''(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of

confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

''(e) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of section 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

''(f) RIGHTS OF ALIENS IN CUSTODY.—

''(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

''(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.''.

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: ''Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.''.

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking ''or'' at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ''; or'', and

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

''(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.''.

(d) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of such Act (8 U.S.C. 1105a(a)) is amended—

(1) by adding ''and'' at the end of paragraph (8),

(2) by striking ''; and'' at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SEC. 602. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND FOR EXCLUSION.

(a) IN GENERAL.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (I),

(B) in subclause (II), by inserting ''engaged in or'' after ''believe,'', and

(C) by inserting after subclause (II) the following:

''(III) is a representative of a terrorist organization, or

''(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,''; and

(2) by adding at the end the following:

''(iv) TERRORIST ORGANIZATION DEFINED.—

''(I) DESIGNATION.—For purposes of this Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

''(II) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

''(III) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

''(IV) CONGRESSIONAL AUTHORITY TO REMOVE DESIGNATION.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

''(V) SUNSET.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this clause for designation of the organization.

''(VI) OTHER AUTHORITY TO REMOVE DESIGNATION.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

''(v) REPRESENTATIVE DEFINED.—In this subparagraph, the term 'representative' includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity. The determination by the Secretary of State or the Attorney General that an alien is a representative of a terrorist organization shall be subject to judicial review.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 612. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: ''The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 613. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking ''section 241(a)(4)(D)'' and inserting ''subparagraph (B) or (D) of section 241(a)(4)''.

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting ''under section 241(a)(4)(B) or'' after ''who is deportable''.

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or'' before ''(5)'', and

(2) by inserting before the period at the end the following: '', or (6) an alien who is deportable under section 241(a)(4)(B)''.

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting ''and is not deportable under section 241(a)(4)(B)'' after ''ineligible to citizenship''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

''(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

''(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

''(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

''(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

''(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

''(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

''(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

''(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

''(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

''(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

''(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

''(i) has had professional training in country conditions, asylum law, and interview techniques; and

''(ii) is supervised by an officer who meets the condition in clause (i).

''(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

''(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

''(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

''(B) The provisions of subparagraph (A) shall not apply—

''(i) to an alien crewman,

''(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

''(iii) if the conditions described in section 273(d) exist.

''(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.''.

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''Deportation'' and inserting ''Subject to section 235(b)(1), deportation'', and

(2) in the first sentence of paragraph (2), by striking ''If'' and inserting ''Subject to section 235(b)(1), if''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

''JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION''; and

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

''(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

''(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

''(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

''(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

''(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

''(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

''(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.''.

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

''(d) In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.''.

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

''Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.''.

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

''(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting ''(i)'' after ''except that the Attorney General'', and

(2) by inserting after ''title 13, United States Code'' the following: ''and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

''(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

''(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant''.

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting '', except as allowed by a court order issued pursuant to paragraph (6)'' after ''consent of the alien'', and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

''Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of

the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.''.

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

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

''(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).''.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

''(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation.''; and

(2) in subsection (b)(1)(B), by inserting ''or (a)(6)'' after ''(a)(2)''.

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting ''1028, 1541, 1542, 1543, 1544, 1546,'' before ''1956''.

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking ''For purposes'' and inserting ''(A) Except as provided in subparagraph (B), for purposes'', and

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

''(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the ''Criminal Alien Deportation Improvements Act of 1995''.

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting '', or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),'' after ''corrupt organizations)'';

(2) in subparagraph (K)—

(A) by striking ''or'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or'';

(3) by amending subparagraph (N) to read as follows:

''(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;'';

(4) by amending subparagraph (O) to read as follows:

''(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;''

(5) in subparagraph (P), by striking ''15 years'' and inserting ''5 years'', and by striking ''and'' at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

''(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;''; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

''(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

''(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

''(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (A) and inserting ''or'', and

(B) by amending subparagraph (B) to read as follows:

''(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.'';

(2) in paragraph (3), by striking ''30 calendar days'' and inserting ''14 calendar days'';

(3) in paragraph (4)(B), by striking ''proccedings'' and inserting ''proceedings'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

''(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

''(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;''.

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

''(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.''.

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

''(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.''.

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

''(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking ''has served for such felony or felonies'' and all that follows through the period and inserting ''has

been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.''.

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

''(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

''(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

''(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

''(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.''.

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain,'' before ''section 1029'';

(2) by inserting ''section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery),'' after ''section 1513 (relating to retaliating against a witness, victim, or an informant),'';

(3) by striking ''or'' before ''(E)''; and

(4) by inserting before the period at the end the following: '', or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain''.

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

''(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or''.

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

''(II) is convicted of a crime for which a sentence of one year or longer may be imposed,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. PAYMENTS TO POLITICAL SUBDIVISIONS FOR COSTS OF INCARCERATING ILLEGAL ALIENS.

Amounts appropriated to carry out section 501 of the Immigration Reform and Control Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

SEC. 671. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: ''; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien''.

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: ''Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.''.

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking ''and nothing in'' and all that follows through ''1252(i))''.

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 672. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 673. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the ''Treaty'') to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 674. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of

this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 675. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 676. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 677. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

''(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

''(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

''(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

''(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

''(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).''.

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

''(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.''.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting ''crimes involving terrorism,'' before ''driving while intoxicated''; and

(2) by inserting a comma after ''driving while intoxicated''.

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting ''are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or'' before ''are States not having''.

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; or''; and

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

''(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

''(A) an action under this paragraph shall not be instituted unless the claimant first affords the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

''(B) an action under this paragraph shall not be maintained unless the act upon which the claim is based occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act); and

''(C) the court shall decline to hear a claim under this paragraph if the foreign state against whom the claim has been brought establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process.''; and

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

''(e) For purposes of paragraph (7) of subsection (a)—

''(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

''(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

''(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.''.

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting '', or''; and

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

''(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.''.

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking ''or (5)'' and inserting ''(5), or (7)''; and

(B) by striking ''used for the activity'' and inserting ''involved in the act''.

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law'' and inserting ''shall order''; and

(ii) by adding at the end the following: ''The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.'';

(B) by adding at the end the following:

''(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

''(A) the criminal episode during which the offense occurred; or

''(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.'';

(2) in subsection (b)(1)(B) by striking ''impractical'' and inserting ''impracticable'';

(3) in subsection (b)(2) by inserting ''emotional or'' after ''resulting in'';

(4) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (4);

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

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

''(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and'';

(5) in subsection (c) by striking ''If the court decides to order restitution under this section, the'' and inserting ''The'';

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

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

''(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

''(A) the economic circumstances of the offender; or

''(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

''(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

''(A) the financial resources and other assets of the offender;

''(B) projected earnings and other income of the offender; and

''(C) any financial obligations of the offender, including obligations to dependents.

''(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

''(4) An in-kind payment described in paragraph (3) may be in the form of—

''(A) return of property;

''(B) replacement of property; or

''(C) services rendered to the victim or to a person or organization other than the victim.

''(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

''(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

''(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

''(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

''(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

''(A) any Federal civil proceeding; and

''(B) any State civil proceeding, to the extent provided by the law of the State.

''(h) A restitution order shall provide that—

''(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

''(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

''(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

''(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

''(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

''(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

''(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

''(k) An order of restitution may be enforced—

''(1) by the United States—

''(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

''(B) in the same manner as a judgment in a civil action; and

''(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

''(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.''.

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

''(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.''; and

(4) by adding at the end thereof the following new subsection:

''(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.''.

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

''(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

''(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

''(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

''(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.''.

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

''(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

''(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

''(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

''Rule 22. Habeas corpus and section 2255 proceedings

''(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.''.

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

''(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on—

''(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.''; and

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

''(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.''.

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

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

''A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

''Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

''(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

''(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.''.

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting '', except as provided in section 2255.''.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

''(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

''(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

''(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

''(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

''(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

''(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

''(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

''(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.''.

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

''CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

''§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

''(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

''(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

''(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

''(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

''(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

''(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

''(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

''(b) A stay of execution granted pursuant to subsection (a) shall expire if—

''(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

''(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

''(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

''(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

''§ 2263. Filing of habeas corpus application; time requirements; tolling rules

''(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

''(b) The time requirements established by subsection (a) shall be tolled—

''(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

''(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

''(3) during an additional period not to exceed 30 days, if—

''(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

''(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

''§ 2264. Scope of Federal review; district court adjudications

''(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

''(1) the result of State action in violation of the Constitution or laws of the United States;

''(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

''(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

''§ 2265. Application to State unitary review procedure

''(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

''§ 2266. Limitation periods for determining applications and motions

''(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

''(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

''(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

''(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

''(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

''(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

''(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

''(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

''(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

''(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

''(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

''(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

''(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

''(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

''(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

''(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.''.

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

''154. Special habeas corpus procedures in capital cases ..... 2261''.

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

''(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.''.

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

United States
of America

Congressional Record

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

Vol. 141 WASHINGTON, TUESDAY, DECEMBER 5, 1995 *No. 192*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, Dr. Lloyd John Ogilvie.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, thank You for Your love that never gives up on us. Help us discover the power of resting in You and receiving assurance and encouragement of Your amazing grace. Here we are at the beginning of another day. You know our needs and are prepared to meet those needs with exactly the right gift of Your spirit. You are present, impinging with inspiration to lift our spirits; hovering with hope to press us on. All through this day there will be magnificent moments when we overcome the temptation of trying to make it on our own strength, and instead, yield to the inflow of your wisdom, insight, vision, and guidance. Our souls are meant to be containers and transmitters of Your power. We thank You in advance for a stunning day in which we are blessed by being carried by Your presence rather than being bogged down by trying to carry our problems. In the Lord's name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The able Senator from New York is recognized.

SCHEDULE

Mr. D'AMATO. Mr. President, we will consider the conference report, as was indicated, to H.R. 1058, the securities litigation bill. There is an 8-hour time limitation on the conference report.

We will recess from 12:30 to 2:15 for the weekly policy conference meetings.

Following the securities litigation, we will resume consideration of H.R. 1833, the partial-birth abortions bill. Rollcall votes, therefore, will be expected during today's session.

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995—CONFERENCE REPORT

Mr. D'AMATO. Mr. President, I submit a report of the committee of conference on H.R. 1058 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FRIST). 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. 1058) to reform Federal securities litigation, 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 a majority 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 November 28, 1995.)

Mr. D'AMATO. Mr. President, today, the Senate will vote on the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995.

This legislation has been 4 years in the making. It is a thoughtful and carefully crafted bill. The provisions in the conference report are balanced to make the legal system fairer and better for investors. The current system does not protect investors, it exploits them. Now, the system is not fair to investors and is not fair to American business. Plaintiffs' lawyers know that and take advantage. It is time to reform the securities class action litigation from a moneymaking enterprise for lawyers into a better means of recovery for investors.

The present system is a feeding frenzy for plaintiffs' lawyers who prey on companies with volatile stock prices, eat up the companies' profits with a strike suit and move on to the next victim. Lawyers are now able to file a baseless securities class action lawsuit against a company, claiming millions of dollars in damages, and coerce huge settlements. About 300 securities class action lawsuits are filed each year. The same lawyers, and in some cases the same plaintiffs, the world's unluckiest investors, show up in these lawsuits time after time.

Frequently, the same complaint comes out of a word processor barely changed. In one infamous case, a lawsuit against Philip Morris claimed fraud in the ''toy industry.'' In other words, the forms are set, the stock price drops, and bang, the suit is filed with the same plaintiffs hired—in many cases, the plaintiff owns only 10 shares of stock. We have seen some cases where the same plaintiffs appears in as many as 13 lawsuits. They are professional plaintiffs.

A drop in a public company's stock price, a failed product development project, or even adverse market conditions that affect earnings, can trigger one or more securities fraud lawsuits. Many times the complaint simply alleges that management's predictions about the company's future did not come true.

Once discovery begins, plaintiffs' counsel begins a fishing expedition for evidence. One witness told a securities subcommittee that his company produced 1,500 boxes of documents during discovery in this type of case. The discovery ended up costing the company $1.4 million.

The threat of a protracted securities class action lawsuit is powerful. Companies pony up huge settlements rather

than face the time and expense of a class action lawsuit. The lawyers do not just go after the money in the company's pockets, they also name other deep pockets—the company's lawyers, accountants, underwriters and directors—as defendants to assure a hefty settlement will be paid out. The plaintiffs' lawyers are rarely disappointed. Almost 93 percent of the cases settle at an average settlement cost of $8.6 million.

In 1994 alone, companies or their insurers paid out $1.4 billion to settle these cases. The so-called victims of the fraud recover pennies on the dollar and the lawyers pocket the rest. While the lawyer's share is taken out, the class members get about 6 cents on the dollar. Frequently, the only egregious offense is committed when the company's shareholders are forced to pick up the tab.

The conference report reforms the system for securities litigation.

First, the conference report makes it harder to file frivolous complaints and sanctions attorneys who do.

The conference report stops abusive securities litigation before it starts. It will help to weed out frivolous complaints before companies have to start paying enormous legal bills.

The legislation creates a uniform standard for complaints that allege securities fraud. This standard is already the law in New York. It requires a plaintiff plead facts giving rise to a strong inference of the defendant's fraudulent intent.

The conference report also provides a strong disincentive for lawyers to file abusive lawsuits. The legislation does not contain a loser pays provision, which would go too far. Instead, the bill requires courts to make findings about whether an attorney filed a frivolous complaint, motion or responsive pleading and to sanction attorneys who do.

Second, the conference report makes sure that the victims of securities fraud bring the lawsuit—not professional plaintiffs.

The conference report puts control of the lawsuit into the hands of the victims. Right now, there often is no victim, just a professional plaintiff whose name appears in lawsuit after lawsuit.

Professional plaintiffs are paid well for their services, usually in the form of a bounty payment. News accounts report that one individual, a retired lawyer, appeared as lead plaintiff in 300–400 lawsuits. Last year, an Ohio judge refused to permit class certification, noting that the lead defendant had filed 182 class actions in the last 12 years.

The conference report discourages the use of professional plaintiffs by eliminating bonus payments to name plaintiffs and prohibiting referral fees.

The conference report encourages real investors, especially pension funds and other institutional investors, to take control of the lawsuit. It provides that the plaintiff with the largest financial interest in the outcome of the case should be the lead plaintiff.

Third, the conference report allows companies to talk about the future of the company without the threat of a lawsuit.

The conference report will get more information to shareholders about the future prospects of a company. The conference report codifies existing law to provide a safe harbor to companies that make forward-looking statements accompanied by meaningful cautionary statements.

Now, corporate management is afraid to make statements about the future of the company, knowing that incorrect projections will inevitably lead to a lawsuit. One study found that over two-thirds of venture capital firms were reluctant to discuss their performance with analysts or the public because of the threat of litigation.

The conference report includes a safe harbor that fairly balances the need for a free flow of information to the marketplace and the need for investor protection.

The conference report creates a two-pronged safe harbor. The first prong gives safe harbor protection if there is a good enough warning about why the forward-looking statement may not come true.

The safe harbor does not give a license to lie. The second prong does not give safe harbor protection when forward-looking statements are made with actual knowledge that the statement is false or misleading.

The conference report safe harbor does not cover areas where there is potential for abuse. For example, the safe harbor does not cover IPO's, financial statement information, penny stocks or limited partnerships. There is no safe harbor for brokers.

The conference report safe harbor is balanced. The conference committee worked with the SEC to make sure the safe harbor is safe for investors as well as companies. I would like to include in the RECORD as if read in its entirety, a letter from the SEC to me, dated November 16, 1995, supporting the safe harbor provision.

Fourth, the conference report modifies the system of liability so that deep pocket peripheral defendants cannot be coerced into paying more than their share of the damages.

The conference report reduces the coercive effect of unlimited liability by making peripheral defendants liable only for the share of damages they caused. Now, all defendants are on the hook for 100 percent of the damages—even if they are only responsible for 1 percent.

In class action lawsuits with hundreds of plaintiffs, the potential liability can be staggering. Deep pocket defendants who may only be 1 percent liable routinely settle for much more rather than face paying 100 percent of the damages.

The conference report changes that by requiring peripheral defendants to pay for only the share of damages they caused under a system of proportionate liability.

This bill does not leave small investors out in the cold. Small investors are always compensated for 100 percent of their damages if they have a net worth of $200,000 or less.

The conference report does not change the system of liability for defendants who knowingly commit securities violations. Anyone who has knowingly committed a securities violation will still be liable for 100 percent of the damages. That's fair.

Fifth, the conference report improves the settlement process by getting more information to investors about a proposed settlement and restricting the amount attorneys may recover in fees.

The conference report enables the plaintiffs to receive a favorable settlement rather that the attorneys. All too often, plaintiffs' lawyers take the money and run. The legislation requires counsel to the class to inform investors about the terms of a proposed settlement and to be available to answer questions about the settlement.

The conference report also restricts the percentage of the recovery that goes to the lawyers. Lawyers fees now sometimes add up to more than 50 percent of the entire settlement. This legislation puts more of the settlement money into the pockets of investors by limiting the lawyers portion to a reasonable percentage of the settlement amount.

Sixth, the conference report also contains other provisions that make the system for securities litigation reform fairer and better for investors.

The legislation requires auditors to be on the lookout for wrongdoing and report any evidence of fraud to the SEC. The conference report also reinstates the SEC's authority—which the Supreme Court put into question in the Central Bank of Denver case—to bring actions against defendants who knowingly aid and abet securities fraud.

The bill prohibits document destruction by making it unlawful for a party to destroy documents once a complaint is filed. Finally, the bill makes sure that small investors are always compensated for 100 percent of their damages if they have a net worth of $200,000 or less.

In summary, the bill will put a stop to abusive securities litigation. It will curtail the use of professional plaintiffs. It will empower real investors, especially pension funds and other institutional investors, to take control of the lawsuit.

This legislation is aimed at weeding out frivolous cases by making it harder to file factually baseless complaints. It also provides that each defendant is liable for only his or her fair share of the damages, making it more difficult for lawyers to coerce settlements from the deep pocket defendants—that is, the defendant that has some assets or money. At the same time, it will make accountants report fraud to the authorities.

Finally, this bill creates a safe harbor from private lawsuits about forward-looking statements. The legislation will solve the problem of abusive securities litigation without preventing investors from bringing meritorious lawsuits.

I congratulate my Senate colleagues for all the time and effort they have put into this important legislation. I particularly would like to thank Senators DODD and DOMENICI, who introduced this legislation more than 4 years ago.

I thank Senator GRAMM, the chairman of the Securities Subcommittee, for his leadership. And I thank the staff who has worked so hard on this bill. Our staff director, Howard Menell; the Banking Committee staff: Laura Unger, Bob Giuffra, Wayne Abernathy, Mitchell Feuer, and Andrew Lowenthal; Senator DOMENICI's staff: Denise Ramonas and Brian Benczkowski, and the other key staff members, including Robert Cresanti, Dave Berson, Peter Hong, and Carol Grunberg, who have been indispensable to this process.

I also want to thank the SEC, the Security and Exchange Commission, its staff, and the judicial conference, and all the others who have made this piece of legislation successful.

The conference report is balanced. It hits the bullseye of the target, curtailing abusive securities litigation, while allowing investors to bring meritorious lawsuits. Once this bill becomes law, investors will have a system of redress that serves them and not entrepreneurial lawyers.

Mr. President, let me take the time now to indicate that on November 15 I received a letter from the Securities and Exchange Commission, signed by Chairman Levitt, and Steve Wallman, a Commissioner. And let me ask that I be permitted to read the letter into the RECORD.

DEAR MR. CHAIRMAN: As we approach the end of the long road traveled on securities litigation reform, you have asked we provide our views of the current draft of the legislation. At the outset, let us express our appreciation for your willingness to heed the concerns of the Commission regarding the draft conference report October 23, 1995. Together we have sought to achieve the most responsible reform possible.

While the Commission has raised a number of concerns about earlier versions of this legislation, we believe the draft conference report dated November 9th responds to our principal concerns. We understand the need for a greater flow of useful information to investors in the markets and we share your desire to protect companies and their shareholders from the costs of frivolous litigation.

The safe harbor provisions of the draft bill have been of particular interest to us. While we could not support earlier attempts at a safe harbor compromise, the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse. The need of legitimate businesses to have a mechanism for early dismissal of frivolous lawsuits argues in favor of codification of the ''bespeaks caution'' doctrine that has developed under the case law. While the trade-off requires that class action attorneys must have well written and carefully researched pleadings at the outset of the lawsuit, we feel this is necessary to create a viable safe harbor, given that it does not prevent Commission enforcement actions, and excludes the greatest opportunities for harm to investors.

Outside of the safe harbor provisions, we have consistently advocated reversal of Supreme Court decisions of Lampf and Central Bank. It is unfortunate that Congress has not restored these investor protections that were removed by the Supreme Court; however, we recognize that amendments on both subjects were defeated in the course of this legislative effort, thereby making it difficult to include such provisions in the bill. The conference bill raises other minor issues, but the language in the conference report hopefully will prevent any unintended consequences. We remain grateful to you and your staff, as well as the other members and their staffs, for the willingness to engage in a dialogue with us aimed at getting a better deal for all investors.

Thank you for your consideration.

Signed Arthur Levitt, chairman.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, November 15, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As we approach the end of the long road traveled on securities litigation reform, you have asked that we provide our views of the current draft of the legislation. At the outset, let us express our appreciation for your willingness to heed the concerns of the Commission regarding the draft conference report dated October 23, 1995. Together we have sought to achieve the most responsible reform possible.

While the Commission has raised a number of concerns about earlier versions of this legislation, we believe the draft conference report dated November 9th responds to our principal concerns. We understand the need for a greater flow of useful information to investors and the markets and we share your desire to protect companies and their shareholders from the costs of frivolous litigation.

The safe harbor provisions of the draft bills have been of particular interest to us. While we could not support earlier attempts at a safe harbor compromise, the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse. The need of legitimate businesses to have a mechanism for early dismissal of frivolous lawsuits argues in favor of the codification of the ''bespeaks caution'' doctrine that has developed under the case law. While the trade-off requires that class action attorneys must have well written and carefully researched pleadings at the outset of the lawsuit, we feel this is necessary to create a viable safe harbor, given that it does not prevent Commission enforcement actions, and excludes the greatest opportunities for harm to investors.

Outside of the safe harbor provisions, we have consistently advocated reversal of Supreme Court decisions of Lampf and Central Bank. It is unfortunate that Congress has not restored these investor protections that were removed by the Supreme Court; however, we recognize that amendments on both subjects were defeated in the course of this legislative effort, thereby making it difficult to include such provisions in this bill. The conference bill raises other minor issues, but the language in the conference report hopefully will prevent any unintended consequences. We remain grateful to you and your staff, as well as the other members and their staffs, for the willingness to engage in a dialogue with us aimed at getting a better deal for all investors.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT,
Chairman.

STEVEN M.H. WALLMAN,
Commissioner.

Mr. D'AMATO. Mr. President, let me conclude by simply saying that this bill may not be the perfect solution and, indeed, there may be some unintended consequences that create problems. This Senator and, I know, Senator DODD and Senator DOMENICI and all of my colleagues are ready to deal with any problems that may come about.

But let me say this, too. First, in this bill we go after the greatest abuse that is taking place, which is lawyers who do not represent the general public but represent themselves. They have for hire plaintiffs who are not really aggrieved, who own minimal, in some cases as little as 10 shares, of stock. As soon as there is a price variation, these lawyers race to the courthouse so that they can file a claim so they will control the case. There is little regard for the company, little regard for the real aggrieved investors. We have changed that significantly. No longer will there be permitted professional plaintiffs.

Second, for the first time we say that the court shall look at the facts as they relate to the questions: Is there a pension fund? Is there a large investor involved whose interests should be protected? The court will look at these questions as they relate to the lawyer's representation so that we have lawyers, who really represent the aggrieved investors, controlling the case, not a string of professional, sharks, sharks for hire.

Third, we have made it more difficult to bring suits that are aimed at forcing settlements.

Fourth, we answer questions which are long overdue. Should we hold somebody responsible for the total loss, if there is a loss, if they have been minor participants and if they have been responsible for 1 or 2 or 3 or 4 percent of the loss, because they are wealthy or have a member of the board of directors who has deep pockets? Do we want to encourage people to participate in corporate governance, or do we want to discourage it; do we want to make it impossible for large firms to come in and use their expertise because they are afraid of being sued so they say, ''No, I do not want to audit your books; the exposure is too great''?

Do we really want to have a system where people are forced—forced—to

give up and settle a case because if there is even the slightest doubt as it relates to liability, they may be facing huge, huge losses. These companies, therefore, are forced to settle even when they know they have not committed any tortious acts, but the risk of the jury finding any evidence in the way of negligence, even a small, minute amount, might jeopardize the company with huge claims?

So what you literally have is a group of bandits who force companies into settlements of millions and millions of dollars. Is that fair to those companies? Is that fair to the shareholders? I do not think so. What we have said in this conference report is, if you are negligent, if you have committed a tortious act, you should be held responsible for the percentage of losses due to your tortious act, not that the full consequences of somebody else's actions should fall on you simply because you are a person who has some money and some resources. That is wrong. That is not fair.

If you are intentionally defrauding investors? That is a different matter. You will be held. I think this is fair. I think this is reasonable.

I understand that there are some provisions that some of my colleagues have some differences with, but I think overall we have moved forward in a very conscientious manner in the attempt to have a fair and balanced system, so that those who truly have committed tortious actions will be held accountable for their actions, and they will not be held accountable for other people's actions, nor will they be forced to make settlements that are indeed unfair. We have eliminated a terribly unscrupulous practice that I believe is a stain on the legal profession.

I have stood up and I have battled on behalf of litigants and on behalf of the attorneys who represent them, so that they may have a level playing field. But the law as it exists today is not a level playing field. And there have been and there are a handful who have abused the system. We are attempting to deal with those abuses.

I want to thank my colleagues for their participation. I certainly want to thank Senator BENNETT for his job in terms of working with us. I urge my colleagues to vote in favor of the final passage. And I thank the Chair.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Maryland.

Mr. SARBANES. Mr. President, later today the Senate will vote on the final version of the securities litigation bill which has been brought back from conference. Supporters of the bill argue that it is a balanced response to a widespread problem; namely, frivolous securities litigation. What should be clear to all Senators, however, is that this bill is not—is not—a balanced response to that problem.

This legislation will affect far more than frivolous suits. When the arguments are made for the legislation, the examples that are always cited are examples of frivolous suits. And I do not know of any difference in here, that we ought to find ways to get at those and that those are an abuse of the system. But this bill goes way beyond that. This bill will make it more difficult for investors to bring and recover damages in legitimate fraud actions—legitimate fraud actions.

As the editors of Money magazine concluded, this legislation hurts investors. In fact, the December editorial of Money magazine warns, ''Now only Clinton can stop Congress from hurting small investors like you.''

At every stage of the legislative process, this bill has been amended to make it more difficult for investors to bring legitimate suits. As it has moved through the process, provisions favorable to investors have been taken out. Balanced provisions in the legislation have been made harmful to investors. Individual investors, local governments and pension plans all will be hurt by this legislation. All will find it more difficult to bring fraud actions and to recover full damages as a result of the measure now before the Senate. That is why this bill is opposed by a broad coalition of regulators, State and local government officials, labor unions, consumer groups and investor organizations, and by literally dozens and dozens of editorials in major newspapers and magazines across the country.

I want to review just some of the areas in which this negative trend took place in the course of the legislative consideration of this legislation.

First, the statute of limitations. The process of hurting investors began in the Banking Committee when it deleted the extension of the statute of limitations. The bill originally introduced by Senators DOMENICI and DODD, who have had a keen interest in this matter, Senate bill 240, that original bill as introduced by them extended the statute of limitations for security fraud suits—that is, the period of time available to investors to discover that they have been defrauded and to file a claim. This was in fact the one clearly proinvestor provision in that bill introduced by Senators DOMENICI and DODD. It responded to the experts in this area—the Federal and State securities regulators—all of whom agree that the current statute of limitations is too short to protect investors.

For over 40 years, courts held that the statute of limitations for private rights of action under section 10(b) of the Securities Exchange Act of 1934, the principal antifraud provision of the Federal securities laws, was the statute of limitations determined by applicable State law. While these statutes varied from State to State, they generally afforded securities fraud victims sufficient time to discover that they had been defrauded and sufficient time to bring suit.

In 1991, in the Lampf case, the Supreme Court significantly shortened the period of time in which investors may bring securities fraud actions. By a 5-to-4 vote—in other words, a very closely divided Supreme Court—the Court held that the applicable statute of limitations is 1 year after the plaintiff knew of the violation and in no event more than 3 years after the violation occurred. These time periods are shorter than the statute of limitations for private securities actions which existed under the law of 31 of the 50 States.

Regulators have testified unanimously that this shorter period does not allow individual investors adequate time to discover and pursue violations of securities law. Testifying before the Banking Committee in 1991, SEC Chairman Richard Breeden stated, and I quote,

> The timeframes set forth in the [Supreme] Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.

Chairman Breeden pointed out that in many cases, and I quote, ''events only come to light years after the original distribution of securities and the cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse.'' In other words, if the perpetrator of the wrong can conceal it long enough under this very shortened statute of limitations, the victim will have no remedy.

The FDIC and the States securities regulators joined the SEC in favor of overturning the Lampf decision. What happened to this provision that was in the legislation as originally introduced by Senators DOMENICI and DODD? It disappeared when the Banking Committee met to consider this bill. Despite the fact that all the securities regulators recommended it, despite the fact that Senators DOMENICI and DODD had included it in their original bill, despite the fact that the Banking Committee had approved this provision before in 1991, despite the fact that it was the one clearly proinvestor provision in the bill, the provision was dropped.

Let me make clear that the statute of limitations issue has nothing to do with frivolous cases. The current statute of limitations keeps worthy cases from the courthouse. Both Republican SEC chairmen and Democratic SEC chairmen have told us that the statute of limitations imposed by the Supreme Court in 1991 is too short. It allows con artists to perpetrate frauds, and it prevents defrauded investors from seeking restitution.

When the statute of limitations provision disappeared from the bill, the bill moved down the path of being an unbalanced effort. At that point, the bill began to tilt away from individual investors, away from pension funds and county treasurers, in favor of corporate insiders and the attorneys and accountants who advise them.

When the Banking Committee dropped the lengthening of the statute

of limitations provision, it went beyond deterring frivolous lawsuits and began hurting investors.

I want to underscore that because that is the basic point that must be understood about this conference report. Again and again it goes beyond deterring frivolous lawsuits and hurts investors.

Let me turn now to another example of this proposition, that is, the aiding and abetting issue. Failure to include the extension of the statute of limitations removed the balance from this bill and tilted it toward corporate wrongdoers. The Banking Committee could have added some balance to the bill by restoring the ability of investors to sue the accountants and attorneys who aid and abet securities fraud. This was recommended by the SEC, the State securities regulators, and various bar associations. Again, however, the committee hurt investors by leaving this key provision out of the bill.

Prior to 1994, courts in every circuit in the country had recognized the ability of investors to sue aiders and abettors of securities frauds. Most courts required that an investor show that a securities fraud was committed, that the aider and abettor gave substantial assistance to the fraud, and that the aider and abettor intended to deceive investors or behaved recklessly toward the fraud. In other words, the investor had to show that the aider and abettor either intended to deceive the investors or behaved recklessly toward the fraud. Aiding and abetting liability was most often asserted against lawyers, accountants, appraisers, and other professionals whose assistance is often crucial to perpetrating a fraud.

In 1994, in the Central Bank of Denver case, the Supreme Court eliminated the right of investors to sue aiders and abettors of securities fraud. Writing for the four dissenters—this was another 5-to-4 opinion—Justice Stevens criticized the five-member majority for ''reach[ing] out to overturn a most considerable body of precedent.'' While the issue was not directly before the Court, Justice Stevens warned that the decision would also eliminate the SEC's ability to pursue aiders and abettors of securities fraud; in other words, not only a private cause of action, but the SEC's ability as well.

One of the lead sponsors of this legislation, Senator DODD, stated at a Securities Subcommittee hearing in May 1994, and I quote:

> Aiding and abetting liability has been critically important in deterring individuals from assisting possible fraudulent acts by others.

Testifying at that hearing, the Chairman of the SEC stressed the importance of restoring aiding and abetting liability for private investors, and I quote:

> Persons who knowingly or recklessly assist the perpetration of a fraud may be insulated from liability to private parties if they act behind the scenes and do not themselves make statements directly or indirectly that are relied upon by investors. Because this is conduct that should be deterred, Congress should enact legislation to restore aiding and abetting liability in private actions.

The North American Securities Administrators Association, the Association of States Securities Regulators, and the Association of the Bar of the City of New York also endorsed restoration of aiding and abetting liability in private actions.

This bill, unfortunately, restores only the SEC's ability to go after aiders and abettors of violations of the securities laws and then only in part—only in part. The provision in the bill is limited to violations of section 10(b) of the Securities Exchange Act and to defendants who act knowingly. It ignores the recommendation made by the SEC, the States securities regulators and the bar association that aiding and abetting liability be fully restored for the SEC and private litigants as well. By ignoring the needs of individual investors, the committee further tilted this bill toward the corporate insiders and their professional advisers who abuse the investor.

The effort in the Banking Committee, which I have alluded to with respect to the statute of limitation and the aiders and abettors provision, which tilted this bill away from the investor, that effort was continued in the conference committee. Consider what happened in the conference committee to the provision that directly addresses the filing of frivolous cases.

Rule 11 of the Federal Rules of Civil Procedure is the principal sanction against the filing of frivolous lawsuits in the Federal courts. Rule 11 requires all cases filed in the Federal courts to be based on reasonable legal arguments and supported by facts. That is the requirement of rule 11. The case is to be based on reasonable legal arguments and supported by facts.

As passed by the Senate, this bill required the courts to include specific findings in securities class actions regarding compliance by all parties and attorneys with rule 11(b) of the Federal Rules of Civil Procedure. That is the way the Senate passed it. If a court found the violation of rule 11 by either the plaintiff or the defendant, the court was required to impose sanctions. That provision was balanced. The sanctions would have applied equally to plaintiffs and to defendants. It was intended as a deterrent to frivolous cases, and it might well have worked in an efficacious manner.

What happened to this balanced provision, between plaintiffs and defendants, in conference? The balance was removed so that it now applies more harshly to investors than the corporate insiders. The Senate bill had contained a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with rule 11 was an award of reasonable attorneys' fees and other expenses incurred as a direct result of the violation. That was the presumption: An award of reasonable attorneys' fees and other expenses incurred as a direct result of a violation. That applied, in the bill passed by the Senate, both to the plaintiff and to the defendant.

The conference changed this presumption so that it no longer applies equally to plaintiffs and defendants. Under the conference provision now before us, if the defendant substantially violates rule 11, he pays only reasonable attorneys' fees and other expenses incurred as a direct result of the violation; namely, the provision that was in the Senate-passed bill. But now under the conference-reported measure, if the plaintiff substantially violates rule 11, he pays all attorneys' fees incurred in the action, not just those resulting from the violation.

Disparate treatment. The bill, as sent out of the Senate, had balanced treatment with respect to plaintiffs and defendants. Now we have this disparate treatment, and there is no justification for it. Its true purpose, I think, is to scare investors from bringing meritorious fraud suits. When the conference removed the balance from this provision, it was not deterring frivolous lawsuits, it was hurting investors.

The conference further hurt investors by changing the pleading standard provision of the bill. Pleading standard refers to what an investor must show in order to initiate a securities fraud lawsuit. The bill reported by the Senate Banking Committee codified the pleading standard adopted by the U.S. Court of Appeals for the Second Circuit. This standard says investors who seek to file securities fraud cases must ''specifically allege facts giving rise to a strong inference that the defendant acted with a required state of mind.'' This standard, it should be noted, is more stringent than the Federal Rules of Civil Procedure and is the minority view among the circuit courts. Nevertheless, that was the standard adopted by the Banking Committee.

When the bill came to the Senate floor, the Senate adopted an amendment to this provision offered by the distinguished Senator from Pennsylvania, Senator SPECTER. Senator SPECTER's amendment codified into the legislation additional second circuit holdings clarifying the standard they had earlier enunciated. These additional holdings state that a plaintiff may meet the pleading standard by alleging facts showing the defendant had motive and opportunity to commit fraud, or constituting strong circumstantial evidence of state of mind. In other words, the second circuit laid down this standard and then had subsequent opinions that elaborated upon it and developed it, and Senator SPECTER said that if you are going to include the second circuit standard as initially enunciated, you should also include the further holdings by the second circuit clarifying this standard.

This, I think, was the one proinvestor amendment adopted on the Senate

floor. What happened to this amendment in conference? It disappeared. It was dropped from the legislation. This is part of this process that I have been outlining here of now you see it, now you don't. Of course, the person who bears the brunt of that is the investor.

The draft conference report deleted the Specter amendment, leaving investors without the protection of the additional second circuit holdings. Once again, a proinvestor provision that would have provided some balance to the bill was removed.

Let me turn briefly to the proportionate liability provisions of the bill, which reduce the amount of damages that defrauded investors can recover from people who have participated in committing the fraud. This provision is not targeted at frivolous suits and never has been. It affects even legitimate securities fraud suits and, therefore, is harmful to all investors. The conference found a way, though, to tilt the legislation even further away from the investor and toward the corporate insider.

The legislation changes the rule for liability for securities fraud from joint and several liability to proportionate liability. Under the current rule of joint and several liability, all fraud participants are liable for the entire amount of the victim's damages—both fraud participants who intended to mislead investors and fraud participants whose conduct was reckless. The rationale for this in the law, which has been the traditional holding over the years, is that a fraud cannot succeed without the assistance of each participant, so each wrongdoer is held equally liable.

Let me just observe that the recklessness standard for liability is a very demanding standard, and it is one usually applied to a company's professional advisers, such as accountants, attorneys, and underwriters.

The bill limits joint and several liability under the Federal securities law to certain defendants, specifically excluding defendants whose conduct was reckless. The bill, thus, reduces the accountability of accountants and attorneys whose conduct is found to be reckless. This change will hurt investors in cases where the principal framer of the fraud is bankrupt, has fled, or otherwise cannot pay investors damages. In those cases, the innocent victims of fraud will be denied full recovery of their damages.

Unfortunately, this provision became even worse in conference for the investors. The bill passed by the Senate did nothing to disturb liability under the securities law for reckless conduct. The conference, however, added language that could call liability for reckless conduct into question. The language of the conference report could be read as inviting the courts to eliminate all liability for reckless conduct under the securities fraud provisions. The conference further added language that could be read as applying the new proportionate liability rules not just to suits brought under the antifraud provisions of the Securities and Exchange Act of 1934, as under the bill passed by the Senate, but to suits brought under the Securities Act of 1933, as well. So the conference, again, took this bill down the path of reducing protections and remedies for investors and providing an additional sheltered area for those who practice corporate fraud and abuse. In the areas, then, of the statute of limitations, aiding and abetting liability, rule 11 sanctions, pleading standards, and proportional liability, this legislation before us hurts the investor, and it has been made significantly worse by the actions in the conference.

Before I conclude the discussion of the substance of the bill, let me now turn to the so-called safe harbor provision, and I underscore ''so-called.'' This bill creates a statutory exemption from liability for forward-looking statements. Forward-looking statements are broadly defined in the bill to include both oral and written statements. Examples include projections of financial items such as revenues and income for the quarter or for the year, estimates of dividends to be paid to shareholders, and statements of future economic performance, such as sales trends and development of new products. In short, forward-looking statements include precisely the type of information that is important to investors deciding whether to purchase a particular stock.

The SEC currently has a safe harbor regulation for forward-looking statements that protects specified forward-looking statements that were made in documents filed with the SEC. As originally introduced, the bill could have allowed the SEC to continue its effort to conduct a comprehensive review of safe harbor regulations. However, the committee abandoned this approach in favor of enacting a statutory safe harbor.

I am aware of the letter that the chairman read from the SEC about the safe harbor provision, but I remain concerned that the safe harbor provision before us today will, for the first time, provide protection for fraudulent statements under the Federal securities laws. For the first time, fraudulent statements will receive protection under the Federal securities laws.

The American Bar Association wrote the President last week that the safe harbor ''has been transformed not simply into a shelter for the reckless, but for the intentional wrongdoer as well.'' Projections by corporate insiders will be protected no matter how unreasonable, no matter how misleading, no matter how fraudulent, if accompanied by boilerplate, cautionary language.

Let me just take a moment to explain this. It is claimed by its supporters that this draft codified the legal doctrine applied by the courts known as bespeaks caution.

Now, as I understand it, all courts that have applied this doctrine have required that projections be accompanied by disclaimers specifically tailored to the projections. The courts have not accepted boilerplate disclaimers. They have required that the projections be accompanied by disclaimers specifically tailored to the projections. If companies want to immunize their projections, they must alert investors to the specific risks affecting those projections.

The bill before the Senate today does not include this requirement of specific cautionary language to alert investors. The Association of the Bar of the City of New York warned of this provision:

> The proposed statutory language, while superficially appearing to track the concepts and standards of the leading cases in this field, in fact radically departs from them and could immunize artfully packaged and intentional misstatements and omissions of known facts.

That letter was signed for the bar association by Stephen Friedman, a former SEC Commissioner. Under this bill, fraud artists will be able to shield themselves from liability simply by accompanying their fraudulent statements with general cautions that actual results may differ. I predict that this provision will come back to haunt us in the years to come.

Because this bill hurts investors, because it makes it harder for defrauded investors to bring suits, because it makes it harder for defrauded investors to recover losses, dozens and dozens of newspapers around the country have expressed their opposition. From the Bangor Daily News to the Miami Herald, from the Minneapolis Star Tribune to the San Francisco Chronicle, editorial pages have argued this bill is a bad deal for investors and urged a Presidential veto. The headline of the Wisconsin State Journal editorial sums up the argument nicely: ''The Securities Reform Act goes too far.'' I ask unanimous consent to have printed at the end of my remarks some sampling of these editorial comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. SARBANES. A New York Times editorial last week stated:

> The securities bill that Congress is about to pass addresses a nagging problem, frivolous lawsuits by investors against corporations, but in such cavalier fashion that it may end up sheltering some forms of fraud against investors. President Clinton should veto the bill and demand at least two fixes to protect truly defrauded investors.''

Citing the failure to extend the statute of limitations and to restore aiding and abetting liability, the Times warned that ''provisions threaten to shut off valid suits'' and suggested that ''a well-targeted veto might force this bill back on the right track.''

No publication has editorialized more strongly against this bill than Money magazine. For 4 months in a row, Money magazine has devoted editorial columns to this bill. In September 1995, Money magazine warned ''Congress aims at lawyers and ends up shooting

small investors in the back.'' In October, they urged ''Let's stop this Congress from helping crooks cheat investors like you.'' In November, they were hopeful that ''Your 1,000 letters of protest may stop this Congress from jeopardizing investors.'' This month they stated:

. . . the new bill jeopardizes small investors in several ways. . . . The bill helps executives get away with lying. . . . Investors who sue and lose could be forced to pay the winner's court costs. . . . Even accountants who okay fraudulent books will get protection.

Investors around the country agree with Money magazine's analysis that this bill hurts investors and are voicing their opposition. The National Council of Individual Investors, an independent membership organization of individual investors, has written to the President to ''express opposition to the recent draft report,'' saying, ''The draft conference report fails to treat the American investor fairly.''

The labor movement has said, ''This bill tips the scales of justice in favor of the companies and at the expense of stockholders and pension plans.''

The Fraternal Order of Police wrote the President urging him ''to reject a bill which would make it less risky for white collar criminals to steal from police pension funds * * *.''

A coalition of consumer groups, including the Consumer Federation of America, Consumers Union, USPIRG, and Public Citizens also oppose this bill.

But perhaps most telling about this bill is the opposition of hundreds and hundreds of State and local government officials. The National League of Cities, the National Association of Counties, and the Government Finance Officers Association all oppose this legislation.

Keep in mind that State and local investors issue securities—State and local governments raise money through bond issues. As issuers of securities, it is asserted by the supporters of this legislation, they would stand to benefit from the bill. Why, then, do they oppose it? Because they also purchase securities as well. They invest taxpayers' money and retirees' money in securities and sometimes are victimized by unscrupulous brokers.

Orange County, CA, lost over $2 billion in leveraged derivative investments. In my own State of Maryland, Charles County lost nearly $3 million in derivatives. Orange County is currently suing the brokers who sold it these securities. When such scandals occur again, and they will, this bill will make it harder for taxpayers to bring securities fraud actions and recover losses.

Let me quote further from the letter of these government officials who are seeking meaningful remedies in case they are defrauded:

The following are the major concerns State and local government have with the latest ''draft conference report'':

Despite changes in the safe harbor provision relating to forward-looking statements, there are still loopholes in that provision that would allow false predictions to be made and that will shield a company from liability.

Aiders and abettors of fraud would still remain immune from civil liability and would not have to pay back fraud victims for the losses they suffer.

The ''draft conference report'' maintains the short three-year statute of limitations that will allow a wrongdoer who can conceal his fraud to be completely let off the hook.

Eleven State attorneys general wrote to express their opposition. They said, ''If enacted, this legislation would severely curtail our efforts to fight securities fraud and to recover damages for our citizens if any of our State or local funds suffer losses due to fraud.'' They went on to say, ''This is unwise public policy in light of rising securities fraud and substantial losses suffered by States and public institutions from high-risk derivatives investments.'' The American Bar Association and the Association of the Bar of the City of New York oppose this bill as well.

When this measure originally came to the Senate floor, I received a communication from the securities commissioner of the State of Maryland, Robert McDonald. I expect that most Senators received similar letters from their State securities commissioners.

In that letter, Commissioner McDonald opposed the bill, writing:

Our financial markets depend not so much on money as on public confidence. The confidence that investors have in the American financial marketplace will be shattered if they believe that they have little recourse against those who have committed securities fraud.

Now, the managers of this bill in their conference report state at the outset,

The overriding purpose of our Nation's securities laws is to protect investors and to maintain confidence in the securities markets, so that our national savings, capital formation, and investment may grow for the benefit of all Americans.

So, they pick up the first part of Commissioner McDonald's statement about ''our financial markets depend not so much on money as on public confidence,'' but the supporters of this bill ignore the second part of Commissioner McDonald's warning that the confidence of investors will be shattered ''if they believe they have little recourse against those who have [committed] securities fraud.''

The editors of Money magazine wrote, ''this bill will undermine the public's confidence in our financial markets. And without that confidence, this country is nowhere.''

By making it harder for investors to bring legitimate securities fraud suits, by reducing investors' recoveries when they win securities fraud suits, by consistently hurting investors and helping corporate insiders and their accountants and attorneys—in other words, by going way beyond anything necessary to deal with the frivolous lawsuits—this bill will end up rewarding con artists and punishing America's individual investors, pension funds, and local governments.

For all of the reasons I have described, I oppose this legislation and I urge my colleagues to vote against this bill.

EXHIBIT 1

[From the New York Times, Nov. 30, 1995]

OVERDRAWN SECURITIES REFORM

The securities bill that Congress is about to pass addresses a nagging problem, frivolous lawsuits by investors against corporations, but in such cavalier fashion that it may end up sheltering some forms of fraud against investors. President Clinton should veto the bill and demand at least two fixes to protect truly defrauded investors.

The bill seeks with good reason to protect corporate officials who issue honest but unintentionally optimistic predictions of corporate profitability. In some past cases, opportunistic shareholders have waited for a company's stock price to fall, then sued on the grounds that their money-losing investments were based on fraudulent misrepresentations of the company's financial prospects. Their game was to use these ''strike'' suits to threaten companies with explosively expensive litigation in the cynical attempt to win lucrative settlements.

Such suits are a real, if infrequent, problem that can discourage responsible management from issuing information that investors ought to know. The bill would stymie these suits in part by immunizing predictions of corporate profitability that are accompanied by descriptions of important factors—like pending government regulatory action—that could cause financial predictions to prove false. But the language is ambiguous, leading critics to charge that it would protect corporate officials who knowingly issue false information. The President should ask Congress for clarification.

Some provisions of the bill would protect investors by, for example, requiring accountants to report suspected fraud. But other provisions threaten to shut off valid suits. The bill would prevent private litigants from going after lawyers and accountants for inattention that allows corporate fraud. Worse, the bill limits the authority of the Securities and Exchange Commission to use accountants and others for aiding fraud. The bill would also provide a short statute of limitation that could easily run out before investors discover they have been victimized.

Mr. Clinton should demand that Congress extend the statue of limitations so that investors will have time to file suit after they discover fraud. He should also demand that the bill restore the S.E.C.'s full authority to use accountants who contribute to corporate fraud. So far, Mr. Clinton has been curiously restrained. A well-targeted veto might force this bill back on the right track.

[From Money, December 1995]

NOW ONLY CLINTON CAN STOP CONGRESS FROM HURTING SMALL INVESTORS LIKE YOU

(By Frank Lalli)

The debate over Congress' reckless securities litigation reform has come down to this question: Will President Clinton decide to protect investors, or will he give companies a license to defraud shareholders?

Late in October, Republican congressional staffers agreed on a so-called compromise version of the misguided House and Senate bills. Unfortunately, the new bill jeopardizes small investors in several ways. Yet it will likely soon be sent to Clinton for his signature. The President should not sign it. He should veto it. Here's why:

The bill helps executives get away with lying. Essentially, lying executives get two escape hatches. The bill protects them if, say, they simply call their phony earnings forecast a forward-looking statement and add some cautionary boiler-plate language. In addition, if they fail to do that and an investor sues, the plaintiffs still have to prove the executives actually knew the statement was untrue when they issued it, an extremely difficult standard of proof. Furthermore, if executives later learn that their original forecast was false, the bill specifically says they have no obligation to retract or correct it.

High-tech executives, particularly those in California's Silicon Valley, have lobbied relentlessly for this broad protection. As one congressional source told Money's Washington, D.C. bureau chief Teresa Tritch: ''High-tech execs want immunity from liability when they lie.'' Keep that point in mind the next time your broker calls pitching some high-tech stock based on the corporation's optimistic predictions.

Investors who sue and lose could be forced to pay the winner's court costs. The idea is to discourage frivolous lawsuits. But this bill is overkill. For example, if a judge rules that just one of many counts in your complaint was baseless, you could have to pay the defendant firm's entire legal costs. In addition, the judge can require plaintiffs in a class action to put up a bond at any time covering the defendant's legal fees just in case they eventually lose. The result: Legitimate lawsuits will not get filed.

Even accountants who okay fraudulent books will get protection. Accounts who are reckless, as opposed to being co-conspirators, would face only limited liability. What's more, new language opens the way for the U.S. Supreme Court to let such practitioners off the hook entirely. If such a lax standard became the law of the land, the accounting profession's fiduciary responsibility to investors and clients alike would be reduced to a sick joke.

Moreover, the bill fails to re-establish an investor's right to sue hired guns, such as accountants, lawyers and bankers, who assist dishonest companies. And it neglects to lengthen the tight three-year time limit investors now have to discover a fraud and sue.

Knowledgeable sources say the White House is weighing the bill's political consequences, and business interests are pressing him hard to sign it. ''The President wants the good will of Silicon Valley,'' says one source. ''Without California, Clinton is nowhere.''

We think the President should focus on a higher concern. Our readers sent more than 1,500 letters in support of our past three editorials denouncing this legislation. As that mail attests, this bill will undermine the public's confidence in our financial markets. And without that confidence, this country is nowhere.

[From the Banger Daily News, Nov. 30, 1995]

DO NO HARM

Among the most dramatic but least discussed spin-offs of the Contract With America is securities litigation reform legislation, which earlier this year quietly passed both houses of Congress in different forms, but this week could become part of a public spectacle, highlighted by a presidential veto.

House Republicans argued in the contract, which set the tone for the early months of this session, that accumulated legal abuses cost American consumers $300 billion a year. Proponents characterize H.R. 1058 and S. 240, the two bills on which a conference compromise of the Securities Litigation Reform Act is expected to be voted on this week, as antidotes to costly, frivolous lawsuits pursued by greedy lawyers.

Opponents believe the critical elements of both bills, but especially as reflected in the conference version, are destructive of consumer interests. In the best Washington hyperbole, they refer to it as ''The Crooks and Swindlers Protection Act'' because of the manner in which it tilts the courtroom in favor of corporate defendants in securities and fraud cases.

From the perspective of those who are interested in Congress making good choices in the public interest, the act has two more problems. It is an extremely complex area of policy—one that can cause the eyes of a CPA to glaze over—and it is an extension of the catechism of the contract. Consequently, it is an issue that has been exposed to very little sunlight in open debate and it will be defended as political gospel by some Republicans.

Sen. William Cohen voted against the Senate version of the act. Sen. Snowe supported it. As a result, the campaign to persuade the delegation is focused on her office. Critics of the act make excellent arguments against specific provisions, including loser-pays, which will discourage aggrieved small investors from filing suit; and restrictions on legal standards of liability, which limit plaintiffs' opportunities to fully recover legitimate damages.

Another example, the provision of the act narrowing the time window for bringing suit, was the target of a letter from Stephen L. Diamond, securities administrator for the state's Bureau of Banking to Sens. Cohen and Snowe. ''A good portion of the several million dollars in restitution we have obtained for Maine citizens during my tenure,'' Diamond wrote in June, ''would have been irretrievably lost if we had been subject to a three-year limitations period.''

Diamond pointed out that under Maine law, there ''is no absolute outside limit'' for commencing a suit for securities fraud.

The Securities Litigation Reform Act has the potential to save consumers nothing, protect white-collar criminals and add to the burden of the victims of fraud.

It could have serious consequences for Maine taxpayers, investors and retirees. On record opposing the House version are municipalities of all sizes, from the small, Clifton and Berwick, to the state's largest, Portland and Lewiston.

The CMO (collaterized mortgage obligation) disaster that struck Auburn, concern about the integrity and solvency of government and private pension accounts and 401k plans, and public awareness of the threats to the security of investments of an aging population all are reasons for members of the Maine delegation to treat this issue with utmost respect, and caution: do no harm. This one could hurt.

[From the Miami Herald, Nov. 14, 1995]

LIARS' BILL OF RIGHTS?

While most of the country is paying attention to the feud over the federal budget, a sinister piece of legislation is making its way through Congress unnoticed. This bill lets companies report false information to investors. That's right, it essentially licenses fraud. It has passed both houses in slightly different forms. A compromise bill will be written soon. If it passes, President Clinton ought to slay it in its tracks.

This bill is a story of good intentions. Some companies have been plagued by frivolous lawsuits from investors who aren't happy with the company's performance. The investors allege, in essence, that the company had forecast good results and then didn't deliver. That, say the plaintiffs, constitutes fraud.

Well, often it doesn't. Investing has risks, including market downturns. When investors sue over mere bad luck, they cost companies money, clog courts, and drain profits from other investors.

Trouble is, by trying to stop this abuse, Congress mistook a simple answer for the right answer. Its solution, in plain terms, was to declare virtually all promises by all companies to be safe from legal challenge. Under this ''remedy,'' company executives now can promise investors anything they like, with not so much as a nod to reality.

They can't legally lie about the past, but if their claims are ''forward-looking,'' they can promise you the moon to get you to invest, and no one can sue them later for being misleading.

Well, almost no one. The bill would allow legal action in the case of egregious, deliberate fraud, but you'd have to prove that it was intentional. And you'd have just three years to discover the fraud and furnish your proof.

It's rare enough to prove outright intent under the best circumstances, but under this bill, if executives can stiff-arm you for just 36 months (not a big challenge), they'd be home free. And then—in another hair-raising provision of the bill—you'd be stuck for the company's entire legal bill. Facing such a risk, no small investor, no matter how badly cheated, would ever dare sue.

This bill evidently struck many members of Congress as a simple answer to a nagging problem. It's nothing of the kind. The problem is real enough, but its solution isn't simple. And it certainly doesn't reside in a law authorizing phony statements to investors.

President Clinton should veto this blunder. Then, when the fight over the budget is over, Congress can take time to think up a more rational solution to the problem.

[From the Star Tribune, Nov. 17, 1995]

SECURITIES BILL

Give Sen. Richard Bryan, D-Nev., credit for being a good friend to American investors. Since late October, Bryan has stymied passage of ill-designed legislation that would curb investors' rights to sue for securities fraud, Bryan's move is buying time to marshal enough opposition to give the bill the fate it deserves—either significant alteration or death. What opponents need most, though, is support from the top—President Clinton.

At first glance, the legislation appears reasonable. The bill seeks to protect public companies and their underwriters from frivolous lawsuits by disgruntled investors. It would provide legal protection for companies whose earings forecasts turn out to be inaccurate, and would limit the liability of accounting firms, legal advisers and others who fail to detect fraud. The bill also would ban ''professional plaintiffs'' who repeatedly sue companies for even minor losses.

Proponents argue that more and more investors are forsaking the win-some-lose-some attitude of investing, opting instead to sue if they lose money because of unexpected events, particularly sudden and steep drops in stock prices. Recent high-profile securities court cases seem to prove their point. From the ongoing Orange County fiasco to Piper Jaffray's stumblings a year ago, many investors, both government and private, have gone to court to recoup losses.

However, securities cases gain notoriety mainly because they rarely occur. The number of securities class-action lawsuits nationwide has fallen to 290 in 1994 from 305 in 1974. In fact, such cases represented little more than 1 percent of new federal civil cases filed last year. The statistics show that curbing investors' rights to sue amounts to a solution in search of a problem.

Indeed, there would be problems if this legislation passed unaltered. The bill would eliminate the current legal standard of joint-and-several liability, which holds even those peripherally involved in fraud to a high degree of liability. Thus, firms providing accounting and other services to corporate clients would have less incentive to be alert to wrongdoing. In addition, this legislation would have a chilling effect on even many valid complaints; it would require a plaintiff who lost a case to pay the defendant's court costs.

The bill's opponents have begun to make a stink. A couple of weeks ago, Minnesota Attorney General Hubert Humphrey III joined 13 other attorneys general in asking Clinton to veto the bill in its current form. A day earlier a coalition representing hundreds of state and local government officials announced its opposition. Consumer groups have fought the legislation all summer.

But the opponents need help. Though the Senate passed the bill by a veto-proof margin, a veto threat from Clinton could prompt needed changes in the measure. That threat should come now, while political momentum favors the opposition.

[From the San Francisco Chronicle, Nov. 27, 1995]

OPENING THE DOOR TO FRAUD

If a House-Senate conference committee meeting tomorrow does not result in significant changes to legislation regarding investment fraud lawsuits, President Clinton should quickly veto the bill.

Compromise has softened some of the anti-consumer aspects of the legislation, which has the stated goal of eliminating frivolous class-action securities fraud lawsuits. But despite the worthwhile aim, the provisions of a draft conference report on H.R. 1058 and S 240 go far beyond curbing trivial court actions and instead would wipe out important protections against hustlers of fraudulent securities.

In a letter asking Clinton to veto the bill, San Francisco's chief administrative officer, Bill Lee, noted that the legislation would ''erode investor protections in a number of ways: it fails to restore the liability of aiders and abettors of fraud for their actions; it limits many wrongdoers from providing full compensation to innocent fraud victims, by eroding joint and several liability; it could force fraud victims to pay the full legal fees of large corporate defendants if they lose; it provides a blanket shield from liability for companies that make knowingly fraudulent predictions about an investment's performance and risks; and it would preserve a short, three-year statute of limitations for bringing fraud actions, even if fraud is not discovered until after that time.''

Securities fraud lawsuits are the primary means for individuals, local governments and other investors to recover losses from investment fraud—whether that fraud is related to money invested in stocks, bonds, mutual funds, individual retirement accounts, pensions or employee benefit plans.

As the draft report stands, investors would be the losers. And their hopes of receiving convictions in suits similar to those against such well-known con men as Michael Milken and Ivan Boseky would be severely hampered.

In the name of the little guy, Clinton should not let that happen.

AMERICAN FEDERATION OF LABOR,
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, November 29, 1995.

DEAR SENATOR: The AFL–CIO opposes the conference agreement on H.R. 1058, the Securities Litigation Reform Act of 1995. The conference agreement significantly weakens the ability of stockholders and pension plans to successfully sue companies which use fraudulent information in forward-looking statements that project economic growth and earnings. There is a new ''safe harbor'' provision in this conference agreement that allows evidence of misleading economic information to be discounted in court if it is accompanied by ''appropriate cautionary language.''

The AFL–CIO believes this compromise will vastly increase the difficulties that investors and pension plans would have in recovering economic losses. Similarly, the joint and several liability provisions in this bill provide added, and unwarranted, protection for unscrupulous companies, stockbrokers, accountants and lawyers.

In short, this bill tips the scales of justice in favor of the companies and at the expense of stockholders and pension plans. Both of these latter groups are forced to rely exclusively on information provided by these companies when evaluating a stock, but this information would not be able to be used in court to recover economic damages for misleading information.

The Congress should reject the conference agreement on H.R. 1058.

Sincerely,

PEGGY TAYLOR,
Director.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC.

DEAR CHAIRMAN LEVITT AND COMMISSIONER WALLMAN: On behalf of a coalition of state and local government officials, the above organizations wish to express our concern over your November 15, 1995, letter to Senator Alfonse D'Amato regarding your views on the most recent ''draft conference report'' on securities litigation reform. Our organizations have worked closely with the Commission over the years on numerous issues of importance to the securities markets. Although your letter did not specifically endorse the ''draft conference report,'' proponents of this legislation are already representing your letter as an SEC endorsement. We remain opposed not only to the latest version of the safe harbor provision in the legislation, on which your letter focused, but to several other provisions in the bill which are critical to us and which we understood were critical to you as well.

We support efforts to deter frivolous securities lawsuits. We believe, however, that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that H.R. 1058, S. 240, and the various versions of the ''draft conference report'' all fall short in achieving this balance, and erode the ability of investors to seek recovery in the cases of fraud.

The following are the major concerns state and local governments have with the latest ''draft conference report:'' Despite changes in the safe harbor provision relating to forward-looking statements, there are still loopholes in that provision that would allow false predictions to be made and that will shield a company from liability. Deliberately false forward-looking statements are still immunized under this draft as long as they are accompanied by cautionary language.

Aiders and abettors of fraud would still remain immune from civil liability and would not have to pay back fraud victims for the losses they suffer. If aiders and abettors are immune from liability, as issuers of debt securities, state and local governments would become the ''deep pockets,'' and as investors they would be limited in their ability to recover losses. In Chairman Levitt's letter of May 25, 1995, to Chairman D'Amato and members of the Senate Banking Committee, he indicated that failure to resolve this issue was one of two ''important issues'' for the Commission. We are disappointed that you have not unequivocally stated that this is still a serious concern to the SEC, as it is to state and local governments.

The ''draft conference report'' maintains the short three-year statute of limitations that will allow a wrongdoer who can conceal his fraud to be completely let off the hook. The current statute of limitations is widely regarded as too short. Despite the May 25, 1995, statements to the Senate that this too was an ''important issue'' for the Commission, the most recent draft does not include an extension.

The latest draft adds language opening the way for the Supreme Court to eliminate any implied private right of action under the federal securities laws for victims of fraud by imposing a ''rule of construction'' stating that nothing in the legislation ''shall be deemed to create or ratify any implied right of action.'' Given the historic role of private suits in keeping the markets honest, and the SEC's previous support for such actions as a complement to its own enforcement activities, we are surprised that no objection was raised in your letter to the inclusion of this new language.

The pleading standard has been changed in the new draft from requiring that the complaint ''specifically allege'' facts giving rise to a state of mind—an already harsh standard—to a ''state with particularity'' standard. This is a much more difficult standard and will make it even more difficult for plaintiffs to bring suit. Combined with the deletion of the Specter amendment, this raises the pleading standard to one different from that employed by the Second Circuit.

Under the newest draft, fraud victims face a potential ''loser pays'' sanction and a possible bond requirement at the beginning of a case, which could discourage many investors from seeking a recovery of their losses. In addition, the victim will now have to show that a shift of full attorneys' fees and costs to the plaintiff would impose an ''unreasonable burden'' on the plaintiff or his attorney and that the failure to shift fees would not impose a greater burden on the defendants.

The strength and stability of our nation's securities markets depend on investor confidence in the integrity, fairness and efficiency of these markets. To maintain this confidence, investors must have effective remedies against those persons who violate the antifraud provisions of the federal securities laws. In recent years, we have seen how investment losses caused by securities laws violations can adversely affect state and local governments and their taxpayers. Indeed, you, Chairman Levitt have addressed many of our members personally over the past year to underscore just this concern about the markets.

Access to full and fair compensation through the civil justice system is an important safeguard for state and local government issuers and investors alike and is a strong deterrent to securities fraud. Because of the importance of this issue, we are requesting a meeting with you to discuss your recent letter to Senator D'Amato and to convey our concerns about the unwise public policy outlined in the ''draft conference report.'' We stand ready to work with you in vigorously opposing this legislation, particularly in light of other efforts—budgetary and statutory—to further weaken the regulatory protections provided to state and local government investors and others. Betsy Dotson of GFOA will follow up on our meeting request with your staff.

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, November 29, 1995.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: On behalf National the Fraternal Order of Police, I urge you to veto the ''Securities Litigation Reform Act'' (HR1058/S240). The recently released draft of the House/Senate conference report clearly reflects a dramatic reduction in the ability of private, institutional and government investors to seek redress when victimized by investor fraud.

As a matter of fact, the single most significant result of this legislation would be to create a privileged class of criminals, in that it virtually immunizes lawyers, brokers, accountants and their accomplices from civil liability in cases of securities fraud.

This bad end is reached because of several provisions of the legislation: first, it fails to restore the liability of aiders and abettors of fraud for their actions; second, it limits wrongdoers from providing full compensation to victims of fraud by eroding joint and several liability; third, it could force fraud victims to pay the full legal fees of corporate defendants if the defrauded party loses; and, finally, it retains the short three year statute of limitations for bringing fraud actions, even in cases where the fraud is not discovered until after three years has elapsed.

Mr. President, our 270,000 members stand with you in your commitment to a war on crime; the men and women of the F.O.P. are the foot soldiers in that war. On their behalf, I urge you to reject a bill which would make it less risky for white collar criminals to steal from police pension funds while the police are risking their lives against violent criminals.

Please veto HR1058/S240.

Sincerely,

GILBERT G. GALLEGOS,
National President.

ATTORNEY GENERAL OF NEW MEXICO,
Santa Fe, NM, October 27, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: As Attorneys General of our respective states, we strongly oppose H.R. 1058/S240, the Securities Litigation Reform Act. The ''draft conference report,'' which is the basis of agreement between the House and Senate bills, would severely penalize victims of securities fraud—consumers, workers, senior citizens, state and local governments. The principal effect of this legislation would be to shield wrongdoers from liability for securities fraud committed against an unsuspecting public.

Any securities litigation reform must achieve a balance between protecting the rights of defrauded investors and protecting honest companies from unwarranted litigation. Abusive practices should be deterred and sternly sanctioned. However, Congress must keep open the doorway to the American system of civil justice for investors to seek recovery of what has been wrongfully taken from them.

If enacted, this legislation would severely curtail our efforts to fight securities fraud and to recover damages for our citizens if any of our state or local funds suffer losses due to fraud. There are several provisions in both bills that would make it exceedingly difficult, if not impossible, for consumers and state and local governments to use the federal courts to recoup losses due to fraud:

Broad immunity from liability for fraudulent corporate predictions and projections; Failure to reinstitute liability for ''aiders and abettors'' under private actions, thereby fully immunizing them from any responsibility for their wrongful actions; A ''loser pays'' provision imposing a significant risk of fraud victims having to pay the defendants' full legal fees;

Severe restrictions on the joint and several liability of wrongdoers, making it impossible for many victims to fully recover their losses; Preservation of an inadequately short statute of limitations (one year after discovery and three years after the fraud was committed); Highly onerous pleading standards; and Elimination of liability under the federal racketeering statute, except after a criminal conviction.

Such extraordinary limitations on our states' ability to recover citizens' tax dollars is of grave concern to us.

As our states' chief law enforcement officers, we cannot countenance such a weakening of critical enforcement against white-collar fraud. Private actions, as a complement to government enforcement, have proven to be extremely effective in deterring securities fraud and in compensating injured investors. This longstanding practice has deterred even greater fraud in the markets and has reduced the burdens that would otherwise accrue as a result of the government having to fully police the markets.

If investors are limited in their right to initiate private causes of action, we fear that victims will turn more and more to the state enforcement agencies, such as the Attorney General, for solutions. There will be more demands on our offices to pursue wrongdoers for fraud, thus increasing the burden on our taxpayers' resources. The legislation would simply force another unfunded mandate on the states.

Effective private enforcement of securities fraud rests on the ability of defrauded investors to take legal action against wrongdoers. Yet there is little, if anything, in the draft conference report that would enhance the ability of defrauded investors to seek redress in the courts, provide enhanced protection for investors or ensure the continued honesty and fairness of our markets. The major provisions of the draft pose significant obstacles to meritorious fraud actions.

While H.R. 1058/S240 would achieve its goal of affording a measure of protection to large corporations and accounting, banking and brokerage firms, it goes so far beyond what is necessary for that goal that it would likely result in a dramatic increase in securities fraud as the threat of punishment declines. This would hurt our entire economy as investors lose confidence in the integrity of our financial markets. This is unwise public policy in light of rising securities fraud and substantial losses suffered by states and public institutions from high-risk derivatives investments.

As custodians of the tax dollars of our citizens, our states have a vested interest in keeping the securities markets safe and secure for investors. The stakes could not be higher for consumers since it is often their retirement savings that are lost in securities frauds. Moreover, the states' economic health, tied inexorably to the nation's economy, depends on continued investor confidence. There must be appropriate recourse to the courts for all investors.

We join the federal and state securities regulators, the state and local government finance officers, mayors and other public officials, labor groups, and all major senior citizen and consumer groups in opposing H.R. 1058/S240.

Given the draft conference report released on October 24th, we strongly urge you to veto the legislation if it is presented to you without substantial amendment to the provisions outlined above.

Sincerely,

TOM UDALL,
Attorney General of New Mexico.
WINSTON BRYANT,
Attorney General of Arkansas.
ROBERT A. BUTTERWORTH,
Attorney General of Florida.
TOM MILLER,
Attorney General of Iowa.
HUBERT H. HUMPHREY III,
Attorney General of Minnesota.
JEREMIAH J. NIXON,
Attorney General of Missouri.
JOSEPH P. MAZUREK,
Attorney General of Montana.
FRANKIE SUE DEL PAPA,
Attorney General of Nevada.
HEIDI HEITKAMP,
Attorney General of North Dakota.
CHARLES BURSON,
Attorney General of Tennessee.
JAMES DOYLE,
Attorney General of Wisconsin.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand the Senator from Nevada wishes to speak. I will not take a great deal of time. I do want to respond, however, while the walls are still ringing with the oratory of my friend from Maryland, to some of the particular points that he made. Then I will allow the Senator from Nevada to proceed.

I come at this with some background because I have been the CEO of a company that has been involved in litigation, and I have members of my family who have been involved in this circumstance. I also am not a lawyer and have a little difficulty following the twists and turns of the lawyers talking about the intricacies of rule this or rule that.

The overall point that I think has to be made here is simply this. There is no division between companies and investors. Investors own the company. That which damages the company, damages the owners of the company, who are the investors. So, when the Senator from Maryland talks about pitting investors against the company, he is talking about pitting people against themselves. He implies that this bill helps the company to the detriment of the investors. That, frankly, is impossible. If the company thrives, who gets the money? The investors, the stockholders. If the company survives a market problem and becomes stronger as a result, who benefits? The stockholder, the owner of the company. The two are not separate, in spite of the fact that we have had all of this rhetoric implying that they are.

The most significant problem, from my perspective, with this whole issue has been the attempt to divide the two and imply that the company is doing something to damage the investor and doing it deliberately for the benefit of

the company. It simply does not wash. It simply does not track.

Where have these lawsuits come from? They have come from lawyers who have not sought to protect investors and not sought to help the company, but to enrich themselves. I will give you one example that demonstrates the power of this circumstance. Let us say we have a company with 100 shares. Let us keep it very simple. We have a company with 100 shares. We have an investor who owns 1 of those 100 shares. We have another investor who owns 99 of those shares. Keep it very, very simple.

The lawyer would rush to court and file a class action suit on behalf of the shareholder who owns one share on the grounds that the company has been damaged. And when the shareholder who owns 99 shares shows up and says, ''I would like to have a say in how this suit is prosecuted because it is going to damage my 99 shares,'' under the present law we are told, no, the investor with the one share got to the court before you did and he controls the suit and therefore he can make all kinds of claims he wants to in favor of the shareholders.

The shareholder who owns 99 percent of the stock says, ''Don't do me any favors. Don't stand there and file this suit; it is going to damage my interests and, frankly, damage the interests of the shareholder who has one share as well, proportionately.'' Ah, but it does not matter, because the shareholder who has one share as well has a side deal with the lawyer and he is a professional plaintiff and the lawyer will pay him for filing the suit so the lawyer will get the settlement. That is inevitably what happens.

Finally, the company says, ''It is going to cost us $1 million to fight this case.''

''OK,'' says the lawyer, ''you don't want to spend the $1 million? That is fine with me. Let us settle it out of court for $750,000.''

Management says, ''We are not in the business of fighting lawsuits; we are in the business of producing products. Faced with that kind of blackmail, we have to do the best thing—for whom? We have to do the best thing for our shareholders. It will damage our shareholders $1 million to go to court. We can save them $250,000 if we pay this guy his blackmail and send him on his way.''

So they pay the $750,000. The lawyer takes his contingency fee, pays off his professional plaintiff on the side deal, and walks away saying, ''I have protected shareholder rights,'' when what he has really done is looted the company.

What this bill says, what this conference report says, is in a circumstance like that the shareholder with 99 of those 100 shares can go to court and say, ''I am in control of this suit, not the one who has one share, and I move to dismiss.'' And the issue is over.

Who is damaged by this bill under that scenario? The lawyer. Not the shareholder, not the investors; they are benefited by this bill.

One other point I will make and then we can hear from the Senator from Nevada. This bill says there will be a proportionate liability, saying if someone was involved in a loss that was 3 percent that someone's fault, that someone is only liable for 3 percent of the damages.

Oh, that is terrible, we are told. What a chilling effect that will have. Why, accountants and lawyers supporting the company will be immediately up to their eyeballs in fraud because they know they are only liable for a proportionate amount.

That makes for interesting rhetoric on the floor of the Senate. It has little or no relevance to the real world. Let me give an example out of my own experience.

I was an investor in a company that was trying to develop a particular mining project in the Western States. Unfortunately for me and my fellow investors, we did not do very well. For a variety of reasons, a variety of problems, we ultimately had to close down the operation. In the process of doing that whole activity we engaged the services of a very fine lawyer in Los Angeles, one of the premier lawyers of Los Angeles. And he gave us sound legal advice. He helped us through.

A disgruntled supplier working with us on that circumstance kept trying to find some way to drag the lawyer who was helping us into a management role. He kept pushing and probing. I could not understand why. What in the world did he want to get the lawyer involved in the management kinds of decisions of this company that did not go anywhere?

Finally, the fellow leveled with me. He said, ''If we can get into that lawyer's errors and omissions policy and prove that somehow he was involved in a management decision we think was a mistake, his insurance company will pay us a big payoff just to keep it out of court.''

The lawyer we were dealing with was careful enough that did not happen. But that was the motivation. Not to try to solve the problem, but to tap into the deep pocket of the insurance company for errors and omissions insurance that this lawyer prudently carried for his firm.

So they were looking for every possible technicality to get past the management of the firm—the firm, being bankrupt, had no money to offer—and into the errors and omissions policy and the insurance policy of the lawyer. As I say, fortunately he was not successful. But that kind of attitude is the kind of attitude that causes lawyers to say, ''I will not help you,'' which causes his accountant to say, ''I will not take your account, I will not give you the expert advice you will need because I will get caught up in this.'' And it is to protect who? It is the investors who need the services of that lawyer and who need the services of that accountant that this bill is written as it is.

So, Mr. President, I intend to come back to this theme often as we go through this debate. Let us not lose sight of what it is we are trying to do here. We are trying to protect the investor, and the investor, by definition, is the person who owns the company. Anything that damages the company damages the investor. Anything that chills the company's access to sound legal advice and sound accounting counsel damages the investor. Anything that causes the company to pay blackmail, out-of-court settlements damages the company, which damages the investor.

So let us understand through this whole debate what the conference report does, what the bill does, what the committee approach does is to protect the investor. As we listen to rhetoric, saying let us protect the investor and punish the company, let us always keep that basic principle in mind: The owner of the company is the investor.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. 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. BRYAN. I thank the Chair. I reserve to myself such time as I may need at this point.

Mr. President, the Senate today is considering the legislation that may well have dramatic consequences for the operations of our securities markets. America's securities markets are the envy of the world. Our markets are the safest, and they enjoy universal investor confidence.

American companies have been able to prosper in large part because of their ability to raise capital in our financial markets. We should all be proud of these markets, yet, at the same time, we must be extremely careful not to jeopardize this investor confidence.

Even though our securities markets are the world's safest, we still have our share of bad apples. There will always be people who feel it is necessary to cut corners, or that they can get away with financial wrongdoing. We have not seen the last of the Keatings, the Boeskys, the Milkens, the Icahns of the 1980's, who penalize the American public by their commitment to greed and avarice, and with horrendous cost to the investors, to the public, and to public institutions as a result of their actions.

The legislation we are considering today will make it more difficult, in my judgment, to bring legitimate fraud cases and will make it more difficult to recover stolen assets.

That having been said, Mr. President, let me be clear that the legislation before us today, although it purports to

deal with the issue of frivolous lawsuits, is in point of fact a smokescreen, if you will, the Trojan horse, as I have characterized it, to really get at the heart and substance of this legislation, which is to insulate and immunize perpetrators of fraud from legitimate investor recovery. If this legislation were about frivolous lawsuits, sign me up; count me as being on board. There are some provisions that enjoy universal support. They are incorporated in this bill. Let me mention a couple of them.

There are included in the provisions a requirement that plaintiffs certify individually in each of these securities actions that the actions are brought in good faith, that they are not acting in a frivolous fashion, that, indeed, they are not part of the referral process, all of which I think make a lot of sense and deal with some of the concerns that have been raised by my colleagues on the other side of the aisle.

There are further provisions that prohibit the payment of referral fees to brokers. That, in my judgment, is legitimate and is designed specifically to deal with the issue of potential frivolous lawsuits. The concern is that we should not give stockbrokers, or anyone else, incentives for referral of potential securities fraud cases, and, indeed, these actions ought to be prohibited and the legislation does that.

The legislation also deals with the issue of banning bonus payments to class plaintiffs, and I think this, too, deals with the issue of frivolous lawsuits. It requires the lawyer who has an interest in securities, who brings the action, to have his actions reviewed for potential conflict of interest. That, I think, is highly appropriate, and it calls for improved settlement notice to class members in terms of the proposed terms of the settlement. It contains provisions that limit attorneys fees.

In the original version of this bill, as it passed the Senate, it dealt with the sanction provisions of rule 11, saying that those persons, whether they be attorneys on behalf of plaintiffs or defendants, who take frivolous actions, can, indeed, have the full sanction of the law brought against them.

And this was done in an even and fair-minded way. That, Mr. President, in my judgment, deals with the bona fide, legitimate question of frivolous lawsuits. If that is what this legislation was all about, we would not be having this debate on the floor today. I concur and I suspect that all of my colleagues want to work to eliminate some of the abuses that have occurred in the system. But, Mr. President, that requires a laser-like action to specifically craft legislation that deals with some of the practices that have been abused.

The referral fees to brokers, the bonus payments, the potential conflicts of interest, the improved notice to class members of the terms of a settlement, the limitation of attorney fees and the strengthened sanction provisions of rule 11. That, my friends, is what frivolous lawsuit legislation reform ought to be about. But this goes so much further and, in my judgment, is more about protecting misconduct and fraud than it is about frivolous lawsuits.

Let me point out first, for those who may not be familiar with what is involved in bringing a securities action, let me make a disclosure at the outset I have neither been plaintiff, defendant, nor as a lawyer have I represented anyone in a securities action. But this is what is involved in bringing a securities fraud case.

First, a person must prove that he or she actually purchased the securities. The person must prove that the fraud, the manipulation or deception was in connection with the purchase or sale of a security. The person must prove that a defendant acted with scienter, that is, an intent to deceive or a reckless disregard for the truth or the falsity of the statement.

It needs to be emphasized that negligence, simple ordinary negligence, is not the kind of misconduct that is a predicate for a securities action. So anyone who makes a statement inadvertently or is involved in negligent action does not come within the purview of the provisions of the Securities Act of 1934.

A person must prove a defendant's misstatement or nondisclosure was material, not just incidental, but material. A person must prove that he or she reasonably relied on the defendant's misstatement. A person must prove how he or she was damaged. And, finally, a person must prove a defendant's conduct caused the damages.

Now, those are reasonably difficult things to prove. And they ought to be. They ought to be. I do not have any quarrel with that. These actions ought not to be taken lightly. Our colleagues point out that there is a great expense involved in defending class actions. I acknowledge that. But that is the burden of proof that plaintiffs must submit themselves to under the current law. And it is a rather substantial burden of proof, Mr. President. As I have indicated, with respect to frivolous actions this Senator has no sympathy, and the full provisions of rule 11 under the Federal rules, as strengthened by the version passed by the Senate before this bill went into conference, appropriately deals in a balanced fashion when there has in fact been a finding that a lawsuit has been filed frivolously by a plaintiff or actions by defendants' attorneys are frivolous.

Let me talk for a moment about what is happening in the market. And I would invite my colleagues' attention to a recent Wall Street Journal article. We are not just talking about some remote contingent fraud that may occur in the marketplace. We are dealing with the reality in which, as the Wall Street Journal fairly recently pointed out in a May article earlier this year, in a front page story, the title of which is ''How Career Swindlers Run Rings Around SEC and Prosecutors,'' and the subhead of the story ''White-Collar Crooks Serve Little Jail Time, Leave Billions in Fines Unpaid, The Bad Guys Are Winning.''

Mr. President, this does not appear in the American Trial Lawyers Association Journal. This appears in one of the icons of the business publications in America, the Wall Street Journal. In effect, there is more investor fraud, not less. And even with the resources available at the SEC, this article concludes that the bad guys, in fact, are winning. I offer this as a somber and hopefully sobering assessment that there is massive fraud out there and that we have not seen the last of the Ivan Boeskys and the Mike Milkens or the Charles Keatings. Those are not just some part of a historic record that no longer concerns us in America. There are folks out there every day who, through whatever artifice and device, continue to perpetrate investor fraud. And that ought to suggest to us in this deliberative body that we ought to proceed with some caution as we approach securities litigation reform.

Mr. President, I ask unanimous consent that the Wall Street Journal article of Friday, May 12, 1995, be printed in the RECORD.

Mr. BRYAN. Let me just also invite my colleagues' attention, in a similar vain—here is a similar business publication called Crain's New York Business, the date of which is December 4th through the 10th, 1995. It cannot be much more contemporary than that. That is this very week. And its headline indicates ''New Scams for a new generation.'' The subhead is, ''Driven by high-tech rip-offs, financial fraud is soaring.'' That, Mr. President, is a publication of this very week, ''financial fraud is soaring.'' And I again ask unanimous consent that this publication be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 12, 1995]

HOW CAREER SWINDLERS RUN RINGS AROUND SEC AND PROSECUTORS

(By John R. Emshwiller)

SANTA MONICA, CA.—For more than a quarter century, Ramon D'Onofrio has been playing games with the law—and mostly winning.

The 67-year-old Mr. D'Onofrio, operating out of a modest office suite at the airport here, is a master stock swindler. He is responsible for fleecing the public out of tens of millions of dollars in the course of numerous stock manipulations, say officials who have tangled with him in about 20 civil and criminal investigations. A federal appeals court once referred to him as ''ubiquitously criminal.''

Mr. D'Onofrio has been convicted of fraud-related crimes five times and is once again under investigation, people familiar with the case say. Yet he hasn't spent a day in prison in the past 20 years—and he served only about a year behind bars before that. His most recent criminal conviction came in 1991; he received probation. While the Securities and Exchange Commission has ''permanently'' enjoined Mr. D'Onofrio from future

violations of securities laws, it has done so *seven* different times. Meanwhile, he has left unpaid about $11.5 million in fines and civil judgments.

BILLIONS IN UNCOLLECTED FINES

Mr. D'Onofrio isn't alone. Hundreds of career swindlers, many of whom have infiltrated legitimate industries ranging from securities to health care, are laughing all the way to the bank—with other people's money. ''If you have the aptitude and you're enough of a sociopath, there are few places where the pickings are as easy'' as swindling, says Scott Stapf, investor-education adviser for the North American Securities Administrators Association, a group of state regulators.

Data gathered from government agencies show that it takes far longer to bring white-collar criminals to justice than perpetrators of other crimes. Once apprehended and convicted, swindlers generally receive light sentences—frequently nothing more than probation and a fine. Often, as with Mr. D'Onofrio, they aren't compelled to pay back what they have stolen; extraordinarily, about $4.48 billion in uncollected federal criminal fines and restitution payments is currently outstanding.

While nobody argues that high-priority battles against drugs and street crime should be neglected, many white-collar-crime investigators contend that the devastating impact of fraud isn't sufficiently appreciated. Rough estimates by government agencies and others indicate that white-collar crime costs Americans more than $100 billion annually. And increasingly, free-lance stock swindlers are joining forces with organized crime, to the benefit of both.

VICTIM COMMITTED SUICIDE

''These are people who are stealing millions from working-class Americans. These are people who ruin lives,'' says John Perkins, until recently Missouri securities commissioner. The former regulator still recalls a Thanksgiving Day nearly 20 years ago when a local farmer, after having mortgaged his property and lost the money in an investment swindle, committed suicide by shooting himself in the head. Quinton Darence Cloninger, who was convicted of helping run that swindle, was out of prison after three years—and back in the investment business. He couldn't be located for comment.

Over the years, Mr. D'Onofrio and his ilk have benefited richly from the fact that civil authorities don't have much enforcement clout without the backing of the criminal-justice system. Criminal prosecutors, in turn, aren't always interested in white-collar offenses—and may be becoming less so.

Consider the SEC civil injunctions that Mr. D'Onofrio and others so often ignore. Violations of such injunctions—which often bar the individual from working in the securities industry—can lead to criminal-contempt charges and jail time. But, SEC officials concede, contempt is a rarely used weapon. Records supplied by the SEC show that only a handful of criminal-contempt cases have been brought in the past five years.

RELUCTANT PROSECUTORS

For one thing, the agency has to persuade a U.S. attorney's office to prosecute a contempt case. The chances of that happening are usually ''slim to none,'' says one SEC attorney, particularly since criminal-contempt cases usually don't produce long sentences. Many prosecutors are loath to put in time on a case where the potential payoff is small.

In 1990, at the SEC's request, the U.S. attorney's office in Salt Lake City did bring a criminal-contempt case against Mr. D'Onofrio. According to a complaint filed in federal court there, Mr. D'Onofrio violated a 1982 court injunction requiring disclosure of his significant stock holdings, an order that resulted from an earlier SEC lawsuit over stock manipulation. Mr. D'Onofrio pleaded guilty, was given probation and continued his career unimpeded.

Mr. D'Onofrio declined numerous requests for an interview for this article. ''Some people do talk to the press and some people don't,'' says his attorney, Ira Sorkin, the former head of the SEC's New York regional office. Mr. D'Onofrio ''falls into the latter category,'' adds Mr. Sorkin, who won't talk about his client either. (As an assistant U.S. attorney in New York 20 years ago, Mr. Sorkin helped prosecute a criminal case in which Mr. D'Onofrio was an unindicted co-conspirator.)

Contempt isn't the only criminal charge available in swindling cases; frequently, scam artists can be prosecuted criminally under fraud or racketeering laws. But Philip Feigin, a Colorado regulator and current president of the North American Securities Administrators Association, bemoans a ''vicious cycle'' in which securities regulators, investigators and prosecutors often relegate criminal statutes to an ''afterthought.''

BURIED BY DOCUMENTS

One reason is that white-collar criminal cases often eat up enormous amounts of time and resources. Stewart Walz, a veteran federal prosecutor and former head of the criminal section of the U.S. attorney's office in Salt Lake City, recalls one complex white-collar case several years ago that required a quarter of his section's attorneys for a five-month trial. Although multiple convictions resulted, Mr. Walz asks: ''How many other cases went unprosecuted?''

On average, it takes more than 10 months for a white-collar criminal case to be filed in court from the time it is referred to a federal prosecutor's office, according to national statistics gathered by the Transactional Records Access Clearinghouse at Syracuse University in New York. That is nearly three times as long as for the average drug case. Complex, document-laden white-collar cases frequently take years to complete.

When prosecutors do bring fraud charges, they often end up disappointed with the sentences that result. The latest federal prison statistics show that the median jail term for fraud is just 12 months; even violators of pornography and prostitution laws receive 33 months behind bars, while drug traffickers are sent away for a median of 60 months. A check of state sentencing statistics in California and Florida, two centers of white-collar crime, also shows large disparities in sentences between fraud and drug trafficking.

James Sepulveda, a prosecutor in the district attorney's office of Contra Costa County in Northern California, says he has helped convict hundreds of white-collar criminals during the past 14 years. Some 90% of them, he estimates, received probation: ''The bad guys are winning,'' he says.

Such experiences have made prosecutors increasingly reluctant to take on many potentially promising cases. These days, if a case is worth less than $1 million, some big-city prosecutors won't even touch it, experts say.

A major factor is the nation's war on drugs, which has been overwhelming prosecutors' offices, courts and prisons. In 1985, for instance, only 34% of the federal prison population was serving time for drug-related crimes. Today, the figure is 62%. As recently as the early 1980s, the average federal prosecutor handled about the same number of white-collar and drug cases each year, according to the Syracuse University group. By 1993, that same prosecutor was handling nearly twice as many drug matters as white-collar cases.

Of the thousands of white-collar cases filed by the federal prosecutors annually, only several dozen involve alleged securities fraud, according to records of various government agencies. The SEC keeps only what an agency spokesman terms a ''spongy'' count of such cases.

POOR RECORD KEEPING

Though Justice Department officials agree that drug cases have been getting more and more attention, they insist that the agency's commitment to prosecuting white-collar cases hasn't diminished. They note that in recent years the department has focused increasingly on particularly complex and time-consuming white-collar cases. While not great in number, these prosecutions tend to have a significant impact, they say.

Nonetheless, the scarcity of government record keeping in this area seems to underscore the relatively low priority given to white-collar crime. The Federal Bureau of Investigation, for example, annually gathers from more than 16,000 local and state law-enforcement agencies detailed statistics on crime ranging from murder to auto theft. That survey doesn't include fraud, for which much less detailed information is assembled. FBI officials say they are working on a new reporting system that will gather more information on white-collar crimes, but they don't expect it to be in place before the end of the decade.

For its part, the SEC has established no formal system for identifying or tracking repeat offenders. Nor does it always know their whereabouts. During a recent interview, Thomas Newkirk, an associate director for enforcement, proclaims that Thomas Quinn is safely ensconced in a European jail. But Mr. Quinn, one of the major stock manipulators of the 1980s—who regulators say was responsible for as much as several hundred million dollars in investor losses worldwide—has been out of jail for months and is living on Long Island, N.Y. Mr. Quinn says he isn't involved in the securities business and ''never will be again. I am just trying to get on with my life.''

William McLucas, the SEC's enforcement chief, says there ''should be a place in the system'' to deal ''harshly'' with securities-law recidivist, and that the agency does its best to make sure they are brought to justice. But he also notes that the SEC has to regulate thousands of public companies and investment advisers and a vast mutual-fund industry. ''We have a whole lot of market realities we are trying to keep pace with,'' he says. ''So we must make some hard judgments about where to put resources.''

CASES MOVE SLOWLY

Some of these judgment calls have made life easier for Mr. D'Onofrio. The two most recent SEC lawsuits against him—one filed in Los Angeles federal court in 1993, the other in New York federal court last September—were years in the making and involve alleged stock manipulations that occurred, in some cases, more than a half-decade earlier.

Such time lags aren't uncommon, SEC officials say. The continuing criminal investigation, which involves some of the same activities as the two civil cases, also seems to be moving at a glacial pace. Hovhanness ''John'' Freeland, an alleged D'Onofrio confederate in one of the civil cases, pleaded guilty to criminal stock fraud in a related case in New York federal court. He entered that plea more than two years ago but hasn't been sentenced yet. Mr. Freeland, who is back in the business world, declines to be interviewed, and prosecutors won't comment on the criminal case.

When charges are brought against Mr. D'Onofrio, he is as likely to quit as to fight.

Indeed, Mr. D'Onofrio's success with the law has stemmed partly from his willingness to cooperate when caught. This has helped keep his incarceration time to a minimum, even though by the early 1970s he was clearing as much as $1 million annually in stock manipulations, according to one court ruling.

In one early instance of cooperation, Mr. D'Onofrio agreed to be the main witness against his former business associate and onetime state-court judge, Joseph Pfingst, in a bankruptcy-fraud case in Brooklyn, N.Y. Mr. D'Onofrio was sentenced to probation after helping get Mr. Pfingst convicted; the former New York judge got a four-month term.

MAKING ''A LOT OF MONEY''

In another case against an alleged co-conspirator, Mr. D'Onofrio testified readily to his own role as a ''manipulator of stocks'' who causes ''the price of the stock to rise by fraudulent means and in the process makes a lot of money,'' according to a federal-court opinion. But Mr. D'Onofrio has always been extremely secretive concerning anything that might interfere with his continuing prosperity. In one case, he was jailed 22 days for contempt rather than discuss his overseas bank accounts.

Lately, Mr. D'Onofrio has been dabbling in new business ventures, aided by a 1990 SEC rule change. ''Regulation S'' allows a company to sell stock overseas without going through the time-consuming and expensive disclosure procedures normally required to sell new stock in the U.S. The idea is to give companies a tool for raising capital. Such is the latitude of Regulation S that the SEC doesn't even track which firms do such transactions.

Law-enforcement officials say they believe Mr. D'Onofrio and others have been using Regulation S to obtain millions of shares of stock, which they fail to pay for or buy at a deep discount, then resell to the public before the price of the stock crashes.

The SEC has voiced concern about possible Regulation S abuses but has done little to curb them. In 1991, the agency did file suit in Washington, D.C., federal court against several defendants in a Regulation S transaction involving a small Tucson, Ariz., company, Work Recovery Inc. The SEC obtained injunctions and disgorgement orders against the defendants, whom the agency charged with failing to pay for 1.5 million Work Recovery shares and then illegally selling a substantial number of these shares to U.S. investors.

Though one of Mr. D'Onofrio's firms was Work Recovery's investment banker, the SEC didn't name him or the firm in its suit. The agency declines to say why. Work Recovery later sued Mr. D'Onofrio and others in Denver federal court and won a default judgment of nearly $9.5 million in April 1993. It remains unpaid.

In a 1992 interview, Work Recovery President Thomas Brandon recalled being impressed by Mr. D'Onofrio's plush office suite, chauffeured limousine and seeming dedication to helping small companies such as his raise capital through Regulation S transactions. Mr. Brandon said the pitch ''was almost evangelical in tone.''

Mr. D'Onofrio and his associates recently latched onto another small publicly traded company, Madera International Inc., a Calabasas, Calif., firm with a bizarre past that included plans for an automatic-weapons factory in China. By last year, Madera had a new business—exporting timber from Nicaragua—and a new investment banker, First Capital Network Inc.

Mr. D'Onofrio has been operating from First Capital's Santa Monica office. According to several individuals who have done business with the firm, he was involved in financing and stock transactions for First Capital, despite an outstanding court order barring him from ''acting as a promoter, finder, consultant, agent or other person who engages in . . . the issuance or trading of any security.'' Repeated requests for comment from company officials, left by phone and in person at the firm's office, received no response.

MADERA STOCK COLLAPSED

Madera Chairman Daniel Lezak says of Mr. D'Onofrio that ''it was my impression that he helped run the firm.'' Mr. Lezak says, and SEC filings confirm, that First Capital arranged the transfer of millions of new shares of Madera stock to itself or offshore buyers at no cost or at deep discounts through Regulation S and other transactions. Mr. Lezak says he believes much of that stock was quickly dumped in the U.S., a move he believes contributed to Madera stock's dropping to about 10 cents a share from a high last year of more than $3. Mr. Lezak says he fired First Capital as Madera's investment banker, but says he still sometimes consults with firm officials,

Mr. D'Onofrio has had serious heart problems of late, law-enforcement officials say. But he appears to be passing his accumulated knowledge to others, including his 34-year-old son Mark, who for the past several years has been working with his father.

Already, the younger Mr. D'Onofrio has been the subject of three SEC injunctions for alleged securities-law violations. He recently pleaded guilty in connection with federal conspiracy and fraud charges filed in Los Angeles federal court as part of the criminal investigation that also involves his father. Mark D'Onofrio remains free pending sentencing, scheduled for later this year. His attorney, Mr. Sorkin, says the son, like the father, doesn't talk to the press.

But Mr. Brandon, the Work Recovery executive, recalls a dinner conversation where Mark D'Onofrio talked of how he ''was proud of his father's doggedness'' and wanted ''to follow in his father's footsteps.''

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Crain's New York Business, Dec. 4–10, 1995]

NEW SCAMS FOR A NEW GENERATION

DRIVEN BY HIGH-TECH RIP-OFFS, FINANCIAL FRAUD IS SOARING

(By Judy Temes and Geri Willis)

John Chilelli believed in two things: technology and radio talk show host Sonny Bloch.

Looking for a way off the rough-and-tumble docks of Bayonne, N.J., the longshoreman, 37, plunged nearly half his savings—$22,000—into a high-tech investment in paging systems last fall. His dream was to earn enough to leave his 90-hour-a-week job operating a crane to buy a Pizza Hut franchise.

''I figured if Bloch had his own show all these years, and he's telling people to buy this, it's gotta be on the up-and-up,'' explains Mr. Chilelli.

But federal authorities say Mr. Bloch lined his own pockets working in collusion with a number of advertisers to hustle ill-advised and fraudulent high-tech investments to loyal listeners, ultimately stealing $21 million.

Mr. Bloch says he is innocent of any wrongdoing, but today he sits in jail awaiting trial.

The Bloch case is emblematic of how technology has unleashed an unprecedented wave of investment fraud that is ripping off consumers for billions of dollars. Investors are attracted to technology because they have seen the way it has changed their own lives. Many are also searching for the next Microsoft Corp. Instead, they are being lured into phony deals in interactive video, mobile telephones, pager systems and wireless cable.

Technology is not only transforming the products sold by these investing hucksters; it is also dramatically changing how they do business. Today's snake oil salesmen are reaching more people than ever by broadcasting their message over the Internet, as well as radio and television. They bounce their offers off satellites and communicate via conference calls, 900 numbers and late-night infomercials.

Carefully mimicking legitimate providers of investment advice, scam artists have mastered direct mail techniques, lifting new headlines and even stories to make their appeals sound authoritative.

Mr. Bloch went one important step further. He co-opted legitimate media, employing 200 radio stations, satellite technology and a telemarketing operation to broaden his reach. Once in investors' living rooms, he studded his show with noted experts. A string of book titles and frequent public appearances cemented his credibility with listeners desperate for a trustworthy, accessible financial adviser.

By some estimates, people like Mr. Bloch are costing Americans $100 billion a year. The Securities and Exchange Commission's caseload has climbed 30% in five years, while at the same time, criminal convictions by state regulators have quadrupled. Investment fraud complaints to state and federal agencies are soaring, with 50,000 logged by the Federal Trade Commission in the past three years.

AMERICANS FACE LIFE WITH FEWER FINANCIAL GUARANTEES

Behind this rise in financial fraud is a sea change in personal investing patterns. A new generation of Americans is facing life with fewer financial guarantees. Many no longer believe that Social Security will provide for their retirement. Medicare programs are under siege. The number of workers with fully company-funded pensions is dwindling. Home values, once the foundation of a typical family's net worth, are eroding.

Facing the prospect of outliving their savings, more people are buying stocks, bonds and mutual funds—one in three American families, compared with only one in 17 in 1980. Each week, these newly minted investors plow some $9.6 billion into mutual funds alone.

But most are ill-prepared for this new burden. Lacking investing skills, the postwar generation confronts an array of complex products and is dazzled by thousands of options. For example, there are now twice as many mutual funds—5,600—as there are stocks listed on the New York Stock Exchange.

Investors are confused because even legitimate firms can't be entirely trusted. Big brokerages still pay incentives to salesmen to hype products. The media adds to this charged environment by tantalizing investors with the possibility of high returns. ''Quit young and enjoy the rest of your life,'' beguiles a recent Money magazine cover.

''Investors are clearly more vulnerable,'' says Arthur Levitt, chairman of the SEC.

At stake is nothing less than the future prospects of millions of investors: their retirement funds, their children's college education money and the resources to care for their aging parents.

The longshoreman, Mr. Chilelli, has been forced to put his dreams on hold. ''I feel foolish,'' he says. But, he asks, ''How do you tell what to invest in? Who do you trust?''

TECHNOLOGY BLINDS INVESTORS

Bob Shifman was getting a sick feeling in the pit of his stomach as he listened to a slick promoter pitch wireless cable television to a roomful of retirees last June.

Richard Horne described wireless as the cellular telephone of the 1990s, a technological miracle capable of providing better service at lower costs. Why, he asked, would reasonable people invest in an unpredictable stock market or in real estate with such a ''tremendous opportunity'' available?

''This is an excellent place to park your money,'' Mr. Horne concluded.

Even as the room erupted into applause, Mr. Shifman thought of the $15,000 in savings he had sunk into the enterprise. The Jersey City retiree had planned to give the money to his two adult children and six grandchildren.

Eleven months later, the U.S. Attorney's office filed an indictment charging the operators of the wireless venture, known as Greater Columbia Basin, with defrauding consumers of a total of $21 million.

Among those implicated were Sonny Bloch, James Barschow, Joseph Glenski, Bruce Schroeder and Milton Sonneberg. Five others have pleaded guilty to felony charges that they worked with Mr. Bloch, including Steven Wiegner. Mr. Wiegner, who was president of Mr. Bloch's Independent Broadcasters Network, pleaded guilty last week and is cooperating with the government.

Mr. Horne, meanwhile, has been named as a defendant in an investor suit against Columbia, but lawyers representing investors have been unable to track him down.

Crooks are selling schemes and products with a high-tech spin to a generation that has eagerly watched laptop computers, cellular phones and interactive multimedia change the way people work and play.

Con artists use this fascination to lure investors into a variety of ploys that use interactive video, mobile telephones, pager systems and wireless cable. But the smartest ones don't stop there. They pitch Wall Street's own computer-based products and trading techniques—derivatives and arbitrage—to a gullible public eager to emulate the securities industry's savviest traders.

''Technology has the interest of people,'' says Stephen Gurwitz, an attorney at the FTC. ''The schemes follow the headlines.''

PERSONALLY ENDORSED BY SONNY BLOCH

Wireless cable fraud alone costs investors half a billion dollars each year, the FTC estimates. The SEC has filed 21 wireless cases in the past three years. The FTC, which investigates instances of misrepresentation, has filed 14 high-tech cases since 1990, five this year alone.

Such a scam cost Ray LaCava $30,000—money he received from a car accident that disabled him for life. Well invested, Mr. LaCava thought, that money could buy his daughter an annuity, or perhaps even set her up in business.

A paging license seemed ideal. The Long Island resident had made a successful high-tech investment before; he says he netted half a million dollars a decade earlier on a cellular phone license.

''I knew paging was up and coming,'' recalls Mr. LaCava. ''I was noticing more and more people with beepers.''

When salesmen from Manhattan-based Breakthrough Technologies Inc. called last fall, Mr. LaCava was primed to listen. For $7,400 per license, Breakthrough would conduct engineering studies and file an application for Mr. LaCava to ensure him of a prime operating area. The company was personally endorsed by Sonny Bloch, who described Breakthrough President Michael Taylor as his ''good friend.'' Says Mr. LaCava. ''That clinched it for me.''

Salesmen from Breakthrough took Mr. LaCava and a dozen other investors to a legitimate conference at the Newark Marriott hotel held by paging equipment manufacturer Motorola, which knew nothing about Breakthrough. A limo ride and dinner were part of the package.

Mr. LaCava forked over $22,200 that night in a five-for-three deal, buying licenses in Kansas City, Mo., Louisville, Ky., and three other cities.

BIG FEES FOR USELESS LICENSES

He never received the licenses. Principal Michael McGuinness, using the name Michael Taylor, put off Mr. LaCava for two months, cancelling meetings and blaming the delays on government bureaucrats. Investors finally stopped buying the excuses and reported Breakthrough to postal inspectors last December. Mr. McGuinness pleaded guilty to charges of mail fraud earlier this year.

Like Mr. LaCava, many investors have made millions off such new technologies as cellular telephones, heightening interest in high technology. Holding out the promise of similar huge returns, hustlers charge unsophisticated investors as much as $7,500 to file a license application that could be filed with the Federal Communications Commission for as little as $50. They justify the expense by promising engineering, and population studies.

Often, the studies are never delivered. When they are delivered, they usually prove worthless. And that's just the beginning of the subterfuge.

Investors are often misled about the capability of the technology or simply the location of the licenses that they apply for. Little is said about the heavy responsibilities that accompany the ownership of a license, such as a requirement that owners build transmission towers and stations costing hundreds of thousands of dollars.

Investors in Manhattan-based Metropolitan Communications Corp. were told that their specialized mobile-radio licenses would become part of a nationwide wireless telephone network, according to an FTC complaint. For an initial investment of $7,000, investors were allegedly told, they could make as much as $58,000 a year before expenses.

In less than two years, roughly 2,500 investors funneled $28 million into the deal. About half of them signed separate agreements to lease their licenses to a manager, expecting the manager in turn to pay them a stream of income that would resemble an annuity.

The manager was really a sister company of Metropolitan. Both companies, authorities say, lacked the capital to properly build the towers that would make the system work.

The company tired to mislead regulators by building at least 300 temporary towers, according to Danny Goodman, who was appointed by the U.S. District Court to take over the company last year. In each location, the company would broadcast for a day or two, pull down the tower, shove it into a van and move it to the location of the next license, where workers would go through the same motions.

''Metropolitan thought it would fool investors,'' says Mr. Goodman. It did—until the FTC stepped in. The agency filed a complaint against Metropolitan in January 1994 and froze the assets of its central players.

Metropolitan principal Sheldon Jackler signed a consent order last year agreeing to cease operations. But he has since decided to fight the government's case and disputes some of the government's claims. His lawyer, Stephen Hill, says Metropolitan had every intention of making the system operable, but its plan was interrupted by the court-imposed receivership.

TARGETING THE SAVINGS OF RETIREES

Some investors are so mesmerized by the promise of high-tech products that they even entrust their retirement money to these products.

In an elaborate ruse, Jerry Allison and Qualified Pension Investments Inc. of Scottsdale, Ariz., convinced retirees to sign over their entire retirement accounts to the ''IRA approved'' pension administrator.

''There is no such legal statement as 'IRA approved,' '' says Kenneth Lench, SEC branch chief, whose Washington office filed a QPI complaint.

QPI should have acted as a disinterested third party in administering the accounts. Instead, Mr. Allison's company allowed backers of phony wireless cable operations to mail QPI brochures to prospects alongside their own promotional materials. In return, the Scottsdale company stuffed those retirement accounts full of worthless wireless cable investments. The company took in $270 million of retirement money from 14,500 people nationwide between 1991 and 1994.

Mr. Allison faces a trial on the SEC complaint that he misappropriated at least $4.5 million in retirement funds. A subsequent receiver's report shows that as much as $9.5 million may be missing.

SCAM ARTISTS IMITATE WALL STREET

Scam artists also have followed Wall Street into complex financial instruments. Chuckles Kohli of Princeton-based Sigma Inc. said he could make investors returns of 10% a month using derivatives and exchange-traded options to develop lucrative currency arbitrages.

''All the banks are getting rich doing swap derivatives,'' an elderly investor later told authorities. ''I wanted to share in it.''

Another individual pumped more than $100,000, just about all of his retirement fund, into a portfolio managed by Mr. Kohli.

''There were these people I knew who were living a lot better than I was, driving nicer cars, without the income I had,'' says the 52-year-old father of three. ''I said, 'Oh shoot, I could live like that, too.' ''

Mr. Kohli took in about $40 million from investors, according to court documents filed by the Commodity Futures Trading Commission and the U.S. Attorney's office in Newark.

He allegedly violated a host of securities rules: He never registered as a commodity pool operator, and he mingled investor dollars. During his four years in business, he never filed a single tax return. And to top it all off, he lost $20 million of investors' money while telling them they were reaping huge returns.

He squandered another $5 million on expenses, which included a personal limo driver, go-go dancers and a strip bar.

He was indicted for mail fraud and is now in jail awaiting trial.

THE UNDERSIDE OF THE INTERNET

Forget the old boiler rooms were high-pressure swindlers pitched penny stocks and other risky investments. Today's hustlers have jettisoned the phone banks for computers, modems and the Internet to broaden their audience and lower their costs. They're using computer-generated mailing lists, satellite transmissions and radio networks to appeal to millions of potential targets.

The new scam artist appears on late-night television and uses desktop technology to produce pitches that mimic those of legitimate personal investing experts.

These tools have made financial fraud so easy to perpetrate that one search for cybercrooks nabbed a 19-year-old hacker peddling an investment in eel farms. His tools: a personal computer and an active imagination.

Nowhere does the possibility for abuse loom larger than on the Internet and on-line services, where investor chat lines burn 24 hours a day with stock tips and ideas.

While activists criticize on-line services for their unwitting role as purveyors of pornographic pictures, the real smut is often financial. A recent visit to America Online found these dubious offers:

Stop Paying Income Taxes Legally . . . Get a letter from the IRS stating: ''You are not liable for income taxes.'' This is honest, legal and REAL.

$250,000 by Christmas or Sooner!!! Call the World's Most Profitable Number.

Get out of the DEBT Cycle! . . . Stop putting your banker's kids through school or paying for his new swimming pool!

Investors who would be wary of a telemarketer are less suspicious of an electronic pitch—particularly when it is personalized.

''There is a clubby mentality. It's like hanging out at the campfire at Malibu,'' says Mark S. Herr, New Jersey consumer affairs director.

A recent SEC case shows how electronic schemers get close to their prospects. The initial hook was an ad on Compuserve, where subscribers were promised ''High Returns for Investors!!'' last July. People who responded to that pitch were mailed an authentic-looking contract describing a $12,000 ''prime bank'' investment.

Gene Block, a Durham, N.C., business consultant, gained the trust of investors by chatting with them through e-mail. He promised that their investments would double in just six months and were protected by top bank guarantees, says the SEC in a complaint.

But Mr. Block was really a member of an international ring that marketed these phony investments, scoring $1 million for their efforts. So far, the SEC has recovered $250,000 from the bank accounts of the scheme's originator, Renate Haag, who is believed to have fled to her native Germany.

But the scheme is noting new. The SEC has 24 other prime bank cases on the books, and more are on the way.

''In the old days, you had the boiler rooms where you had to hire 20 people to make thousands of phone calls to sell fraudulent securities. Now one person can do this by the push of a button,'' says James B. Adelman, former head of enforcement of the SEC's Boston office.

Mr. Block faces a trial on the SEC complaint. His attorney, Paul Prew, doesn't deny that his client participated, but says, ''He was used as a pawn by people who knew better or should've known better.''

Con artists are combining PC power with other technology. Richard Welch, formerly the operator of a fantasy telephone sex line, drew on his knowledge of 900 numbers to develop a Ponzi scheme in which people were invited to invest in a worldwide lottery service said to be sponsored by North American Indian tribes.

The con was a one-two punch that started with telephone and fax solicitations. Early investors in the ruse then used e-mail and computer bulletin boards to recruit others, according to a complaint filed by the SEC.

By harnessing the power of these technologies, Mr. Welch and his coconspirators drew in 20,000 people in a four-month period. The agency is still trying to locate Mr. Welch, who has not responded to the complaint.

SCAM ARTISTS DIALING FOR DOLLARS

But crooks don't have to be experienced Net surfers to benefit from technology: Simple PC desktop publishing software allows stock front-runners, for example, to design professional-looking newsletters to push up the prices of the stocks they hold.

Others are also using computers to find and track good targets. In one of the fastest-growing telemarketing ploys, ''recovery rooms,'' fraud artists use computers to build lists of people who have already been defrauded so they can be tapped again.

According to an FTC complaint, Meridian Capital Management Inc. promised to recover money that victims had lost in telemarketing schemes, sometimes passing itself off as a regulatory agency. For 10% of their original loss, the Las Vegas firm told investors, it would launch a class-action suit, or tap a performance bond said to be posted by the first round of crooks.

''The idea was to entice consumers to send good money after bad,'' says FTC staff attorney James Reilly Dolan.

Meridian collected $1.6 million from 800 people, many of them New Yorkers, in just eight months.

Acting on a request from the FTC, a court froze Meridian's assets in August, and the company is no longer in business.

Mr. Dolan says such pitches are particularly convincing because the swindlers know details about the victims, often including the exact amounts they have lost.

Lists of potential targets cost $5 a name for initial leads, but $15 for the names of people who've already been fooled once.

Hackers' use of technology is also giving them a leg up in evading their trackers. Once a cyber-huckster gets a hint that someone is on his tail, he can easily move on.

''You cancel your account with your online service and vaporize,'' says Richard Lee, assistant regional director in the SEC's New York office.

Regulators lack the tools to go after some of the more subtle misrepresentation that occurs on the Internet. Investor bulletin board postings are singed only by names similar to CB handles. Because of the anonymity, people can easily camouflage their identities. A stock touter, for example, can be a broker, a savvy penny-stock promoter or even the president of the company.

Mr. Herr, the New Jersey consumer affairs director, concedes that regulators are playing catch-up.

''We are in the embryonic stage,'' he says. ''Right now, the bad guys are ahead of the good guys.''

Mr. BRYAN. With that background, one might rightly inquire, why should the Congress be considering legislation that makes it more difficult for defrauded investors to bring and win cases? The simple answer is that those who advocate this conference report in its present form, in my judgment—and I say this with all due respect—are legislating by anecdote and clearly lawyer bashing.

I understand that lawyers are a difficult group to love. I fully acknowledge that some of my lawyer friends have been guilty of misconduct and that there are indeed frivolous lawsuits filed. But in our effort to focus on frivolous lawsuits, in my judgment, the provisions of this piece of legislation effectively emasculate private investor protection.

During the debate today, we will hear repeatedly how often our high-technology companies are sued. What we will not hear a lot about is suits brought by one company against another. Mr. President, this legislation does nothing and says nothing about one company's right to sue another company. The sole focus of this legislation is lawsuits brought by private investors as part of a class action proceeding.

Let me again invoke the Wall Street Journal, if I may. This was an article that appeared in December 1993. Its premise was ''Suits by Firms''—that is other companies—''Exceed Those by Individuals.'' Let me just read one paragraph, if I may, that I think illustrates the thrust of this article.

Preliminary data in the first-ever study of litigation patterns of Fortune 1000 companies show that businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court.

Let me repeat that because I know that it tends to run counter to the prevailing myth about what is actually occurring in the so-called litigation explosion.

Preliminary data in the first-ever study of litigation patterns of Fortune 1000 companies show that businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court.

I know that is not the accepted view, and it goes contrary to the conventional wisdom that is being espoused on the floor that there is this explosion of class action lawsuits. But that is what the Wall Street Journal has to say.

Mr. President, I ask unanimous consent that the Wall Street Journal article to which I have made reference, of Friday, December 3, 1993, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 3, 1993]

SUITS BY FIRMS EXCEED THOSE BY INDIVIDUALS

(By Milo Geyelin)

Businesses may be their own worst enemies when it comes to the so-called litigation explosion.

Preliminary data in the first-ever study of litigation patterns of Fortune 1000 companies show that businesses' contract disputes with each other constitute the largest single category of lawsuits filed in federal court. Trailing behind are personal-injury suits and product-liability cases brought by individuals.

This result—while limited to federal courts—seems to challenge companies' frequent claims that personal-injury plaintiffs' lawyers are the main engines of litigation in America. And it may force some companies to review their own penchant for using the courts to resolve commercial disputes.

The finding is part of an ongoing study by University of Wisconsin sociologist Joel Rogers and RAND Institute for Civil Justice senior researcher Terence Dunworth. Ultimately, by looking at 1,908 companies that have been ranked among the Fortune 1000 from 1971 to 1991, the study will chart federal trends industry by industry and company by company.

The results so far, presented in draft form at a symposium at the University of Wisconsin's Institute for Legal Studies two weeks ago, also show that the once-steady annual increases in overall legal filings involving Fortune 1000 companies peaked in 1987 and have declined 21% since then. Similarly, business litigation involving smaller companies and individuals peaked in 1986 and has since dropped 12%.

When cases are broken down by category, the study shows that labor and civil-rights claims have increased in recent years. So have filings involving a single product such as asbestos-related injuries. Otherwise, product-liability suits against Fortune 1000 companies have actually dropped, from a high of 3,500 in 1985 to 1,500 in 1991.

''I know that business doesn't want to hear that, but these data don't seem to lie,'' says Mr. Rogers.

The reasons for the various litigation patterns are far from clear, however. For example, says Mr. Rogers, the high incidence of commercial legal disputes among businesses may be the result of their litigiousness or may just reflect the increase in the number of contracts in effect—and thus potentially subject to dispute—in a growing economy.

In either event, the results suggest that by pointing the finger at plaintiffs' lawyers, business leaders and advocates of legal reform may be bypassing other contributors to the overburdened civil-justice system, at least in the federal courts.

In response to the study's finding, legal-reform advocates voiced skepticism about what the federal-court results may mean. ''The overwhelming majority of product-liability claims are filed in state courts,'' says Victor Schwartz, a lawyer-lobbyist in Washington, D.C., who represents backers of a proposed federal law to rein in some product-liability claims.

State courts are generally regarded by plaintiffs' lawyers as friendlier forums for personal-injury and product-liability claims than federal courts, and most suits against local businesses and manufacturers would more likely be filed in local courts. But comprehensive state-court data are nearly impossible to compile. So studies of state systems have been confined to a limited number of courts. Thus, few useful comparisons can be made with the federal numbers.

Responds RAND researcher Mr. Dunworth: ''It's better to light a candle than to curse the darkness. Even if that's all you're doing by looking at federal courts, you're further ahead than you were.''

Messrs. Rogers and Dunworth relied on a computer database of more than four million federal lawsuits between 1971 and 1991 to identify 2.48 million suits that involved at least one business entity. Fortune 1000 companies were involved either as plaintiffs or defendants in 457,358 of those suits, or nearly 20%, according to the study. Not surprisingly, they were defendants in virtually all personal-injury cases (95%) and in most labor and civil-rights cases (85%). In contract disputes, Fortune 1000 companies sued each other as often as they were sued.

To get a more detailed look at how Fortune 1000 companies compared with other litigants—such as other businesses, governments and individuals—the study examined 405,908 cases that landed in federal court solely because the parties came from different states, thus creating so-called diversity of jurisdiction. Since 1985, records in such cases have indicated whether either party is a corporation, large or small.

According to these records, 43% of the civil lawsuits involving Fortune 1000 companies between 1985 and 1991 were contract disputes. For smaller corporations, the percentage was even higher—51%. Taken together, business disagreements, whether among individuals, companies or corporations, made up nearly half of all federal litigation in this sample. Federal suits over contracts outpaced any other single category of litigation.

Yet even these cases are on the decline now. Contract lawsuits peaked at 10,253 in 1987 and dropped 30% to 7,182 in 1991. A key reason, corporate legal experts say, is companies' growing willingness to settle disputes through arbitration and mediation. ''When you have businesses suing businesses,'' says Shelby R. Rogers Jr., general counsel for the Texas Medical Association, in Houston, ''you find that getting to the courthouse takes a number of years . . . and as a result we see many more businesses going to different forms of alternative dispute resolution.''

But Mr. Rogers, of the Texas Medical Association, says he is yet to be persuaded that federal litigation trends bear any relation to what's happening in jurisdictions such as the Texas state courts, long regarded as among the most pro-plaintiff in the country. And even Mr. Dunworth concedes there's ''a great deal of uncertainty about what's taken place in state courts.'' But he adds: ''if there are significant trends at work (generally), they surely must be evident in federal courts.''

Lawyers at big firms nationwide rank Cravath, Swaine & Moore as their toughest competitor, followed by Skadden, Arps, Slate, Meagher & Flom and Wachtell, Lipton, Rosen & Katz. The three New York-based firms are followed by Wilmer, Cutler & Pickering, of Washington, D.C.

The survey of about 1,300 large-firm lawyers at 158 firms was conducted by Global Research, an arm of London-based Euromoney Publications PLC, as part of a larger study of law-firm management practices.

In addition to leading the overall rankings, Cravath was first choice in three of the 19 subspecialties in which respondents also were asked to nominate blockbuster competitors. The hard-charging Wall Street firm, whose partners have been known to boast that its cafeteria is as crowded at dinner as it is at lunch, was seen as dominating in tax, securities and asset finance.

Skadden eclipsed others in mergers and acquisitions, while Wachtell led in banking; the second-ranked firm in both categories was New York-based Shearman & Sterling. Other champions included Fulbright & Jaworski, Houston (arbitration and litigation); Weil, Gotshal & Manges, New York (bankruptcy); Simpson, Thacher & Bartlett, New York (antitrust); O'Melveny & Myers, Los Angeles (corporate); and Sidley & Austin, Chicago (environment).

(Mr. CAMPBELL assumed the chair.)

Mr. BRYAN. Mr. President, there are a number of reasons why I oppose this legislation, and I would like to very briefly make reference to some of the primary reasons. My colleague, Senator SARBANES, indicated in a very thoughtful and very comprehensive statement why he was opposed, and I share and associate myself with his comments.

If this was designed to be balanced legislation, something that fairly dealt with the frivolous lawsuit problem in America, and yet at the same time protecting private investors who have been defrauded, I think it would be very easy to craft a piece of legislation.

Every regulating body that I know of, from the Securities and Exchange Commission to the North American Association of Securities Administrators, all have urged upon us to deal with a serious problem concerning an unduly restrictive and shortened statute of limitations. The Lampf case of 1991 shortened the statute of limitations for class action suits to 1 year from the point of discovery, a 3-year bar. Everyone who is involved in protecting investors from fraud acknowledges that this is too short, and, indeed, when we discussed changes in this legislation in 1993, my colleagues on the Banking Committee said, ''Yes, we would be willing to go along with this change in the statute of limitations, but it must be done in the broader context of overall reform.''

Mr. President, that is what we are purporting to do today. Disagree as I may with the thrust of much of which, in my judgment, undermines the ability of innocent private investors to recover from fraud, this is a comprehensive review, but I think it is indicative of the bias that infects this legislation, that this has nothing to do with protecting investors, this purports in no way to be fair and balanced. This is simply designed to immunize perpetrators of wrongdoing from legal responsibility, from their reckless misconduct that has caused great loss to individual investors, to pension funds, to securities portfolios held by cities, counties, States, and universities and colleges in America, because although we have tried, there has been an unwillingness, a refusal to right the statute of limitations problem.

That has nothing to do with being frivolous—nothing to do with being frivolous. The statute of limitations bar that currently operates prevents the most meritorious of cases from being brought if it exceeds the current 1 year from the point of detection, 3 years overall bar. The Securities and Exchange Commission has testified that even with the enormous resources brought to bear by the Federal Government, all of the investigators, all of the staff, that it takes them more than 2 years to conduct such an investigation before they are prepared to bring an action involving investor fraud under the Securities Act. How much longer does it take a private investor without all of the resources available to the Federal Government to, indeed, conduct such an investigation and make a determination whether individually or as a class they have been subjected to investor fraud.

Aiding and abetting. The great case, and we will say more about this later this afternoon, but the Keating case is one that has become a symbolic case involving the amount of investor fraud by Mr. Keating's actions. Ultimately, $262 million was recovered in that case on behalf of investors. That is recovered. That means that there has been a determination that, indeed, investor fraud occurred and that the individuals bringing that action were, indeed, damaged to that extent.

Seventy percent of the recovery in that case—70 percent—was by those who are aiders and abettors. Mr. Keating himself, having become bankrupt, or judgment proof, was unable to respond in damages. That is, plaintiffs filing against him could not recover from Mr. Keating because he did not have any money, and yet there were those who were involved in this very

crafty, complicated, extensive, comprehensive and pervasive fraud—lawyers, accountants, and others—whose actions substantially contributed to this fraud who would be aiders and abettors who, under this legislation, are now immunized.

We sought to restore the provisions of aiding and abetting, having nothing to do, Mr. President, with a frivolous lawsuit. We are talking about individuals who have been determined to have been guilty of reckless misconduct that caused damage to private investors; they are now going to be immunized from this liability. That has nothing to do with the frivolous action, the proportionate liability that Senator SARBANES talked about extensively.

Again, the whole theory of our system of American jurisprudence is one of balancing the scales of justice. On one hand, we are talking about individuals who are totally innocent. All they did was to respond to an entreaty or a sales approach to buy securities, subsequently finding themselves defrauded as a result of the purchase of those securities, and, subsequently, it is determined that individuals who are reckless in their actions—ordinary negligence, there is no liability for ordinary negligence. So those simple mistakes, mishaps that all of us are aware of in life, we are not talking about that kind of conduct. We are talking about reckless misconduct.

We are now saying that in terms of balancing, who should accept the benefit, who should bear the burden, we are now saying, Mr. President, that those individuals who are guilty of reckless misconduct, that their liability is limited only to the proportion that the court finds them to be responsible.

The practical consequences of that, as in the Keating case, for example, where you have the primary perpetrator bankrupt, is that the innocent investor is unable to secure full recovery, because what we are talking about in this legislation is to limit that liability to the proportionate amount.

So if the determination is made that there is only a 20-percent liability or fault found with respect to the reckless defendant and that the 80-percent liability under this hypothetical would be the primary defender and the primary defender is bankrupt, that is it. That is it, even though it is the conduct of the reckless defendant that contributed to the loss. That, Mr. President, has absolutely nothing to do with a frivolous lawsuit. That is a value judgment as to who ought to be protected: the innocent investor or the individual whose reckless conduct contributed to the loss.

For eons of time under the common law, in those situations the public policy has always been weighing these scales of justice that the burden ought to fall on the individual whose reckless conduct contributed to the loss rather than to have that burden borne by the innocent investor who was not responsible in any way at all. Again, this has nothing, absolutely nothing, to do with a frivolous lawsuit.

Rule 11 is the provision under the Federal Rules of Civil Procedure that is available to sanction lawyers who bring frivolous lawsuits. I believe that the proponents of this legislation, in the Senate version, hit it right on the mark. Whether one is a plaintiff's lawyer or a defendant's lawyer, if that lawyer is involved in frivolous action, the full sanction of the law ought to attach, and that lawyer ought to pay the cost as a result of undertaking that frivolous action. I have no quarrel with that at all. That is the way it was when it left the Senate, Mr. President. But what has occurred is part of this ongoing and skewing process, having nothing to do with frivolous lawsuits. Everything is weighted in this legislation toward protecting those who perpetrate fraud and those attorneys who represent them, because now the full force of the sanction only applies to plaintiffs' lawyers. Defendants' lawyers who are guilty of frivolous actions are not subjected to the same standard. It has been pointed out by Senator SARBANES that the pleading requirements are more difficult. That, too, has nothing to do with frivolous lawsuits.

Finally, although it is a bit arcane, are the so-called safe harbor provisions. I want to comment for a moment on safe harbor. Prior to 1979, one could not make what is called a forward-looking statement—that is, predictive conduct about the security because such and such is going to happen next week, next month, or next year. The reason why that is the rule is that because those kinds of future predictions have been the subject, historically, of overstatements, making it very easy to mislead people by false encouragement: ''Buy this stock and you are going to be a big-time winner''—that type of thing.

In 1979, for the first time, they permitted forward-looking statements. I do not come to the floor as a Member of this institution as an expert in securities law. Whether that was a good provision in the law, I do not know. But in doing so, the SEC did recognize that there was great risk and great danger because those people who sell and offer these securities oftentimes get carried away and make such optimistic and rosy predictions that people are misled. And so the standard that was employed was that you could make these forward-looking statements and you were protected from liability if your statements were made, first, in good faith and, second, with a reasonable basis.

As I say, I am not an expert in this area, but that strikes me as being a pretty reasonable standard. There is no liability, even though the statements may be inaccurate or misleading, if they were made in good faith and with a reasonable basis.

Now, Mr. President, as a result of the action taken by the conference, even statements that are false, totally false—we are not talking about misleading or inaccurate; we are talking about totally false statements—are protected. That is, those who offer those statements now enjoy no liability if they simply add cautionary language. ''Yes, this stock is going to triple, but there may be a contingency out there in the future that if the economy goes sideways on us, that may not happen.'' Just cautionary language. That is pretty outrageous, in my view, once again, this having nothing to do, in my view, with frivolous lawsuits but having everything to do with protecting those individuals who make statements that turn out to be inaccurate and misleading and immunizing them from liability.

Now, our securities investor protection system in America is really predicated on three individual pillars—two of them governmental, one in the private sector. Clearly, the Securities and Exchange Commission at the Federal level has the ability to assist in protecting the marketplace from fraud and to provide the measure of investor confidence that has characterized the American securities market. Many of my colleagues who have had State experience know that each of the States have securities offices which also serve as an adjunct to protect the public from investor fraud. But recognized as being extremely important in policing the market and providing for that investor confidence that characterizes and distinguishes the American securities market as no other securities market in the world is the ability of private investors, through class actions, to bring cases themselves. The SEC fully acknowledges that, and so it is that protection which is being undermined by this legislation.

In fact, the Congressional Budget Office, which is invoked with a level of respect and devotion that I have not seen in my previous 6½ years here in this institution, has estimated that as a result of what this piece of legislation does in terms of preventing access by private investors who are victimized by fraud, it would require another $25 to $50 million a year in addition to the existing budget of the SEC to offset that loss. That is, it is recognized under the current system that the SEC cannot adequately police the securities market, and its philosophical predicate is that the private investor, through the class action mechanism, is a very important function. We now, in my judgment, render that private class of action much less viable in protecting the marketplace. Some 11 attorneys general have complained about these changes and have characterized this as an unfunded mandate.

We hear repeatedly, and we will hear during the course of the day, that this legislation is absolutely necessary because the mainspring of the private enterprise system that all of us respect and acknowledge as having created the highest standard of living for us in America, or anyplace in the world, is

that as a result of these lawsuits, private investor actions, the securities market has been limited in terms of the ability of the entrepreneur, the startup company, to generate the kind of capital needed to bring new products and services into the marketplace. We will hear that ad nauseam.

Here are the facts. The Dow Jones industrial average recently exceeded the 5,000 mark. In 1995, we have seen the Dow Jones rise higher in 1 year than at any previous year in its history. Initial public offerings—that is, the mechanism used to generate this capital by new companies and other companies who are wishing to develop a new product or service—have risen by 9,000 percent in the last 20 years. The capital raised as a consequence of those new offerings has increased by 58,000 percent. That is good news for Americans. I am pleased to hear it. I think all of my colleagues should be. But it does not make the argument that the proponents of this bill assert that this legislation—to immunize this whole category of malefactors—is necessary in order that businesses can generate the kind of capital needed to bring new products into the marketplace.

We will also hear that investors invariably sue every time the stock drops to any degree, regardless of their reasons. Let me again make the point, Mr. President, that the evidence simply does not support this.

In fact, the University of California study of 589 stocks that dropped more than 20 percent in 5 days showed that only 3 percent were sued by investors. This is a far cry from the perception that proponents of this legislation will try to paint.

We will also hear investor suits are filed just to get a quick settlement. Here again, the evidence is to the contrary. The SEC testified that surveys show most judges in these cases believe frivolous litigation is not a major problem and could be dealt with adequately through prompt dismissals.

We have also heard there has been an explosion of these class actions. Mr. President, that is simply not true. Of all of the civil actions brought in the Federal court system—all of them, from soup to nuts, all of them—about 0.1 percent involve class action security cases—0.12 percent is the precise number.

If you look at a table over the last 20 years from 1974 to 1993, you will see that the number of cases filed have remained essentially the same. This is a document prepared by the Office of the U.S. Courts, indicating that about 270, 260 are actions filed a year—no change—even though in the past 20 years the population in America has grown substantially.

Of the 14,000 companies listed on the exchange, about 120 each year find themselves being sued; about 120.

I think we just need to put that in perspective as we go through legislation here that radically changes the system that has worked essentially well for us in America, admittedly requiring the fine tuning I alluded to in those provisions that, in my opinion, deal legitimately with the frivolous lawsuits.

This is a meat ax approach. Make no mistake, its purpose is not to protect against frivolous lawsuits. It is to limit liability or to insulate liability from a whole category of persons whose conduct caused the investor loss.

The conference report would preclude many consumer institutions and State and local governments from recovering their losses in Federal courts when they are defrauded in the financial market.

The conference report takes the worst features of the Senate bill and combines them with many of the most dangerous provisions in the House version.

This legislation will harm consumers, consumers who have savings in retirement funds, stocks, bonds, mutual funds, or other investments. In fact, it will harm taxpayers who depend on the financial stability of their State and local governments in places like Orange County, as an example.

That is why, notwithstanding the efforts of the proponents of this bill to portray this—if you are for starting entrepreneurial companies, if you are for eliminating frivolous lawsuits in the marketplace, you should support this legislation; if you want to help the trial lawyers, you should be opposed to it. That is not what this is all about.

That is why the National Association of State Financial Officers—those would be the State treasurers, comptrollers, however the State financial portfolio is managed—the national association of these groups has expressed its strong opposition. So, too, has the National Association of County Treasurers and Financial Officers. The national association that deals with municipal financial officers and the national association that deals with the portfolios and securities managed by America's universities and colleges also oppose this legislation.

Also, the National Council of Senior Citizens, the National League of Cities, the National Association of Counties—I will not belabor the record with all of these—the Fraternal Order of Police, all have expressed their strong opposition, and for the same reason that I have alluded to, because it is far, far beyond what is needed to address the legitimate concern of frivolous lawsuits as it relates to securities actions.

I know there are a number of my colleagues who need to speak. I will just be very brief. Let me say I will comment in more detail. Some of you who voted for this legislation when it passed the Senate—some said on the floor and to a number of us, ''Look, if this thing moves in the wrong direction in conference, I will reconsider my position.'' To those of my colleagues who voted albeit somewhat reluctantly for this legislation when it passed the Senate, let me say that it is materially worse now than it was as it left the floor of the Senate.

With respect to the provisions dealing with the safe harbor provisions, the pleading requirements, the balance of equity and fairness of rule 11, the proportionate liability provisions have been made much more onerous. All of these provisions, including the RICO provisions which, as the bill left the Senate, concluded that, if any individual were convicted of a RICO fraud, then all that were involved would be subject to RICO sanctions in terms of the measure of damages that can be recovered—that has been greatly eliminated.

Perhaps even more perniciously, the provision that left the Senate dealt with the Securities Act of 1934. Now we have brought in the Securities Act of 1933 which deals with a whole different category of actions and we have applied many if not all of the provisions of that. I invite my colleagues' attention to that.

I yield the floor.

Mr. BENNETT. Mr. President, I will allow my colleagues to proceed, but I did want to respond briefly to some of the comments made by the Senator from Nevada, having been on the floor through his entire statement. I think there are a few points we need to make and then I will sit down and let my colleague proceed.

As I took notes from the comments of the Senator from Nevada, his first point listed how difficult it is to prove fraud. He gave us seven things he said are hard to prove. I agree with him completely. These are hard to prove. They are also very easy to allege and an alleging of these things is what leads to the settlements out of court that are the problem for many of the companies we are dealing with.

Second, he quotes from the Wall Street Journal. He quotes from Crain's, saying fraud is soaring; the Wall Street Journal headline, ''The Bad Guys are Winning.''

My only comment is if indeed that is so, why are not the Bill Lerach's of this world going after those bad guys instead of conducting the kind of practice that we have seen described here on the floor in the previous debate?

Third, he makes the point that the biggest number of suits are between companies, not class action suits on behalf of the individual investors. He says this bill does not address that.

I agree with him, this bill does not address that. If he feels that is a problem that needs to be addressed, he can file a bill that addresses that. The fact this bill does not address that does not mean that the issues the bill does address are not meritorious and need not be addressed.

Then he talks about the statute of limitation. There has been a lot of debate about that. I only make the point that this bill does not change the present level of the statute of limitation. We are not talking about putting a heavier statute of limitation burden

than currently exists. We are talking about allowing the current law to continue.

Fifth, he talks about the great loss to cities and pension funds that cannot be recovered if we cannot go after the aiders and the abettors. Earlier in his statement he said we are being given evidence by anecdote on the part of those of us in support of this bill, but he gives us no anecdote to show the great loss by cities and pension funds except the anecdote that we hear again and again—and he brought it up under these circumstances—of Charles Keating.

Well, I take some time to make the record very clear on Charles Keating, because we hear that again and again as the anecdote of what we will lose if this bill is passed. I will make these points, Mr. President.

Most of the losses from the savings and loan scandal did not result from securities fraud. They resulted from outright criminal activity and looting the assets of the companies. They do not fall under the purview of this bill at all. They are simply irrelevant to this discussion. Even those S&L losses that did result in part from securities fraud would have been recoverable under this bill. It does not in any way, ex post facto, go back and say, if this bill had been in law at the time, you could not have gotten this recovery, you could not have gotten this recovery.

Why do I say that? Here are the reasons. Statements by Keating and his cohorts would have failed every one of the stringent preconditions in the conference report safe harbor provision for forward-looking statements. Every one of Keating's statements and his people's statements would have been actionable had this report been law.

Second, the conference report would not have immunized the alleged aiders and abettors because the conference report authorizes the SEC to take enforcement action against aiders and abettors, and the Keating investors would have recovered fully even without those aiding and abetting claims.

Third, the conference report would not have rendered Keating's actions time barred. It would have no impact on the statute of limitations in those areas because, as I say, it does not change current law, and all of the actions under Keating were brought within the applicable timeframe. Therefore, the Keating thing does not apply there as an anecdote.

We must understand that Keating's fraud did not apply to forward-looking statements. They made flat statements of error about the past. They lied flat out about what had been done. This bill does not protect anybody who is going to lie flat out about the past.

The conference report would not have empowered Keating's cohorts to control the litigation. Under this bill, they would be as liable as they were in previous law. It would not have delayed or imposed any obstacles to the actions that were taken. The conference report does not, as some claim, inflexibly require courts to stay discovery every time a motion to dismiss is filed. It would have had no effect if this bill had passed—it would have no effect on the damage awards. Joint and several liability would still have been available under the fact circumstance of Keating.

I could go on and on. The point I want to make is very clear. It is a red herring in this debate to talk about Charles Keating and the S&L disaster because this legislation would have had no impact whatsoever on the Government's ability to proceed in criminal action or an individual investors' ability to proceed in class actions against Charles Keating.

The comment was made that the safe harbor will now allow people to lie. No, it will not. If you make a false statement, the one referred to as an example by the Senator from Nevada, ''The stock is going to triple,'' this bill does not protect you because you cannot make a prediction about what is going to happen to the stock under current SEC regulations and not be called in violation of those regulations for that.

What you can say is we believe we will be able to make the marketplace with our widget on such and such a date, and that we will have X numbers of copies of that widget.

But why would any executive make that statement if he did not believe it were the case? Nothing could be more damaging to his company or his reputation or his credibility as an executive than for him to make that kind of statement, meeting in front of securities analysts at the time of an IPO. You want to be very careful to preserve your credibility with the investment community.

No, this is not the problem, CEO's making statements to securities analysts. I will tell you what the problem is and why we need a safe harbor. Let us say, within your company you have two engineers who are examining your product. Engineer A says, ''I do not like the way this thing works. I would like to fine tune it.'' Engineer B says, ''I disagree with you. I think it works just fine and it is ready for market.'' Along comes one of these strike suits and the discovery starts and the lawyer gets ahold of engineer A's position and immediately he stands up and says, ''Mr. Chairman,'' speaking to the CEO of the company, ''you have within your files a document where one of your employees told you absolutely this product was defective.'' He is quoting engineer A. He conveniently does not quote engineer B, who disagrees with him. And, there you are, you have made a false statement. And, ''If you did not know the product was defective, you should have known the product was defective.''

That is the problem. That is the kind of thing that happens over and over again in these circumstances, and that is why people settle. We are not talking about CEO's standing up and predicting the stock will triple when we talk about a safe harbor. We are talking about safe harbor for people who make statements that they believe are true at the time and then will get trapped in this kind of activity that I have described later on.

Finally, we come to the point where the Senator from Nevada says there is no need for this. There has been no explosion of these strike suits. This is not a phenomenon that has suddenly hit us.

I close by quoting. He quotes from appropriate publications. I have a few that I would like to quote from. The first one, the Washington Post on the 18th of November, 1995. Referring, in an editorial, to this bill it says:

> The bill was a response to a genuine outrage. A small number of lawyers have developed a technique of pouncing on any company whose stock price suddenly drops sharply. They then comb through past statements by the company to find the conventional expressions of hope for the future—and sue on grounds that those statements have misled and defrauded investors. That's a highly strained definition of fraud, but the present state of law makes this kind of suit very dangerous to a company. Although these are nominally shareholders' suits, they generally are instigated and controlled entirely by the lawyers. The companies most vulnerable to this destructive tactic are a particularly valuable kind—small, recently established high-tech firms whose stock prices tend to be volatile.

And then from the Economist magazine dated December 2, 1995, in another editorial, ''Suits or Straitjackets,'' the subhead says ''The American Congress wants to make it harder for some shareholders to sue companies for fraud. This would be a good thing.''

The editorial says the following:

> Class-action lawsuits, in which a bunch of investors join together to sue a firm whose shares have fallen sharply, are a growing problem for America's high-tech companies. More than 650 such suits have been filed in the past four years alone, including ones against each of the ten biggest firms in Silicon Valley. There is nothing wrong with investors using the courts to protect their rights. But a growing number of these suits are being brought by those who are victims not of corporate misinformation, but of their own (and their lawyers') greed. As a result, many managers now hesitate to offer investors any predictions at all, lest they end up in court.
>
> That is why Congress is about to pass a measure that would make frivolous securities lawsuits harder to bring. Among other things, the bill, which should clear both the House and Senate easily, does three things. First, it allows firms to issue forecasts to investors providing that they list all of the important factors—a change in interest rates, say, or a slump in the consumer-electronics industry—that could affect them. Second, a defendant's auditors and equity underwriters would no longer be liable for the full extent of shareholders' losses, but only for those that are caused by their own misbehavior. Third, the bill encourages judges to slap fines on lawyers who bring groundless suits.

The final paragraph of the editorial summarizes it very well. It says:

> As a general rule, it is a good idea to allow shareholders to protect themselves. This would not change under the proposed legislation. And in exchange for reform, they would

get more (and better) corporate information on which to base their investment decisions. Mr. Clinton faces a choice. Either he can veto the bill on the mistaken ground that he is protecting shareholders' rights, or he can sign it and help put more money in their pockets.

Mr. President, I ask unanimous consent that the full text of both editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 18, 1995]

ANTIDOTE TO THE STRIKE SUIT

It started off last winter as a flamboyant ideological statement. But the bill to curb shareholders' strike suits has now been whittled and sanded by many hands into a truly useful piece of legislation. An intemperate initiative is turning out to be much more promising than seemed possible last March, when the House originally passed it.

The bill was a response to a genuine outrage. A small number of lawyers have developed a technique of pouncing on any company whose stock price suddenly drops sharply. They then comb through past statements by the company to find the conventional expressions of hope for the future—and sue on grounds that those statements have misled and disfrauded investors. That's a highly strained definition of fraud, but the present state of the law makes this kind of suit very dangerous to a company. Although these are nominally shareholders' suits, they generally are instigated and controlled entirely by the lawyers. The companies most vulnerable to this destructive tactic are a particularly valuable kind—small, recently established high-tech firms whose stock prices tend to be volatile.

The new Republican majority in the House rushed to defend them. It was one of the promises in the Contract With America. But they overdid it. In their zeal to do away with constraints on the entrepreneur, they wrote sweeping language that would have protected a lot of real fraud—and would also have protected those lawyers and accountants who earn fees by turning a blind eye to it.

The Securities and Exchange Commission objected vigorously. To their credit, the congressional Republicans slowed down and took another look. After months of negotiation the SEC's chairman, Arthur Levitt, has now given his assent to a much-modified version of the bill. It would succeed in making spurious fraud suits much riskier to the plaintiff, but without hampering investors who have real grievances.

Before President Clinton signs it, the administration needs to address one remaining point. The statute of limitations in these cases is now only three years. With highly complex investments increasingly common, it can easily be a matter of years before customers discover a fraud. Five years is a more reasonable limit. With that further improvement, this bill would make securities law much fairer both to companies and to shareholders.

[From the Economist, Dec. 2–8, 1995]

SUITS OR STRAITJACKETS?

It is a familiar story. Soaraway Shares Inc, a budding Silicon Valley firm, launches a sexy new software product for the Internet. Its managers predict booming sales and boundless profits. Suitably impressed, investors pile in and the firm's share price takes off. But a year later the product flops, the shares plummet—and disgruntled investors head for the nearest courtroom.

Class-action lawsuits, in which a bunch of investors join together to sue a firm whose shares have fallen sharply, are a growing problem for America's high-tech companies. More than 650 such suits have been filed in the past four years alone, including ones against each of the ten biggest firms in Silicon Valley. There is nothing wrong with investors using the courts to protect their rights. But a growing number of these suits are being brought by those who are victims not of corporate misinformation, but of their own (and their lawyers') greed. As a result, many managers now hesitate to offer investors any predictions at all, lest they end up in court.

That is why Congress is about to pass a measure that would make frivolous securities lawsuits harder to bring. Among other things, the bill, which should clear both the House and Senate easily, does three things. First, it allows firms to issue forecasts to investors providing that they list all of the important factors—a change in interest rates, say, or a slump in the consumer-electronics industry—that could affect them. Second, a defendant's auditors and equity underwriters would no longer be liable for the full extent of shareholders' losses, but only for those that are caused by their own misbehaviour. Third, the bill encourages judges to slap fines on lawyers who bring groundless suits.

Although the bill has broad support in Congress, President Clinton may still be tempted to veto it, party because it is bitterly opposed by two of his biggest supporters: consumer advocates and trial lawyers. Not only will the bill give managers a license to lie, these groups say, but firms' auditors and underwriters will no longer have any incentive to catch them in the act. The bill's critics also fear that when shareholders do have a legitimate gripe against a company, lawyers may be deterred from bringing the case by the threat of a penalty if it is ultimately thrown out.

UNINFORMED

These fears sound reasonable enough. But they ignore a crucial fact: financial markets thrive on information. The more investors know about what managers are thinking, the better they are able to gauge the risk of investing, and to commit their resources accordingly. They need not (and should not) treat the views they receive as gospel. Indeed, firms' shareholders have proven time and again that they can be better than managers at deciding what is important. The problem with the explosion of frivolous lawsuits is that it is discouraging companies from giving out much-needed information. As a result, the entire market suffers.

Admittedly, striking the right balance between protecting shareholders' rights and encouraging more openness is tricky. But the bill's trade-off is a good one. Although the reforms make it harder to bring groundless lawsuits, they do not prevent regulators from prosecuting swindlers. Nor do they let auditors and underwriters off the hook—though by limiting their liability they make it harder for class-action lawyers to win settlements from firms that have simply fallen on hard times. A mere drop in a company's share price usually is not evidence of fraud but the consequence of plan bad luck.

As a general rule, it is a good idea to allow shareholders to protect themselves. This would not change under the proposed legislation. And in exchange for reform, they would get more (and better) corporate information on which to base their investment decisions. Mr. Clinton faces a choice. Either he can veto the bill on the mistaken ground that he is protecting shareholders' rights, or he can sign it and help put more money in their pockets.

Mr. BENNETT. Mr. President, I thank the Chair. I thank my colleagues. The distinguished Senator from Connecticut, one of the original cosponsors of this bill and one of leaders of this fight for more years than I have been in the Senate, is now on his feet, and I am delighted to yield to him such time as he may require.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I would like to thank my colleague from Utah for his eloquent statement in response to some of the charges that were raised about this piece of legislation and the inclusion of editorial comment and note of major publications about the worthiness of this legislation.

Mr. President, let me begin by laying out for our colleagues some idea of the amount of labor and work that has gone into this bill. We are here today debating a conference report, the final step in the legislative process before this bill is either sent to the President for his signature or veto. I think it is important to note how much effort and how much work have gone into producing this bill that our colleagues will be asked to vote on later today.

Mr. President, Senator DOMENICI and I began this effort more than 4 years ago. In fact, the effort and discussion began even earlier than that, but the first bill was introduced 4 years ago, and the House bill was introduced at roughly the same time. So we have been at this for some 1600 days, if you want to put it in category of days. This is not something that just sort of came up a few weeks ago. I know that it was mentioned in this so-called Contract With America, but the bill has a history that predates that by several years. It has been considered, in fact, Mr. President, in three Congresses now. This will be the first time in three Congresses we are actually going to vote on a bill that will allow it to go to the executive branch.

We have had 12 congressional hearings on the bill before us. We have heard from almost 100 witnesses on this legislation. We have almost 5,000 pages of testimony that have been accumulated. We have had a total number of six staff reports totaling 300 pages. We have had some 103 submissions to the record, and we have had testimony from eight Members of Congress both pro and con on this. The SEC, the Securities and Exchange Commission, has testified on 13 different appearances. The Chairman of the Securities and Exchange Commission has testified four times and his predecessor has testified four times.

So, Mr. President, what we are talking about here today is a piece of legislation that has been considered in great detail. The bill passed the U.S. Senate by a vote of 69 to 30 several months ago and by a vote of 325 to 90 in the other body after extensive hearings there. And obviously, with those vote totals, it was passed on a bipartisan basis in both Chambers.

So I think it is important for our colleagues and the public at large to know that this is how the Congress ought to do its business. This bill has been changed, it has been worked upon, it has been reformed, it has been analyzed, and in 1,000 different ways, over the past 4 years.

We have put a great deal of time and effort into producing a bill that we think—those of us who have authored it and supported it—by and large deals with what everyone now admits and acknowledges is a serious problem. Prior to this, Mr. President, when we first offered the legislation, there was the threshold debate of whether or not there was any problem at all. In fact, many of the people who have spoken here today against this bill argued initially very strenuously that there was no problem at all—none whatsoever.

So I am encouraged at least that we have put aside the debate and discussion about whether or not we are addressing a legitimate problem. Even the opponents of this legislation now admit that there was a serious problem that needed to be addressed. They disagree with certain provisions here. Most of their disagreements deal with what we were not able to include in the legislation. I will get to this in more detail in a moment.

But as one who offered a number of the suggestions, two particularly that did not make it into the bill, you do not make the good the enemy of the perfect here. We have a very sound piece of legislation that deals with a legitimate issue, and that does not deal with every single problem Members would like. But there is certainly no reason whatsoever to disregard and to reject this legislation in its entirety. That would be a huge mistake. Even editorial comment that disagrees with the bill, Mr. President, acknowledges the tremendous work product and the positive things included in this legislation.

So, Mr. President, again, because at the end of these debates sometimes the people who have done such a tremendous amount of work are rarely noted or recognized, let me begin by thanking my colleague from New Mexico with whom I have worked so very, very closely on this legislation, our colleague and the chairman of the Banking Committee, Senator D'AMATO, for his leadership on this and moving aggressively in this Congress to see to it that we complete the hearing process and the legislative business of the Senate, and, of course, my colleague from Utah, who has been tremendously helpful on this bill as well.

Let me also compliment and thank my colleagues who disagree with us. Senator SARBANES has been tremendously cooperative and helpful in seeing to it that we would have a debate and has not engaged in the kind of procedural tactics that were available to him to delay consideration of this legislation. Senator BRYAN, whom our colleagues had the privilege of hearing just a few moments ago, while he disagrees with this bill, has brought very worthwhile ideas and suggestions and note to the legislative process; Senator BOXER of California, as well, who disagrees with the bill but who has offered some positive insight as to how we might proceed.

I also would be remiss if I did not recognize those people who work for these Members, who spent literally hundreds of hours in negotiations. I mentioned the amount of time spent at hearings and pages of testimony. I cannot even begin to calculate the number of legislative staff hours spent in negotiations and efforts to work on this product that now is before us in this conference report. Certainly, Andy Lowenthal of my office, who is seated to my left, has done a tremendous job on this bill, along with Diana Huffman of my office and Courtney Ward; from Senator D'AMATO's office, Howard Menell, Bob Guiffra, and Laura Unger have done a tremendous amount of work; and Senator DOMENICI's office, Denise Ramonas and Brian Benczkowski have done tremendous work; Mitchell Feuer in Senator SARBANES' office, along with Brian McTigue in Senator BOXER's office.

There are many others. I apologize for not referencing all of them, but I want our colleagues to know and others that, again, in addition to the work the Members do, the staff's participation and involvement has been significant.

So, Mr. President, I am very pleased to be standing here this morning as the Senate begins the final consideration of the conference report on S. 240 and the House companion bill, H.R. 1058, the Private Securities Litigation Reform Act. This legislation is fundamentally important not only for thousands of American businesses, but more importantly I think to literally tens of millions of American investors. That is what this bill is all about. It is not about the businesses. It is not about the trial bar. It is about the investors, the people who take their hard-earned money and invest it in American business and industry that provide the quality of life and growth in this country that we have seen over the past number of decades.

Passage of this legislation, we believe, will help restore integrity and fairness to the country's private securities litigation system. And through this reform, Mr. President, the bill will defer, we believe, abusive and frivolous lawsuits that needlessly drain millions—in fact, billions—of dollars out of our emerging industries, the biotech industries, the high-tech firms that are the businesses and industries that drive the engine of this country's economy in the 21st century.

These are not just small questions. Each dollar that a company must spend on responding to America's meritless securities lawsuits, known as strike suits, is a dollar that could instead go to improving investor return, increasing research and development, expanding plants and, most importantly, creating the jobs in this country, the good-paying jobs that are critical for the health and well-being of this Nation.

In other words, Mr. President, the consequences, in my view, of failing to approve this conference report could not be higher. Mr. President, we have gone well beyond the day, as I said earlier, when we must argue about whether the securities litigation system is broken. It is painfully clear, Mr. President, to almost everyone, including the opponents, that the idea that there are no problems is just wrong, and there are massive flaws in the system as it is currently operating.

In fact, just last January, Mr. President, Arthur Levitt, the Chairman of the Securities and Exchange Commission stated—this is last January at one of our hearings: ''There is no denying,'' he said, ''that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities but''—listen to this, Mr. President—''because investors in markets are being hurt by litigation excesses.''

The problems in private securities litigation have become so deep, Mr. President, and so deep rooted that we do not have the luxury, in my view, of idly waiting for the courts or some regulatory body to fix them for us. Everyone who knows anything about the present system—everyone—will tell you it must be changed, that it does not work, except for a few of the attorneys who benefit as a result of the current system.

One of the core problems, Mr. President, afflicting private actions under rule 10(b) is that such actions were never expressly authorized by the Congress. This is not based on some laws we passed here but instead have been construed, if you will, and refined by the court systems in this country, with Congress sort of going along because we never acted to change it. It was not as a result of legislation passed through long and extensive debates but rather interpretations by the courts over the years.

We all know what that leads to, Mr. President. It is precisely the lack of congressional involvement that has created conflicting legal standards for bringing such actions and has created so many holes within the foundation of the private action that it threatens the very system itself—unequal justice, a patchwork. Just watch where a lot of the lawsuits are brought, and you will understand exactly what I am talking about.

There is forum shopping going on all over the country because the trial bar in this particular area of law knows that in certain jurisdictions they are favored and others they are not. So you have this tremendously unequal system all over the country because we have not acted over the years to try and clarify the situation as to how investors ought to be treated regardless

of where they live in this country. That is one of the core problems that we attempt to address with this legislation, for us as a body, the legislative body, to speak clearly and intelligently as to how this system ought to work across the country.

So, I would submit, Mr. President, to my colleagues, that Congress is the only institution that is equipped to comprehensively address these myriad problems in a thoughtful and moderate manner. My confidence in the legislative process, Mr. President, is borne out by this conference report before us today and the years we have spent in putting it together. This legislation carefully and considerably balances the needs of our emerging high-growth industries with the rights of investors, large and small, Mr. President.

I am proud of the spirit of fairness and equity that permeates this bill. In order to understand why so much time and effort is being expended to fix the securities litigation system, I think it is important to remember the vital role that private securities litigation plays in ensuring the integrity and success of America's capital markets. And I take no back seat to anyone in my determination to see to it that the private litigation system is maintained, because it is a vital ingredient to protecting consumer and investor confidence.

The private securities litigation system is far too important to allow a few entrepreneurial lawyers to manipulate—that is what they do—to manipulate and abuse the system to the degree that they have done over recent years.

Let me be clear, Mr. President: Private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely on Government intervention. It is precisely, Mr. President, because of this important role that the legislation does not impinge on the ability of legitimate aggrieved investors to file suits and, if successful, collect judgments or settlements from the parties that defrauded them.

I have maintained from the outset, Mr. President, of this reform effort that securities lawsuits brought by private investors are critical to ensuring public and global confidence in our capital markets. That is not the issue here. And it is to this high standard which this conference report seeks to return private securities litigation actions.

But, Mr. President, the current system has drifted. It has drifted so far from its original goal that we see more opportunistic lawyers profiting from abusive suits that take advantage of the system than we see corporate wrongdoers exposed by it. While some have charged that the beneficiaries of this legislation are just thousands of American companies, the people who will be most harmed by our failure the enact reforms will be the millions of investors who do not participate in these class action lawsuits.

As Kenneth Janke, president of the National Association of Investors Corp., which I might point out represents more than 325,000 individual investors, said recently in a letter to President Clinton, ''Too many times, class action suits are initiated against companies which result in filling the coffers of lawyers with little or no benefit to shareowners. Those types of 'nuisance' suits,'' he says, ''do little to enhance a return for shareowners.'' He says, ''The money spent by corporations on frivolous lawsuits would better serve all shareowners if it remained in the company, resulting in higher net profits and earnings per share.''

Or take, if you will, Mr. President, the statement of Ralph Whitworth of the American Shareholders Association, who told the Securities Subcommittee more than 2 years ago in his testimony, ''The winners in these suits are invariably the lawyers who collect huge contingency fees, professional 'plaintiffs' who collect bonuses, and, in cases where fraud has been committed, executives and board members who use corporate funds and corporate-owned insurance policies to escape personal liability. The one constant,'' he says, ''is that the shareholders pay for it all.'' And that is what we try to stop here.

Even institutional investors, Mr. President, who invest on behalf of millions of individual Americans—in fact, most investors invest through their institutional investor—these individuals, municipal, State, or private pension funds, have expressed their concerns as well.

Mary-Ellen Anderson of the Connecticut Retirement & Trust Funds testified before our committee that the participants in the pension funds—and I quote her here:

> . . . are the ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs . . . when the plaintiff is disappointed in his or her investment.

Our pensions and jobs, she says, depend upon our employment by and investment in our companies. If we saddle our companies with large unproductive costs, ''* * * we cannot be surprised if our jobs and our raises come up short as our population ages.''

(Mr. ASHCROFT assumed the chair.)

Mr. DODD. Mr. President, one of the biggest vulnerabilities of the securities class action lawsuits is that plaintiffs' attorneys appear—appear—to control the settlement of the case with little or no influence from either the named plaintiffs or the larger class of investors. For example, during the extensive hearings on the issue before the Subcommittee on Securities, a lawyer for one of these firms cited one case, and I quote him, as ''a showpiece''—those are his words, not mine—''a showpiece of how well the existing system works.''

This particular case settled before trial for $33 million, Mr. President. The lawyers asked the court—they asked the court—for $20 million, the lawyers did, of the $33 million settlement. Remember, this is a lawyer saying this is a showpiece case. He picked this one out. I did not pick it out. This is the attorney talking now. And $33 million was in the settlement. They asked the court for $20 million of the $33 million. That is what they asked for. And they are claiming this is a system that does not need to be fixed.

My God, what are they talking about here? So $20 million in request of $33 million. They got $11 million, by the way. That is what the courts gave them: $11 million. They asked for $20 million but got $11 million. Of course, the attorneys for the defense, they got $3 million. The investors recovered 6.5 percent of the recoverable damages—6.5 percent—and this is a case identified by the trial bar as a showpiece example of how well the system works. That is the best piece of evidence they may offer, that is what they think. This kind of settlement might well be satisfactory for the entrepreneurial attorneys, but it does little to benefit companies, investors, or even the plaintiffs on whose behalf these suits have been brought.

The second area of abuse is frivolous litigation. Companies, particularly in the high-technology and biotech industries, face groundless securities litigation days or even hours after announcements are made. In fact, the chilling consequence of these lawsuits is that companies, especially new companies, in emerging industries, in my view the industries of the 21st century in this country, frequently only release the minimum of information required by law so that they will not be held liable for any innocent forward-looking statements that the corporation may make.

These predatory lawsuits—and there is no other way to describe them—have had the result of thwarting 15 years of efforts by the Securities and Exchange Commission to encourage companies to provide more information about their future expectations for earnings and products. I refer my colleagues to the comments made by our colleague from Utah in talking about the importance of these forward-looking statements. It is precisely this kind of information that is demanded, and rightfully so, by investors who are looking to make the most prudent investment decisions.

The conference report, we think, provides a mechanism for investors not only to obtain this positive information but to also obtain information about what the company views as its important risk factors in the coming months of their plans.

Let me quote the recent comments of J. Kenneth Blackwell, the State Treasurer of Ohio. I might point out since the Presiding Officer—excuse me, the Presiding Officer is not from Ohio, he is from Missouri. That is the second time I made that mistake, but he may be interested in this. J. Kenneth Blackwell manages more than $105 billion in pension funds. These are his statements. He said:

Intelligent investment strategy requires maximum possible disclosure, and if I'm not offered frank assessments of various companies' potential, how can I rest assured that Ohio's pensioners' money is being invested wisely?

That statement, I think, deserves being listened to. In fact, the safe harbor for forward-looking statements contained in the conference report is strongly supported by the Securities and Exchange Commission itself.

Let me quote a letter which we received from Arthur Levitt. It says:

The current version of this bill represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while at the same time it limits the opportunity for abuse.

The Supreme Court, in Blue Chip Stamps versus Manner Drugstore, has also voiced serious concern about the vulnerability of securities class action suits to abusive practices. Let me quote from the Supreme Court decision in that case:

In the field of Federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value—

Has a settlement value.

to the plaintiff out of any proportion to its prospect of success at trial.

The decision goes on to say:

The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

Mr. President, a third area of abuse is that the current framework for assessing liability is simply unfair and creates a powerful incentive to sue those with the deepest pockets, regardless of their relative complicity in the alleged fraud.

The current system of joint and several liability encourages plaintiffs' attorneys to seek out any possible corporation or individuals that may have extensive insurance coverage or deep pockets. That is why they are brought in. It is not because even the plaintiffs' attorneys think they are necessarily culpable, but it is because they have the deep pockets, they have the insurance behind them that they are brought into the lawsuits. That is why they are brought in—there is no illusion about it—even if they have nothing to do with the claimed alleged fraud.

Although these defendants could frequently win the case if it were to go to trial, the expense of protracted litigation makes it more economical for them to settle with plaintiffs' attorneys. That is what they do, they settle, because going to court would be far more costly down the road over an extended period of years.

One example was chronicled in a recent Wall Street Journal just this past June. I quote from that story:

The jury ruled in Peat Marwick's favor in 1993, but the firm spent $7 million to defend itself.

The court ruled in their favor. And what was this about? It was about a $15,000 contract that Peat Marwick had to do some accounting for a business—a $15,000 contract to do some accounting for the firm. They ended up expending $7 million to defend themselves against a $15,000 contract. Of course, what has happened is these accounting firms are not taking on these clients any longer. So you do not get the accounting from the big seven or reputable accounting firms because of this kind of problem. The minute they take on a client for $15,000, they can look to end up paying a bill of $7 million, or more in some cases.

The current Chairman of the SEC, Arthur Levitt, as well as two former Chairmen, Richard Breeden and David Ruder, have all spoken out against abuses of joint and several liability. Chairman Levitt said at the April 6 hearing of our committee that he was concerned ''about accountants being unfairly charged for amounts that go far beyond their involvement in particular fraud.''

Again, this is borne out in a recent article in the Wall Street Journal which chronicled the stunning number of audit clients dropped by the big six accounting firms over the past few years. I quote the article:

Peat Marwick, the fourth largest American accounting firm, is dropping approximately 50 to 100 audit clients annually, up from zero 5 years ago. . .

Arthur Anderson has either dropped or declined to audit more than 100 companies over the past 2 years.

Does anyone believe that is sound, that is good, that is the way we ought to be doing business, how to encourage these accounting firms to be involved with these new industries starting up? I hope not.

Again, the current system has devolved to the point where it favors those lawyers who are looking out for their own financial interests over the interests of virtually everyone else.

As was the case with S. 240 that was passed by this body, the conference report contains a number of significant and balanced initiatives to deal with these complex problems. Let me address what we attempt to do with this bill.

First, the conference report empowers investors so that they, not their attorneys, have the greater control over the class action cases by allowing the plaintiffs with the greatest claim to be named plaintiff and allowing that plaintiff to select their counsel.

What an outrageous and radical thought this is, the idea that we might insist that at least to offer—you do not have to force it—but you offer to the plaintiff who is going to be most affected by the lawsuit to have an opportunity to become the lead plaintiff. All you have to do is offer it, Mr. President. We are not demanding, we are encouraging, and they might be able to decide which law firm would represent them.

That is considered a radical idea here, needless to say opposed by the trial bar. They do not want that to happen at all.

Second, this legislation enhances existing provisions designed to deter fraud and restores enforcement authority to the Securities and Exchange Commission. That was lost, Mr. President, in the 1994 Supreme Court case, the Central Bank case. We, in this bill, restore what the Central Bank took away from the SEC here.

Third, the conference provides a meaningful safe harbor for legitimate forward-looking statements so that issuers are encouraged to—instead of discouraged from—make much-needed disclosures.

Fourth, it makes it easier to impose sanctions on those attorneys who violate their basic professional ethics.

Fifth, it rationalizes the liability of deep-pocket defendants, while protecting the ability of small investors to fully collect all damages awarded them through a trial or settlement.

Let me go over the points in a little more detail. First, on empowering investors. The conference report—this bill—takes a number of steps to guarantee that investors, not their marauding attorneys, decide whether to, one, bring a case, two, whether to settle the case and, three, how much the lawyer should receive. Again, I do not think it is a terribly radical idea that we would allow them to decide whether or not to bring a case—after all, they are the injured parties, we are being told—or whether they want to settle it all or not. Maybe they do not want to settle. Maybe they think they have such a good case they would like to go to trial. That ought to be their decision, not the lawyer's.

Third, how much the lawyers get, rather than being decided by the lawyers, let the plaintiffs decide what their attorneys should be receiving.

The conference report strongly encourages the courts—''encourages,'' I emphasize that—to appoint the investor with the greatest financial interest in the case—often an institutional investor like a pension fund—to be the lead plaintiff. After all, they are the ones who are at the greatest risk. If there is real fraud, they have the most to lose. If the lawsuit is frivolous and millions are going to be spent to defend the suit, they lose as well. This plaintiff will have the right to select their own counsel and to pursue the case on behalf of the class.

So for the first time in a long time, Mr. President, securities litigation attorneys will have a real client to answer to. We are beginning to end the days when a plaintiff's attorney can crow—again, I will quote such a plaintiff's attorney. In Forbes magazine, listen to what this attorney said: ''I have the greatest practice of law in the world because I have no clients.'' ''I have the greatest practice in the world,'' he said, talking about securities litigation cases, ''because I have no clients.'' ''I bring the case,'' he says. ''I hire the plaintiff. I do not have some

client telling me what to do. I decide what I want to do.'' That is what this is all about. That is why this bill is important. That is what we want to stop here—we want to stop these situations in which a bunch of attorneys decide what they are going to do, and we want to have the aggrieved plaintiffs deciding what they are going to do. That is why this bill is important. Of course, this presumption can be challenged, as I said earlier—the presumption of the most injured plaintiff being the lead plaintiff, if other class members feel that the lead plaintiff is not fairly or accurately representing the class. So we are not insisting or legally requiring it. We are just asking the courts to step forward and ask the most injured party to come forward.

This change, we feel, Mr. President, will also end the unsavory practice of rushing to the courthouse. That is what happens under the present system. The first person to show up in the courthouse gets the case—the first person. This is a hallmark of the current system of the securities class action litigation.

Last June, I received a letter from Raytheon Co., one of the Nation's largest high technology firms. Raytheon, Mr. President, made a tender offer of $64 a share for E-Systems, Inc., another company. That is a 41 percent premium over the closing market price. Putting aside whether or not you think that is fair or not, nonetheless, most people thought it was a pretty fair offer. But I am not here to argue the fairness or unfairness of the offer. Let me allow, if I can, Raytheon to explain what happened next in a letter that I received from them:

> Notwithstanding the widely held view that the proposed transaction was eminently fair to E-System's shareholders, the first of eight purported class action lawsuits was filed within 90 minutes after the courthouse doors opened on the day that the transaction was announced.

An hour and a half later, one of eight lawsuits was filed in court. I do not care how good a lawyer you are, you do not go around and find plaintiffs in an hour and a half with a public announcement about an offer to buy another company. That is exactly what we are talking about here, racing to the courthouse. Do not look at the facts and examine whether or not it is right or wrong; file the lawsuit and immediately trigger the kind of costs associated with it. What about investors in that case, Mr. President? What happens to them in that case—the investors in Raytheon, the investors in E-Systems? Do the lawyers think about them at all, or the cost to those particular firms, and just answer the pleadings once a lawsuit is filed? Does anybody care about them at all under the present system? It does not appear so.

Mr. President, the conference report requires notice—a radical idea here again—of settlement arrangements that are sent to investors, who must clearly spell out important facts, such as how much investors are getting or giving up by settling, how much their lawyers will receive in the settlement. Again, let me emphasize here, in many cases, settlement is the wrong conclusion. An aggrieved plaintiff may want to go to court. They ought to have the right, these investors. Plaintiffs ought to have the right to decide whether or not they want a settlement and make the decision themselves after listening to intelligent arguments about what is the best course of action.

This means, under this bill, plaintiffs will be able to make an informed decision about whether or not the settlement is in their best interest or in their lawyer's best interest. Currently, the actual plaintiffs only receive, on average, 14 cents or less of every settlement dollar. But the plaintiffs' attorneys receive 33 cents, on average, of each settlement dollar. That is 14 cents for the shareholders, the investors, and 33 cents for the lawyers. You do not need to be a rocket scientist to understand that this system is broken, when plaintiffs, investors, are getting that minor return in these cases and the lawyers are collecting more than twice what they are getting.

The conference report puts an end to this outrageous practice, called the ''lodestar'' approach, by encouraging courts to award attorney's fees based upon a reasonable percentage of the total amount of the settlement or judgment.

The New York Times stated just 2 weeks ago in an article entitled ''Math of Class Action Suits; Winning $2.19 Cents Costs $91.33.''

It says:

> Many class actions end with plaintiffs winning meager awards, while their lawyers walk away with millions of dollars in fees.

Taken together, Mr. President, these provisions should ensure that defrauded investors are not cheated a second time by a few unscrupulous lawyers who skim their exorbitant fees right off the top of any settlement. One of the areas of the conference report that has received too little attention, in my view, is the effort to deter fraud. We have been talking about how you deal with it when fraud has arisen, when there is an allegation of fraud. What we try to do with this bill that we have worked on for more than 4 years now, through the number of hearings we have held and the witnesses we have heard from, is determine how we deter fraud from occurring in the first place so that investors are really protected? One of the areas, as I said, that received very little attention, in the midst of all of the hot air blowing from the plaintiffs' bar are those provisions that provide new protections, Mr. President, that have never existed before for investors against fraud.

I commend my colleague, Senator DOMENICI, and others, for really working to see to it that we have these provisions in the bill. For the first time, Mr. President, auditors, under this bill, are required to take additional new steps to detect fraud, and if they find fraud, they must—not may, but must—be reported to the Securities and Exchange Commission. They must look for the fraud—the auditors, the private companies—and if they find any, they have to report it. That has never been required before. That is a new standard, a new bar that we have raised here to try and deter fraud in the first instance. Nobody has mentioned that part. If they do, it is in just a passing way.

The conference report maintains current standards of joint and several liability just for those persons who knowingly, Mr. President, engage in a fraudulent scheme, thus keeping a heavy financial penalty for those who would commit knowing securities fraud.

Perhaps most significant, the bill restores the ability of the Securities and Exchange Commission to pursue those who knowingly aid and abet securities fraud. My colleagues who oppose this bill talk about our failure to get all of the aiding and abetting back in it. I do not disagree.

But what we have been able to do in this bill which could not get done—you would not get it done if you just had a freestanding aiding and abetting provision. I do not think it would pass. I disagree with that. I think we should.

To hear my colleagues say how bad this bill is because we do not deal with all of the things they would like in aiding and abetting, yet we get the class actions covered after the Supreme Court rules against us. Instead of denouncing this bill, they ought to be adding far more support to what we were able to accomplish here and make a major step forward.

This is a power diminished by the Central Bank decision of last year's Supreme Court case. In fact, some recent SEC enforcement actions have been dismissed, Mr. President, because Federal courts are ruling that the Commission had its aiding and abetting authority taken away by the Central Bank decision. We are restoring that in this bill and giving the SEC the power that they are being denied by lower court rulings around the country.

The conference report clarifies current requirements that lawyers should have some facts—again, a radical idea here—should have some facts to back up their assertion of security fraud by adopting most of the reasonable standards established by the U.S. Second Circuit Court of Appeals.

This legislation, therefore, is using a pleadings standard that has been successfully tested, Mr. President, in the real world. This is not some arbitrary standard pulled out of a hat. Again, this is a standard that has been used and tested and been tried. We include that in this bill, as well.

Mr. SPECTER. Will the Senator yield?

Mr. DODD. Let me finish my remarks, and I will be glad to yield. I am almost through.

Furthermore, Mr. President, the bill requires the court's settlement to determine whether any attorney had violated rule 11 of the Code of Civil Procedure, which prohibits lawyers from filing claims that they know to be false or frivolous.

Of course, the lawyers want the status quo for business and no standards at all for themselves in this area.

In the event of a violation of the complaint, the bill requires that the court find a substantial violation of rule 11 to have occurred in order for any sanctions to be triggered.

Mr. President, let me emphasize what this does. This is in the filing of a lawsuit. It turns out it is a tough standard to meet. But if the court determines that the attorneys knew that this was a frivolous lawsuit, that the allegations are false, then it can go after those attorneys that bring the lawsuit.

Now, the same standard applies in the defense attorneys' response to the pleadings. And they say that is unfair. It is not unfair at all. It is the plaintiff's attorneys that are bringing the case in the first instance. We are saying that if, in fact, the lawyers knew this was frivolous and false, then they ought to be held accountable for doing that. If attorneys on the other side in the filing of pleadings also engage in any false or frivolous allegations, then, they, too, will be held accountable for those statements. We think this is a fair and adequate standard to be applied to the attorneys.

The conference report does not change existing standards of conduct. It does put some teeth, however, into the enforcement of these standards. I point out what has happened over the years. While the rules have existed, nothing has ever been done with them in the past. In fact, they have been sitting there almost as idle pieces of paper with no real meaning at all.

The conference report provides a moderate and thoughtful statutory safe harbor for predictive statements made by companies that are registered with the SEC.

Mr. President, this is one of the most contentious parts of the bill. It provides no such safety for third parties, like brokers, or in the case of merger offers, tenders, rollups or issuance of penny stocks. That is not where the safe harbor applies.

By adopting this provision, the Senate will encourage responsible corporations to make the kind of disclosures about projected activities that are currently missing in today's investment climate.

Since the safe harbor has been the subject of so much attention, Mr. President, it is worth spending a little time to delve into the details of these provisions.

This reconfigured safe harbor that is in this conference report has two parts to it. The first is that any forward-looking statement may be accompanied by ''meaningful cautionary statements that identify important factors that could cause'' the prediction not to come true, or if a company or officer fails to meet that test, all that a plaintiff must do is prove that the person actually knew that the statement was false or misleading.

Mr. President, that is the very scienter standard written by our good friend and colleague from Maryland, Senator SARBANES, and proposed by him during the Senate floor consideration of S. 240 in June.

Quite honestly, it is hard for this Member to envision how anyone could lie in their predictive statements and still be covered by this safe harbor; this insulation from abuse is no doubt a key reason why the safe harbor is strongly supported by the Securities and Exchange Commission in their letter of support of this bill.

As the Commission stated:

> The need of legitimate businesses to have a mechanism for early dismissal of frivolous lawsuits argues in favor of a codification of the bespeaks caution doctrine that has developed under the case law. While the trade-off requires that class action attorneys must have well written and carefully researched pleadings at the outset of the lawsuit, we feel this is necessary to create a viable safe harbor. Given that it does not prevent Commission enforcement actions, and excludes the greatest opportunities for harm to investors.

The idea that this conference report contains any license to lie is simply and totally untrue and, particularly in light of the strong support of the Securities and Exchange Commission, represents just a last, in my view, desperate attempt by opponents of this legislation to derail the process.

The legislation before us, Mr. President, preserves the rights of investors whose losses are 10 percent or more of their total net worth of $200,000. These small investors will still be able to hold all defendants responsible for paying off settlements regardless of the relative guilt of each of the named parties.

This is the modification for the joint and several sections. This threshold, I think, should more than protect the vast majority of individual investors participating in the markets today.

Let me tell you why I say that. A 1993 census report stated that the average net worth, Mr. President, of an American family was about $47,000. That is their net worth, $47,000. While in 1990, the New York Stock Exchange study found the median income—the income, now, the median income—for individual investors was $43,800 a year, which, according to the census data extrapolates to a net worth of roughly $150,200.

Let me explain that again. The words can be confusing. The average American family has a net worth of something in excess of $47,000 a year; the average of the median investor in the New York Stock Exchange has an income of $43,000 a year; the Census Bureau extrapolates an income of $43,800 to a net worth of those investors of $150,000.

That is why we chose the $200,000 level and below, so that the majority of investors—the majority of investors, the small investors—would not be adversely affected by the proportional liability standards included in the bill. We tried in this bill to see to it that those smaller investors would not be adversely affected.

While the bill will fully protect small investors so they will recover all of the losses to which they are entitled, the bill establishes a proportional liability system to discourage the naming of the deep pocket defendants that I talked about earlier.

The court would be required to determine the relative liability of all the defendants, and thus deep-pocket defendants would only be liable to pay a settlement about equal to their relative role in the alleged fraud. What a radical idea that is as well. A defendant who is 10 percent responsible for the fraudulent actions would be required to pay 10 percent of the settlement amount. That is just fair. That is equitable.

I would say, quickly, again, we protect smaller investors. We say, for them we are going to have a different standard, but for those who are above that line, to go after someone who is only fractionally involved and say that you ought to pay the whole amount here ought to strike every person in this country as fundamentally unfair, and that is what we try to change in this bill. However, as I said, in the event of an insolvent defendant, all the other defendants would be required to contribute as much as an additional 50 percent of their proportional share of a settlement to ensure that investors receive as close to 100 percent of their just settlements as possible. By creating a two-tiered system of both proportional liability and joint and several liability, the conference report preserves the best features of both systems.

Having spent so much time on what is in the conference report, let me briefly spend a few minutes, if I can, discussing a few of the things the conference report does not do.

The PRESIDING OFFICER. The Chair will advise the Senator from Connecticut, under the previous order, the hour of 12:30 having arrived, the Senate would stand in recess until 2:15 p.m.

Mr. DODD. Mr. President, I ask unanimous consent to proceed for 5 additional minutes, if I could, to complete the statement.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, under the procedural statement, I ask unanimous consent that debate on the bill be extended for 15 minutes beyond. I know that is an imposition on the Presiding Officer. I have 15 minutes reserved, and I have been here for most of the morning, a

good part of the morning, waiting to speak.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Reserving the right to object, I ask if we could extend that to 25 minutes so we could go straight to 1 o'clock?

Mr. LEAHY. Reserving the right to object, and to make life easier for the distinguished Presiding Officer, I ask unanimous consent that unanimous-consent request be amended to allow me to be recognized for no more than 6 minutes at 2 o'clock, which I understand is the time we are coming back in?

The PRESIDING OFFICER. The hour of 2:15 is the previously agreed upon time.

Mr. LEAHY. I ask unanimous consent that unanimous-consent request be amended so that I am recognized for 6 minutes at 2:15.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the following will be the order: an additional 5 minutes will be extended to the Senator from Connecticut, and then 15 minutes will be extended to the Senator from Pennsylvania, after which 10 minutes will be extended to the Senator from Wisconsin, and, at 2:15, 6 minutes will be extended to the Senator from Vermont.

Mr. BRYAN. Mr. President, I have no objection, just a parliamentary inquiry. Those who are speaking with reference to the pending matter, that will be in accordance with the practice that those speaking on behalf, their time will be charged to the distinguished Senator from Utah, the time of those speaking in opposition will be charged to the time remaining of the Senator from Nevada; is that correct?

The PRESIDING OFFICER. That is correct.

The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent the unanimous-consent agreement be modified further, that Senator HATCH be recognized to speak following Senator LEAHY when we come back after lunch, for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, for clarification, my 6 minutes will be as in morning business, so it will not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The unanimous consent is so modified.

Mr. DODD. Mr. President, I think I just lost my 5 minutes so I will ask you to be slow with that gavel.

First and foremost, Mr. President, here is what the bill does not do. It is nothing like the legislation that was adopted in the House. Let me say, had the House bill come back in this area, I would have voted against it and spoken vehemently against it. This bill was much closer to the bill that passed this body earlier this year and, in fact, strengthens the legislation, as I mentioned earlier, with the inclusion of language by our distinguished colleague from Maryland, Senator SARBANES. In my view, the House bill would have been a tragedy.

For instance, we do not have loser pay provisions here. My colleagues know what that means. We took that out of the bill. That was part of the House bill. The House legislation established pleading standards that were so high, I would say—and I know my colleague from Pennsylvania is interested in this—that it would have been impossible to bring a suit, in my view, had the House language been adopted. We, as I said earlier, adopt the Second Circuit Court of Appeals standard.

The House legislation contained no safety net for small investors. As I have just described, we do. The conference report maintains joint and several liability for small investors and requires, even in proportional cases, where you have a totally insolvent plaintiff, the conference report requires that defendants pay a total of 150 percent of their proportionate share in the event of insolvent people. The House legislation had a safe harbor provision that, frankly, you could have parked the entire 7th Fleet in, if you had wanted to. That is not the case here. We have strengthened safe harbor. The conference report creates a narrow safe harbor that is strongly supported by the Securities and Exchange Commission.

So, this conference report is a far cry from the intemperate measure passed by the House. Instead, it reflects the moderate and balanced approach adopted by the Senate when it passed this body by a margin of 69 to 30. In fact, a dramatic change from the original House bill was recently noted in an editorial by the Washington Post, which is entitled ''Antidote to the Strike Suit.''

''It started off,'' the editorial said, ''last winter as a flamboyant ideological statement. But the bill to curb shareholders' suits has now been whittled and sanded by many hands into a truly useful piece of legislation. An intemperate initiative is turning out to be much more promising than seemed possible last March when the House originally passed it.''

So I think we put together a good package here. I urge my colleagues to support this legislation. We are not writing the Ten Commandments here. We are trying to address a serious problem. Time will tell whether or not particular provisions here have done everything we would like them to do. But, clearly, the system is broken and it needs to be changed.

This bill has been well thought out. It has been worked on in a bipartisan way. We have listened to the best experts in the country who helped us put it together. And the Securities and Exchange Commission endorses this bill and has worked with us to make it a good bill.

So, Mr. President, I urge my colleagues to be supportive of it. I urge the President to sign it. I know he is considering whether or not to lend his pen to this bill. I think he will sign it. I think we can make a strong case that we have put together a sound piece of legislation that will truly make a difference, particularly for those businesses which must be the future economically for our country in the 21st century, those high-technology firms, those startup industries that are the ones who are the prey of these attorneys who go out and take advantage of their being in flux, that they are not quite stable yet, that they are getting their legs. They are the ones that are preyed upon. That is what we need to stop here. This bill does that, we think, in a significant way, and I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had sought to ask my distinguished colleague from Connecticut a question relating to the pleading standard when he had said, in his presentation, that the standard in this statute is a tested standard. Then, later in his presentation, he made reference to this Senator on the pleading issue.

The question that I have for my colleague from Connecticut turns on what the pleading standard of the bill is, as having come back from conference, which is significantly different from that which left the Senate. The amendment which this Senator offered had incorporated into the statute the second circuit language which would have clarified the language in the Senate bill, which provided that, ''In any private action arising under this title, the plaintiff's complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.''

That was the tough second circuit standard. This Senator offered an amendment, which was accepted on the Senate floor, to incorporate what the second circuit said was the way of establishing that strong inference, to provide it by ''alleging facts to show the defendant had both motive and opportunity to commit fraud, or by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.'' The conference report struck out the language which my amendment had inserted which would have given guidance to how plaintiffs could meet that very stringent standard.

In addition, the conference report added that these facts had to be ''stated with particularity,'' which is an even tougher standard than the language which had gone from the Senate bill.

So when the distinguished Senator from Connecticut talks about, in his words, and he referred to the House

measure as ''intemperate''—I will not seek to characterize it, but I do know his characterization of the House measure was ''intemperate''—contrasted with what he said the Senate action was, ''moderate,'' that the bill that has come back from conference is a lot different than the bill which the Senate sent out. I think there is an enormous difference.

So the question that I have for my colleague from Connecticut is, where has this language in the conference report on the pleading standard for state of mind been tested in light of the fact that the toughest standard in existence to this moment is the second circuit standard, and this conference report toughens up the second circuit standard in two important respects by striking out the way you plead that tough state of mind standard and also by adding the requirement of pleading with particularity?

Mr. DODD. Mr. President, let me respond to my colleague. I know he has a great deal of interest in this whole area of competing standards. Basically, what we intended to do here was to codify the second circuit's pleadings standards, not to indicate disapproval of each individual case that came before it. What we were driving at here was to insist that facts be pleaded, that there be an explanation of where these facts come from in these lawsuits that are being brought.

Indeed, the Banking Committee reported with its bill—and included similar language in support—and said the committee does not intend before we consider the bill to codify the second circuit's case law interpreting this pleading standard, although courts may find this body law instructive.

So, in response to my colleague from Pennsylvania, even before we brought the matter up, we made it quite clear that we were, as I say, taking every case that had come before the second circuit but rather applying the pleading standard requirements there. That had been tested.

Mr. SPECTER. I challenge that.

Mr. DODD. Let me respond. Even my colleague's amendment goes beyond that in a sense. So you cannot, on the one hand, have us stick with it rigidly and have the Senator's in the amendment.

Mr. SPECTER. I challenge that. If I have the floor, I challenge that.

In what respect does my amendment go beyond this? That simply is not true.

What my amendment does is to take the second circuit language under which a plaintiff can meet the tough state of mind standard, and put that in the statute. This body agreed to that. And now it has come back from the conference report deleted.

In what respect did my language go beyond the second circuit?

Mr. DODD. The Senator's amendment adopted the guidance of the second circuit, but the amendment of the Senator from Pennsylvania completely omits a critical qualification in the case law. The courts have held that ''where motive is not apparent, a plaintiff may plead scienter by identifying circumstances'' indicating wrongful behavior, but ''the strength of the circumstantial allegations must be correspondingly greater'' from the number of cases. If I may respond, the Senator's amendment seriously, in the view of the——

Mr. SPECTER. From where is the Senator reading? In a circuit court opinion?

Mr. DODD. The Senator's amendment seriously—

Mr. SPECTER. Where is the Senator reading from? Is it in a circuit court opinion?

Mr. DODD. Yes.

Mr. SPECTER. From where?

Mr. DODD. There are several here.

Mr. SPECTER. Tell me where the citation is, because I have the opinions here. I challenge that any language appears from the second circuit opinion which was not incorporated in my amendment.

Mr. DODD. I am quoting here three different cases.

Mr. SPECTER. Tell me where.

Mr. DODD. The Three Crown Limited Partnership versus Caxton Corporation.

Mr. SPECTER. What page?

Mr. DODD. Does the Senator want to go to 817 Federal Supplement 1033, Beck versus Manufacturing Hanover Trust? There are two right there.

Mr. SPECTER. Mr. President, the language handed down by the second circuit was articulated by Chief Judge Jon Newman as follows:

> These facts or allegations must give rise to a strong inference that the defendants possess the requisite fraudulent intent. A common method for establishing a strong inference of scienter is to allege facts showing a motive for committing fraud and a clear opportunity for doing so. Where motive is not apparent, it is still possible to plead scienter by identifying circumstances indicating conscious behavior by the defendant, though the strength of the circumstantial allegations must be correspondingly greater.

The amendment which this Senator offered and was adopted by the Senate followed the pleading requirement by saying that the required state of mind may be established either by alleging facts to show the defendant had both motive and opportunity to commit fraud or by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

I submit that the amendment which I offered and was adopted by the Senate tracked the second circuit's language directly, and that by striking the amendment which the Senate agreed to, by conceding to the House, the conference report omits a very critical factor in giving guidance as to how a plaintiff meets this tough standard for pleading state of mind.

I would ask my colleague from Connecticut whether it is not true that the conference report came back with an additional toughening factor requiring that the facts going to state of mind be pleaded with particularity.

Mr. DODD. I say to my colleague, what we are attempting to do here, again, I think, is instead of trying to take each case that came under the second circuit, we are trying to get to the point where we would have well-pleaded complaints. We are using the standards in the second circuit in that regard, then letting the courts—as these matters will—test. They can then refer to specific cases, the second circuit, otherwise, to determine if these standards are based on facts and circumstances in a particular case. That is what we are trying to do here.

I say to my colleague that I supported my colleague's amendment when he offered it here in on the floor of the Senate back when the bill was considered. Again, as I say, personally, it says the statute of limitations and a few others. But we are dealing in conference here, and the bulk of what came back from the conference report was what was in the Senate bill.

My colleague would have preferred, I know, to have his amendment kept in its entirety here. We are trying to strike a balance. As he knows, he has been to conferences as often as I have been in the past and knows the nature of well-pleaded complaints. That is the standard we are trying to hold to that came out of the second circuit, not on a case-by-case basis where they differed in some degree in interpretation.

The PRESIDING OFFICER. Does the Senator from Pennsylvania reclaim his time?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The Senator has 4 minutes and 50 seconds.

Mr. SPECTER. I thank my colleague from Connecticut for responding. When you have a dialog in debate it is invariably more instructive than the speeches we make, however eloquent our individual speeches may be. But I have very limited time remaining.

The point that I wanted to make is that regardless of what the conference report intends—and the Senator from Connecticut talks about what we are trying to accomplish—the plain truth of the matter is that this is an impossible pleading standard, that where you take what was a tough standard by the second circuit on pleading state of mind, and then you delete the ways you prove state of mind, and then add in addition a particularity requirement, you simply do not have a way that a plaintiff realistically can go into the Federal court under the securities acts and have a fair chance to state a case.

I say that with some substantial experience in the practice of law, as a trial lawyer for some 10 years in the civil field and with substantial practice in the criminal field, which has some bearing, and my work in the past 15 years on the Judiciary Committee, that where you have a situation here where there is a mandatory stay of discovery when a motion to dismiss is

filed, that you simply do not give an opportunity to plaintiffs to go into court and have a chance to articulate a case.

We are dealing here, Mr. President, with enormous sums of money. In 1993, the most recent year available from the New York Stock Exchange and NASDAQ, there was some $3.6 trillion traded, not even taking into account the American Stock Exchange, more than half of the gross national product of the United States. And we have had an enormous number of very, very important fraud cases. The Keating case involved some losses in excess of $4.4 billion. The Drexel Burnham case, the Quorum case, the tremendous matter now pending involving the losses incurred by Orange County.

So we are talking about gigantic interests. The bill that has come back from conference, Mr. President, virtually forecloses a realistic opportunity to bring a suit under these pleading standards. And what we are not trying to do is what specifically has been done here. The standard of review is especially problemsome in the context of the mandatory rule 11 review required by the conference report.

In earlier argument on June 27 of this year, at page S9165 of the RECORD, I put in an extensive listing of letters from judges who did not want to have this mandatory rule 11 review, the Federal judges who practice in it.

Then the conference report has a presumption that, after the mandatory review, if there are sanctions against the complaint, the costs of litigation and lawyers' fees will be imposed upon the plaintiff. This is realistically more than a chilling effect. It will have the effect really to virtually discourage litigation in an important field where these private lawsuits have had a very important impact on policing the field. The Securities and Exchange Commission cannot possibly undertake it by themselves. The distinguished Senator from Connecticut concedes that in his speech about the importance of private rights of action to enforce the securities laws. But I am concerned, as a person who has had experience in the field in representing, under the Securities Act, defendants as well, that this bill in its present form simply is unrealistic and unreasonably restrictive——

Mr. DODD. Will my colleague yield on this point?

Mr. SPECTER. Not on my time. I will be glad to if we can get an extension.

Where you have especially the problem compounded by the short statute of limitations, which is 1 year from discovery and 3 years from commission. Efforts were made to extend the time to 2 and 5 years, favored by the Securities and Exchange Commission, but they failed. And where you have the safe harbor provisions which have come back here contrary to what has been asserted here, that there is no liability for forward-looking statements with cautionary statements no matter what the intent. The Senate bill said, if there was a knowing misstatement, that it not be covered by the safe harbor. That has been turned around by the conference report. What has come before us, Mr. President, I submit, is unreasonable, unrealistic, and imposes restraints which do not protect investors. It does not strike an appropriate balance.

I would be glad to yield to my colleague from Connecticut.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I thank my colleague. I was going to point out with regard to my colleague——

The PRESIDING OFFICER. The Senator from Wisconsin has 10 minutes.

Mr. DODD. Will my colleague yield for 30 seconds?

The point we made from ''particularity'' to ''specificity''—we can lose an audience here quickly in debate—that was recommended by the judicial conference. They are really responding to what they thought was a better use of language there than what we incorporated in the bill. It was not a slight at all intended to be aimed at our colleague from Pennsylvania. The judicial conference recommended that word change. They felt it would be better. That is why we adopted it.

Mr. SPECTER. If my colleague would yield to me.

When you talk about particularity, it may not mean a lot on the Senate floor, but it means a lot in litigation, and billions can be affected by that kind of a pleading change.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I rise in opposition to H.R. 1058, the Private Securities Litigation Reform Act, and do so because voting against the conference report, I think, is in the best interests of the average investor, not only in my home State of Wisconsin but all across the country.

Mr. President, I think it is important to note that this bill was proposed with the worthy goal of trying to limit frivolous litigation. In particular, the goal was to stop the so-called strike suits that we have heard so much about. I think there is no question that trying to stop that is a legitimate goal that we can all support. However, the evolution of this bill starting from its introduction to its modification and initial passage in this body, to the conference report before us today has, Mr. President, been marked by a steady and unwarranted erosion of the basic protections the average investor in this country expects and, in my opinion, deserves.

Simply calling this or any other piece of legislation a reform act does not make it so. The term ''reform'' implies that change is taking place that will serve the greater good. Sadly, this measure fails to achieve this worthy goal. In fact, when one looks closely, it becomes evident to me that this bill will work to the detriment of hard-working Americans who depend upon the securities laws to protect their savings and retirement and investments.

As many of my colleagues have noted, this bill seemingly gets worse with each subsequent version that is placed before us. For example, the conference report expands the already flawed safe harbor provision which passed this body in July. The language of this bill protects forward-looking statements by insulating the maker of those statements from liability even if they are deliberately false, provided the statement is accompanied by what is termed ''cautionary'' language. Therefore, in the face of a disclaimer, investors will be left with no recourse against a corporate insider who makes predictions which were deliberately false.

Furthermore, the conference report includes language contained in the House bill which explicitly states that there is absolutely no duty for any individual to update a forward-looking statement. What that means is even if it becomes apparent that a previously made forward-looking statement is false, the person who made the statement has no legal obligation to inform anyone of this new knowledge. It is difficult to imagine that this provision can provide the average American investor with any level of comfort or confidence.

Mr. President, beyond this baseless inequity, the bill also fails to remedy the inadequate statute of limitations period for bringing these very complex cases of securities fraud. The failure to extend the statute of limitations in the face of evidence that these cases often take a great deal of time to discover and develop and prosecute is, in my view, counter to the notion that securities law exists to protect the investor.

The practical result of this failure will be that legitimate plaintiffs, through no fault of their own, will be turned away at the courthouse door. This again, is hardly the kind of result you would expect from something that has the label ''reform.''

There are other flaws in this legislation as well, including the failure to hold liable those professionals, such as lawyers, accountants and underwriters, who aid and abet in the perpetration of securities fraud.

Additionally, the bill sets forth pleading thresholds that are very difficult to attain. The effect is to require the establishment of certain facts at the outset of a case, although the plaintiff, Mr. President, has had no opportunity to conduct any discovery. In setting this unusual standard, the conference elected to drop an amendment offered by my colleague from Pennsylvania, Senator SPECTER, which passed this body with 57 votes. It would have clarified that what was required to constitute a well-pleaded complaint was evidence that the defendant had motive and opportunity to defraud, not actual proof of intent at that point.

The conference report, in making the plaintiff prove the case even before the

case has begun, goes a lot further than eliminating frivolous suits. What it will do is have an adverse and potentially detrimental effect on legitimate cases as well.

The fee-shifting provisions of this bill will actually establish a harsher consequence for plaintiffs than for defendants who violate the Federal rules.

As Ed Huck, the director of the Alliance of Cities, in the Wisconsin State Journal, said:

> Imagine city or county officials being swindled out of millions of taxpayer dollars—and learning that they'll have to risk millions more if they want to pursue a lawsuit. That's what the ''loser-pays'' provision of this legislation means—And, in a word, that's ''intimidation'' of crime payers.

Mr. President, we should be wary of any legislation that has the effect of intimidating victims of fraud.

In short, Mr. President, this bill is unbalanced, misguided, and will harm thousands of Americans who bear no relation to the frivolous lawsuits that this bill is supposed to target.

There is no doubt that frivolous litigation, in any area of the law, is detrimental to our system of justice and to the society at large. However, the answer to these types of suits is not to foreclose the ability of legitimate plaintiffs to protect themselves against fraud, nor is it to deprive them of the right to seek recovery in court when they are defrauded.

In my opinion, the negative consequences of this unbalanced bill will be significant and far reaching.

Mr. President, I note that the report that accompanied the original S. 240 pointed out the simple, but important, goal of American securities law, and that is to promote investor confidence in the securities market. Sadly, the provisions of this bill fall very short of attaining that fundamental goal.

We must be vigilant in our efforts to seek out and eliminate frivolous litigation. However, equally as important is our obligation not to lose sight of the average American investor, the person investing for retirement or to put children through college or simply to have a little better quality of life.

In our zeal to reform, it is protection of these people which must guide and inform our efforts.

So it is unfortunate that the provisions of this bill provide little more than hollow comfort to the American investor, but such is the case with H.R. 1058. In my opinion, the bill offers its alleged reform at a price that cannot be justified. Protecting the American investor should not be sacrificed in the misapplied name of ''reform.''

The securities laws of this Nation are essential to hard-working men and women all across America. Given that this conference report fails to uphold the tradition of protecting these hard-working men and women, I simply cannot support it. I intend to vote against this conference report.

I thank the Senator from Nevada for his strong leadership on this issue. I yield back the remainder of my time and yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand that under the previous order, we now stand in recess for lunch?

The PRESIDING OFFICER. We stand in recess until 2:15.

UNANIMOUS-CONSENT AGREEMENT

Mr. BENNETT. Mr. President, prior to that action, I ask unanimous consent that following Senator HATCH's presentation this afternoon, that the senior Senator from South Carolina, Senator THURMOND, be recognized for 15 minutes on a nongermane matter. This, I might note, is the senior Senator's 93d birthday, and he has asked for this time. I think anyone who lives to that age and retains the faculties that the senior Senator from South Carolina has ought to be given whatever it is he asks for on his birthday.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Mr. President, I have no objection, but I would further like to amend the unanimous-consent request that following the 15 minutes of the distinguished senior Senator from South Carolina, to put Senator BOXER for 30 minutes, I am told, although it is not on our time. And I just seek to clarify, Senator REID has sought time.

Mr. BENNETT. I ask unanimous consent to include Senator REID for 15 minutes following Senator BOXER.

The PRESIDING OFFICER. The Chair inquires, is the time of Senator BOXER and Senator REID to be charged against——

Mr. BRYAN. Senator BOXER's time will be charged to the Senator from Nevada; Senator REID's time, as I understand, will be charged to the Senator from Utah.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT. I ask the Chair, how much time remains on each side?

The PRESIDING OFFICER. There are 2 hours and 24 minutes remaining for the Senator from Utah; 2 hours and 13 minutes remaining for the Senator from Nevada.

Mr. BENNETT. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 1:03 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KEMPTHORNE).

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont [Mr. LEAHY] is recognized for up to 6 minutes.

TELECOMMUNICATIONS CONFERENCE PROPOSALS FOR REGULATING SPEECH ON THE INTERNET

Mr. LEAHY. Mr. President, in some ways parody is becoming reality. I refer to the debate that is going on in the telecommunications conference over how we are to impose Government regulation over constitutionally protected speech on the Internet.

Last year, the magazine PC Computing published an April Fool's parody. Let me tell you a little bit about it. It said that I introduced a bill, No. 040194—for April 1, 1994—to ban drinking on the information superhighway. According to the article, this bill that I supposedly introduced would prohibit anybody from using a public computer network while intoxicated. They also said there was a rider on this bill to make it ''a felony to discuss sexual matters on any public access network, including the Internet, America Online, and CompuServe.'' Senators were chided for thinking there is a physical highway and that a permit was required to ''drive'' a modem on the information highway. The article noted that complaints about the imaginary bill are ''getting nowhere'' because ''who wants to come out and support drunkenness and computer sex?''

The parody concludes on a gloomy note, with the following words:

> There is nothing to stop this bill from becoming law. You can register your protests with your Congressperson or Ms. Lirpa Sloof in the Senate Legislative Analyst's Office. Her name spelled backwards says it all.

I enjoy using a computer, as a lot of us do, but sometimes some who use them do not have a tremendous sense of humor, just as some Members of Congress do not. They did not notice that the name spelled backward is ''April fools.'' The bill number was April 1, 1994. It should have told somebody something. But some actually thought this was real, and I started getting calls over the phone and messages over the Internet to my office saying, ''What are you doing about this drunk driving on the information superhighway bill?'' But that was then, and that was a joke. Today, unfortunately for all Internet users, the debate taking place in the telecommunications conference about imposing far-reaching new crimes for indecent speech over the Internet is not a parody but very real.

The conferees have been meeting and going over this enormous task determining how parts of telecommunications would work, how you regulate cable operators, wireless systems, and how you protect universal service. You would think they would not have time to look at something like cyberporn, but that seems to be one major consideration they have. Even though there are no members of the Senate Judiciary Committee at that conference, they are trying to figure out how to make new Federal crimes as part of the telecommunications bill.

The Senate, of course, passed the Exon-Coats Communications Decency Act, which would punish with a 2-year jail term any Internet user who posted a message with indecent language or used a four-letter word in a message to

a minor. As originally written, it would make it illegal to receive indecent material whether or not the user knew the material was indecent at the time he downloaded it. Service providers would also risk criminal liability and fines for their subscribers' use of indecent language.

Now, we have to ask ourselves if this makes such sense. We saw what happened in Vermont last week. A Vermonter from Underhill, VT, found that her personal profile on America Online had been deleted. She asked why it was deleted and was told it was because vulgar words were used on it. So she checked to see what was the vulgar word. The word ''breast'' was used. Why? Because she was a breast cancer survivor and was using America Online to correspond with other breast cancer survivors. So, this word came up and because of hypersensitivity over Congress being worried about words used on the Internet, she was yanked off. This is ridiculous in this day and age.

One wonders if, in the future, recipes for chicken cacciatore sent online will only call for dark meat to avoid using the ''B-'' word.

We should understand there are plenty of laws on the books that apply to the Internet by banning obscenity, child pornography and threats from being a distributed. What we are talking about is regulating constitutionally protected speech. One proposal under consideration by the conference would impose penalties on anybody who transmits protected speech if it is considered indecent.

In addition to effectively banning indecent speech, the conference is considering proposals to impose criminal liability on both the speakers of indecent content as well as online service providers. The result would be to draft the service providers into the role of Net police. Service providers like America Online and Prodigy, telephone companies providing modem connections, and libraries and schools hooking our Nation's children up to this brilliant new medium would face the risk of being fined and even jailed.

To avoid liability, service providers, libraries, and schools would bear the onus of asserting complicated defenses to prosecution. The implications of being hauled into court in the first place—especially for schools and libraries—should not go unnoticed. Many providers will seek to avoid the risk of litigation altogether by censoring all online speech to that appropriate for kindergarten children, or refusing to serve children at all.

These extreme proposals on the table in the telecommunications conference would leave online communications in a severely disadvantaged position in our society. While Newsweek magazine's recent cover story trumpeted the vision of the computer mogul Bill Gates, the U.S. Congress is simultaneously poised to shut down this new medium and vastly change the landscape of the information age. We must stop being paternalistic Luddites and embrace our new communications potential.

Because indecency means very different things to different people, an unimaginable amount of valuable political, artistic, scientific and other speech will disappear in this new medium. What about, for example, the university health service that posts information online about birth control and protections against the spread of AIDS? With many students in college under 18, this information would likely disappear under threat of prosecution.

I understand that Representative WHITE will make an alternative proposal to the telecommunications conference tomorrow. His proposal avoids regulating constitutionally protected speech, and limits any regulation to materials harmful to minors. This is a step in the right direction, but still leaves Internet users guessing at what may be considered harmful to minors in different areas of this diverse country.

The Internet and other computer networks hold enormous promise for enhancing our lives in ways that would have been unthinkable only a brief decade ago. But the growth of this network will no doubt be chilled if users fear that they risk criminal liability by using particular words that might, in some jurisdictions, be considered indecent. Or, if service providers simply refuse to provide Internet access to children under 18 years of age, due to the risk of criminal liability.

I have written, along with several other Members, to the chairman and ranking member of the Senate Commerce Committee urging the conferees to appreciate the implications that these proposals will have for the Internet. They should not rush consideration of these weighty issues. This is a great new communications medium and the conference should deliberate carefully before it gives its blessing to new crimes for saying things that some people, some where in this country, may deem to be indecent for children.

We should all be concerned lest the parody becomes reality.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENSORING THE INTERNET

Mr. FEINGOLD. Mr. President, I am pleased to be able to follow the Senator from Vermont who spent a few minutes to address a matter which was reported by the news media throughout the country this weekend in which the Senator from Vermont referred to and has a great relevance to legislation which the Senate passed this summer and will consider soon again.

The telecommunications conferees may within the next 24 hours decide whether this Congress is going to take the unwise step of censoring the Internet.

I am speaking of the Communications Decency Act which passed the Senate overwhelmingly as an amendment to the telecommunications deregulation bill in June. The Communications Decency Act contained criminal penalties for the transmission of constitutionally protected speech over computer networks. The penalty for transmitting indecent speech which might be accessed by a minor was up to 2 years in prison and fines of up to $100,000. Indecency, unlike obscenity, is constitutionally protected. Indecent language has thus far, only been defined by the FCC in regard to the time, place, and manner in which it may be transmitted. The definition includes the so-called seven-dirty words including what some might call mild profanity.

When this legislation was offered as an amendment in the Senate, I objected for a number of reasons. My fundamental concern was, and continues to be, that prohibitions on speech labeled indecent are unconstitutional. While courts have upheld restrictions on indecency to minors on other some forms of media, the Communications Decency Act would restrict communications between adults as well. The legislation, as passed by the Senate, could subject consenting adults communicating over a public USENET group to criminal penalties if their conversation took place in a forum that was accessed by a minor. I believe that not only is that unacceptable, it is also unconstitutional. Adults should not have to self-censor their words over public information forums. A profane exchange between two adults on a street corner which is overheard by a child would not subject those adults to criminal sanctions. However, if that exchange occurred on a public forum over the Internet and a child accessed that forum, those same adults could land in jail.

During the floor debate, I raised serious concerns that the Communications Decency Act would have a chilling effect on computer networks, forcing adults to self-censor their words to what is appropriate for the youngest of children in the most conservative communities in the country. I, along with my colleague from Vermont, Senator LEAHY, suggested that this type of censorship would also have a chilling effect on the many socially valuable forums that exist via the Internet. There exist currently many on-line support groups for child abuse victims, rape victims, victims of disease, for those coping with AIDS, and other social issues. In addition, there exist chat groups, bulletin boards and USENET groups to discuss presumably adult topics which might contain the seven dirty words or other adult language. I suggested that the Communications Decency Act would suppress those types of forums, limit the content of the discussions within those forums, and ultimately result in their termination.

The proponents of the Communications Decency Act assured the Senate that such was not the intent of the amendment. In fact, Mr. President, some suggested that these types of concerns were raised in an effort to spin the issue. They suggested these fears were not real and were not likely to be realized.

I suggest to Members of this body that news reports over the weekend confirm just how quickly those fears could be realized if the Communications Decency Act became law. One of the companies providing on-line services to consumers, America Online, in an effort to screen out filthy, vulgar and obscene language, apparently included the word ''breast'' in the list of prohibited words on AOL's services.

Mr. President, the word ''breast'' has been used many times on the Senate floor with respect to health care legislation, is not even among the so-called seven dirty words. It is not indecent. It is not profane. Yet it was screened out by a service which has been under tremendous fire for not policing its networks carefully enough.

Of course, the deletion of the word breast was met with an enormous outcry by women who participate in a breast cancer survivors online support group. According to press reports the deletion of the word breast from allowable AOL language became known when an AOL subscriber created her member profile identifying herself as a breast cancer survivor. She received a message from AOL indicating she could not use ''vulgar words.'' AOL soon was barraged by complaints by other users of the breast cancer survivors chat room. The word ''breast'' was subsequently allowed back on the service. However, an AOL spokesperson caveated that with ''as long as it is used in an appropriate manner.''

I mention this incident not to fault America Online. They are responding to a series of calls by interest groups, Members of Congress, and others to police speech over their services and to keep AOL family friendly. AOL like other on-line service providers is anticipating additional Government restrictions on speech over the Internet. When under the threat of Government imposed speech restrictions and potential criminal sanctions, it is quite reasonable to overreact, to be overly cautious, and to restrict more than that which is necessary.

Mr. President, this is exactly what I fear will happen if the Communications Decency Act becomes public law. Words will be banned. Speech will be restricted. This, Mr. President, is the chilling effect that Senator LEAHY and I referred to on the Senate floor just 5 months ago. Perfectly reasonable and acceptable language will be restricted and prohibited.

Mr. President, while it may seem ridiculous that the word ''breast'' was, at least for a short period of time, considered vulgar, it would not be unreasonable for a company like AOL to restrict such words if the Communications Decency Act becomes law. Indecency is a largely undefined term. We know how the FCC has defined indecency for broadcast, but it is unclear what would be indecent on computer networks. If such restrictions are imposed, people will err on the side of caution in their speech. Under the Communications Decency Act, to protect themselves from criminal liability, on-line services will likely find themselves prohibiting the word ''breast'' as well as many other words. Adults with direct Internet access will also be forced to self-censor their speech, guessing what might be indecent, and guessing who might access their communications.

In Saturday's Chicago Tribune, Barbara LeStage, a member of the American Cancer Society, commented on the AOL prohibition on the use of the word ''breast''. Her comments, I think are fairly insightful. She stated

> I don't have any problem with AOL trying to keep dirty words off their service. But I don't consider breast to be a dirty word. If you have people who see it as dirty, for whatever reason, then this [prohibition on use] is going to continue to happen.

Mr. President, Ms. LeStage is exactly right. If indecency is going to be outlawed and the term therefore defined by community standards and the courts, this will continue to happen. People differ in their beliefs about what is appropriate for children, about what is dirty, vulgar or indecent. To some individuals even extreme profanity may not be indecent, to others, perhaps the word ''breast'' is indecent. When AOL determined that ''breast'' would be allowed under appropriate circumstances, we must wonder under what circumstance would it be inappropriate and who decides.

This is the danger of government censorship of the Internet. Who defines what can be said without criminal sanctions? Who defines what is indecent? Who defines when certain terms are used appropriately and when they are not?

Mr. President, Congress has entered a very dangerous area in its attempt to restrict constitutionally protected speech on the Internet. In the next 24 hours, the Telecommunications conferees will decide which road to take—that of Government excess or that of caution.

I urge the conferees to err on the side of caution and to protect first amendment rights of Internet users. Such a goal is not inconsistent with our overriding objective of protecting children. Technology exists now to allow parents to screen out materials they find objectionable for their children. Obscenity, child pornography, and solicitation of minors via the Internet is already a violation of criminal law and is being aggressively prosecuted by the Department of Justice.

I urge my colleagues not to take the step toward censorship. I believe we will immediately regret it.

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is to be recognized to speak.

Mr. SIMON. I have the consent of my colleague from South Carolina to speak for 2 minutes, if there is no objection, and I ask unanimous consent to speak.

Mr. DOMENICI. Reserving the right to object, I have to be at a negotiating session at 3 o'clock. I introduced this bill 4 years ago, so I ask if maybe I could have some time before 3 o'clock, 10 minutes or something?

Mr. BENNETT. Mr. President, I suggest that we grant the unanimous-consent request of the Senator from Illinois, during which time—not to be disrespectful to his announcement—we sort out the time on this side.

The PRESIDING OFFICER. The Chair must clarify that under the previous order, the Senator from Utah is to be recognized, then the Senator from South Carolina.

Mr. SIMON. I ask my colleague from Utah if he would permit me to speak for 2 minutes.

Mr. HATCH. I yield to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE NORTHWESTERN UNIVERSITY WILDCATS

Mr. SIMON. Mr. President, I send a resolution on behalf of Senator MOSELEY-BRAUN and myself congratulating Northwestern University's football team. It has been cleared on both sides.

Let me just say, after 24 losing seasons, they are going to go to the Rose Bowl. They now rank No. 3 in the Nation. Even more interesting, of all the division 1A schools in the Nation, they are No. 2 in scholastic aptitude tests.

I offer this resolution, and I ask unanimous consent for its immediate consideration. It has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 197) to congratulate the Northwestern University Wildcats on winning the 1995 Big Ten Conference football championship and on receiving an invitation to compete in the 1996 Rose Bowl, and to commend Northwestern University for its pursuit of athletic and academic excellence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Without objection, the resolution is agreed to.

So the resolution (S. Res. 197) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 197

Whereas the Northwestern University Wildcats are the 1995 Big Ten Conference

football champions and have been invited to participate in the Rose Bowl on January 1, 1996, in Pasadena, California;

Whereas the winning of the 1995 Big Ten Conference football championship by the Wildcats completes an unprecedented 1-year turnaround of the Northwestern University football program; and

Whereas Northwestern University is committed to athletic competitiveness without diminution of scholastic standards: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Northwestern University and its athletes, coaches, faculty, students, administration, and alumni on the winning of the 1995 Big Ten Conference football championship by the Wildcats and on the receipt by the Wildcats of an invitation to compete in the 1996 Rose Bowl; and

(2) recognizes and commends Northwestern University for its pursuit of athletic as well as academic excellence.

The PRESIDING OFFICER. The Senator from Utah.

SENATOR THURMOND

Mr. HATCH. Mr. President, I congratulate my colleague from South Carolina as well. There has never been anybody in the history of this body who has meant more to me personally than the distinguished Senator from South Carolina.

Mr. President, I ask unanimous consent we go to the distinguished Senator from South Carolina and then the distinguished Senator from New Mexico for their remarks.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Mr. President, reserving the right to object, my understanding is our distinguished colleague from New Mexico needs 10 minutes?

Mr. DOMENICI. That will be adequate, I think.

Mr. BRYAN. I have no objection.

The PRESIDING OFFICER. The Senator from South Carolina.

THE DEPLOYMENT OF UNITED STATES MILITARY FORCES TO IMPLEMENT THE BOSNIA PEACE AGREEMENT

Mr. THURMOND. Mr. President, last week, the Senate Armed Services Committee conducted a hearing with national security, foreign policy and intelligence experts, who were all former executive branch officials under Presidents Bush, Reagan, and Carter. All three witnesses supported deploying United States military forces to Bosnia to implement the peace plan because they believe it is critical to preserve the credibility and reliability of the United States as a world leader and as a member of the North Atlantic Alliance. While the three witnesses endorsed the deployment of U.S. military forces to implement the agreement, they also highlighted their concerns about the likelihood of disaster and questioned the ability of the implementation force to achieve any meaningful mission objectives. In fact, the witnesses all agreed that the best that could be hoped for would be to sustain the ceasefire for the time period that NATO forces are in the region.

Last week, the President traveled to Europe to visit with our allies, and speak with the young men and women of the 1st Armored Division stationed in Germany who are to be deployed to Bosnia very shortly. One Sunday, President Clinton was briefed on the NATO implementation plan, and gave his conditional approval to the concept. Following that conditional approval, the President authorized the deployment of around 700 United States troops who will lay the goundwork for the arrival of the main body of the NATO Implementation Forces, who will deploy to Bosnia once the peace agreement is formally signed in Paris next week.

President Clinton spoke to the troops, informing them of the United States national interests that warrant their deployment to Bosnia to enforce the peace agreement. The President assured the troops that their mission is clear, limited and achievable and that the risks to their safety will be minimized. According to the director for strategic plans and policy in the office of the Joint Chiefs of Staff, Gen. Wes Clark, all U.S. forces should be in the region within 30 days of the formal signing of the agreement in Paris on December 14.

According to the Department of Defense, the overall concept of the mission of the implementation force will be to monitor and enforce compliance with the military aspects of the Dayton peace agreement.

The military tasks of the Dayton agreement include: Supervise the ceasefire lines and zones of separation; monitor, and if necessary enforce the withdrawal of forces to their respective territories within the agreed time periods; establish and man the 4-kilometer zone of separation; establish liaison with local military and civilian authorities; and create joint military commissions to resolve disputes between the parties.

All implementation forces, NATO and non-NATO, will operate under NATO rules of engagement. Those rules of engagement will permit the right to use force up to and including deadly force for self-defense to protect against hostile acts or hostile intentions, and, in order to accomplish the mission.

Despite a briefing by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, as well as congressional hearings this past week with administration officials, I continue to have grave concerns and questions about the clarify of the mission, and whether the goals and objectives of the mission can be achieved within the limited deployment framework.

I know that our young military men and women are well-trained, the best equipped in the world and ready to go. What I am most concerned about is whether all their training and equipment will have prepared them for the sniper fire, the landmines, the terrible terrain and weather in which they will have to live. I am also concerned about possible kidnapings that could occur and how our troops will be treated. Will they be treated as prisoners of war, or political or legal detainees.

In 1945, United States military forces were sent into to an area near Tuzla to keep Yugoslavian partisan out of Trieste. We were not officially at war, but the partisans resented the presence of the U.S. forces and ambushed U.S. patrols and aircraft with sniper fire, landmines, and booby traps. It took 9 years for an agreement to be reached before the 1 year mission was completed and U.S. forces came home.

Mr. President, there are already signs of dissensions among the parties to the agreement. The Serbs continue to press for a renegotiation because the agreement would require Sarajevo to come under control of the Moslem-Croat federation and Serbian civilians feel they will not be protected. Our French allies have raised concerns that their troops could become trapped if there is renewed fighting. Additionally, the United States is being viewed as being partial to the Bosnians as a result of their support and there is a feeling that United States military forces will not be impartial.

As I stated earlier, in statements on the floor and in hearings, I continue to have grave concerns about the vital interests that have lead the President to commit U.S. military forces to implement this peace agreement. I am not yet convinced that we have a vital national interest in Bosnia that requires the deployment of United States military forces, or that our national security interests are being threatened.

On Wednesday, Secretary of Defense Perry, Assistant Secretary Holbrooke and General Shalikashvili will appear before the Senate Armed Services Committee. I intend to ask more questions about the mission, objectives of the mission and the timeframe, the exit strategy; why it is necessary to have over 60,000 heavily armed military forces with armored vehicles as peacekeepers; how the implementation forces will separate the opposing forces; and how the U.S. military forces will avoid taking on nonmilitary tasks, when it appears that the civilian humanitarian services and operations will take at least 6 months to begin operation.

Mr. President, I do not intend to rubberstamp a commitment by the President. I will reserve final judgement until after the hearings have taken place, and then make a final decision.

I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, I rise today to speak in favor of the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995. I was an original cosponsor of the Senate bill, S. 240, and am a strong supporter of the conference report.

This legislation will protect investors and consumers, while remedying abuses that have plagued securities issuers and companies—particularly in cases in which attorneys have used class action lawsuits to force settlements on parties that have done no wrong.

It is my hope that President Clinton will defend the interests of the American people by signing this legislation, rather than favor the trial lawyers who would benefit from his veto.

In my view, this conference report represents a significant step towards addressing some of the egregious litigation abuses seen in the legal system today. On a related front, the Senate's product liability bill is going to conference, and it is my hope that in the future Congress will pass more broad-ranging litigation reforms that will affect the entire civil justice system.

I would like to extend my gratitude to Senator D'AMATO, Senator DODD, and Senator DOMENICI for their hard work in bringing this significant and well-drafted legislation to fruition. This bill has been perfected over several congresses and is the result of a strong bipartisan effort.

Abusive securities litigation lawsuits have imposed a high and harmful tax on American businesses. Because of the fear of being sued—and the high costs associated with securities lawsuits—many companies have declined to go public. Other companies have declined to make innovations or disseminate certain information.

The unfortunate irony is that, while securities litigation laws were designed to safeguard investors, in reality the current system ends up hurting investors.

The current system hurts investors who could have invested successfully in those companies that decided not to go public due to fears of litigation.

It also harms investors who could have earned greater profits on their shares had the companies they invested in been more profitable—for example, if those companies had been able to invest more money in research and development rather than wasting it on securities litigation costs. Not only have investors gotten hurt, but certain lawyers have raked in exorbitant fees.

Companies have all too often been reluctant to disclose information for fear that doing so will provoke a lawsuit. That goes completely against the grain of the securities laws, which are designed to encourage openness and full information in the securities markets.

The conference report addresses some of the worst abuses that have been seen in securities litigation. At the same time, the Report preserves and reinforces the core values of the American stock market—integrity, openness, and the free exchange of information.

The conference report does so through a number of specific measures.

The legislation provides that discovery is stayed whenever a motion to dismiss is pending in a securities action.

Discovery costs have been estimated to account for 80 percent of the costs of defending a lawsuit in a securities action. The burden of this time-consuming and expensive discovery process will accordingly be significantly reduced. That should remove some of the skewed incentives that have frequently forced companies to settle securities lawsuits even when they have done no wrong.

The conference report specifically addresses abuses involving the use of so-called professional plaintiffs as lead plaintiffs in securities action lawsuits. Many plaintiffs have been motivated to file suit to receive a bounty payment or bonus.

There has also all too often been a race to the courthouse by plaintiffs' lawyers seeking to be the first to file a complaint in a securities action. Lawyers representing a class are often appointed by the court on a first come, first serve basis: the first lawsuit filed determines who will serve as lead plaintiff and who will be the lead attorney.

In many cases, the professional plaintiff has not even reviewed the complaint filed against the defendant. This legislation will require the lead plaintiff to file a sworn certified statement along with the complaint, stating: First that the plaintiff has reviewed and authorized the filing of the complaint; second that the plaintiff did not purchase the security involved at the request of an attorney or to be a party to the securities action; and third that the plaintiff is willing to serve as the lead plaintiff for the class.

A lead plaintiff may not serve as a lead plaintiff in a securities action more than five times in 3 years. The legislation also limits the class representative's recovery to the lead plaintiff's pro rata share of the settlement or final judgment. These provisions limit some of the skewed incentives that have led to the rise of professional plaintiffs.

Once a securities litigation class action lawsuit has been filed, the court will then determine separately which plaintiff is the most adequate plaintiff. Any party who has received notice of the suit may petition the court to serve as lead plaintiff within 60 days of when the suit was filed. In determining which plaintiff is the most adequate plaintiff, the court determines which party has the greatest financial interest in the lawsuit.

The most adequate plaintiff selects the lead attorney and negotiates attorneys' fees. That plaintiff also weighs in on settlement decisions and other significant decisions pertaining to the lawsuit.

The legislation also provides improved settlement notice to class members. Class members will have to be provided notice of a proposed settlement and specified information. That information would include, if the parties agree on a figure, the average amount of damages per share that would be recoverable or, if the parties do not agree an a particular amount, a statement from each party as to why there is disagreement.

Notice must also include an explanation of the attorneys' fees and costs involved; the name, telephone number, and address of the class lawyer; and a brief statement explaining the reasons for the proposed settlement. Those provisions will improve the information provided to individual shareholders and increase the involvement of individual class members in litigation decisions.

The conference report also limits attorneys' fees to a reasonable percentage of the amount of recovery awarded to the class.

On a separate note, this legislation creates a modified system of proportionate liability, under which each codefendant is generally responsible for only the share of damages that that defendant caused to the plaintiff.

To balance plaintiffs' needs, however, there is a provision to protect plaintiffs from insolvent codefendants. Where defendants have committed a knowing securities violation, those defendants will be jointly and severally liable for damages. Also, in the case of an insolvent codefendant, a proportionately liable codefendant would provide additional damages to up to 150 percent of its share of the damages.

There is even an additional, special protection for small investors: all defendants will be jointly and severally liable for uncollectible shares of insolvent codefendants for plaintiffs whose damages are more than 10 percent of their net worth, and whose net worth is less than $200,000.

This legislation is proconsumer and protects small investors.

In a separate measure, the legislation adopts the second circuit pleading standard so that, in a securities action, plaintiffs must state facts with particularity, and those facts must give rise to a strong inference of scienter or intent. This should help weed out at an early stage lawsuits filed against innocent defendants.

The bill also includes a cocalled safe harbor provision to protect forward-looking, predictive statements.

It structures damages so that they will reflect real losses rather than fortuitous market fluctuations.

Finally, the proposed legislation would establish new civil penalties against independent public accountants who fail to inform corporate officers of any illegal acts they discover while performing audits. That further protects investors.

In short, this legislation should protect individuals and free up resources that have imposed substantial and needless litigation costs on American businesses in Utah and all across this country.

As I noted, I would like to see Congress take a more comprehensive look at litigation abuses across the civil justice system. This legislation is certainly a significant step in that direction. I look forward to working with my colleagues to achieve broader reforms.

The PRESIDING OFFICER. Under the previous order, as modified, the Senator from New Mexico is recognized for up to 10 minutes, to be followed by the Senator from California for up to 30 minutes, to then be followed by the Senator from Nevada for up to 15 minutes.

The Senator from New Mexico is now recognized.

Mr. DOMENICI. Mr. President, I thank my friend from Utah, the floor manager, for arranging the time and for his diligent work.

Let me, right up front, indicate that there are many Senators and many Members of the House who deserve credit for getting this bill before us in this conference report. I personally want to thank the chairman of the Banking Committee, Senator D'AMATO, because without his guidance and total commitment we would not be here.

I want to thank my original cosponsor, Senator CHRIS DODD. Actually, the two of us fought a lonesome battle until this year. It looked like this would never happen. But with the change in the Congress, and the White House making some changes in the way they thought about this, we are here today with a bill that I understand the President may very well sign.

What are we doing here and why are we here? First of all, let me talk a little bit about an industry in America. In recent days there has been much conversation about the executive officer of Microsoft Corp. That is a high-technology industry, an industry that is involved in computers and everything that goes with it and the entire high-technology community of interest.

The high-technology, high-growth companies are the backbone of the America's economy and are vital to our ability to compete in a growing global market. We can no longer allow abusive lawsuits to stifle these companies' abilities to pursue new technologies and create new jobs.

The high-technology companies contribute about $400 billion in goods and services in the United States. They employ 2½ million people, which is 14 percent of the total manufacturing jobs in America. High-technology jobs are some of the best jobs also. The average salary is $42,000 per worker, and high technology is a larger segment of our economy than transportation, aviation, and the auto industry combined. It is a rapidly growing part of our economy and it is our future.

In my small State alone, there are 305 electronics firms with 16,000 high technology, high-paying jobs with a total payroll of $609 million, and they produce approximately $2.5 billion in goods and services.

From my standpoint, this bill will make their jobs more secure. It will make those companies that I have just described as a backbone of a new kind of industrial revolution in America more successful rather than less, and no one will be hurt in the process.

Let me right up front refer to four letters. It does not look like several letters because it is enormously thick, but there are four letters signed by about 1,000 chief executive officers and presidents of electronics and high-technology firms. The letters are not directed to the Senator from New Mexico or to the Senator from Utah or to the Senator from Nevada. They are directed to the President of the United States. In short, these letters are urging the President to sign this bill because it is good for their growth and the jobs and the well-being of the thousands of workers they represent.

Mr. President, Federal securities law that we are considering here today provides a comprehensive legal framework designed to do three things:

First, protect investors in the securities market. Let me repeat that. First, protect investors in the securities market.

Second, provide ground rules for companies seeking to raise money in our capital markets.

And, third, to encourage disclosure of more accurate information about publicly traded companies.

The trend is opposite to that third point because of the lawsuits that follow when information is disseminated.

This bill updates our securities laws to better achieve these objectives and in a better, balanced way. When the U.S. Supreme Court created the implied right of action—the class action—it noted that ''litigation under rule 10(b)(5) presents a danger of vexatiousness different in degree and kind from that which accompanies litigation in general,'' citation of the case, close quote.

''Vexatiousness'' is not a word that I use very often, nor do I hear it used very often. It comes from the verb ''to vex,'' which means to harass, to torment, to annoy, to irritate, and to worry. As a noun, it is synonymous with troublesome. In the legal context, it means a case without sufficient grounds in order to cause annoyance to the defendant or proceedings instituted maliciously and without probable cause.

In these frivolous securities class action cases, the lawyer hires the client instead of the other way around. It sounds a lot like modern-day champerty. In law school we studied about this thing called champerty. That is another word that is not heard very often. But it existed where a person assisted another with money to carry out his lawsuit. In times past, someone who would pay for, in whole or in part, the cost of litigation was engaged in champerty, including doing things that tend to obstruct the course of justice or to promote unnecessary litigation. It was such a serious offense that not too many years ago it was against the law.

This bill will hopefully curb this modern-day champerty, stop the vexatiousness and restore integrity to our security laws by filtering out abusive, frivolous class action lawsuits that harm investors and only benefit the class action attorneys. Senator BENNETT made a very good point earlier today: The company is the investors. We can no longer allow entrepreneurial lawyers to squeeze the research and development budgets, to depress dividend yields to all investors for the benefit of a few professional plaintiffs. We can no longer allow lawyers to muzzle the chief executive officers from making predictions and statements about the future of their companies.

Professional advisers, like accountants and outside directors, should not be held 100 percent liable just because they are deep pockets. This bill will force lawyers to be good lawyers and lawsuits to have merit.

This bill recognizes that stock volatility is not stock fraud. Let me repeat that. This bill recognizes that stock prices go up and down—that is stock volatility—it is not stock fraud. It recognizes that all investors benefit when there is more disclosure of information. It recognizes that predictions about the future are valuable information to investors. It recognizes that predictions may not come true. Such statements are predictions, not promises.

In the safe harbor provision that is currently in the bill before us, there are really three safe harbors. I will not go through all of them, but I will refer to the third one which has received most of the attention. It is a variation of the ''bespeaks caution'' doctrine. We tried to make it workable and not too cumbersome. The chief executive officer needs to identify the statement as a forward-looking statement, needs to provide meaningful cautionary statements and needs to identify some important factors that tell the audience why the prediction may not come true.

This bill retains the two-tiered liability. We wanted to change the economics of these cases so that the merits will once again matter. People should not be sued because they have deep pockets or a lot of insurance. We created special rules so that small investors will be made whole in the event of an insolvent codefendant who cannot pay investors for their losses.

We required disclosure of settlement terms and lawyers fees in plain English so that investors will know what they might recover and how much of the settlement fund the lawyers are asking for. And, in a sense, this makes the system much better in 12 ways:

First, it puts investors with real financial interests, not lawyers in charge of the case. It puts investors with real financial interests, not professional plaintiffs with one or two shares of stock in charge of the case.

The provisions that accomplish this include most adequate plaintiff; plaintiff certification; ban on bonus payments to pet plaintiffs; settlement term disclosure; attorney compensation reform; sanctions for lawyers filing frivolous cases; restrictions on secret settlements and attorneys fees.

Second, it provides for notification to investors that a lawsuit has been filed so that all investors can decide if they really want to bring a lawsuit.

It is likely that the people trusted to manage pension funds and mutual funds [the institutional investors] will get more involved. (Most adequate plaintiff provision).

Third, it puts the lawyers and his clients on the same side. This is accomplished by reforms that change economics of cases, in particular, proportionate liability, settlement terms disclosure.

Fourth, it prohibits special side-deals where pet plaintiffs get an extra $10,000 or $15,000.

It protects all investors, not just the lawyers' pet plaintiffs, so that settlements will be fair for all investors.

Fifth, it stops brokers from selling names of investors to lawyers.

Sixth, it creates environment where CEO's can, and will talk about their predictions about the future without being sued.

It gives investors a system with better disclosure of important information. (Safe harbor).

Seventh, better disclosure of how much a shareholder might get under a settlement and how much the lawyers will get so that shareholders can challenge excessive lawyers fees.

Eighth, no more secret settlements where attorneys can keep their fees a secret. (Restrictions on settlements under seal).

Ninth, it limits amounts that attorneys can take off the top. Limits attorneys' fees to reasonable amount instead of confusing calculations. (Attorney compensation reform, limiting lodestar method of calculating fees).

Tenth, it provides a uniform rule about what constitutes a legitimate lawsuit so that it will no longer matter where a case is filed. Investors in Albuquerque will have the same rules as investors in New York. (Pleading reform).

It stops fishing expeditions where lawyers demand thousands of company documents before the judge can decide if the complaint is so sloppy that it should be dismissed on its face. (Discovery stay).

Eleventh, it makes merits matter so that strong cases recover more than weak cases. Makes sure people committing fraud compensate victims. Improves upon the current system so that victims will recover more than 6 cents on the dollar.

Twelfth, by weeding out frivolous cases, it gives the lawyers and judges more time to do a good job in protecting investors in meritorious cases. High-technology companies' executives can focus on running their companies and growing their businesses. Investors will get higher stock prices and bigger dividends.

America needs securities litigation reform for many reasons. One reason we need this legislation is because the system as it currently operates encourages a race to the courthouse to file poorly researched, kitchen sink complaints by entrepreneurial class action lawyers unconcerned with the merits of their cases. These lawyers know that it is very easy to allege securities fraud, and they often use the current system's liberal pleading rules to extort settlements from innocent companies.

Entrepreneurial plaintiffs' lawyers favorite targets are usually high-technology, start-up firms which cannot bear the costs of fighting even the most frivolous lawsuit. Over the past 4 years a total of $2.5 billion has been paid in settlements in securites class action cases. This is money that could have been better spent on enhanced research and development, product development and high paying job creation.

Even when small, high-technology companies are forced to surrender and settle abusive suits without much of a fight, they still must divert important scarce resources toward the lawsuit and away from job creation and product development. Testimony at congressional hearings on securities litigation reform indicated that the typical frivolous securities lawsuit costs $8.6 million and 1,000 hours of management time just to settle the case.

John Adler, president and CEO of Adaptec, Inc. told the Senate Banking Committee that the money his company spent fighting a frivolous securities lawsuit would have paid for 20 additional engineers. Intel spent $500,000 in 1991 just to have two abusive cases withdrawn. That money would have paid for 10 production workers or 5 engineers at its facility in my home State. Legent Computer Corp. spent nearly $2 million in legal fees and several million dollars to comply with the plaintiffs' lawyers request for 290,000 pages of documents, even though a judge eventually dismissed the lawyers' complaint. Numbers like these make me realize that we need to change the current winner pays system, where innocent companies must expend vast amounts of time and resources just to get an abusive suit dismissed.

High-technology and high growth companies form the backbone of our economy and the foundation of our ability to compete in the growing global marketplace. They create jobs and grow the economy. We can no longer allow these abusive lawsuits to stifle our companies' ability to pursue new technologies and create new jobs. The general counsel of Intel Corp. told us during a hearing that had Intel been sued when it was a startup company, the lawsuit likely would have decimated its research and development budget and prevented it from inventing the semiconductor. Thousands of jobs would be in Japan instead of America.

Entrepreneurial lawyers also like to sue deep-pocketed professional advisers, like accountants and lawyers, even if they are only marginally involved in the alleged fraud. Under the current law rule of joint and several liability, these advisers can be made to pay the entire multimillion dollar judgment, even if they were unaware of any wrongdoing. That is because the current law says that if you conduct an audit or sign an opinion letter for a client who violates the securities laws, then you should have known of the wrongdoing. Because they face potentially massive liability for their relatively innocent conduct, auditors and lawyers often settle rather than fight the abusive lawsuit. Studies show that naming an accountant in a lawsuit adds 30 percent to its settlement value. Rather than continue to face unfair joint and several liability, auditors and lawyers have begun to refuse to advise startup firms most susceptible to abusive lawsuits. This hurts the companies and ultimately their shareholders.

Part of the problem is the race to the courthouse by entrepreneurial class action lawyers, who file lawsuits within hours of news that a company came up short on an earnings projection or will be forced to delay the introduction of a new product. Information provided to the Senate Banking Committee by the National Association of Securities and Commercial Law Attorneys [NASCAT] reveals that 21 percent of the cases are filed within 48 hours of the triggering event. The stock price drops after the company makes an announcement, and the lawyers quickly file lawsuits with little or no due diligence done to investigate whether the suits have any merit. In fact, I would guess that the lawyers do not really care whether the suits possess much merit. This is because courts rarely exercise their authority to impose sanctions on attorneys who file frivolous securities suits.

Abusive lawsuits not only drain scarce resources away from important company activities, but they also have a profound impact on the willingness of corporate executives to speak freely about their company's plans and expected future performance. Several corporate executives and general counsels told the Banking Committee that they had adopted a policy of not making public forward-looking statements out of fear that they would be sued for securities fraud if their predictions did not materialize. We should encourage companies to make forward-looking statements, because they contain precisely the type of information investors most desire—information about where the company is headed in the future. But we must remember, predictions are not promises of future performance, and executives who make forward-looking statements should be protected from lawsuits unless they intended to deceive investors.

I have spoken a great deal about how abusive lawsuits affect companies and

their professional advisers. Even more egregious than the way the current securities class action system treats them is the way it treats investors. When attorneys file frivolous cases, investors eventually bear the costs of the lawsuit. When lawyers pursue meritorious cases, they often seek settlements that benefit them and leave investors with pennies on the dollar of their losses.

Often lost in the debate over securities litigation reform is the fact that not just companies, but investors are harmed by frivolous securities lawsuits. Former SEC Chairman Richard Breeden testified that ''the people who are most badly hurt—by abusive securities lawsuits—are the company's shareholders, who indirectly pay all the costs'' of the lawsuit. Current SEC Chairman Arthur Levitt also has correctly noted that investors are being hurt by litigation excesses.

When plaintiffs' lawyers engage in the predatory practice of filing an abusive securities lawsuit, shareholders eventually must bear the costs of the suit. When companies are forced to divert resources from research and development budgets to litigation budgets, stock prices drop and shareholders suffer. When companies must make a charge to earnings to pay the costs of settling an abusive lawsuit, dividends are lower and shareholders suffer. When corporate executives refuse to discuss the company's future plans out of fear that they will be sued, markets are denied access to the information investors need most to make informed investment decisions, and shareholders suffer.

During the 12 congressional hearings held on securities class action litigation, the most shocking thing I learned was the way plaintiffs' lawyers treat investors in cases of real fraud. According to studies and testimony presented at the hearings, in the typical settlement of a securities fraud lawsuit, investors receive around 6 cents on the dollar of their claimed losses, while plaintiffs' lawyers take the lion's share of the settlement fund as their fee award. This is because the current system allows attorneys to negotiate their settlement with little or no input from their purported clients, the injured investors. One of the most prominent securities class action lawyers claims to have the best practice in the world because he has no clients.

This same attorney once settled a class action for $12 million and asked for the entire amount as his fee award. This would have left his clients with nothing. When asked whether he had a duty to his clients to justify his fee request, this lawyer responded that his only responsibility was to justify his fee request to the court. A system which allows this sort of abuse needs to be changed. Investors deserve better.

THE SOLUTION

While I have spent some time talking about the problem, I would like to spend the remainder of my time discussing the solution we have developed. Our goal in crafting this legislation was to balance the interests of defrauded investors with those of the companies and professional advisors who are often the subject of abusive, meritless lawsuits. I believe that we have developed a balanced bill that provides relief from abusive suits while giving investors greater control and a larger recovery in cases of real fraud.

It contains provisions which place investors, not lawyers, in control of the lawsuit. Unlike the current lawyer-driven system, under this new law the investors with the greatest stake in the outcome of the litigation will control the case. Usually this will mean that pension funds and mutual funds, which represent thousands of small investors, will determine whether to pursue a lawsuit, who will be their lawyers, and when and for how much to settle the case. Because they have an interest in protecting their small investors by discouraging frivolous suits and pursuing cases of real fraud, institutional investors are in the best position to decide whether to go forward with a lawsuit.

Unlike the current system where the first lawyer to file the lawsuit controls the case, this legislation also will allow the investors to pick their lawyers and negotiate up front what their fee will be. This will result in reduced attorneys' fees and will leave more money in the settlement fund for defrauded shareholders. It will eliminate situations where the attorneys request significant portions of settlement fund as their fee and leave investors with pennies on the dollar of their claimed losses.

The conference report also requires that settlement notices to class members contain clear and concise disclosures of the terms of the class action settlement. Under the current system, investors often receive settlement notices shrouded in legalese, which give them little or no idea what the lawyers have agreed to do. Only after they have consented to be part of the class and accept the settlement do they realize that the lawyers have taken most of it and left them with next to nothing. Under the new law, lawyers will be required to explain to shareholders in clear terms the total amount of the settlement, the amount of attorneys' fees and costs sought, and the amount per share class members will receive. With this new information, investors will better be able to determine whether to accept the terms of the settlement.

The new system also will be good for investors because it eliminates many of the unfair practices currently associated with generating a securities class action. Lawyers will no longer be able to pay bonuses out of the settlement fund to individuals who lend their name to the lawsuit and act as the named plaintiff. Nor will they be allowed to pay bonuses to brokers or dealers for referring potential clients. These practices are unfair to the shareholders not afforded the luxury of acting as named plaintiff and should be eliminated. Their elimination will keep more money in the settlement fund for all investors, not a select few.

The conference report also will benefit companies, as well as investors by utilizing reasonable means to eliminate abusive frivolous lawsuits. Despite what opponents say about this bill, it will not protect the Charles Keatings of the world or prevent victims of egregious fraud from obtaining relief. No Senator would vote for a bill which allowed that to happen. Instead, the conference report contains provisions which will weed out frivolous cases early in the litigation process and impose fair liability standards on companies and their professional advisors to reduce the tremendous pressure on them to settle even the most abusive cases.

To weed out frivolous cases early in the process, the conference report adopts the pleading standard utilized by the second circuit court of appeals, where a large number of securities fraud lawsuits are brought. This court-tested standard requires plaintiffs to plead facts in their complaint which give rise to a strong inference of securities fraud.

The conference report also adopts the State-law trend of proportionate liability—liability based upon the degree of responsibility of each defendant. It retains joint and several liability for the really bad actors, those who knowingly defraud investors. It holds all others proportionately liable for the harm that they have caused. This will reduce the pressure to settle on professional advisors who may not even have been aware of the fraud, but who under the current system could be held responsible for the entire amount of damages.

Proportionate liability is not a novel concept—it's one many States concerned with a fair application of liability have used for years.

There are three provisions in this bill which provide additional investor protection, particularly for the most vulnerable small investors. First, the bill contains a provision specifically designed to improve fraud detection in the areas of auditing and financial reporting. Auditors will now be required to report instances of corporate fraud and this reporting often will take place before the fraudulent information makes its way into financial disclosure documents disseminated to investors.

The bill also contains language which will ensure that investors get compensated if the main perpetrator of the fraud is bankrupt. The conference report requires proportionately liable defendants to pay up to an additional 50 percent of their liability into the settlement fund in cases where the primary, knowing violator is insolvent. It also requires that small investors be fully compensated in all cases by holding all defendants jointly and severally liable for their entire losses.

The bill also contains a fair safe harbor for predictive statements which will allow companies to provide the forward-looking information investors desire without the fear of a lawsuit if the projections do not materialize. Under the current system, if one person in a company is aware of information which might contradict the company's projection, the company can be held liable for fraud. This forces companies to adopt a policy of not making predictive statements.

The new safe harbor, endorsed by the Securities and Exchange Commission, protects predictive statements in two ways. First, projections are protected from lawsuits as long as they are accompanied by meaningful warnings which identify important business factors which could cause the prediction to fail. This provision is based on the bespeaks caution doctrine, a concept in the securities laws which says that if a predictive statement is surrounded by sufficiently cautionary language discussing some of the reasons why the prediction may not come true, then the statement cannot form the basis of a lawsuit. Under this new rule, companies which desire the protection of the safe harbor will be required to disclose certain information to investors about the factors which might undermine their predictions. Companies need not disclose every factor, nor must they disclose the factor which eventually causes the prediction to fail. They simply must discuss some of the important business factors which could affect their prediction.

There has been much discussion about this first part of the safe harbor. Early drafts said that companies must disclose substantive factors, rather than important factors. In this Senator's opinion, these words are interchangeable and impose the same requirement on companies: discuss some of the important business factors which could affect your prediction. It imposes no hindsight state of mind requirement on companies regarding which factors they believed were most important. Nor should this provision be used by courts in a way which allows the current system's abusive discovery practices to continue. Courts should not read the word important to mean that plaintiffs are entitled to large-scale discovery on the issue of which factors the company believed were important. Courts should simply look at the four corners of the predictive statement, as well as the information about the company already in the market, and determine whether investors should have relied on the predictive statement.

Under this safe harbor, courts also may continue their practice under current law and find forward-looking statements immaterial on other grounds. There is an abundance of case law which says that soft forward-looking statements containing optimistic opinions without any factual representations cannot serve as the basis for one of these lawsuits. The conference committee wisely chose to leave this law intact. This sort of sales talk or puffing has no effect on a company's share price and courts should continue to quickly dismiss cases based on these types of statements. As well, courts also should continue to consider public information provided by sources other than the company or public information from the company not contained in the forward-looking statement when determining whether a predictive statement meets the securities laws' test of materiality. These concepts also are found in the cases, and the conference committee certainly did not intend to have any effect on this area of the law.

Should a predictive statement not contain sufficient cautionary language to fall into the first safe harbor, then a second safe harbor is available. Under the second safe harbor, the statement is protected unless it was made with actual knowledge that it was false. If a business entity made the statement, then the plaintiff must prove that the statement was made or approved by an executive officer with the actual knowledge that it was false. This will prevent the situation under current law which permits lawsuits to go forward based upon the existence of a memo or electronic mail by a low-level employee who disagrees with management's projection. This provision is based upon the standard Senator SARBANES proposed on the floor during the Senate debate, and I believe that this is an effective compromise.

Investors should have increased access to the company's thoughts about where it is headed in the future, and the current lawsuit-driven system discourages executives from talking about the future. The conference report's balanced safe harbor provision encourages companies to speak by recognizing that predictions are not promises, while prohibiting outright lies by corporate executives. Again, this is a provision supported by the Securities and Exchange Commission. Let me read into the record what the Commission says about the safe harbor in the conference report:

> While we could not support earlier attempts at a safe harbor compromise, the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse.

Finally, this bill addresses the fact that attorneys and courts are unwilling to pursue sanctions against entrepreneurial lawyers who file abusive suits. This legislation requires courts to review the record at the end of each case to determine whether any of the attorneys violated rule 11 of the Federal rules. If the court finds a violation, then it must impose sanctions. Requiring courts to impose sanctions against attorneys who file frivolous cases will reduce the number of abusive lawsuits without discouraging individual plaintiffs from seeking redress in the courts.

Mr. President, I hope my colleagues will vote for this conference report. This legislation is substantially similar to the legislation we passed in July by a wide margin. I believe that the Senators who supported the bill in July should have every reason to vote for this conference report today. It is a well-balanced bill that protects investors from intentional fraud, gives them greater control of their cases and addresses many of the abuses inherent in our currently broken securities class action system.

I ask unanimous consent to have printed in the RECORD following my remarks a list of those from my home State of New Mexico who support securities litigation reform. The list includes several State senators and representatives, as well as Gary Johnson, the distinguished Governor of New Mexico.

I also ask unanimous consent that a copy of a series of letters from a group of high-technology and high-growth company CEO's, and venture capitalists to President Bill Clinton also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. DOMENICI. Mr. President, I want to especially recognize the extraordinary commitment Senator DODD has made to this legislation. When he was chairman we started the hearings, compiled a thorough report and together we developed legislation. He has steadfastly worked to make the bill a better bill for small investors, for all investors, for our capital markets and the companies using our capital markets. This knowledge of the securities laws helped craft the answers to the problem that we all saw.

I thank my colleagues Senators DODD and D'AMATO, as well as the rest of the conferees for all of their hard work on this important legislation. This is comprehensive reform, and companies as well as our legal system will work more efficiently because of it. Senator GRAMM pioneered the most-adequate-plaintiff provision and I thank him for his input.

I must thank several members of the House who have worked so hard to help bring about securities litigation reform. The chairman of the Commerce Committee, Mr. BLILEY and his distinguished subcommittee chairman, Mr. FIELDS, have worked tirelessly to ensure that this legislation is effective and actually works in the real world. I realize how difficult it can be to craft a complicated piece of legislation like this, and I appreciate their help. I also would like to thank Representative CHRIS COX from California, who practiced in this area prior to coming to Congress. His practical experience and expertise has helped make this a better bill. Finally, I thank Representative BILLY TAUZIN, a new member of the Republican Party who fought for many

years as a Democrat to bring this legislation to the floor of the House. Mr. TAUZIN's hard work attracted over 200 cosponsors to his original bill at a time when there was very little interest by the House leadership in even bringing up the issue of securities class action reform. Mr. TAUZIN has worked on this issue since the beginning, and his dedication to this issue is to be commended.

SEC Chairman Levitt and Commissioner Wallman made constructive suggestions throughout the process. I am very pleased that they support the safe harbor provisions that have been worked out and that we were able to address their principle concerns about the entire bill.

Mr. President, I urge that Senators adopt this bill today and I urge the President to sign it. As we look back at this year, this will be one of the most significant pieces of legislation that attempts to rid the American economy and the entrepreneurial system from unneeded drag and unneeded cost so that it retains more of its vibrancy and growth potential.

I yield the floor.

EXHIBIT 1

NEW MEXICO SUPPORT FOR S. 240

GOVERNMENT

New Mexico Governor Gary Johnson.
State Senator Patrick Lyons.
State Senator Virgil Rhodes.
State Senator E.M. Jennings.
State Representative Robert Wallach.
State Representative Ted Hobbs.
State Representative Anna Marie Crook.
Santa Fe City Manager Isaac Pino.
Lovington City Manager Bob Carter.
State Secretary of Finance and Revenue David Harris.

BUSINESS AND INDUSTRY

Santa Fe Chamber of Commerce.
Greater Albuquerque Chamber of Commerce.
Roswell Chamber of Commerce.
New Mexico Association of Commerce and Industry.
Intel Corp.,—Rio Rancho.
Motorola—Albuquerque.
Specialty Constructors, Inc.—Cedar Crest.
Neff & Co.—Albuquerque.
Correa Enterprises Inc.,—Albuquerque.
Larribas & Associates, P.A.—Albuquerque.

We also have received many letters from private citizens, including many retirees who support securities litigation reform.

THE CEASS COALITION IN NEW MEXICO

SUMMARY

The Coalition to Eliminate Abusive Securities Suits (CEASS), an alliance of over 1,450 U.S. companies, professional firms and organizations representing high-technology, financial services, basic manufacturing sectors and others, is seeking federal legislative remedies to the rising threat of unwarranted securities litigation. CEASS member companies rank among the nation's fastest-growing and most innovative companies. CEASS supports the reform measures embodied in S. 240, the Private Securities Litigation Reform Act of 1995, introduced in the U.S. Senate by Senators Pete Domenici (R–NM) and Chris Dodd (D–CT).

In New Mexico, there are 24 CEASS members that are either headquartered or have facilities in the state. Together, these organizations employ over 11,000 residents. Included are many of the state's largest private sector employers—Intel Corporation, Motorola Inc., US West Communications and many more. Below is a detailed breakdown of CEASS members in New Mexico.

CEASS MEMBERS AMONG LARGEST NEW MEXICO EMPLOYERS (500 OR MORE EMPLOYEES)

Chevron Corporation.
Intel Corporation.
Johnson & Johnson.
MCI Communications, Inc.
Motorola Inc.
Phelps Dodge Corp.
US West Communications.

CEASS MEMBERS HEADQUARTERED IN NEW MEXICO

Diagnostek, Inc., Albuquerque.
Indian Motorcycle Manufacturing Inc., Albuquerque.
Mesa Airlines, Inc., Farmington.
Neff & Company, Albuquerque.
Specialty Teleconstructors, Inc., Cedar Crest.
Sunsoft Corporation, Albuquerque.

ALL OTHER CEASS MEMBERS WITH FACILITIES IN NEW MEXICO

AlliedSignal Inc., Las Cruces.
Arthur Andersen LLP, Albuquerque.
Baxter International, Albuquerque.
Borg-Warner Security Corp., Albuquerque.
Chevron Corporation, Gallup.
Chevron Corporation, Raton.
Eagle Industries, Inc., Albuquerque.
FHP International, Inc., Albuquerque.
Intel Corporation, Rio Rancho.
Johnson & Johnson, Albuquerque.
KPMG Peat Marwick LLP, Albuquerque.
MCI Communications, Inc., Albuquerque.
Motorola Inc., Albuquerque.
The Olsten Corporation, Albuquerque.
Phelps Dodge Corp., Lordsburg.
Phelps Dodge Corp., Tyrone.
Smith's Food & Drug Centers, Inc., Albuquerque.
Smith's Food & Drug Centers, Inc., Farmington.
Sun Microsystems, Inc., Albuquerque.
The May Department Stores Co., Albuquerque.
US West Communications, Albuquerque.

MEMBERS OF NEW MEXICO HOUSE DELEGATION WHO VOTED FOR SECURITIES LITIGATION REFORM (H.R. 1058)

Steven Schiff.
Joe Skeen.
Bill Richardson.

EXHIBIT 2

AMERICAN ELECTRONICS ASSOCIATION,
Santa Clara, CA, October 17, 1995.

Hon. WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As California members of the American Electronics Association, we are writing to strongly urge your support for securities litigation reform legislation which we expect to emerge from Conference Committee early this fall.

For nearly four years the California High Technology community has been pursuing meaningful reform of the securities litigation system. We have worked closely with the White House, the Securities and Exchange Commission, and the U.S. Congress. As a result of these efforts, both the House of Representatives and the U.S. Senate overwhelmingly passed securities litigation reform, by votes of 325–99 and 70–29, respectively. We believe these margins clearly demonstrate the consensus for reform and now we need your affirmative support to bring this effort to a successful close.

We want to stress our belief that U.S. capital markets function efficiently and effectively because of a strong and balanced enforcement system. We also want you to understand that the current system is no longer functional, promoting inefficient markets, costing jobs, and harming investors.

In Silicon Valley, California, nearly 53% of technology companies have been sued under Section 10(b)(5) of the Securities Act of 1934. Every single one of the top ten Silicon Valley Corporations—world class multinational competitors—have been accused of violating the anti-fraud provisions of the U.S. Securities laws. The current state of affairs was described best by a prominent Silicon Valley CEO who stated: ''There are only two kinds of California technology companies—those that have been sued, and those that are about to be sued.''

We want to emphasize that the provision most critical for technology companies is a strong, effective safe harbor for forward-looking statements—statements made by companies and others about the future prospects of earnings, products, technologies or the like. But the key to a safe harbor is that it must be safe. Properly constructed, a true safe harbor will promote maximum disclosure by corporate executives and provide investor protection. Under current law, if a company fails to meet management's projections or analysts' expectations it often finds itself faced with a lawsuit. Frequently, these lawsuits are based on changes of fraud, allegedly for false and misleading past statements of future expectations. And because of our inherent stock volatility, rapid product development, and economic and technological uncertainties facing technology companies, high technology firms are easy prey for these merit less lawsuits.

The California Public Employees Retirement System (CalPERS), which provides retirement benefits to nearly 1 million beneficiaries fully understands the ramifications of the current system. CalPERS argues that ''the current safe harbor has failed to encourage sufficient disclosure of forward-looking information, principally because the rule is unable to assure issuers that they will not be subject to shareholder suits upon disclosing projections.''

Unfortunately, as with many issues in Washington, the safe harbor has been the subject of a smear campaign designed to preserve the status quo for those that are profiting from the current system. Some have characterized the safe harbor as providing issuers with a ''license to lie.'' This is either a misrepresentation or a misunderstanding of the proposals. Providing safe harbor protection—that is, a greater degree of protection than provided for in law—has been the established policy of the Securities and Exchange Commission for 15 years.

Others have suggested that the safe harbor would protect fraudulent wrongdoers. Again, this is simply not correct. Truly fraudulent activity would still be fully actionable by private parties under any safe harbor construction. It is simply not possible to confine fraudulent activity to forward looking statements without also, at some point, mis-stating present fact. Moreover, nothing in any proposal would prevent the Securities and Exchange Commission from bringing an enforcement action against any person on the basis of a forward-looking statement. The safe harbor would only curb abusive lawsuits based on a revisionist view of future events.

Mr. President, by giving companies the comfort they need to talk about plans for the future—without risking a lawsuit when they simply miss the mark—the safe harbor will maximize disclosure of forward-looking information, improve the efficiency of the market, and permit investors to make sound decisions based on maximum information.

Once again, we want to stress the need for litigation reform, including for a strong safe harbor.

Sincerely,

Wind River Systems, Tekelec Corporation, Venture Management Associates, Information Storage Devices, Inc., HiTech Equipment Corporation, Poly-Optical Products, Inc., VALOR Electronics Inc., Fidelity Palewater, Inc., Sage Management Group, Radio Therapeutics Corporation, Elpac Electronics, Inc., Uptime Computer Solutions, Inc., ShareData Inc., TEAL Electronics Corporation, Aurum Software Inc., Magnetic Circuit Elements, Inc., Aurora Electronics, Inc., Weitek Corporation, BEI Electronics, Inc., Shelly Associates, Inc.

Data Instruments, Inc., TAU Corporation, Nextwave Design Automation, ACCEL Technologies, Inc., Emuiex Corporation, Optimum Optical Systems, Inc., VertiCom Inc., Comdisco Electronics Group, TeleSensory Corporation, Physical Optics Corporation, Endgate Corporation, Wells Fargo Bank, Catapult Communications Corporation, Orthodyne Electronics, Alzeta Corporation, Printonix, Inc., Leasing Solutions RNC (LSSI), Embedded Performance, Inc., Escalade Corporation, Autek Services Corporation.

Presence Information Design, INTA, TTM Inc., Graham-Patten Systems, Inc., Oxigraf, Frequency Products, Inc., Paragon Environmental Systems, Inc., Radian Technology, Illustra Information Technologies, Dynamic Network Solutions, Inc., Data/Ware Development, Subscriber Computing, Inc., Paragraph International, El Dorado Ventures, Petillon & Hansen, NFT Ventures, Inc., Pioneer Magnetics, Platinum Software, BioMagnetic Technologies, Inc., Lexical Technology.

ACT Networks, Inc., 3D Systems Corporation, WEMS Electronics, The Automatic Answer, Inc., Transport Solutions/RTC, Lumonics Corporation, Silicon Valley Group, Inc., The Cerplex Group Inc., Interlink Electronics, Baan Company, Nanometrics, Viasat, Inc., HSQ Technology, Qlogic Corporation, Silicon Systems, Inc., Giga-Tronics Incorporated, HNC Software Inc., ParcPlace Digitalk, Inc., DCP Technology Inc., Vitesse Semiconductor Corporation.

Canro Scientific Instruments, Router Wave, Xircom, Inc., Level One Communications, Inc., International Lottery & Totalizator, Onstream Networks, Inc., Wiz Technology Inc., Tandem Computers, Inc., ProBusiness, Inc., Innocal, InCirt Technology, Logical Services Incorporated, Com 21, Microsource, Inc., Scientific Technologies, Inc., Pacific Recorders & Engineering, Kofax Image Products, Allied Telesyn International Corp., Molecular Dynamics, Motion Engineering, Inc.

Trillium Consumer Electronics, Inc., ATG Cygnet, Inc., Semiconductor Systems, Inc., Reset Inc., Triconex, StrataCom, Inc., Quantic Industries Inc., Advanced Matrix Technology, Inc., Netsoft, Motion Engineering Inc., Inhale Therapeutic Systems, Continuous Software Corporation, Xilinx, Inc., RJS, Inc., Measurex Corp., Sonatech, Inc., MasPar Computer Corporation, Paracel, Inc., Fisher Research Laboratory, Inc., Network General Corp.

Gamma-Metrics, Expersoft, D.S. Technologies Inc., Liconix, Creative Computer Solutions, Inc., 3Com Corporation, Condor Systems, Inc., Atmel Corp., Proxim, Inc., Network Equipment Technology, Inc., American Telecorp, Inc., InfoSeek, DiviCom Inc., Remedy Corporation, Harmonic Lightwaves, Inc., TopoMetrix Corporation, Dionex Corporation, Orbit Semiconductor, Inc., Opti, Inc., MicroSim Corporation.

Kavlico Corporation, Absolute Time Corporation, DJC Data Technology Corporation, WireLess Data Corporation, California Amplifier, Inc., Dynamic Instruments, Inc., Savi Technology, Inc., Komag Incorporated, Megapower Corporation, Spatializer Avoid Laboratories, Inc., Newpoint Corporation, Redwood MicroSystems, Inc., Harmonic Lightwaves, Inc., Unisen, Inc., California Microwave, Inc., SEEQ Technology, Inc., Quantum Materials, Inc., Sierra Semiconductor Corporation, Alpharel, Inc., Titan Electronics, Uniax Corporation, De La Rue Giori of America, Liikkuva Systems, Brooktree Corporation, GammaLink, Calimetrics, Inc., Tyecin Systems, Inc., AccSys Technology.

SILICON VALLEY, CA,
November 3, 1995.

Hon. WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We wish to state unequivocally that securities litigation reform legislation is of critical importance and interest to our companies. We understand from numerous sources within the White House that this Administration believes that Silicon Valley companies do not consider securities reform a pivotal issue.

By delivery of this letter to you. Mr. President, we wish to underscore the degree of our intensity in support of meaningful reform.

For almost four years we have devoted substantial energy and efforts toward making common sense changes in the nations securities laws, thereby hoping to end the relentless onslaught of frivolous lawsuits against our companies. As a result of discussions with your staff we have acted in good faith and have moderated our position to meet your concerns.

The high technology companies are united on this issue. The signatories of this letter represent the leading companies of Silicon Valley, and speak with confidence that we reflect the views of thousands of technology companies nationwide.

Mr. President, believe us, this is a definitive issue for our industry.

Sincerely,

National Semiconductor Corporation, Quantum, 3COM, DSV Partners, Institutional Venture Partners, LSI Logic Corporation, Cadence Design Systems, Symantec Corporation, Oracle Corporation, Sybase, Inc., New Enterprise Associates, Silicon Graphics Inc.

Sun Microsystems, Inc., Intel Corporation, Applied Materials, Inc., Varian Associates Inc., Kleiner Perkins Caufield & Byers, Hewlett-Packard Company, Raychem Corporation, Advanced Micro Devices Inc., Adaptec, Inc., Centigram Communications Corporation, Apple Computer, Inc., Tandem Computers, Trimble Navigation Limited, Xilinx, Inc., Adobe Systems Inc.

AMERICAN ELECTRONICS ASSOCIATION,
Santa Clara, CA, October 13, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge your support for securities litigation reform legislation which we expect to emerge from Conference Committee early this fall.

For nearly four years the U.S. high technology community has been pursuing meaningful reform of the securities litigation system. As a result of these efforts, both the House of Representatives and the Senate overwhelmingly passed securities litigation reform, by votes of 325–99 and 70–29, respectively. We believe these margins clearly demonstrate the consensus for reform. We need your affirmative support to bring this effort to a successful close.

We were pleased to read the report during your recent Silicon Valley visit that you would ''gladly sign'' legislation to eliminate frivolous lawsuits. At the same time, we gather you do not fully support the legislation passed by the Senate, the legislation most likely to reach your desk.

In Silicon Valley, more than half the technology companies have been sued under Section 10(b)(5) of the Securities Act of 1934. Inherent stock volatility, rapid new product development, and economic and technological uncertainties make high technology firms easy prey for these meritless and costly lawsuits. According to the American Electronics Association (AEA) every one of the top ten Silicon Valley companies—world-class, multinational competitors—has been accused of violating the anti-fraud provisions of the U.S. securities laws.

The provision most critical for technology companies, like ours, is a strong safe harbor for forward-looking statements—projections made about the company's future prospects. Failing to meet the expectations of analysts who follow the technology industry is inevitable. However, it is hardly intentional and it is certainly not fraudulent. Yet plaintiffs' lawyers seize upon the inherent volatility in our industry to create a false picture of ''fraud'' where none in fact exists.

The proliferation of class action lawsuits has prompted companies to conclude that the legal risks of providing projected earnings, revenue and market information to Wall Street analysts or the investing public are too high. As such, many companies no longer release future oriented information and refuse to comment directly on analysts' projections, resulting in less public information, less efficient markets, fewer jobs, and in the end less informed investors.

Except for those who profit from the current system, there is nearly universal agreement that the current regulatory safe harbor is no longer functional. Nonetheless, the beneficiaries of the status quo have launched an aggressive campaign to kill the safe harbor. They have suggested that the proposed safe harbor would be a ''license to lie,'' or that it would ''protect'' fraudulent wrongdoers. The fact is that fraudulent activity would continue to be fully actionable by private parties under either bills' safe harbor construction. Moreover, nothing in any proposal would prevent the Securities and Exchange Commission from bringing an enforcement action against any person on the basis of a forward-looking statement. The purpose and goal of the safe harbor is not to provide a ''license to lie'' but to provide a forum in which companies can safely provide valuable information to the investing public.

Mr. President, it is important for us to have you understand our position. Without strong, clear safe harbor protection—similar to that enacted by either the Senate or the House—reform efforts will be virtually meaningless. We need your active support to ensure that the legislation enables corporate executives to speak candidly about the future and to ensure that investors receive the information they need. In so doing, businesses will win, investors will win, and the marketplace will win.

Sincerely,

Adaptec, Inc., National Semiconductor Corporation, Quantum, 3COM, LS Logic Corporation, Oracle Corporation, Raster Graphics, Silicon Graphics Inc., Sun Microsystems, Inc., Intel Corporation, Applied Materials, Inc., Varian Associates Inc., Hewlett-Packard Company, Cypress Semiconductor, Raychem Corporation, Advanced Micro Devices Inc., Centigram Communications Corporation, Apple Computer, Inc., Tandem Computers, Trimble Navigation Limited, Xilinx, Inc.

AMERICAN BUSINESS CONFERENCE,
Washington, DC, November 1, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Shortly, you are likely to receive from Congress legislation designed to reform our nation's system of securities-related litigation. We are writing to urge you to sign that legislation when it reaches your desk.

As you know, bills designed to curtail speculative securities litigation—so called strike suits—passed the House and Senate by wide, bipartisan margins earlier this year. The House and Senate conferees will be meeting presently and a draft conference report has already been written. That draft report has been warmly endorsed by Senator Dodd, who called it a ''balanced, moderate bill that addresses the needs of legitimately defrauded investors, while protecting our nation's businesses from frivolous lawsuits.''

We, and the organization we co-chair, the American Business Conference (ABC) agree with Senator Dodd's assessment. For far too long, America's entrepreneurial, growth companies have been harassed by speculative lawsuits brought by a small coterie of lawyers in the name of investors who often are unaware that a suit has been filed. These suits are initiated for the purpose of securing a settlement; they amount to little more than perverse transfer payments from one group of investors to another with a large slice going to the plaintiffs' lawyers.

Those companies that manage to escape being sued suffer as well. They know that the promulgation of so-called forward-looking information is an open invitation to a lawsuit because statements about future prospects are uncertain and therefore vulnerable to legal assault after the fact.

This means less communication of forward-looking information to investors, a less efficient securities market, and, ultimately, a higher cost of capital for entrepreneurial firms unable to explain fully why investors should seek them out. Our economy cannot afford this absurd situation to continue; it is costing jobs, it is hampering new business development, and, ultimately, it is a tax on our future standard of living.

Having spoken at length with our colleagues in ABC and with other business leaders from California to Massachusetts, we can assure you that no business-related issue is being more closely watched by America's entrepreneurs than is the fate of this reform legislation. It deserves your wholehearted support.

Sincerely yours,

GEORGE N. HATSOPOULOS,
Chairman and President, Thermo Electron Corp. Waltham, MA.
Co-Chairman, American Business Conference.

CLARK A. JOHNSON,
Chairman and C.E.O., Pier 1 Imports, Inc., Fort Worth, TX.
Co-Chairman, American Business Conference.

COALITION TO ELIMINATE ABUSIVE SECURITIES SUITS,
Washington, DC, November 1, 1995.

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: Earlier this year, overwhelming majorities in both Houses of Congress (325–99 in the House and 69–30 in the Senate) passed legislation that would reform our nation's securities litigation system. The overwhelming margins of support attained in these votes clearly reflect a bi-partisan consensus that the current securities litigation system needs to be fixed, and fixed quickly.

In short, the status quo is stifling our nation's growth companies while padding the pockets of plaintiffs' attorneys. Over the past four years, a total of $2.5 billion has been paid in settlements in securities class action cases analyzed by National Economic Research Associates, Inc.—a ''disproportionately large number'' of which involve suits against high-technology companies—with plaintiffs' attorney fees averaging 32% of the settlement.

As concerned leaders of the American business community, we urge you to capitalize on this display of legislative solidarity and move this important legislation swiftly through conference committee and to President Clinton's desk.

Sincerely,

Abbott Laboratories; Banc One Corp.; American Greetings Corp.; The Carlyle Group; Ceridian Corp.; Chrysler Corp.; Household International, Inc.; Beneficial Corp.; Carolina Power & Light Co.; Chevron Corp.; Eastman Kodak Co.; Nashua Corp.

Gilbert Amelio, National Semiconductor Corp.; James A. Unruh, Unisys Corp.; John East, Actel; Allen Weintraub, The Advest Group, Inc.; Robert N. Pratt, Alta Gold Co.; Eric Benhamou, 3Com Corp.; Edward Abrams, Abrams Industries, Inc.; John G. Adler, ADAPTEC, Inc.; Randall Wagner, Agatheas & Wagner, P.A.; Kurt Wiedenhaupt, American Precision Industries, Inc.; Wayne G. Vosik, American Travellers Corp.; James C. Beardall, Anderson Lumber Co.; Pier C. Borra, Arbor Health Care Co.; Safi Qureshey, AST Research, Inc.; Lawrence Lefkowitz, Ampal-American Israel Corp.; Lawrence J. Young, Angelica Corp.; Frank Christianson, Arctic Circle Restaurants; George F. Pickett, Jr., Atlantic Southeast Airlines, Inc.

David K. Chan, Auravision Corp.; Robert Spies, Berol Corp.; Michael P. Bick, Biopool International; James A. Bixby, Brooktree Corp.; Larry J. Weber, Bauer Built, Inc.; Kenneth A. Olson, Berry Petroleum Co.; William W. Neal, Broadway & Seymour Inc.; Michael B. Crutcher, Brown-Forman Corp.; David H. Gunning, Capitol American Financial Corp.; John E. Jones, CBI Industries Inc.; David Thiels, Century Telephone Enterprises, Inc.; John West, CIMLINC Inc.; Robert Bogin, Capitol Multimedia, Inc.; D. Tad Lowrey, CenFed Bank, A Federal Savings Bank; John Stevens, CIMCO Inc.; Thomas H. Lowder, Colonial Properties Trust.

Van B. Honeycutt, Computer Sciences Corp.; Robert J. Paluek, Convex Computer Corp.; J.J. Finkelstein, Crymedical Sciences, Inc.; J. Bruce Baily, Cyclopss Medical; S. Duane Southerland, Conso Products Co.; Denny Callahan, Crowley's; Roy A. Myers, Curtice Burns Food, Inc.; Gerald D. Rogers, Cyrix Corp.; Michael W. Pope, Dionex Corp.; David H. Wiggs, Jr., El Paso Electric Co.; Michael C. Ruettgers, EMC Corp.; Donald M. Vuchetich, Detroit & Canada Tunnel Corp.; Robert J. Dickson, Dynamet Inc.; Thomas E. Sharon, Electromagnetic Sciences, Inc.; Steve Sarich, Jr., 321 Investment Co. Quentin J. Kennedy, Sr., Federal Paper Board Co., Inc; Dan Queremoen, Fluoroware, Inc.; Joseph Franklin, Frequency Electronics, Inc.; Mark A. Hofer, Genzyme Corp.; Michael E. McKee, First Federal Savings & Loan Association of Montana; Darrell G. Knudson, Fourth Financial Corp.; James E. Herring, Friona Industries, L.P.; Tony Tako, Gerrad & Co.; John T. Williams, Gray Communications Systems, Inc.; Melvin J. Melle, The Hallwood Group Inc.; Anthony Graffia, Hartford Computer Group. Inc.; Hans Helmerich, Helmerich & Payne Inc.; Umang Gupta, Gupta Corp.; Derek C. Hathaway, Harsco Corp.; Robert J. Purger, Health Care REIT, Inc.; John Herzog, Herzog Surgical Inc.

Tracey T. Powell, Home Access Health Corp., Richard L. Molen, Huffy Corp. David W. Scar, Integrated Circuit Systems, Inc.; Frank Deverse, International Microcircuits; Robert W. Hampton, Hornbeck Offshore Services, Inc.; Gerald S. Casilli, IKOS Systems, Inc.; E. Michael Thobew III, Interlink Electronics; Peter H. Van Oppen, Interpoint Corp.; James H. Morgan, Interstate/Johnson Lane; David L. Angel, ISD; Vince Martin, Jason Inc.; Robert Johnston, Johnston Associates Inc.; W. Richard Ulmer, Invitro International; Ivey Jackson, Jackson Insurance Agency, Inc.; Gerald M. Gifford, John G. Kinnard & Co., Inc.; Lawrence J. Cawley, Kaydon Corp.

Dale Gonzalez, KIT Manufacturing Co.; Michael J. Koss, Koss Corp.; Carl R. Wiley, Lane Plywood, Inc.; Frank H. Menaker, Jr., Lockheed Martin Corp.; Richard M. Ferry, Korn/Ferry International; C. Scott Kulicke, Kulicke and Soffa Industries, Inc.; Ronald B. Cushey, Live Entertainment, Inc.; Thomas E. Sharon, LXE, Inc.; Robert Watson, The Managers Funds L.P.; Michael Ricci, Marco Mfg., Inc.; Debra Coleman, Merix Corp.; Thomas Hiatt, Middlewest Ventures; Diane R. Torney, Marcam Corp.; William N. Alexander, McGladrey & Pullen; Greg C. Zakarian, MicroCarb Inc.; Clair G. Budke, Minnesota Society of CPAs.

Kerry Budry, Qual-Effic Services Inc.; Allen Becker, Reflection Technology, Inc.; Robert L. Montgomery, Reliv International, Inc.; Ronald H. Kullick, Ribi Immuno Chem Research, Inc.; Gary Conradi, Raven Industries; Robert M. Steinberg, Reliance Group Holdings Inc.; Gary L. Crocker, Research Industries; Shan Padda, Sabratek Corp.; Jack Masters, Modagrafics, Inc.; John M. Nash, National Association of Corporate Directors; William F. Coyro, Jr., National TechTeam Inc.; Brian D. McAuley, Nextel Communications, Inc.; S. Jay Stewart, Morton International, Inc.; E. Michael Ingram, National Data Corp.; George A. Needham, Needham & Company, Inc.; J. Clarke Price, Ohio Society of CPAs.

John Schlosser, St. Francis Bank; Robert W. Philip, Schnitzer Steel Industries, Inc.; William G. Malloy, Scientific Games, Inc.; Charles F. Valentine, Security Federal Savings & Loan Assoc.; Peter Nisselson, SBM Industries Inc.; Lyndon A. Keele, Science Dynamics Corp.; Don R. Scifres, SDL, Inc.; Anthony M. Marlon, Sierra Health Services, Inc.; Maxell Fox, Silent Radio Inc.; John J. Gillway, Jr., Sizeler Property Investors, Inc.; James C. Bly, Jr., Source Capital, Ltd.; Paul Richman, Standard Microsystems Corp.; Terry L. Kirch, Resource Information Management Systems, Inc. (RIMS); Grady R.

Hazel, Society of Louisiana CPAs; Michael Budagher, Specialty Constructors, Inc.; Douglas R. Starrett, L.S. Starrett Co.; Thomas Goldrick, Jr., State Bank of Long Island; Thomas L. Elliott, The Sunbelt Companies, Inc.; Lawrence J. Fox, Symix Systems, Inc.; David F. Simon, U.S. Healthcare, Inc.; Ryal R. Poppa, Storage Technology Corp.; Patrick L. Swisher, Swicher International, Inc.; M.A. Self, Tioga International, Inc.; Daniel Ogita, Unibright Foods, Inc.; Gene Koonee, United Cities Gas Co.; Thomas P. Stagnaro, Univax Biologics, Inc.; Steven J. Appel, Value Merchants, Inc.; Bruce S. Chelberg, Whitman Corp.; C. Edward Mordy, United Wisconsin Services, Inc.; MacRay A. Curtis, Utah Association of CPAs; Frank Fischer, Ventritex, Inc.; James E. Wilf, Wilf & Henderson, P.C., CPAS.

Edward W. O'Connell, Wiss & Co.; J. Oliver McGonigle, The YES Group Inc.; Addison Piper, Piper Jaffray Companies, Inc.; William A. Valerian, Home Bank, F.S.B.; C. William Thaxton, YES Financial Inc.; Frederick A. Stampone, Pep Boys; DeLight E. Breidegam, Jr, East Penn Manufacturings Co.; Raymond V. Glynn, TELCORP; Jean C. Tempel, TL Ventures; J.W. Bernard, Univar Corp.

The PRESIDING OFFICER. Under the previous order, the Senator from California is now recognized for up to 30 minutes.

Mr. BRYAN. Mr. President, my distinguished colleague needs another minute or two. I thought perhaps, with the acquiescence of the distinguished floor manager, we might get some additional unanimous consent—I know he has several colleagues who asked to speak, or at least I saw his list. I am perfectly agreeable that we might do that now. If he is not prepared to do so, we would——

Mr. BENNETT. I do not wish to interrupt the Senator from California. I do not have the list in front of me, so why does she not go ahead.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. 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. BOXER. Mr. President, I rise to speak against the conference report. This legislation claims to reform private litigation under the Federal securities laws. I believe there is a clear need for reforms in the securities laws. For example, we need to ban the payment of bonuses by a small minority of unscrupulous lawyers to professional plaintiffs. We need to prevent lawyers from dipping into Securities and Exchange Commission disgorgement funds. These are funds created by Government agency litigation, not by the private lawyers' litigation, and private lawyers should not be paid from those funds.

We should also ban the payment of referral fees to stockbrokers who drum up plaintiffs and litigation for plaintiffs' attorneys. Securities lawsuits should redress real wrongs and not promote strike suits to shake down innocent defendants.

This conference report prohibits those three practices I just described. I support those provisions. But the legislation goes much, much further. It uses, in my view, legitimate problems as an excuse to gut securities protections for the average American. I cannot be a party to that. I feel it is very important that this debate be as inclusive as it can be of all aspects of this because I believe someday, as Senator BRYAN has said, this vote is going to come back to haunt people. And I want the RECORD to be clear as to where this Senator from California stood.

The real effect of this legislation, absent those three good parts that deal with frivolous lawsuits, the real effect of this legislation is to unleash con artists and swindlers to prey on the investing public and bilk them out of hundreds of millions, perhaps even billions of dollars. Because of this, I call on my colleagues to vote no. And I call on the President, if this legislation passes, to veto it. If you are fighting for the average American, you have to veto this bill because it is going to hurt the average American.

Mr. President, we are in a time when the middle class, especially the elderly middle class, is being asked by the majority in this Congress to give up, in my opinion, basic old-age protections. This Republican Congress wants to deeply cut Medicare, to give a tax break to the rich, and they even repeal Federal nursing home standards.

So the middle class, the elderly middle class are getting hit. We must remember that securities fraud is aimed at the elderly—there are many studies that show this—aimed at the elderly. So this is a double whammy. In other words, what we are doing here today cannot be divorced from the budget battle we are waging. On the Democratic side of the aisle, we are fighting to protect the middle-class elderly. But we do not control the votes. They are going to get hurt somewhat. Why offer them this double whammy?

I tried to get special safe harbor protections for the elderly in this bill, but I could not. I could not win that fight. So the elderly are at risk here. As a matter of fact, all of us who invest, all of us are at risk here. But who will get hurt the most? Not the wealthiest of the investors, because if you are worth millions and millions of dollars you can take a hit and wind up on your feet. Not the poorest of the poor, because if you are the poorest of the poor, you do not invest. So the wealthiest and the poorest are probably going to be all right.

But it is the middle class that is going to get hit. This bill is antimiddle class and it is antisenior citizen. It would jeopardize the retirement funds and old age security of millions of our citizens, and for that reason, I hope colleagues will vote no.

The conference report is named, or I should say misnamed, ''securities reform.'' But the conference report does not reform the Federal securities laws, nor does it reform litigation under those laws. It does exactly the opposite, in my view. It encourages securities fraud, fraud on the most innocent and vulnerable investors.

I remember being visited by the victims of fraud, the victims of Charles Keating, and they said, ''Senator, you have to stand on that floor, and you have to tell your colleagues to prevent that from happening to anybody else.'' Those victims of Keating were able to recover $200 million plus because of the laws we have in place today. Not after this bill. Not after this bill.

This legislation would even hurt business. Why do I say that? If you make the securities laws less protective of the vast majority of investors, what will happen is people will have doubts about the safety of securities. So they are going to wind up not investing in securities, not lending their money to start up, holding their capital back, maybe just buying Government bonds, a safe investment, and, therefore, these honest companies, because of the fraudulent ones, will have to pay a premium when they sell their securities. It will wind up being kind of like a fraud tax because people will say, ''I'm very worried, I'm not going to give you my money. There has just been a scandal.'' And they say, ''OK, we'll pay more interest.'' So in the end, the honest companies will get hurt.

I am a former stockbroker, and I have had the experience and honor of helping people with their investments. For the most part, they happened to be elderly people who entrusted me at that time many, many years ago. I know how they hung on every price change, because they relied on their dividends and they knew some day if they had a family emergency, they would have to sell those securities. They also relied on the honesty of the companies. If we ever ran into a situation where there was a company that was not being honest when they made projections or they talked about their company, we saw those stock prices go down.

It seems to me we owe it to the investors and to the good companies and to the good stockbrokers to keep a very strong and very powerful securities law, because I really believe after the first scandal—and there will be such a scandal, in my view, if this goes through—people will just be afraid, afraid to invest their money.

Mr. President, this conference report would make losers of millions of people, particularly small investors with IRA's—that is individual retirement accounts—pension plans, mutual funds. It is these average Americans who will be the first victims of the fraud which will be unleashed by this legislation. The legislation effectively repeals much of the Nation's antifraud laws passed in the thirties in response to the

rampant fraud that contributed to the stock market collapse of 1929. My goodness, can we not learn from history around this place? Do we have to see it happen again?

This legislation really could be called a roadmap to swindlers and con artists who will use it to defraud the public and undermine the public's faith in the markets. That is why organizations representing millions of average investors oppose the legislation.

Let me name a few. In my own home State of California, the California Congress of Seniors is opposed. ''We feel,'' they say, ''this legislation puts all elderly Americans who save their money in jeopardy because it would make it practically impossible to sue a swindler for securities fraud.''

State and local governments would lose under the legislation.

The California Association of County Treasurers and Tax Collectors is opposed. This is a conservative group of Americans entrusted with making sure that county funds are invested wisely. What did they say about this? ''We strongly urge you to oppose the Securities Litigation Reform Act. In recent years, local California governments have lost more than $2 billion in the securities markets, partly due to derivative investments. Some of these governments have pending securities fraud cases. Others are still deciding whether to use the courts to pursue the recovery. Now is not the time to weaken defrauded investors' rights,'' they say, and this comes from the local people.

I thought this crowd in Congress respects the local people. I thought they respect the people at the county level, the State treasurers, the States attorneys general. I guess they only respect them when they finally agree with them, but if they do not agree with them, they do not respect them.

This is dangerous legislation, and that is what it is called by the California State organization.

As the city and county treasurers and tax collectors point out, State and local governments, as investors of public funds, bring many securities fraud suits. We know about Orange County where they are trying to recover from unscrupulous brokers. The city of San Jose in 1984 nearly went bankrupt because it unknowingly purchased risky securities. Now they were able to sue. Their city attorney who pursued that case came before the Banking Committee on which I serve, and I am proud to serve on it, and she said, ''Don't change the laws. We had a very hard time under current law recovering our money, but we were able to do it. Don't weaken those laws.''

That fell on deaf ears.

Government agencies that have been defrauded and forced to use the Federal antifraud laws are not confined to California. There are many examples: Ohio and Florida where local government agencies lost millions through securities frauds.

Taxpayers are the ultimate losers, so not only are you putting individual investors at risk, I say to my colleagues, but you are putting taxpayers at risk who pay local taxes because local governments buy securities, too.

(Mr. SANTORUM assumed the chair.)

Mrs. BOXER. Mr. President, I talked about the fact that one of my major concerns is the impact of this legislation on senior citizens who are the clear targets of fraud. Why is that? They count on their pension plans. They have little ability to replace their lost investments other than to sue for fraud, and they need protections that this bill would take away.

Senior citizens save for a lifetime. They often invest, as I say, a significant part of those savings in securities. Their pension plans are usually full of securities. These invested savings must carry them through old age and retirement, and this bill makes it easier to get away with securities fraud. So it is going to be, among others, senior citizens and their pension plans that will be the major victims.

Many of our seniors are old, they are frail. They cannot return to work like some of us who can come back if somebody perpetrates a fraud on us. We have years ahead that we can work, although I am getting older every day and have fewer years myself.

The fact is, the seniors cannot go back to the workplace, so if they are bilked of their money, they have to take it on the chin, they have to lose their dignity as they go to their children or really live in abject poverty.

That is why the American Association of Retired Persons is against this bill—AARP. They sent a letter to the Banking Committee and said:

> For many older people, the money at stake represents a lifetime of savings, a lump sum pension payout, or proceeds from the sale of a home. Private lawsuits brought by victims of fraud often represent the only legal recourse available to redress the wrongs committed by unscrupulous financial practitioners.

The AARP is not alone. The National Association of Public Employee Retirement Systems is also opposed. If you start listening to the people who oppose this bill, what you will realize is that it is most people. It is the special interests who favor the thing. Those are the people who are being protected. The aiders and abettors of fraud are being protected and the perpetrators of fraud are being protected, but the people who are responsible for protecting other people's money, such as county treasurers and attorneys general of various States, these people—the AARP, who protect seniors—are opposed. The AARP says that the President should veto this bill.

Newspaper editorials. I think it is important to take a look at these newspaper editorials, Mr. President, because they do not have an ax to grind. They are looking at the legislation. As a matter of fact, newspapers are considered, in many cases, to be more conservative than the average person. Let us hear what the Chronicle in the bay area has to say about this. It is called Opening the Door to Fraud.

''Securities fraud lawsuits are the primary means for individuals, local governments and other investors to recover losses from investment fraud—whether that fraud is related to money invested in stocks, bonds,'' et cetera. And they say, under the conference report, investors would be the losers.

Dozens of other newspapers and magazines have editorialized against this legislation, calling for it to be defeated or vetoed.

Let us look at the largest paper in my State, the Los Angeles Times. The Los Angeles Times had this to say about the legislation: ''This isn't reform—it's a steamroller.''

It is a steamroller. They are very, very critical.

The Oakland Tribune summarized the conference report this way. They say:

> President Clinton should veto the measure because it leaves individual investors and an array of institutional investors like pension funds, municipalities, and other government units without enough protection from manipulators like Charles Keating, Ivan Boesky, and Michael Milken. . . .

Where are the people here in this institution? Do they not remember these names from the 1980's? Do they not remember reading about the Great Depression? Do they not remember the S&L scandal, which was caused by the deregulation that was so wild that there was rampant fraud?

Let me say this. According to the Oakland Tribune:

> If this law had been if in effect when thousands of investors, many of them Californians, had sued Charles Keating over the Lincoln Savings and Loan scandal, the plaintiffs would have recovered only $16 million. Under current securities-fraud laws, they were able to recover $262 million.

I ask, do you think the people who were bilked by Charles Keating had a right to recover their losses? If you say yes—and I would be surprised if you did not—how on Earth can you vote for this bill which would have made it impossible for them to recover any more than $16 million when the losses were in the $200 million range?

The Muskegon, MI, Chronicle had this to say:

> How come GOP's contract allows ripoffs of investors?
>
> . . .Let the bill's backers explain to the rest of us why stock swindlers need to be ''protected'' from lawsuits.

In the Republican GOP Contract With America, there is a very specific reference to changing the securities laws. As a matter of fact, I had a huge debate with the author of the original bill, who then backed off some of the provisions, like making it retroactive, when he realized it might hurt his own district. But I am glad that the Muskegon Chronicle in Michigan—and I have never been there and I do not know anyone who writes this—caught on. This is directly coming from the Republican contract. ''Let the bill's backers explain to the rest of us why stock

swindlers need to be 'protected' from lawsuits.''

I do not think anybody has answered that. They talk about frivolous lawsuits, but they neglect to talk about these basic problems with the bill, which is that it strips away important protections that investors rely on.

Money magazine has run four editorials calling for the defeat of this legislation. Money magazine. Here it is. Could you ever write a more apt title? It is, ''Congress Aims at Lawyers and Ends up Shooting Small Investors in the Back.'' That is exactly what happened with this bill. A laudable purpose, where you get a 100-to-0 vote on the three provisions that deal with cutting back on frivolous lawsuits. But they use that as an excuse to open up all the securities laws, undo the protections and ''end up shooting investors in the back.''

They say:

At a time when massive securities fraud has become one of this country's growth industries, this law would cheat victims out of whatever chance they may have of getting their money back. . . . In the final analysis, this legislation . . . would actually be a grand slam for the sleaziest elements of the financial industry at the expense of ordinary investors.

My colleagues, if you are watching this in the comfort of your offices, if you are not tied up in a meeting or a committee, just look at this. Money magazine. What is their purpose? To help investors. They say, ''Congress Aims at Lawyers and Ends up Shooting Small Investors in the Back.'' The next scandal that we have, you will all be on the floor saying, ''My God, I did not think that, and I did not know that, and I did not read the fine print, and so on and so forth.'' You have a chance today to stick with the Senator from Nevada and stick with the Senator from Maryland and stick with this Senator from California and vote with us against this conference report. It is hurtful to the average investor.

USA Today editorialized:

The bill's sponsors claim this step is needed to rein in an explosion of frivolous litigation. But the facts don't back them up. . . . These bills are a blatant payoff to the corporations, brokers, accountants, and others who give millions to congressional campaigns.

That is a pretty tough indictment of what they view—USA Today—as special interest legislation.

The Miami Herald goes so far as to call this bill ''a license to steal.'' They say: ''. . . Senate bill bars lawsuits against many who bilk investors. How does this help the economy?'', the Miami Herald asks. ''This is licensed larceny, and it's unconscionable.''

Then we have an interesting letter I want to share. The Fraternal Order of Police have written a very good letter to President Clinton. They call on him to veto this bill. They drew an interesting parallel to the war on crime.

They say:

On behalf of the National Fraternal Order of Police, I urge you to veto the ''Securities Litigation Reform Act''. . . . The single most significant result of this legislation would be to create a privileged class of criminals. . . . Our 270,000 members stand with you in your commitment to a war on crime. . . . I urge you to reject a bill which would make it less risky for white collar criminals to steal with police pension funds while the police are risking their lives against violent criminals.

There are a lot of different kinds of crime. White collar crime. You look at the guy and he looks terrific, but he is stealing your money because he does not tell you the truth about investment, and this bill would take away your protection. I think it is very interesting that the Fraternal Order of Police felt it important to talk about this kind of crime—white-collar crime.

The National Council of Individual Investors is also opposed. They wrote the President:

We are writing to express our strong opposition to the recent draft conference report on securities litigation reform. The conference report fails to treat the American investor fairly. For example, as currently drafted, the bill would have cost the victims of the Keating savings and loan fraud over $200 million more than they otherwise lost. In the interests of protecting individual investors from fraud, we strongly urge you to oppose, and if necessary, veto this legislation.

Now, I have to say if BARBARA BOXER stands on the floor of the Senate and gives her views, because I usually line up with consumer groups you might say BARBARA BOXER always lines up with the consumers. But my goodness, you have got every respected investor advocacy organization, senior citizen organization, consumer organization, local elected people, States attorney generals, it goes on and on and on. They are all telling us ''Don't fall for this bill.''

There is a lot of discussion about a safe harbor. The SEC was right in the middle of developing a new safe harbor provision. But, no, we could not wait. It reminds me of when Congress got in the middle of deregulating the S&L's and said, ''We know better.'' Look what happened.

We are doing the same thing here. Why not let the professionals deal with this. They say, well, the SEC now likes this safe harbor. I read the letter. I think, frankly, there was a lot of pressure put on people over there. That story will come out another day.

When you read the fine print of this legislation, any swindler can cover himself, make some cautionary statement about a forward-looking prediction, and find cover in this new safe harbor.

Mr. President, the Senate should not be a party to this kind of lawmaking. It should not be a party to this kind of lawmaking.

This bill even says that the lawyer in a securities fraud case has to be picked by the wealthiest investor—the wealthiest.

Now, it is one thing to go after professional plaintiffs, and I am ready to do that any day of the week. Sign me on. It is another thing to say in each and every case the wealthiest investor is the one who will be involved and be responsible, and choose the attorneys and all the rest. Talk about wealth being power—maybe that wealthy individual could care less about the circumstance. And other smaller investors care more because proportionately they are more hurt. The wealthy one gets the opportunity to control the lawsuit.

I ask, what are we doing here? I think this bill is much worse than when it left here. It went to conference and it got much worse. I hope some people who voted for it, sent it off to conference, will reconsider.

This conference report stacks the deck against the investor—anyone and everyone who has respect and objectivity in this Nation has come out against this bill.

Even an excellent amendment by Senator SPECTER was dropped, a very important amendment. It applies to complaints filed at the initiation of a securities lawsuit. It had to do with the burden of proof necessary to file a case dealing with motive and opportunity to defraud. It was dropped in the conference. Close the door, you drop the progressive provision that would have protected investors. That was a very bad change in this bill. This bill is worse, much worse now, than when it left here.

Mr. President, in conclusion, this legislation will hurt the public. Everyone says in America that we have the safest securities markets in the world. Everyone is so proud, so proud. Yet they are cutting the heart out of these protections.

It will do the public great harm. It is not reform. It is repeal. It is repeal—repeal of protections that have made our securities markets the safest in the world. This bill will hurt investors and ultimately honest companies that sell securities.

The only winners, in my view, will be those crooks who get away with it. Before we come back here and say, ''My God, what have we wrought,'' we should go back. In the end, this legislation will erode the confidence and efficiency of the Nation's securities markets. Our Nation will be the loser.

What the conference committee did is they took legitimate problems and they used them as an excuse to destroy the very protections that small investors need.

I hope that people will vote ''no'' on this. Barring that, I hope that the President will veto it. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized for 15 minutes.

Mr. REID. Mr. President, I received a call from a reporter from Nevada, and the big news in Nevada is the two Senators in Nevada disagree on something. We normally agree on almost everything. This is one of the rare issues where the two Senators from Nevada disagree.

Mr. President, I was 1 of the 69 Senators that voted for this bill when it came the first time. I am going to be one of those Senators that will vote to confirm the conference report that we just received. I think this is an important piece of legislation.

Mr. President, in my legal career, I have had about 100 jury trials. I understand the trial practice. I think this is an area of the law that has been abused by trial lawyers. I think the small group of lawyers has abused the license they received to protect the consumers of this country. They have become more concerned about protecting themselves and not the consumers to which they allege they protect.

This legislation, Mr. President, should pass. It is important, I believe, to the integrity of this aspect of the law.

It is often said that the truth is the first casualty in a war. I believe this adage to be particularly appropriate to the debate over the bill now before this body. I realize that there is a great deal of money at stake with this legislation. I am aware that a small but shrewd group of plaintiffs' lawyers stands to lose a lot of money because of the reforms brought through this legislation.

That does not, however, excuse the frightening fictions that I believe are being paraded in some aspects by this bill—by the people trying to kill this conference report.

I first became suspicious about the opposition to this legislation when I met with a group of people who were attempting to defeat it. In my conference room, in my office here in Washington, I met with a group of people, most of whom were from Nevada but some from other parts of the country, and they were in here to tell me how bad this legislation was. I proceeded to listen to them. Everything they talked about was not in the Senate bill but was in the House bill.

I listened to them and, trying to shake the fact that sometimes I like to cross-examine people that come to visit me, I could not overcome the temptation on this occasion. I said to the group, ''Who paid your way here?''

A number of faces turned very red and they said the name of one of the lawyers, plaintiffs' lawyer, who has made a fortune in this litigation.

I asked the next question, ''Where are you staying?''

And they said, ''The Willard Hotel.''

And I said, ''Who pays for that?''

The same red faces, the same affirmative answer, ''The plaintiffs' lawyers were paying for this.''

They have every right, but I think the record should be very clear. There is a small group of plaintiffs' lawyers attempting to maintain a lock they have on part of the litigation world that I think has gone too far.

Mr. President, I am sorry my friend from California has left the floor, but the same is true about the Money magazine that was referred to. Money magazine has previously editorialized on the bill without considering the legislation as a whole. Indeed, there seemed to be an almost exclusive focus on the House bill. They were writing about something that was fictionalized as being here.

It is the House bill that was part of the Contract With America. Today, we have a bill almost identical to that which this body passed earlier this year.

Some of their editorials claimed that the legislation would potentially force investors and the lawyers who lose a case to pay the winner's entire legal fees. Of course, the facts are totally different from that. The compromise agreement drops the fee-shifting agreement of the bill.

Money magazine's claim is that the legislation would ''allow executives to deliberately lie about their firm's prospects.'' Facts: Executives who deliberately lie about their company's prospects would be liable under the compromise.

Another claim they made is that the legislation will ''prohibit the investors from suing the hired guns who assist a fraudulent company, the so-called aiders and abettors, including accountants, brokers, lawyers and bankers.'' That is not true.

They go on to say the legislation ''would ratify a court ruling that throws out any suit that isn't filed within 3 years after the fraud took place, even if no one discovers the crime until after the deadline.'' The compromise, as I understand it, does not address the statute of limitations. It merely leaves current law generally as it now is.

Money magazine's claim is that in order to bring a lawsuit, plaintiffs may be ''forced to post a prohibitive, multimillion-dollar bond to cover the defendant's legal fees just in case the suit is later thrown out of court.'' The provision in the House bill requiring the posting of a security bond prior to bringing the suit has been dropped.

Mr. President, I ask unanimous consent that the entire text of the refutation of one of Money magazine's editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSE TO MONEY MAGAZINE EDITORIALS

Recent Money magazine editorials object to securities litigation reform legislation on the bases of provisions that have been amended in the compromise agreement, or because of grossly distorted characterizations of the effect of the provisions. Stripped of their rhetorical excesses, the complaints in the editorials have little substance and even less relevance to the current compromise agreement. In fact, the compromise is good for America's investors—which is why both individual investors and institutional investor organizations are strongly backing the bill. Below are responses to every one of Money's claims in both the September and November editorials.

Money's claim: The legislation would ''potentially force investors and their lawyers who lose a case to pay the winner's entire legal fees, if the judge later rules the suit was not justified.''

The facts: The compromise agreement drops the fee-shifting provision of the House bill. The compromise makes evenhanded procedural revisions to the Federal Rule of Civil Procedure 11. Rule 11 requires that attorneys and unrepresented parties have some factual and legal basis for filing any claim or defense. It already authorizes (but does not require) sanctions against those who violate its mandates. The compromise requires courts to make a finding after a case is adjudicated as to whether either side—either the plaintiff or defendant—violated the Rule. The same substantive rule applies to every other action brought in federal court. If the court finds a violation, and it is not de minimis, then the court must impose sanctions. The court has the discretion not to award attorneys fees and costs if it determines that such a sanction would impose an undue burden on the party that violated Rule 11. The compromise does not sanction a party merely because they lost their case. Every case that is not settled has a loser, but courts rarely find Rule 11 violations. Opponents of this provision apparently do not support Rule 11 or do not trust federal judges to appropriately exercise discretion in awarding sanctions.

Money's claim: The legislation would ''allow executives to deliberately lie about their firm's prospects.''

The facts: Executives who deliberately lie about their company's prospects would be liable under the compromise. The new safe harbor in the compromise has been carefully drafted to ensure that there is no ''license to lie.'' Thus, projections made without adequate risk disclosure are not protected by the safe harbor if they are made with ''actual knowledge'' that the statements are false or misleading—a standard proposed by Senator Sarbanes during floor debate over the Senate bill to ensure that corporate executives who lie to investors would be covered by the save harbor. Forward-looking statements made with sufficient, specific non-boilerplate risk disclosure are protected by the safe harbor. This is a codification of the ''bespeaks caution'' doctrine already being applied by the courts. In addition, the compromise retains the limitations on the scope of the safe harbor contained in the Senate bill, such as the exclusion of any issuer who has been convicted of a securities law violation in the past three years. In addition, there is no safe harbor protection for projections made in connection with blank check companies, penny stock offerings, initial public offerings, partnership offerings, roll-ups, tender offers, and going private transactions.

This compromise safe harbor language balances two important public policy objectives: encouraging increased voluntary corporate disclosure to investors, and ensuring the liars are not protected. Money magazine and others that take an extreme position simply ignore half of the objectives of the safe harbor.

Money's claim: The legislation would ''prohibit investors from suing the fired guns who assist a fraudulent company, the so-called aiders and abettors, including the accountants, brokers, lawyers and bankers.''

The facts: Aiders and abettors are not immune from liability. The compromise agreement authorizes the SEC to bring enforcement actions against those who aid and abet a securities fraud, thus reversing the Supreme Court's Central Bank decision as it applies to the SEC. For private actions, where there has been significant abuse of aiding and abetting liability by ''strike suit'' lawyers seeking to increase the settlement value of a case, the bill leaves current law as

it is. However, nothing prohibits investors from suing so-called ''aiders and abettors'' as primary violators, and in fact, many cases were simply refiled after Central Bank alleging a primary violation of the securities laws. This balanced provision ensures that no wrongdoer will escape liability, but prevents aiding and abetting liability to be used as a dragnet to sweep in ''deep pocket'' defendants to 10b–5 claims, regardless of their culpability, merely to coerce settlements.

Money's claim: The legislation ''would ratify a court ruling that throws out any suit that isn't filed within three years after the fraud took place, even if no one discovers the crime until after that deadline.''

The facts: The compromise agreement does not address the statute of limitations in current law. It merely leaves current law as it is. Despite dire predictions that the Supreme Court's one and three year statute of limitations would end all private 10b–5 actions, these actions have flourished since the 1991 decision.

The current statute of limitations has governed express causes of action under the securities laws for more than 60 years, and 10b–5 actions for more than four years. There is absolutely no evidence that legitimate 10b–5 cases have been frustrated.

As one court has observed, ''[p]rudent investors almost always can smoke out fraud (or enough smoke to justify litigation) within three years. [The three-year statute of repose] cuts off only the claims of the most trusting or somnolent—or the most wily, those who wanted to wait as long as possible.'' *Short* v. *Belleville Shoe Mfg.*, 908 F.2d 1385, 1392 (7th Cir. 1990). A longer period would allow speculators too much time to wait and see how their decisions to buy or sell securities turned out, permitting them to use lawsuits to cover their losses in the market. The current law curtails their ability to institute fraud claims ''based on wisdom granted by hindsight.'' *Short,* 908 F.2d at 1392.

Money's claim: In order to bring a lawsuit, plaintiffs may be ''forced to post a prohibitive multimillion dollar bond to cover the defendants' legal fees just in case the suit is later thrown out of court.''

The facts: The provision in the House bill requiring the posting of a security bond prior to bringing suit has been dropped. The new provision gives the court *discretion* to require an undertaking from the plaintiffs *or* defendants in a class action, and/or their attorneys. The court may decide that no undertaking is warranted. This is not a novel or unprecedented provision. Other sections of the securities laws already have similar undertaking provisions. Plaintiffs have not been deterred from bringing lawsuits under those sections.

Mr. REID. Mr. President, we are here today considering the compromise legislation agreed to by the conferees yet the bill's opponents are still running ads in opposition to the House bill. The House bill is gone, history. We have never given it any credence here. But they are doing this in an effort to slant and improperly cite what this bill really stands for. These ads are replete with half truths, hyperbole, and outright distortions. Indeed, it is as if the opponents have failed to read the compromise agreement and have chosen instead to repeat the earlier criticisms of a different bill, the House bill.

Interestingly, this is not unlike their actions in the class action suits they file alledging meritless claims. I believe the status quo makes a mockery of the judicial system.

The much-debated safe harbor provision of the conference report provides investors with protection. It increases corporate disclosure on forward-looking information and ensures that investors are protected against fraud.

I ask the bill's opponents how the compromise can be so pernicious if it received support from Arthur Levitt, Chairman of the Securities and Exchange Commission. In a recent letter, Mr. Levitt said, ''The current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse.''

It seems pretty clear. These words are from a man charged with protecting the rights of all investors—big investors, small investors, medium-size investors.

Another red herring commonly referred to and flouted by some opponents of this legislation is it will allow for another Charles Keating. They add this to their Parade of Horribles, but it is without foundation. Most of the losses from the Keating case did not involve securities fraud and would not be affected by this legislation. But even for those losses caused by securities fraud, a number of the fully solvent defendants would be jointly and severally liable under the compromise because they committed a knowing fraud.

There are also provisions that everyone on this floor understands that protect small investors. If you have $200,000 or less, you lose 10 percent of it. The same rules apply. Small investors are protected in the legislation in this compromise, in this conference report.

So the Charles Keating talk that we hear so much about is a red herring.

Importantly, this bill includes a provision that requires auditors to take additional steps to detect fraud and report illegal acts directly to the Securities and Exchange Commission.

Mr. SPECTER. Will the distinguished Senator yield for a moment for a unanimous-consent request?

Mr. REID. I am happy to.

UNANIMOUS-CONSENT AGREEMENT

Mr. SPECTER. Mr. President, I make this request on behalf of Senator DOLE, so all Senators may be advised as to what the schedule will be.

I ask unanimous consent that the vote on the conference report occur at 4:45 p.m., with the time between now and then divided as follows: Senator HEFLIN, 7 minutes; Senator GRAHAM, 7 minutes, Senator GRAHAM of Florida; Senator SHELBY, 7 minutes; Senator BIDEN, 7 minutes; Senator WELLSTONE, 7 minutes; Senator COHEN, 5 minutes; Senator SARBANES, 5 minutes; Senator BRYAN, 10 minutes; Senator DODD or his designee, the remainder of the time which, who knows, may be zero, like this morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, this provision will help prevent fraud before investors' assets are lost, thereby eliminating the need for litigation.

Another myth commonly put forth by the opponents is that it includes a loser-pays provision. We have talked about that before regarding the Money magazine assertion. That was simply without foundation. The truth is that no one will be required to pay the other side's fees because they simply lose a case. What it does, is tighten rule 11 sanctions against attorneys who file frivolous lawsuits. Rule 11 merely requires that attorneys have some factual and legal basis for filing any claim. This does not seem unreasonable. It already authorizes rule 11 sanctions against those who violate its mandates.

This conference report is a balanced and a fair representation of what this Senate said that it wanted. I, like my friend from Connecticut and others, said we are not going to support legislation that is more in keeping with the House than the Senate. We will vote against it. But I think the 69 Members of the Senate who voted for this legislation the first go-around should vote for it again.

This is good legislation. It is fair. It is balanced. It may hurt the small minority of attorneys reaping a windfall—and that is an understatement, under the current laws—but it provides much-needed protection to investors and restores some sanity to our already overburdened courts.

Mr. President, I ask unanimous consent any time I have remaining be delegated to the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

Mr. BENNETT. Mr. President, I yield the Senator from North Carolina 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 1 minute.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the conference report on H.R. 1058. I was pleased to be an original cosponsor of this bill in the Senate.

Mr. President, securities litigation reform is a rather ominous title for a bill. It certainly is not an issue well known to many Americans. But the fact is, this legislation is very important for our economy, and very important for job creation in our country.

This legislation is really part of a larger issue—legal reform. Too many lawsuits are crowding our court system and they are sapping the productivity of many companies. Last year, over 220,000 civil lawsuits were filed in Federal court.

Since 1980, there has been a 73-percent increase in the number of civil suits filed in Federal court.

It is estimated that securities class action suits have increased threefold in just the last 5 years. Yet, a small number of lawyers are pushing these suits.

In fact, every 4 working days, one particular law firm files a securities class action lawsuit.

The cost of these suits is no small matter. At the end of 1993, over 700 class action suits were seeking $28 billion in damages.

Very simply, this bill will attempt to put an end to frivolous class action lawsuits that are filed against America's publicly traded companies.

These strike suites often have little merit, but they are filed for the sole purpose of blackmailing companies into settling rather than going to court.

Everyone of us knows that it is less expensive to settle a lawsuit up front than it is to go all the way to trial. Of course, once the suits are settled, the attorneys that brought them, keep most of the money.

The impact of these suits is having a detrimental effect on our economy. Many companies are afraid to go public and sell stock.

By remaining private, they can avoid these kinds of suits, but they also sacrifice an increase in growth and jobs that can come from going public. This is costing America jobs.

Some have even suggested that companies from overseas are afraid to establish businesses in America out of fear that they too will fall victim to these suits.

Money that would otherwise be spent on new job growth, or on research and development is being paid to lawyers to settle these suits or—worse yet, money is wasted fighting them.

The cost to U.S. companies is not caught in a vacuum. As is always the case, excessive litigation costs are passed along to consumers in the form of higher prices. All of this has a ripple affect on our economy. Mr. President, it is making America less competitive.

In my home State of North Carolina—116 companies have contacted me and asked for my help in passing this bill. They are united in their effort to end these abusive lawsuits.

Together these companies employ 118,000 in North Carolina. This is why this bill is so important for jobs in my State and in this country.

These suits are often targeted at emerging high-technology companies. This is a particularly disturbing development.

America is the undisputed world leader in technology. Germany, Japan, France, England, none of these countries or other countries even comes close to what this country is doing in terms of technology and innovation. Eighteen of the thirty largest high-technology firms in Silicon Valley have been sued since 1988. It has cost them $500 million to settle these suits.

Yet, this small pool of lawyers, like sharks in the ocean are just circling—waiting for the stock prices to fall—then they move in with the strike suite. They are waiting to attack these companies and transfer the wealth to themselves.

We cannot let this happen. America's leadership role in technology is too important to have it fall prey to disreputable attorneys.

Mr. President, let me give a few examples of just how bad the situation has gotten with these suits.

One individual has filed lawsuits against 80 companies in which he held stock. One Federal judge suggested that maybe his investment results were a matter of design to pursue a lawsuit. The investor wanted us to believe that he was just the world's most unlucky investor. I have my doubts.

Another individual has filed 38 lawsuits, 14 of them with the same law firm.

Another man—a retiree—since 1990 has filed 92 lawsuits—one for every one of his 92 years of age.

Further, these lawsuits have so little merit, they are often filed within hours after a stock price drops. Many times the drop is due to simple movement in the markets, yet, the lawyers only have to file a preprinted complaint alleging fraud and race to the courthouse.

The trick is that this allows them to become the lead attorney on the class action case. And by this—they make the most money.

The National Law Journal reported that of 46 cases studied, 12 were filed within 1 day, and another 30 within a week of publication of unfavorable news about a company.

A good example is the Philip Morris case. This case has been discussed often, but it bears repeating.

After Philip Morris announced that it would reduce the price of its Marlboro cigarette by 40 cents a pack—a lawsuit was filed within 5 hours—by a plaintiff who held just 60 shares.

Four more suits were filed the same day, and five the next day. Two of the lawsuits contained identical complaints.

In fact, one suit came so fast from a computer generated legal form—that the attorney forgot to change the form in parts—so he misidentified Philip Morris as a toy company.

This is kind of frivolity that America's companies are fighting—and, regrettably, having to pay for.

Mr. President, the conference report is an attempt to put an end to these outrageous legal practices.

Mr. President, let me assure you that nothing in this bill will prevent anyone from filing a legitimate fraud case against any company.

If it did, I do not think 50 Members of the Senate would have cosponsored the bill. I don't think 69 Senators would have voted for it when it passed the Senate.

For those that oppose this bill in the name of the consumer, I think are not fairly representing the consumers of this country.

Mr. President, a point that is not often made is that consumers, and the plaintiffs in the class action suits rarely benefit from these lawsuits. Study after study shows that lawyers get the lions share of the settlements.

We had testimony that the average investor receives 6 or 7 cents for every dollar lost in the market because of these suits—and this is before the lawyers are paid.

Mr. President, in my opinion, consumers and investors will be helped by this bill. Any consumer that has a job—or wants a job—or wants to keep a job will be helped by this bill.

With this conference report, more of America's capital will be put to job creation and not wasted on one sector of the legal profession. That is really the principle issue here.

Mr. President, the conference report will do a number of things to curtail the abuses in our legal system.

First, the bill allows the courts to determine who the lead plaintiff will be. The conference report will also put some teeth behind the rule that attorneys cannot file frivolous lawsuits.

Mr. President, the conference report will also help investors by allowing companies to dispense more information to the public without the fear of being sued. This is the ''safe harbor'' provision.

This is critically important to the flow of information for investors.

It is a shame that due to the actions of a small cadre of lawyers—that the free flow of information has been cut off. Now investors can only get carefully written legal gibberish that is meaningless. This is wrong, and this bill changes that.

Mr. President, let me conclude by saying that I would strongly urge my colleagues to support the conference report. This is the beginning of meaningful legal reform. I think this bill is a good, fair, and balanced bill, protecting the rights of investors as well as companies.

Mr. HEFLIN. Mr. President, I rise today to discuss the conference report on H.R. 1058, the Securities Litigation Reform Act. After months of secret negotiations from which supporters of small investors, consumers, senior citizens, and public officials who invest taxpayer money were excluded, the proponents of the bill have agreed upon the conference report.

Now that the light of day has been shed on the results of the negotiations it is clear that the conference report is far more devastating for investors than the bill which the Senate passed earlier this year. The conference report fails to fix the glaring inequities between investors and unscrupulous corporate insiders. It has taken some of the worst provisions from both the House and the Senate bill and combined them to form this unacceptable report.

Unlike the Senate bill, the conference report now broadly immunizes oral or written forward-looking statements by corporate insiders with only a requirement that there be ''cautionary'' language to accompany the statement. The determination of what is ''cautionary'' invites litigation, but for

those who have already lost their life savings based on this safe harbor this litigation is too late.

Pursuant to the conference report the individual investors who have been victimized by an unscrupulous broker, or fraudulent statement will probably never have their day in court. This is due to the inclusion of a House provision which allows the court to impose a bond requirement to cover the payment of fees and expenses, with no limitation on the amount of the bond. If an individual investor attempts to seek justice from a large corporate defendant, such a bond would probably be unattainable.

Another change from the bill passed by the Senate is the financial risk imposed on investors of having to pay the full legal fees of big corporate defendants if they lose. The new penalty for a plaintiff for a violation of the Federal rules requires that he or she pay all of the corporate defendant's legal fees and expenses for the entire case. This full fee-shifting sanction would be calculated after the case has been completed, when the court must make findings. By the way, if the defendant is found at fault, he is fined only the fees and expenses that are a direct result of a frivolous filing. This English rule, fee shifting, could virtually eliminate all securities claims, the meritless along with the meritorious.

In another move away from the Senate bill the conferees dropped proinvestor language which clarified the burdensome pleading requirements of the bill. In a blow to investors, the proponents have retained an extremely difficult pleading requirement. The report will require plaintiffs to allege facts giving rise to a strong inference that the defendant acted with the required state of mind. This state of mind or intent requirement must be obtained before any discovery or testimony has even taken place. Most courts have rejected this high standard as being in conflict with the purposes and express language of the Federal rules. The report not only adopts this language but raises the requirement even more.

Furthermore, the conference report fails to correct some of the major problems in the Senate bill. These problems include the extremely short statute of limitations and the abrogation of joint and several liability in all but a very limited number of circumstances. The report retains the immunity for aiders and abettors which would have been a boon to the defendants in the Lincoln Savings failure case. The report also retains the requirement that the court appoint a most adequate plaintiff, thus eliminating the issues of concern to smaller investors and inserting the concerns of the wealthiest investor.

I have recently received letters from organizations expressing their concern with this report and legislation. The Fraternal Order of Police state that this legislation would create a privileged class of criminals, by immunizing many of those involved with the markets from civil liability in cases of securities fraud. The UAW describes the legislation as one-sided and contends that it will allow for limited remedies to be available for the investor and pension funds which lose money due to fraudulent investment schemes. I believe that if a more balanced approach to securities law reform could be reached, the proponents could gain the support of these groups and hundreds of others.

The stock market recently broke 5000 and is as robust and active as at any time in our Nation's history. Small investors driven away from the markets due to the crash in the early eighties are starting to return to the markets. This is not the time to pass legislation which will erode public confidence in the integrity of the markets. I strongly urge my colleagues to vote against this report and send it back to the conferees, demanding a more balanced approach to securities law reform.

Mrs. MURRAY. Madam President, I am pleased to come to the Senate floor today to express my support for a bill I cosponsored, the Private Securities Litigation Reform Act of 1995. I commend Chairman D'AMATO and Senators DODD and DOMENICI for their work on this bill. They have done a fine job of crafting a strong bipartisan measure and then guiding it successfully through conference—and I have been pleased to work with them on this issue over the past 3 years.

Madam President, this is an important day for many of the small investors in Washington State and throughout the country. This bill takes the power out of the hands of a few lawyers and puts the power back in the hands of the investors. We all know that in many of these class action lawsuits, the investor often recovers as little as 10 percent of the damages caused by fraudulent activity while their lawyer takes millions.

Madam President, I recently heard from a constituent who received a settlement in a suit against a high technology firm in Washington State. This particular investor received a prorata share of the damages amounting to 3 cents per share, or just $30, while the lawyer in that suit walked away with the rest. The individual in this suit told me, ''my investment was hurt much more by my lawyer's actions, and his extortion of $1 million from the firm, than by any alleged actions on the part of the company's management.''

Madam President, this is neither what our investors want nor expect. It is outrageous and needs to be corrected.

The legislation before us will reform our securities law so that investors will have more of a say in the outcome of their suit. It will restore the plaintiff's role and enable them to exercise traditional plaintiff functions—including the selection of lead counsel, negotiating fees, and determining the distribution of settlements. Quite simply, it puts some common sense back into our legal system.

Madam President, I've seen the ads denouncing this legislation, and I've heard the arguments opposing this legislation. This bill has inspired some very intense, focused, and well-funded opposition.

The bill's opponents claim this legislation will harm small and elderly investors. Well, I believe that assertion is completely false. In no way does this bill take away one's ability to file suit. Nor does it undermine the Securities and Exchange Commission's ability to sue for damages in securities fraud. In fact, the legislation enhances the SEC's ability to do so.

Madam President, Americans have a right to know their investments are secure—that our money has been invested in good faith. Today, investors are denied valuable information because companies are reluctant to disclose forecasts in fear of litigation. This serves nobody well; and it especially hurts investors that are trying to make sound, well-educated investments.

I am pleased to note that the SEC has endorsed the safe harbor provision in this bill. SEC Chairman Arthur Levitt has written, ''the current version represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse.'' I agree with Chairman Levitt and I value his opinion. This safe harbor provision will be good for both investors and corporations.

Ultimately, if an investor has been the victim of fraud—no matter how big or how little—they have a right to equal treatment under the law. This legislation ensures that will happen, better than under today's laws.

And, Madam President, Congress has a unique role in promoting investor confidence. We must encourage investments; investments that are needed for capital formation, economic growth, and job creation.

This is especially true in Washington State—which is home to many high technology and biotech companies. And investors in Washington State like to invest in these companies.

Unfortunately, Washington State's investors are well aware of the damage that is caused by unwarranted court cases. They know these cases inhibit job creation and slow economic growth.

They know how companies are forced to waste resources and settle suits with capital that could have been used for the research and development of a new product.

I have heard from many of these companies in my home State. Companies such as these—new, growing, forward-looking—are a point of pride in the Pacific Northwest. They reflect the high technology, high wage economy of the future.

Nobody likes to see these companies attacked by a few overzealous lawyers. These companies lose millions of dollars each year fighting the allegations of fraud—while the actual investor receives just pennies on the dollar when a settlement is finally reached.

Madam President, this system needs reform, and Congress is obligated to correct the situation. And, I want to make it very clear—this bill retains an investor's right to bring suit if they are victims of securities fraud.

At the same time, it will clamp down on the abusive suits they prey on investors and small business owners. It is honest effort to reduce the excessive costs that burden our investors and our economy.

Madam President, let me conclude by recalling the first Senate vote on this bill. When I voted for this bill in June, I said I would not support a conference report if it contained some of the more onerous provisions in the House bill. Well, not only is this conference report almost identical to the Senate bill, it is even stronger in some respects. It is a good compromise and it restores some common sense to our legal system. I urge my colleagues to support this legislation.

SAFE HARBOR

Mr. FRIST. Mr. President, I would like to briefly discuss with Senator DOMENICI one important issue concerning the section 102 ''Safe harbor for forward looking statements.'' It is the clear intention of the conference committee that reckless conduct cannot constitute actual knowledge for purposes of the safe harbor, isn't it?

Mr. DOMENICI. Yes. It is the clear intention of the conference committee that reckless conduct will not constitute either actual knowledge or be construed to constitute a knowing commission of a violation of the securities laws for purposes of section 102 safe harbor provisions of the Private Securities Litigation Reform Act of 1995.

Mr. KYL. Mr. President, I rise to support the Securities Litigation Reform Act of 1995. I thank Senators DOMENICI, DODD, and D'AMATO for their sponsorship of this bill, and their leadership in reforming securities class actions. I am pleased to support this bill, which will reform the legal process by which injured parties can recover damages for securities fraud and negligence. It reduces abusive litigation that clogs our judicial system and results in reduced recoveries to the plaintiffs. Too often the attorneys, not the investors, are the primary beneficiaries of these securities suits.

The Senate Banking Committee passed a version of H.R. 1058 by a vote of 11 to 4 this spring. The full Senate passed this version on June 28 by a vote of 70 to 29. Clearly there is a bipartisan consensus for change. I supported this bill because I believe it modernizes our securities class action litigation system by reducing the potential for frivolous securities lawsuits, while assuring that defrauded securities investors receive a greater share of the settlements or awards in their cases.

H.R. 1058 contains several important reform provisions. It eliminates referral fees currently paid by some attorneys to plaintiffs who successfully recommend them to represent all the plaintiffs in a class action. It requires the courts to appoint, as lead plaintiff, the party willing to serve who has the greatest financial interest, thus doing away with the so-called professional plaintiff who shops for cases to file—frequently as the agent for a lawyer—with little financially at stake. The bill would allow the small investor to recover completely through joint and several liability. And it imposes an affirmative duty on auditors to disclose financial fraud to the Securities and Exchange Commission [SEC], unless the fraud is properly addressed by management.

In many cases it is the attorneys, not the investors, who are the primary beneficiaries of these securities suits. For example, National Economic Research Associates, Inc. reported that, in a 12-month period ending July 1993, the average settlement in securities class actions amounted to $7.36 million. Attorneys earned an average of $2.12 million per settlement, roughly 30 percent of the total. Investors recovered only about 7 cents on the dollar when compared with the amount of losses alleged.

Some argue that the small investor will not be able to find relief under this legislation; that, for example, the victims of the Lincoln Savings & Loan bond fraud would not have recovered their losses. This is incorrect. First, the final bill includes a provision that requires the SEC to determine whether investors who are senior citizens, or those groups with qualified retirement plans, require greater protection against securities fraud. If so, the SEC must submit a report to Congress containing recommendations on protections that the Commission determines to be appropriate to thoroughly protect such investors.

Second, H.R. 1058 retains joint and several liability recovery for small investors with securities claims. Even if the Lincoln S&L investors had sued only for those claims covered under H.R. 1058, many of them would have been fully compensated. H.R. 1058 specifically provides that, if one defendant is insolvent, the remaining codefendants will remain both jointly and severally liable to investors whose net worth is under $200,000, and who lost more than 10 percent of their net worth. All of the Lincoln investors who met this standard would have been fully protected had H.R. 1058 been law. In fact, those investors may have been able to recover more under H.R. 1058. This bill imposes statutory restrictions on the size of lawyers' fees in securities actions. Perhaps, had the plaintiffs' lawyers been prevented from taking more than the $65 million in fees off the top of the settlement fund, the Lincoln S&L investors would have received full compensation for their losses.

H.R. 1058 provides investors who have been injured as a result of the negligence of another the opportunity to file suit. At the same time, it reduces abusive litigation, which clogs our judicial system and hurts those plaintiffs with meritorious claims. It is important that recoveries go to the plaintiffs and not to cover court costs, attorneys' fees, and other transaction expenses.

Mr. President, the Securities Litigation Reform Act will eliminate frivolous securities class actions. I urge my colleagues to support this bill.

Mr. FRIST. Mr. President, I speak today in support of the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995. The conference report is a moderate and carefully balanced compromise bill that permits investors in securities to continue to file and win legitimate lawsuits. However, the bill does something that is much needed at this time: It gives issuers of securities the ability to quickly dismiss meritless and abusive lawsuits.

The current system of securities litigation is clearly broken. Why? Because it makes millionaires out of attorneys who repeatedly file frivolous lawsuits. As a matter of fact, securities litigation costs American industry $2.4 billion a year, with one-third of this amount being paid to plaintiffs' attorneys. This results in companies being forced to lay off worker and consumers paying higher prices for goods and services.

The bottom line is that the current system of securities litigation does not benefit investors or consumers: it benefits a handful of attorneys.

Here is how the perverse system of securities litigation currently works: There are a handful of plaintiffs law firms in this country that specialize in filing securities class action lawsuits. This is shown by the fact that seven plaintiff law firms in this country receive 63 percent of the legal fees generated by securities class action cases. These law firms monitor the stock prices of businesses with computers. When a corporation's stock price suffers a major drop, the plaintiff's law firm immediately files a lawsuit. Some 20 percent of securities lawsuits are filed within 48 hours of a major drop in the stock price.

The reason that these law firms are able to file their lawsuits so quickly is that they are suing on behalf of professional plaintiffs, who receive a fee for permitting themselves to be named in the lawsuits. The Securities Subcommittee of the Senate Banking Committee found that there were plaintiffs who had as much as 14 securities action lawsuits filed on their behalf.

These law firms justify the filing of these lawsuits by generally alleging that the drop in the stock price was

caused by the corporation or its management acting fraudulently or recklessly. The lawsuits seek for the corporation to pay to its shareholders damages in the amount of the difference between the stock price before and after the stock's drop in value.

Even if the lawsuit is meritless, the corporation is forced to settle. Why? First, litigating a lawsuit is costly, even if your only goal is to get the lawsuit dismissed for failing to state a cause of action. This is because it is very difficult to dismiss such lawsuits, and defense expenses for complex securities class action lawsuits can total between $20,000 and $100,000 a month. Second, the depositions and extensive document review associated with these lawsuits are so time consuming that they disrupt the management of the business. On average, companies that are sued devote 1,000 management and employee hours per case.

The end result is that it is worthwhile for a business to settle a frivolous securities lawsuit, because there is rarely ever any cheap way of dismissing it.

Now, opponents to securities litigation reform are going to tell you that, notwithstanding all of the foregoing, investors still benefit from the current system of securities litigation. But I'd submit that this system actually harms investors.

The first problem, as stated by former SEC Commissioner Carter Beese, is that the current system encourages ''counsel to settle for amounts that are too low or fees that are too high.'' The plaintiffs in a securities class action have a conflict of interest with their lawyers. The lawyers' incentive is for an uncomplicated settlement and an avoidance of trial. This is because the difficult and time-consuming work for the plaintiffs' lawyers comes at the trial phase; if it can be avoided by a settlement, the lawyers still get their percentage for relatively little effort. Thus, the lawyers-driven nature of these lawsuits tends to shortchange investors who have truly been defrauded and would benefit from litigating the lawsuit to conclusion.

The second problem is that in securities class action lawsuits, when a corporation makes a settlement payment to a class of shareholders, the shareholders who still own the corporation's stock are not really getting any tangible benefit in return. If the settlement amount is coming from the corporation's money, then it is no more than a quasi-dividend, with a law firm taking an average of 33-percent cut for giving the shareholder the privilege of having the quasi-dividend occur. This will generally cause the corporation's stock price to drip, which nullifies the benefit of the settlement. If the settlement amount comes from the corporation's directors' and officers' liability insurance, the corporation will be faced with partly paying it back through a staggeringly high premium the very next year. Either way, an investor who continues to own a share of stock in a sued corporation does not gain much from settlement of the lawsuit.

The third and final problem is that investors can no longer get useful forward-looking information about corporations. As former SEC Commissioner Carter Beese testified before the Securities Subcommittee of the Senate Banking Committee, ''companies go out of their way to disclose every conceivable bit of innocuous information, but very little useful forward-looking information. At the same time, legion of lawyers scrub required filings to ensure that disclosures are as milquetoast as possible, so as to provide no grist for the litigation mill.''

With all of the problems that we have with our current system of securities litigation, the moderate relief offered by the conference report is necessary to protect investors, in necessary to protect consumers, and is necessary to protect jobs. I urge all of my colleagues to support it.

I thank the Chair, and yield the floor.

Mr. BURNS. Mr. President, I rise today in support of the Private Securities Litigation Reform Act of 1995. The conference report is a big win for all America's investors, our Nation's businesses, and our overall economy.

The conference report offers a balanced bipartisan bill that restores fairness and integrity to our securities litigation system by protecting innocent companies as well as the rights of the legitimately defrauded investors. The filtering out of the abusive, frivolous class action lawsuits that harm investors and only benefit class action attorneys will restore integrity to securities lawsuits. We will protect investors and at the same time emerging companies will be able to grow and create jobs without the financial burden of abusive litigation.

The legislation we have before us today will go a long way toward curbing abuses in securities litigation. It will provide a filter at the earliest stage of a lawsuit to screen out those that have no factual basis. A complaint needs to outline the facts supporting the lawsuit and not just the simple conclusion that the defendant acted with the intent to defraud. If the complaint does not outline and present all the facts supporting each of the alleged misstatements or omissions, the lawsuit will be terminated.

Many times, securities class action suits are characterized by the ''sue them all and let the judge sort it out'' mentality. In order for a judge to sort it out, the defendants are required to spend numerous hours and expense to defend against a securities class action lawsuit. This bill corrects that problem by requiring plaintiffs to specify the statements alleged to have been misleading.

Securities laws are intended to help investors by ensuring a flow of accurate and pertinent information regarding public traded companies. However, the present system reduces the amount of information required and companies limit their public statements to avoid allegations of fraud. In fact, an American Stock Exchange survey found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would lead to an abusive lawsuit. To encourage disclosure of information by companies, the conference report will create a safe harbor. It will provide a procedural mechanism for companies who make predictive statements to be protected from frivolous litigation if their prediction does not materialize.

Mr. President, we have heard a lot of speculation that this legislation would adversely impact small investors. Nothing could be further from the truth because this comprehensive measure will protect the rights of investors who have been legitimately defrauded, while providing new protections for the millions of Americans investors who have been harmed by the recent explosion of abusive and frivolous litigation. While there are many provisions in the measure to deter meritless suits, the bill also requires that the auditors inform the SEC of any suspicions of fraudulent activity and restores the authority of the SEC to bring aiding and abetting cases for knowing violations of securities laws. The measure includes a system of proportionate liability to reduce the pressure to settle frivolous claims and so that companies pay only their fair share of a settlement, while retaining full joint and several liability for small investors and for all defendants who knowingly participate in securities fraud.

In conclusion, Mr. President, this securities legislation reform is fair, balanced and passed with strong bipartisan support. I encourage my colleagues to support the conference report and I once again want to commend Senator DOMENICI and Senator DODD for their work on this bill.

Mr. BOND. Mr. President, the conference report to H.R. 1058 addresses an issue of great concern to many Americans—securities litigation reform. While this is a subject that I believe needs to be addressed and one I have some personal views and experiences in, I will not be participating in the debate or votes on the floor.

I have previously informed the Senate that I am engaged in securities litigation of the kind this legislation seeks to reform. Given the status of this suit and the pending legislation, I will again recuse myself from the proceedings on the matter.

I thank the President and fellow Senators for their understanding of my personal situation.

Mr. DOLE. Mr. President, I am pleased that we are able to consider the conference report to the Private Securities Litigation Reform Act today. I want to commend my colleagues, the chairman of the Banking Committee, Senator D'AMATO, and the chairman of

the Budget Committee, Senator DOMENICI, for their leadership in working out the necessary compromise allowing us to bring this bill to the floor. I also want to commend my colleague from Connecticut, Senator DODD, whose involvement in this issue is proof that there is nothing partisan about securities litigation reform.

Our securities markets provide the fuel that drives our economy. When these markets run efficiently, allocating capital to established companies and to newer, emerging businesses, we all win with more economic growth, more jobs, and a stronger economy.

Unfortunately, a handful of lawyers today devote their professional lives to gaming the system by filing strike suits alleging violations of the Federal securities laws—all in the hope that the defendant will quickly settle in order to avoid the expense of prolonged litigation. The lawyers who file these suits often rely on professional plaintiffs, shareholders with only a small stake in the company, but who are nonetheless willing to stand on the sidelines ready to lend their names to the litigation.

Needless to say, these strike suits are often baseless. If a stock price falls, these lawyers will file a class action suit claiming that the company was too optimistic in their projections. If the stock price soars, these same lawyers will file suit saying that the company withheld information that caused shareholders to sell too early. In effect, the lawsuits act as a litigation tax that raises the cost of capital and chills disclosure of important corporate information to shareholders. High-tech, high-growth companies are particularly vulnerable to these baseless strike suits because of the volatility of their stock prices.

This bill will reduce the number of meritless securities fraud cases, while protecting investors, by proposing several commonsense reforms:

First, it diminishes the likelihood that these cases will be driven by lawyers, instead of real plaintiffs by allowing the most adequate plaintiff to be the party with the greatest financial interest.

Second, it clamps down on skyrocketing attorney's fees by requiring that fees be awarded as a percentage of the actual recovery based on the efforts of the attorney.

Third, it retains joint and several liability for those who knowingly commit fraud, but establishes a system of proportionate liability for other, less culpable defendants.

Fourth, it adopts the second circuit's pleading standard. This requires plaintiffs to point out specific statements that are supposed to be misleading, and removes the ''sue them all and let the judge sort it out'' mentality.

Fifth, it encourages companies to disclose information to their shareholders by granting limited protection to predictive statements made in good faith. Statements that are knowingly false, however, are not protected by this safe harbor.

Mr. President, with this bill the Republican-led Congress sends a clear message. We have fulfilled our responsibility to provide companies and investors protection from frivolous lawsuits, ensuring that America will be able to compete in the global marketplace.

President Clinton has not indicated whether or not he will support this bill. But the choice is clear. In my view, if he supports this bill, he supports creating jobs for Americans. If he opposes it, he only supports enriching the pockets of wealthy trial lawyers at the expense of consumers and investors.

In closing, I again commend Chairmen D'AMATO and DOMENICI, and Senator DODD for their work on this critical legislation and I urge my colleagues to support it.

Mr. KERRY. Mr. President, one of my priorities is to foster a competitive business environment in Massachusetts and throughout the Nation that will lead to the creation of skilled, family-wage jobs. A significant factor in creating a favorable business environment is the ability to generate capital. The conference report before us today addresses the question of the so-called securities strike suits that have had a chilling effect on both the business climate and the generation of capital for Massachusetts' vanguard technology industries.

This legislation has been the subject of intense debate. Some argue that in its attempt to end frivolous strike suits, it will deny investors the opportunity to recover losses from companies that engaged in fraudulent securities actions. This is a legitimate concern in view of some of the cases in Massachusetts in which companies repeatedly misrepresented sales, senior officers had to resign and some companies had to declare bankruptcy.

Others have countered that the legislation does not go far enough to prevent frivolous strike suits based solely on stock fluctuations or missed earnings projections and that the attorneys who bring such suits should face the threat of a loser pays provision.

As the Senate has considered various proposals to reform our Nation's securities laws in this area, I have been mindful of the fact that, indeed, there are investors on both sides of this issue. My principal goal—and the yardstick I have used to measure this legislation—is whether it achieves a balance between discouraging truly frivolous strike suits while ensuring companies and individuals are liable for actual fraud. Though not prefect, I do believe this legislation has struck a reasonable balance between protecting investors' rights and reducing the possibility that companies will be subject to frivolous strike suits.

One factor that was extremely important in helping me reach a decision on this legislation was the Securities and Exchange Commission's evaluation of the conference report. The SEC, throughout the legislative process, had withheld its endorsement of the legislation. I am pleased that the SEC stated in a letter of November 15, 1995, that: ''We believe the draft conference report responds to our principal concerns.''

Of particular importance to me is the safe harbor language that is the product of months of consultation with the Securities and Exchange Commission. In my view this provision is the crux of the entire matter. The safe harbor affects a potential investor's decision of whether to purchase securities and it affects a company's ability to paint a rosy scenario to attract investors. It also directly affects the value of the benefits packages of the company's officers and employees. The conference report codifies the judicial ''bespeaks caution'' doctrine and will not allow a company simply to use boilerplate cautionary language.

I am also pleased that the conference report adopts as title III legislation I sponsored originally with Representative WYDEN to require audits of public companies designed to detect illegal acts. It places on accountants and company auditors a clear responsibility for early detection and disclosure of illegal actions by management. This title requires auditors to inform immediately the management and/or the SEC of illegal acts having a material impact on the issuer's financial statements. I believe these procedures for early detection and disclosure of fraud by the accountants and auditors will serve the interests of both investors and businesses.

The conference report should lead to the creation of a more favorable climate for investors and businesses. Investors should gain better information about the marketplace, more control over securities strike suits and more leverage in recovering a larger share of their losses in strike suits. Businesses should gain the freedom to provide statements about the business outlook that investors and the SEC have encouraged and a more favorable climate for raising capital.

I especially want to commend Senator DODD, who has worked tirelessly on this tough issue, and Senator DOMENICI for their effort in achieving a reasonable and balanced bill.

Ms. MOSELEY-BRAUN. Mr. President, I support the conference report on H.R. 1058, the Securities Litigation Reform Act. It is a reasonable bill, one that deserves prompt enactment into law, and it provides the right kind of reform to help create jobs and the economic growth our country needs.

The need for reform is clear. The Russian roulette of securities strike suits adds a cost to job creation and a chilling effect on investment. Every single one of the top 10 Silicon Valley high-technology firms has been sued for securities fraud—every single one. And 27 of the top 40 high-technology firms have been sued. These firms, and

many others like them, have to spend hundreds of thousands of dollars—and even more—to defend frivolous suits, an additional cost no startup company should have to bear. And, while it cannot be quantified, there is no doubt that a number of companies never get born in the first place because of the incalculable litigation threat.

There are 2,536 electronics companies in my own State of Illinois, companies that employ 112,000 people, and have an annual payroll of $4.9 billion, that are also among the beneficiaries. These companies provide 12 percent of the total manufacturing jobs in Illinois, and the value of their annual production is over $17 billion.

Of course, it is not just high-technology firms in Illinois and elsewhere that need this bill. I have concentrated on high-technology firms because they are so important to the future of our economy and because their stocks tend to be volatile, which makes them prime targets for these kinds of securities lawsuits. The fact that so many leading high-technology firms have been sued in an indication of the scope and extent of the frivolous litigation problem, a problem this bill will correct.

The fact is that investors need reform, too. The current system does not benefit them. The damages investors receive in a successful case amount to as little as 10 to 14 cents on the dollar of alleged losses. Clearly, the litigation explosion has not helped investors a whole lot.

Much more important than damages, however, is information. Most investors have not been part of any securities litigation class action lawsuit, at least not directly, but every investor that is active in our capital markets depends on information—and the more information an investor has, the better the information an investor has, the better off that investor is.

Enactment of this conference report will reverse the current trend of companies providing less and less information to investors. Instead, because of greater confidence that they will not be subject to frivolous suits, companies will be providing more information to the market. That, in part, is why small investors like the Beardstown Ladies, and the National Association of Investors Corp. an organization representing over 340,000 investors and investment clubs, supports this legislation.

Many investors also support this bill because it gives them, rather than the lawyers who are supposed to be working for them, control of any class action suits filed. It is the client, rather than the attorney, that is supposed to control a lawsuit, and part of the reason this bill is so necessary is that this simple principle has somehow gotten lost in recent years.

However, more is at stake than just the interests of companies and investors, as important as those interests are. The interests of our overall economy, and of our country at large, are also very much at issue. The interests of every person who works, or is looking for a job, is at stake.

The world economy is more and more competitive. Our future prosperity depends on our ability to meet and beat that international competition. That means we need a continuing supply of new ideas, new products, and new companies that can produce the jobs of tomorrow. And that also means that our capital markets must work efficiently to provide capital in the amounts needed to the companies that will provide the jobs and the economic growth that will make the future brighter and more prosperous for all of us.

These global concerns may seem a long way from the securities law issues that are the subject of the bill now before the Senate, but the connection is both strong and direct.

American corporations are all too often intensely focused on the short-term price of their stock, instead of the long-term growth and prosperity of the business. This short-term focus, which the current state of our securities laws helps foster, distracts senior management, makes too many of our businesses less creative, and undermines the ability of American businesses to make the investments that have the long-term payoff. By addressing the frivolous lawsuit problem, this conference report will free managers to focus on managing their businesses for the long term, rather than managing to minimize their short term legal exposure. It will give entrepreneurs more time to innovate, and to focus on the future, rather than concentrating on their legal defense. Companies will be able to concentrate on creating new products and new jobs, because they won't have to devote so much time and attention to lawsuits, and the threat of lawsuits.

Moreover, because frivolous lawsuits, and even the threat of frivolous lawsuits, are an impediment to the smooth functioning of our capital markets, removing that impediment will make our capital markets more efficient. And that will also help produce more economic growth and more new jobs.

I cosponsored S. 240, the original bill that passed the Senate in modified form last June, because that bill was based on a recognition of all of these facts. S. 240 was designed to maintain strong investor protection, while making it more difficult to file frivolous or abusive lawsuits. It was designed to help ensure that new businesses that create new jobs and new products have a better chance to get the capital they need, while ensuring that defrauded investors have the right to recover their damages. The bill attempted to reduce transaction costs, so that investors who are harmed see a smaller portion of their recoveries consumed by attorney's fees and other costs. And it was designed to help our capital markets create more jobs and greater long-term economic growth—something that is good for every American.

I am pleased that the conference report now before the Senate very strongly resembles the bill the Senate sent to conference, rather than the original unbalanced House bill that I do not and could not support. In one key issue area after another, the conference bill follows the Senate bill, rather than the House bill. For example, in the area of liability standards, the original House bill abolished liability for reckless conduct; the Senate bill did not, and the Senate position prevailed in conference.

The House bill abolished liability for fraud on the market. The Senate bill left that doctrine unchanged, and the conference bill adopts the Senate approach.

In the area of pleading, the House bill adopted a standard that was significantly higher than the second circuit standard, which was the standard adopted in the Senate bill. The Senate position prevailed at conference.

In the area of fee shifting, the original House bill included a pure English rule approach; the Senate bill adopted a rule 11-based approach, and the conference bill adopts the Senate position.

The House bill included a $10,000 named plaintiff provision; the Senate-passed bill did not, and the conference adopted the Senate position.

In the area of aiding and abetting, the original House bill did not reverse the Central Bank case; the Senate bill restored the ability of the Securities and Exchange Commission to institute enforcement actions against a person or persons who ''knowingly provides substantial assistance to another person in violation of this title.'' The conference bill includes the Senate provision.

I do not contend, Mr. President, that the bill before us is perfect. It is a compromise. If I had controlled the conference, there would be some issues that would have been resolved somewhat differently. It is clear, however, that the bill is a good faith attempt to protect the public interest, investors' interests, and companies' interests, and looking at the overall bill, I think it does a reasonable job of meeting the interests of all three.

It is worth keeping in mind what the bill does—and does not—do, and what this area of law is all about. What we are here talking about is ''private rights of action'' for fraud under Section 10(b) of the Securities Exchange Act and rule 10b–5 of the Securities and Exchange Commission. That statute did not expressly provide private parties with a right to sue corporations or other parties involved in the issuance and sale of securities; this right evolved out of a long series of judicial decisions, not Congressional actions.

Some argue that the conference report is somehow unbalanced because it does not fully overturn the Central Bank case involving aiding and abetting, or the Lampf case relating to the statute of limitations in private 10(b) cases. However, it is worth keeping in

mind that defeating the bill would do absolutely nothing to overturn either of these cases, that it would in fact leave the SEC with less, rather than more, authority than the bill provides, and that it would leave investors and the public in a situation where the courts, rather than the Congress and the President, are making the law in this area.

The bill has also been controversial because, in some situations, some defendants are only proportionately liable, rather than jointly and severally liable. The conference report however, holds everyone who commits knowing securities fraud jointly and severally liable. Other defendants who are less culpable are proportionately liable, that is, they are responsible for the share of harm they cause. That ensures that parties who may be only 1 percent or 2 percent responsible for the fraud are added as defendants to cases simply because they have deep pockets.

Proportionate liability is far from a new concept. We have had it in the tort area in my own State of Illinois for a number of years. It is an important and necessary change. Without it, many people will not deal with the small, entrepreneurial, startup companies that are most likely to be sued, because the potential liability is so much greater than the profit they can earn from doing business with these companies. Many companies are increasingly unable to find accounting firms and law firms willing to do business with them, and are having increasing difficulty in attracting the best people to sit on their boards of directors. And the result of that is less information and less protection for investors, and greater hurdles for the new companies on which our economic future depends. And the result of that is less of the new, good, well-paying manufacturing jobs our economy and our country needs.

Of course, in some cases, the parties most responsible for the fraud are judgment proof; they have no assets that can be found. In that situation, the conference report provides additional protections for small investors. First, it says that defendants that are proportionately liable have their share of responsibility increased by up to 50 percent of their proportionate share, so that all investors are better compensated for the losses they suffered. Second, for small investors, those with a net worth of under $200,000 who suffer a loss of at least 10 percent of their net worth, every defendant is jointly and severally responsible for paying those damages.

Some object to the rule 11 provisions of the conference report. However, the conference report simply requires the judge to look at rule 11 of the Federal Rules of Civil Procedure—which calls for sanctions for frivolous lawsuits, to determine whether any party violated Rule 11 in the complaint, responsive pleadings, or dispositive motions relating to the case, and if so, to impose sanctions. That simply puts some teeth into the application of rule 11, and it is teeth that are needed, because frivolous suits filed with little thought as to their merit can cost the defending companies hundreds of thousands of dollars in legal fees, and in the time of the companies' executives. And even those fees are not a good investment for the company, even when they win, because they divert money that should be going into creating more jobs and growth.

Finally, the most controversial part of the bill involves the so-called safe harbor. This provision in the conference report has the support of the SEC and, in some ways, offers more protection for investors—and less for issuers of securities—than do some leading court decisions in this area. The heart of what is at issue here is what are known as forward looking statements: statements that describe future events or that estimate the likelihood of selected future events occurring. Rule 175 of the SEC, which currently partially governs this area, states that forward looking statements made with a reasonable basis and in good faith cannot be used for as a basis for a fraud action. However, as a practical matter, the safe harbor it provides turns out not to be very safe.

What added real protection was a third circuit case that recognized the ''bespeaks caution'' doctrine, a doctrine that is now law in at least five circuits. Under this doctrine, forward looking statements accompanied by meaningful cautionary statements—that is, statements that indicate the specific risks that the forward looking statements will not come true—are, as a matter of law, immaterial and therefore cannot be used as a basis for a fraud action.

The conference report essentially codifies the bespeaks caution doctrine. Moreover, in response to concerns raised by the distinguished ranking Democratic member of the Banking Committee, Senator SARBANES, the conference report does not provide protection for statements not covered under the bespeaks caution provisions made with the actual knowledge that they are false.

I am pleased to be able to say that the SEC supports the safe harbor language in the conference report. Chairman Levitt, in a November 15 letter, said that the provision ''represents a workable balance that we can support since it should encourage companies to provide valuable forward-looking information to investors while, at the same time, it limits the opportunity for abuse.''

The SEC, in endorsing this part of the conference report, demonstrated an understanding that action is necessary in the safe harbor area, and that the current state of the law results in companies providing less information to investors than they would like to. A recent report by the American Stock Exchange documented the Commission's concern. It found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would make them more vulnerable to abusive securities lawsuits.

Mr. President, there is a lot more in this bill, and there is a lot more I could say about it. I will conclude, however, by simply repeating what I said at the outset of my remarks. This is a good bill. It does not fully satisfy me, and it probably does not fully satisfy any other Senator. But it does provide the kind of reforms that are badly needed and that are long overdue. And the bill accomplishes its reform objectives in a way that protects investor interests, including the interests of small investors like the Beardstown Ladies.

I want to congratulate the distinguished chairman of the Banking Committee, Senator D'AMATO; my good friend from Connecticut, Senator DODD; and the distinguished Senator from New Mexico, Senator DOMENICI—who has now rejoined the Banking Committee—for their leadership and for all of their hard work. This bill would not be possible without the contributions that each of them have made. I also want to commend the distinguished Senator from Maryland, Senator SARBANES, the ranking Democratic member of the Banking Committee, for improving the bill, even though he opposes it.

In my view, this legislation addresses a set of issues that need to be addressed. It is good for investors, companies, our capital markets, our economy, and for the American people generally. It will help generate additional economic growth and new jobs. I therefore urge my colleagues to join me in voting for the conference report on H.R 1058, the Securities Litigation Reform Act.

Mr. LAUTENBERG. Mr. President, I am going to vote against this conference report.

Mr. President, the legislation before us is described as a bill to protect investors and to maintain confidence in our capital markets. In my view, however, it does neither. Instead, the legislation would shield too many wrongdoers from being held accountable for their misdeeds, and it could ultimately reduce investor confidence in our markets.

When this bill was before the Senate, Mr. President, I expressed special concern about the so-called safe harbor provision of the bill. This provision has been improved in the conference report, but it is still problematic. For example, it eliminates any duty to update forward-looking statements. This means that if a business projects earnings of a certain amount and 1 month after making this statement, it becomes apparent that the projected earnings will be significantly less, or perhaps the company will even lose money, the company is not obligated to correct those statements. I do not understand why we would want to encourage this behavior.

As some of my colleagues know, prior to coming to the U.S. Senate, I worked in the private sector. I co-founded a company with two others that today employs over 20,000 people. After the company went public in 1961, I filed countless statements with the SEC as its CEO. As the CEO, I believe it was important for investors to have as much information as possible.

Each year, I made it a practice to project earnings for the following year. And if those projections needed modification due to a changed circumstances, I quickly went to the public to alert them to any revision. This process had significant rewards because investor confidence in my former company caused our stock, which is traded on the New York Stock Exchange, to sell at among the highest price-earnings ratios of all listed securities on any exchange.

Mr. President, I recognize that there are abuses in securities litigation, and I believe those abuses should be addressed. That is why I supported amendments to improve the legislation when it was before the Senate. Among other things, these amendments would have provided aiding and abetting liability in private implied actions; inserted a safety net to ensure that small investors are able to fully recover their losses; and extended the status of limitations period on these claims, thus making it more difficult for bad actors to hide their fraud.

In opposing these amendments, the sponsors of the bill cited some of the more egregious practices of professional plaintiffs and certain lawyers. What they do not mention is that this behavior would have been curbed by less controversial provisions contained in this bill, such as prohibitions against referral fees and attorney conflicts of interest; requirements that the share of the settlement awarded to the name plaintiffs be calculated in the same manner as the shares awarded to all other members of the class and that the name plaintiff certify that he did not purchase the security at the direction of his attorney; a prohibition against excessive attorney's fees; and an assurance that all members of the class have access to information held by counsel of the name plaintiff.

The sponsors of this legislation cite compelling anecdotal evidence of abuse by the so-called professional plaintiffs and their unscrupulous attorneys. I agree there are abusive securities class actions suits filed every year. I also agree that we need to protect companies, and even other shareholders, from these people. But in our zeal to tackle this problem, we should take care not to stifle legitimate claims and to harm our markets, which are the strongest they have ever been in our history.

Mr. President, I would like to support legislation to curb frivolous securities lawsuits because I believe there are problems. However, I cannot in good conscience vote for a bill that I believe will insulate fraudulent conduct, prevent investors injured by fraud from fully recovering damages, and chill meritorious litigation.

Ms. MIKULSKI. Mr. President, I rise today in support of the securities litigation reform legislation that has now returned from conference.

Legal reform is complex. We have to protect the interests and rights of consumers while ensuring the law does not allow frivolous lawsuits. I believe this conference report achieves that balance. I originally cosponsored the bill because I concluded there has been a problem in the area of securities law. In Maryland, my constituents have told me there is a race to the courthouse door to file a lawsuit. The victims of these practices include high-technology companies, their accountants and others.

We cannot afford this race to the courthouse because it ultimately means a loss of jobs, a loss of opportunity. Money spent on liability insurance premiums and expensive litigation is money that cannot be spent on investments and jobs.

While I want to end abuses in the system, I also want to keep the courthouse door open for the little guy, for the consumer. I am not interested in protecting crooks or swindlers. That is why I support this legislation. It protects both consumers and honest companies while allowing the law to go after fraud and abuse.

I am pleased that, with the enactment of this legislation, we will have safe harbor rules endorsed by the Securities and Exchange Commission. I commend the conference committee for working with the SEC on this matter. These rules will allow companies to provide valuable information about their future plans. I am pleased investors will have the information they need to make important financial decisions. At the same time, this provision does not cover company projections that defraud investors. Judges will be able to make sure that a company qualifies for safe harbor protection.

This debate is about the U.S. economy in the 21st century. Much of our economic future is in new and developing industries such as high technology and bio-technology. These emerging jobs are created only when companies generate capital to allow them to move into new fields. Without a balanced legal system these companies will spend too much on litigation costs, and not enough on investments to generate jobs.

I am pleased that this legislation has moved forward with bipartisan support. The bill that passed the Senate received overwhelming votes from both parties. In conference it would have been easy to steer this bill toward extremism, but the conferees worked toward a bill that we can all continue to support. I especially commend the efforts of long time supporters Senator DODD and Senator DOMENICI.

Mr. President, I hope any future legal reforms will meet the same test of balance and moderation that this reform does.

Mr. ABRAHAM. Mr. President, in June 1995, I addressed the Senate to offer my support for securities-litigation reform as embodied in H.R. 1058. Today, I am pleased to support the bill that the House-Senate conference committee has produced. Today's bill draws on the key provisions of S. 240 to make many important reforms to prevent abusive litigation connected with the issuance of securities. These changes will be made without in any way undermining protection for investors against genuine fraud or other misconduct by issuers. To the contrary, they will improve the investment climate in this country, which will make it easier to start businesses which create jobs.

Today I would like to focus on one set of reforms the bill will make. The bill will require courts to sanction attorneys who file frivolous pleadings. This reform will apply both to lawyers who file frivolous pleadings on behalf of plaintiffs and those who file frivolous pleadings on behalf of defendants. This is a sound proposal which should command strong support from both sides of the aisle.

Under current law, Federal Rule of Civil Procedure 11 requires all attorneys to have some factual and legal basis for filing any claim or defense. If attorneys violate this requirement, courts may impose sanctions against the violator. Right now, however, the courts do not have to consider sanctions.

Today's bill makes three changes.

First, it requires courts to find at the end of all securities actions whether any attorney violated rule 11 in filing any complaint, responsive pleading, or dispositive motion.

Second, the court would have to impose sanctions if it found such a violation.

Third, the presumption is that the district court will sanction attorneys violating rule 11 by requiring them to pay the other side's attorneys' fees. Under the bill, it will be a little harder for a district court to impose this sanction on those who file complaints than on those who file responsive pleadings or dispositive motions. Those who file responsive pleadings or dispositive motions will be subject to this sanction if the responsive pleading or dispositive motion fails to comply with rule 11(b). By contrast, those who file complaints will be subject to this sanction only for substantial failure to comply with rule 11(b).

Regardless of the party affected, the court may select another sanction if First, the presumptive sanction imposes an unreasonable burden on the sanctioned party, second, that sanction is unjust; and third, declining to impose such a sanction would not impose a greater burden on the party in whose favor sanctions would be imposed. In the alternative, the party against whom sanctions would be imposed may

rebut the presumption of sanctions by demonstrating that the rule 11 violation was de minimis.

We should particularly note two important features of this reform. First, the district court will have to impose a sanction only on someone who filed a frivolous pleading—that is, a pleading wholly lacking a legal or factual basis. Thus, this reform will not deter legitimate litigation. Second, the sanction is paid by the person signing the frivolous pleading—that is to say, as a general matter, by the attorney responsible for it—not by the party the attorney is representing.

It was suggested, Mr. President, that S. 240's changes to rule 11 were really a back-door means of shifting fees. That was incorrect. It is equally incorrect as to the rule 11 provisions in the conference report. These are not loser-pays provisions. They will not sanction all those who come up short in court. They will sanction only those who violate the minimal requirement of having some factual and legal basis for arguments in complaints, responsive pleadings, and dispositive motions. Such frivolous behavior clogs our courts, drains economic resources from parties, kills current jobs, and hinders the creation of new ones.

Moreover, the substantive rule of attorney conduct in this provision is the one which exists under rule 11 now. The change from the current rule 11 is procedural, not substantive. Today's bill simply requires the district court to determine whether that rule, which already applies, has been violated, and to impose sanctions if it has.

The Supreme Court itself has observed that securities litigation has been especially prone to misuse as a tool to extort settlements. It is Congress's responsibility to do something to put an end to this abuse. The rule 11 provisions are one mechanism this legislation puts in place to do just that.

Some on the floor have expressed concern that the Federal judiciary may abuse its power to impose sanctions pursant to this provision. I simply do not believe that is going to happen. From my position on the Judiciary Committee, I have the occasion to talk to many judges and judicial nominees. I have questioned judicial nominees on many topics, including their ability to exercise their powers impartially toward both plaintiffs and defendants. I firmly believe that the individuals this Senate is confirming, and those that have been confirmed in the past, will exercise this power wisely and prudently for the betterment of our legal system. Mr. President, the bill we are voting on today is an outstanding piece of legislation. Its sponsors, proponents, and the conferees deserve all of our thanks for producing something that will strengthen our economy and it will benefit all Americans. I offer my wholehearted support to the bill before this Senate and urge my colleagues to vote for it.

Mr. BENNETT. Mr. President, I understand the opponents of the bill are gathering their forces, and as we are waiting for that to happen, rather than spend the time in a quorum call, I would simply make an observation that I have made previously in response to the Senator from California which is, first, that none of the losses that occurred as a result of the Keating S&L circumstance to which she referred so often would be affected by this legislation. All of the remedies that were available to those people in the Keating circumstance would still stay in the law. The newspaper editorials which she quoted that implied to the contrary are incorrect. This has nothing to do with the Keating S&L circumstance.

The other point that I would make again is that when we are talking about protecting investors, we are talking about the owners of the company—that is what investors are—and anything that damages the company, or damages the investors. So it is unfair to try to pit companies against investors as has been implied in some of the articles which she quoted.

I say to my friend from Nevada that I am prepared to yield at any point that an opponent to the bill might arrive.

Mr. BRYAN. Mr. President, I appreciate, as always, the accommodation of my friend, the distinguished Senator from Utah. We have worked to accommodate leadership I think on both sides of the aisle by these time agreements that we previously entered into. I do not see anybody from our side.

If I might respond very briefly to the distinguished Senator's comment, there is in my view a fundamental disagreement here. The Keating case is highly relevant, relevant in the sense that its $262 million recovery was based upon a violation of the very act that we seek to amend here, which is the Securities Exchange Act of 1934.

I ask unanimous consent that a caption of the lawsuit filed in the U.S. District Court, District of Arizona, which is the Keating lawsuit, be printed in the RECORD. So that the recovery of some $262 million in the Keating case was based upon a securities violation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[United States District Court, District of Arizona, In re American Continental Corporation/Lincoln Savings & Loan Securities Litigation, MDL Docket No. 834, This Document Relates To: Civ–90–0566 PHX RMB, Civ–90–0567 PHX RMB, Civ–90–0568 PHX RMB, Civ–90–0569 PHX RMB, Civ–90–0570 PHX RMB, Civ–90–0574 PHX RMB]

SARAH B. SHIELDS, ET AL., PLAINTIFFS, *vs.* CHARLES H. KEATING, JR., LINCOLN SAVINGS AND LOAN ASSOCIATION, FIRST . . .

[Caption continued on following page.]

Sixth consolidated amended class action complaint for violations of the Securities Exchange Act of 1934, the Securities Act of 1933, and the Racketeer Influenced and Corrupt Organizations Act.

Mr. BRYAN. Mr. President, very briefly by way of comment I say it is my view—and I think the view of those who have analyzed the bill—that of the $262 million that was recovered in the Keating case, $121 million was recovered against aiders and abettors; that is, accounting firms, law firms, and other professionals.

The conference report fails to restore that liability. So that at least for private causes of action—that is the thrust of the curtailments that this legislation imposes—there would be an inability for the 23,000 plaintiffs in the Keating case that recovered $121 million. That would not be possible under the status of the law today because this legislation does not restore the aider and abettor. It may very well be true that the SEC can move against aiders and abettors. But even that has been somewhat obfuscated. I believe that those who are far more expert than I would tell you that it is not clear even if the SEC would be able to seek recovery against the Keating situation of which there are aiders and abettors. But clearly those who bring private causes of action would not.

Again, we have this informal colloquy with my friend from Utah. He is, I think, suffering from the same disability as I. We have tried to protect time for those who wanted to speak. But they are not on the floor. I would certainly be delighted to engage him in a colloquy or discussion or let him continue to speak until someone returns to the floor.

Mr. BENNETT. Mr. President, as I look at the time allocated under the unanimous-consent agreement, the Senator from Nevada [Mr. BRYAN] has 10 minutes. If he wishes to take that 10 minutes now, that could get us at least that much farther down the road.

Mr. BRYAN. The suggestion of my friend from Utah is always compelling and intriguing and tempting. May I graciously decline his kind offer, which I know is offered in the spirit of trying to accommodate and move this process forward as is his want and intent in every case. But I think I will respectfully decline that. We are not going to be able to protect all of the 7 minutes we have for each of the speakers. We will have to make those adjustments because the time continues to run. I understand that we have more time on this side, those of us in opposition, than he does in support. That time is going to continue to run.

Mr. BENNETT. Under those circumstances, Mr. President, I would suggest the absence of a quorum, and ask unanimous consent that it be charged to the opponents—I withhold.

Mr. DODD. Mr. President, I realize the time is running with a vote at 4:45. I have time reserved. I know our colleague from Nevada, our other colleague, Senator HARRY REID, yielded whatever time he had remaining to me.

Let me underscore a point here, Mr. President, while we are waiting. I will yield the floor the minute I see a colleague arrive.

Let me get back to the bottom line, if I can. We are talking about a group

of attorneys on one side who are vehemently opposed to this bill. They are doing everything to stop it. I point out categorically what we are looking at here for every dollar is 14 cents that goes to the investors and about 33 cents going to the attorneys in these matters. You do not need to know much more than that. It is a system that is out of control and out of whack. It needs to be brought back into line of the original intent.

That is really what this is all about. We have included provisions that require auditors to check for fraud and to report fraud; set up a system that protects small investors for proportionate liability matters.

The suggestion has been made—I say this with all due respect—that this is somehow a Keating matter. Nothing could be further from the truth; or trying to suggest that somehow Dillinger may have been involved. This is ridiculous. The Keating matter had little or nothing to do with securities. It was mostly to do with S&L's. And this bill will not change the outcome one iota because it was out-and-out fraud and lies. It was not about some future statements but about present facts. Mr. Keating was suggesting that the Federal Government was going to back all of the investments that were made by people. That, of course, was a complete falsehood. There is no comparison here.

That is really I would say sort of an effort to try to desperately convince people that somehow this legislation is harmful to the interests of investors. What it does is strengthen the hand of investors tremendously by giving them the right to choose the attorneys, giving them the right to decide what the settlement will be, if there is going to be any settlement, and giving them the right to determine what the attorney's fees would be. That is what we are trying to do here.

These investors have been taken to the cleaners by hired professionals. Plaintiffs who own one or two shares of stock in many cases are brought in and given big bonuses for the outcome and set up as the plaintiffs in these cases. This is really a scam. One lawyer said, ''I have the best practice in the world when it comes to securities litigation. I have no clients.'' In fact, he was the attorney and the plaintiff in these matters.

That is what we trying to go correct here. We spent 4 years at it with a strong bipartisan approach that has drawn us to the point where we are about to adopt a conference report and send it to the President. I am hopeful he will sign it. I think it is right, it is balanced fairly, and it is moderate. It attempts to deal with a situation that most people today agree needs to be corrected, including even the opponents of the legislation.

As someone who has been involved in this for almost 5 years, when we first brought up the legislation we were told that there was no need for my bill at all.

At least the opponents are admitting there is a need. They just do not like all the provisions of the bill. So I am hopeful that our colleagues, the 69 who supported this legislation back several months ago—we have improved this bill. We improved the safe harbor provisions to such an extent that the SEC, which was reluctant to support the bill when it first came out of the Senate, today says those safe harbor provisions are provisions which do provide the kind of balance we are talking about. That is their analysis and not mine. There are enough editorial comments here that indicate that this bill makes sense.

So, again, given the strong vote in the House, which was a totally different bill, by the way—and Senator REID of Nevada is absolutely correct. The ads are running, paid for by these affluent lawyers frightened to death they may lose a little business. You are talking about a House bill. That bill is gone. This is now the Senate version that was basically adopted by the conference.

So I am hopeful at 4:45, less than an hour from now, the Senate will give us a good, strong, bipartisan vote reflecting the work that has been done—hundreds and hundreds of hours, 5,000 pages of testimony, almost 100 witnesses, 12 sets of hearings through three Congresses. That is the way a bill ought to be adopted here, where you bring people together, Democrats and Republicans, fashioning a good piece of legislation and endorsed by the major regulatory agency of the country that believes we have done a good job here.

I think on balance this is a piece of legislation which is going to improve the quality of life in this country, and particularly for those industries and businesses that have been the primary targets. One-half of all the firms in Silicone Valley have been subjected to securities fraud suits in the last 4 or 5 years. That just gives you an indication of what is going on here. These new startup, high-tech firms, they are the ones who are victimized by this. Those are the firms of the future.

Mr. President, I see our distinguished colleague from Florida has arrived here. We were trying to fill in a little time until someone arrived.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I will yield the floor.

If my friend from Florida is prepared to go——

Mr. GRAHAM. Would you like——

Mr. DODD. I am going to reserve a couple minutes at the end. I was just trying to fill in a little gap here while we waited for the opponents of the bill to come on over and express their views.

Mr. BRYAN. Mr. President, if I may, in the spirit of comity, accommodation, fairness, and respect, even though the distinguished Senator from Connecticut has exhausted his time, and if we were trying to adhere to the rules rigidly, he would not have an opportunity to comment further, I would yield from our side of the aisle 2 minutes of the time heretofore allocated to the distinguished senior Senator from Florida, Senator GRAHAM, to my friend, the senior Senator from Connecticut.

Mr. DODD. Well, I am always appreciative of my colleague.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. DODD. Mr. President, no. I will reserve the 2 minutes. In the meantime, our colleague from Florida has arrived. I know the opponents want to be heard on this. I appreciate the gracious allocation, at the appropriate time, of 2 minutes. And I will make particular reference then of the fine job that the Senator from Nevada has done on this legislation.

Mr. BRYAN. In the interest of fair and full disclosure, the Senator has not 2 minutes to reserve. He has exhausted his. If he needs it, I will tender it to him.

I yield the full 7 minutes to the distinguished Senator from Florida. He can yield any part of that he feels he does not need.

Mr. GRAHAM. Mr. President, it is ironic that we are having this debate today. This debate coincides with the last month of the existence of the Resolution Trust Corporation. The Resolution Trust Corporation was a congressionally created corporation to deal with the second largest financial crisis in the history of the United States of America, second only to the Great Depression.

That crisis, of course, was the savings and loan debacle. That debacle was not an accident. It had very specific origins. It had identifiable causes. And, sad to say, Mr. President, many of those origins, many of those causes emanated from this Chamber.

It was this Chamber which in early 1980 passed ill-considered legislation that, among other things, dramatically increased the level of Federal guarantee of savings and loans accounts, without making appropriate adjustments to the premiums we paid to support those guarantees, and made other changes which facilitated the ability of those who wished to gain by plundering these institutions of trust the opportunity to do so.

As a consequence of those actions, which started here, we had one of the great financial crises and one of the most expensive financial crises in our Nation's history. As I say, Mr. President, it is ironic that we recognize this month, December 1995, as the last month of the Resolution Trust Corporation's efforts to try to extricate ourselves from that crisis, and in this month we now take up legislation which I believe has the potential of laying the groundwork for another great financial crisis in America.

Another irony, Mr. President, is that there has been no time in our Nation's history when our stockmarkets were more in public favor. Recently, for the

first time in their history, the Dow Jones passed the 5000 mark and continues to grow beyond that. The reason for the strength of our stock market is fundamentally the confidence that the investing American has in our stockmarkets. That is an asset of our free enterprise system, Mr. President, that we need to guard zealously.

Mr. President, I am afraid that the action that we are being asked to take today moves away from that close guarding of the confidence of the American investor in the American stock market.

Let me just mention a few areas of particular concern to me. I am concerned about the provision that will make it easier, will almost provide immunization for oral and written statements of expectation as to corporate activity. The whole purpose of this legislation—and I think a legitimate purpose, Mr. President—was to eliminate frivolous lawsuits, to eliminate a practice in which firms were subjected to litigation, not with the expectation of a jury or other judicial verdict indicating that the company had behaved in an inappropriate way, but in order to be able to negotiate a settlement based on that settlement being less expensive than the cost of defense and the adverse effect which the litigation would have on the image of the corporation.

But this legislation goes far beyond what is required in order to sort out the frivolous from the serious. And one of the best examples of that is what has happened in this so-called safe harbor provision. When this left the Senate it contained some protections. It contained a protection that stated that statements which were knowingly made with the expectation, purpose, and actual intent of misleading investors would not secure the benefits of the safe harbor. As hard as it is to believe, Mr. President, that provision has been eliminated from the legislation as it now comes back from the conference committee.

Mr. President, there are other examples of where the conference committee has taken action that has made this bill less protective of investors without adding to the benefit of sorting out the frivolous from the serious litigation. I am concerned, Mr. President, about the fact that we have continued to have the unreasonably short statute of limitations of 3 years, a period of time in which for many of these real cases of fraud and abuse they would not even be known, much less be known in time to do the necessary investigation prior to the bringing of litigation.

Mr. President, we have made it extremely difficult, after an award is granted, after it has been determined that, in fact, there was fraudulent activity and a judgment is entered on behalf of the plaintiff, we made it very difficult for the plaintiff to be able to recover, particularly, as is frequently the case, when one or more of the major parties turns out to be insolvent.

So, Mr. President, in the spirit of attempting to achieve one very focused objective, we have engaged in broadscale amputation of the ability of private litigants to maintain the integrity of our securities law. And we do this, Mr. President, at the same time we are about to take up a conference report which will freeze the budget of the Securities and Exchange Commission. So both of the arms which are used in order to contain fraudulent activities in the securities sector, private litigation and the Securities Exchange Commission, are about to be severely restrained.

So, Mr. President, for those reasons, I urge my colleagues to defeat this conference report in hopes that we will then focus on legislation that will accomplish this narrow objective.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have printed in the RECORD statements made by one of my constituents, Mr. F.K. Glasbrenner of Longwood, FL, a resolution by the Florida Association of Counties, and an editorial from the Miami Herald, all of which bemoan the inadequacies of this legislation to achieve the purpose stated.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LONGWOOD, FL,
October 23, 1995.

Senator BOB GRAHAM,
Hart Senate Office Bldg,
Washington, DC.

Senator CONNIE MACK,
Hart Senate Office Bldg,
Washington, DC.

Representative JOHN MICA,
Cannon Bldg,
Washington, DC.

Representative BILL MCCOLLUM,
Rayburn Bldg,
Washington, DC.

GENTLEMEN: The managing editor, Frank Lalli, of MONEY magazine has informed his readers, and I am one, that the securities litigation reform bills, H.R. 1058 and S. 240, are certainly not in the bests interests of the investor in the United States.

The original intention of the bills were to discourage frivolous securities suits but in the end they really did something different. In their present form they legalize securities fraud. The bills protect company executives who deliberately misrepresent their firm's prospects. If an invester sues to right a wrong and he loses, the judge can force him to pay the winners legal fees. In addition both bills failed to reinstate fundamental investor protections stripped away by recent Supreme Court decisions which were:

Defrauded investors can be longer sue hired guns who assist a dishonest company officer. This would include accountants, brokers, lawyers and bankers.

Investors cannot sue at all if they fail to file within three years after the fraud occurs, even when the crime is not discovered until after the deadline.

I implore all of you to have the House-Senate conference committee correct the final bill to vastly improve the United States investor's rights. Don't allow white collar crime to the legalized, there is too much of it already.

Sincerely,

F.K. GLASBRENNER.

FLORIDA ASSOCIATION OF COUNTIES,
Tallahassee, FL, October 24, 1995.

Re H.R. 1058/S. 240, Securities Litigation Reform Act.

Hon. BOB GRAHAM.
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: On Behalf of Florida's 67 counties, I would like to thank you for voting against final passage of H.R. 1058/S. 240, the Securities Litigation Reform Act. While the Florida Association of Counties favor efforts to deter frivolous securities lawsuits, I strongly believe that legislation to accomplish this worthy goal must also ensure rights of investors to seek recovery against those who engage in securities market fraud. H.R. 1058/S. 240 not only fails to protect investors' rights, but seriously limits investors' ability to seek recovery from those who help to commit fraud.

Since the provisions of the House bill, H.R. 1058, go even further than the Senate bill in undermining the ability of investors to seek recovery in securities fraud cases, it appears that there is virtually no chance for a final bill that protects the rights of investors and that it is likely the House & Senate conference report will be worse than the original Senate bill. I urge you, therefore, to vote against the conference report on H.R. 1058 when it comes before the Senate for a vote.

Respectfully,

JOHN WAYNE SMITH,
Governmental Liaison.

[From the Miami Herald, Nov. 14, 1995]

LIARS' BILL OF RIGHTS?

While most of the country is paying attention to the feud over the federal budget, a sinister piece of legislation is making its way through Congress unnoticed. This bill lets companies report false information to investors. That's right, it essentially licenses fraud. It has passed both houses in slightly different forms. A compromise bill will be written soon. If it passes, President Clinton ought to slay it in its tracks.

This bill is a story of good intentions. Some companies have been plagued by frivolous lawsuits from investors who aren't happy with the company's performance. The investors allege, in essence, that the company had forecast good results and then didn't deliver. That, say the plaintiffs, constitutes fraud.

Well, often it doesn't. Investing has risks, including market downturns. When investors sue over mere bad luck, they cost companies money, clog courts, and drain profits from other investors.

Trouble is, by trying to stop this abuse, Congress mistook a simple answer for the right answer. Its solution, in plain terms, was to declare virtually all promises by all companies to be safe from legal challenge. Under ''remedy,'' company executives now can promise investors anything they like, with not so much as a nod to reality.

They can't legally lie, about the past, but if their claims are ''forward-looking,'' they can promise you the moon to get you to invest, and no one can sue them later for being misleading.

Well, almost no one. The bill would allow legal action in the case of egregious, deliberate fraud, but you'd have to prove that it was intentional. And you'd have just three years to discover the fraud and furnish your proof.

It's rare enough to prove outright intent under the best circumstances, but under this bill, if executives can stiffarm you for just 36 months (not a big challenge), they'd be home free. And then—in another hair-raising provision of the bill—you'd be stuck for the company's entire legal bill. Facing such a risk, no small investor, no matter how badly cheated, would ever dare sue.

This bill evidently struck many members of Congress as a simple answer to a nagging problem. It's nothing of the kind. The problem is real enough, but its solution isn't simple. And it certainly doesn't reside in a law authorizing phony statements to investors.

President Clinton should veto this blunder. Then, when the fight over the budget is over, Congress can take time to think up a more rational solution to the problem.

Mr. GRAHAM. Thank you.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

Mr. President, I suspect not many opinions are going to be changed at this late hour in the debate, but let me make an observation about what this debate is not about.

It is not about frivolous lawsuits. If this legislation dealt only with frivolous lawsuits, we would be acting by voice vote, and this Senator's voice would be among the loudest of the chorus of votes in support. Indeed, the provisions in this legislation that deal with the frivolous lawsuit issue are essentially provisions that this Senator has previously offered in a piece of legislation, so I am fully supportive of that.

What this legislation does, in my opinion, is systematically and pervasively dismantles the system of investor protection against securities fraud and undermines the confidence in the world's safest securities market: the United States of America. It does so for several reasons. Everyone who is involved in the regulatory process, whether the SEC, the States securities administrators and others, all acknowledge that the statute of limitations is too short—too short. They have urged this Congress to change the current law from 1 year from point of discovery to a 3-year date of occurrence cutoff to 2 years and 5 years. The reason for that is, the SEC says, because of the complexity of securities investigations. It requires more than 2 years when they do it with all of the resources of the Federal Government available.

Aiders and abettors: Aiders and abettors are not, under the current interpretation of the Supreme Court's ruling in private causes of action, are not subject to liability for reckless misconduct—not subject to liability. We have urged our colleagues to make them subject to liability, and they have declined to do so. In point of fact, there is substantial question as to whether the SEC itself as the enforcer has the power to recover against aiders and abettors.

So by failing to take that action, we immunize an entire class of wrongdoers. The accountants, the lawyers, the people who aided and abetted some of the great securities frauds in America would not be liable under the current state of the law.

Unlike the earlier Senate version of this bill, we do great damage to the fairness of imposing upon attorneys, whether they be plaintiffs' lawyers or defense lawyers, the full sanction of rule 11. As this bill left the Senate, the sanctions applied equally to plaintiffs' lawyers and to defense lawyers.

Let the planets, let the stars, let everything in God's universe fall upon those who continue to pursue frivolous lawsuits. I am with my colleague from Utah on that. But in terms of revealing the bias that is reflected throughout this legislative process, those sanctions only apply now to the plaintiffs' lawyers, and the defendants' lawyers who are guilty of frivolous actions have a much lesser sanction.

The issue is frequently framed, are you with Silicon Valley or are you with the trial lawyers? That is a false premise. Let me just read some of the opinions that have been expressed on this.

The Akron Beacon Journal, December 1, 1995:

The legislation would close virtually all avenues available to investors who reasonably seek to recover money lost in securities fraud cases. President Clinton can begin the effort to improve this bill by using his veto.

The San Francisco Chronicle, November 27 of this year:

Despite the worthwhile aim, the provisions of a draft conference report—

The one that we are dealing with.

go far beyond curbing trivial court action and instead would wipe out important protections against hustlers of fraudulent securities.

Mr. President, can I ask you to give me an indication when I have 4 minutes left of the time allocated to me?

I thank the Chair.

The Miami Herald, November 14 of this year:

A sinister piece of legislation. It essentially licenses fraud. President Clinton should veto this blunder.

The Wisconsin State Journal:

The bill allows deceitful corporate executives, securities brokers, accountants and lawyers out there to thumb their nose at the justice system.

The Chattanooga Times, October 30, the home State of the distinguished occupant of the chair:

The bill would immunize most stock and bond fraud from civil liability. This fraudulent reform could not have come at a worse time. Securities fraud enforcement actions have increased 118 percent and criminal convictions for such fraud leaped 176 percent.

The Daily Times Call:

Charles Keating could wish this were the law when he squandered millions of dollars from the savings and loan industry.

The St. Louis Post Dispatch:

Those protected by this legislation would not only be companies free to make reckless predictions about their future, the accountants who detect fraud and keep quiet about it also would be helped.

I could read on and on and on.

I do want to say something about the editorial that appeared in Money magazine.

The PRESIDING OFFICER. The Senator has 4 minutes left.

Mr. BRYAN. I thank the Chair.

It has been suggested that Money magazine editorials were issued prior to the conference report. It is true for the first time in their history, in September, October, and November of this year, they editorialized strongly against it. Mr. President, they reaffirmed their opposition in December of this year after the conference report, indicating that this legislation, in their view, would do great harm to private investors.

Let me also point out that among the groups that oppose this are the Associations of Municipal Financial Officers, State Financial Officers, County Financial Officers, and others.

I want to read the excerpt of a letter that was sent to the Las Vegas Sun by the treasurer of Clark County, NV, which includes Las Vegas.

As Clark County's treasurer, I am responsible for taxpayer funds collected and invested on behalf of three-quarters of Nevada's population.

I am writing because legislation passed by Congress could effectively eliminate Clark County's ability to file private securities fraud lawsuits—the primary method for governments and individuals to recover losses from investment fraud.

He speaks for hundreds of county officials throughout America, irrespective of political party. That is why the National Association of Securities Administrators, and others, have strongly condemned this legislation as going far, far too far.

Mr. President, let me say that in 1982, the Congress ill-advisedly, in my judgment, passed Garn-St. Germain that opened up a wave of fraud that cost the American taxpayers, in terms of the savings and loan industry, $450 billion when those costs are amortized.

What Garn-St. Germain did for the savings and loan industry in 1982, it is my view this legislation will do for the securities industry. Those who support this legislation, if enacted and signed by the President, will rue the day. We have not seen the last of fraud. Indeed, the evidence is to the contrary that fraud is growing.

This legislation goes far beyond what is needed to address the legitimate issue of frivolous lawsuits, which I fully associate myself with those efforts. This legislation effectively emasculates the right of private investors to bring causes of action against those who perpetrate fraud that results in losses throughout the country.

In the Keating Five, and I know that people do not like the reference to the Keating case, but it was a securities action filed under the 1934 law. This is a classic case in which $171 million were recovered against aiders and abettors, those attorneys and brokers and advisers who were responsible.

Because of our failure to correct the current interpretation of the Court's opinion, we immunize and give those folks a clean bill of health, a pass to continue. For those who voted for the Senate version earlier, let me indicate that this piece of legislation emerging from the conference is far worse. It

eliminates the provisions Senator SPECTER offered with respect to RICO. It heavily imbalances the sanctions that are imposed against lawyers who file frivolous lawsuits by making the burden whole and entire on plaintiffs but not so with defendants. It enhances the pleading requirements, which makes it much more difficult to bring. It fails to address the statute of limitations issue. It fails to correct the deficiency in the law which allows aiders and abettors to go home free. It reverses hundreds of years of judicial precedent in common law in limiting the right of recovery balance between an innocent investor and those whose conduct was reckless. It says under the proportionate liability that only the proportionate responsibility shall be made payable to that innocent investor, when the actual perpetrator is judgment proof or without money to respond.

Finally, let me say that the conference report even diminishes that ability to recover even further. I thank the Chair.

Mr. President, I am just informed that the distinguished Senator from Illinois wants to speak as in morning business for 2 minutes. I do not have any objection.

I ask unanimous consent that she may speak for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE NORTHWESTERN UNIVERSITY FOOTBALL TEAM

Ms. MOSELEY-BRAUN. Mr. President, I wanted to take a moment to congratulate Northwestern University's football team, the Wildcats, who, in Senate resolution 197, offered by Senator SIMON and me, are being honored and congratulated for one of the greatest underdog-to-champion stories in the history of sports. The Northwestern team is now being called ''the miracle on Central Street.'' What they have done here is to celebrate their first conference championship in some 60 years.

Coach Barnett has taken this team from really a very low profile in the conference to being a top contender, now in the Rose Bowl. They are going to go to Pasadena. He fulfilled his pledge to take the Purple to Pasadena. That rallying cry has taken this team to a 10–1 season, a No. 3 national ranking, and with defeats over Notre Dame, Penn State and Michigan, a feat which has, frankly, not been accomplished by any one team in over 30 years.

Northwestern really proved that it is possible to produce a football champion as well as Nobel Prize winners and Pulitzer Prize winners and academicians throughout the world. They have captured, by their actions, the hearts of fans all over the country. They have made all of us from Illinois very proud of them. If nothing else, the football team, in their perseverance, hard work, and dedication, have proved once again in this Christmas season that miracles do happen.

I thank my colleagues for their time.

Mr. BRYAN. Mr. President, I join in congratulating Northwestern. I was 11 the last time they went to Pasadena. So it is time for the Purple not only to go to Pasadena but to win in Pasadena.

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise today to oppose, in the strongest terms possible, H.R. 1058—inappropriately titled the ''Private Securities Litigation Reform Act of 1995.'' This bill has nothing to do with reform in the normal sense of the term. Rather, the bill is about protection from liability for fraud—pure and simple. The bill is the worst kind of special interest legislation that the American public is sick and tired of.

It will give corporations a license to lie to investors and will severely restrict the ability of defrauded investors to recover their hard-earned dollars from the unscrupulous and reckless individuals and corporations who swindled them.

Six months ago, I stood on the Senate floor and urged my colleagues to oppose this bill in its earlier incarnation because—put simply—it was a bad bill. Because it was a bad bill, every major consumer group, State attorneys general, State and county treasurers, mayors, finance officers, labor unions, the American Association of Retired Persons, the National League of Cities, educators, and hundreds of other nations, State, and local organizations, opposed the bill.

It is easy to understand why when you consider that a city like San Francisco has over $8 billion in pension funds and other investments and when more than 60 State and local governments nationwide have lost more than $3.6 billion in securities markets, partly due to derivative investments.

Despite the tremendous opposition to H.R. 1058, which was a bad bill in June, it is a worse bill now. Therefore, I strongly urge my colleagues to oppose it.

What is most disturbing about this bill is the impact that it will have on what are often the forgotten Americans—that is, average middle-class Americans.

At a time when job and wage insecurity are at all-time highs, and family budgets are straining at the seams, middle-class Americans have begun investing their hard-earned dollars in stocks in record numbers. In fact, as the Washington Post reported just a few days ago, securities have supplanted real estate as the No. 1 source of family nest eggs.

Middle-class Americans believe they must invest because there may not be a decent pension when they retire—either they will be let go too soon because of corporate down-sizing or their company, to which they have been loyal, will not be there 20 or 30, or even 10 years from now.

Middle-class Americans also want to invest for the future because they aren't sure that Social Security or Medicare will be there for them in their later years when they are most vulnerable.

Last, middle-class Americans believe they must invest to ensure that their children are able to receive an education that provides them with the essential skills to enable them to become productive and integral participants in what will be an extremely competitive and global work force in the 21st century.

Because middle-class Americans recognize the need to secure and protect their financial futures, they have entered to stock market directly—or through mutual funds—to such a degree that the most significant asset held by American families today is not their home, but their 401(k) plan. Today, assets in 401(k) plans total more than $500 billion. Assets in investment retirement accounts total more than $1 trillion. The majority of these funds are in stocks.

Under these circumstances, this Nation's two primary securities laws—the Securities Act of 1933 and the Securities and Exchange Act of 1934—have become even more, not less, important.

The principal philosophy governing these two laws—enacted more than 60 years ago after the stock market crash of 1929, caused largely by a crisis of confidence due to unregulated fraudulent stock promotion—is that investors and prospective investors should have access to all material information about corporations that offer securities so that the public can make informed investment decisions and that honest markets should be maintained by strong antifraud enforcement.

At a time when middle-class Americans are investing in record numbers because they believe they must, the U.S. Congress should be strengthening the most fundamental protections for investors in our securities laws, not gutting them. Yet, gutting these laws is exactly what this bill does.

This bill strikes a severe blow to the heart of the middle class. Let me tell you about just a few of the devastating provisions in this bill.

One of the most outrageous provisions in this bill is the safe harbor provision. This provision, by providing broad immunity from liability for fraudulent corporate predictions and projections, essentially gives corporations a license to lie. This provision is much worse than the safe harbor provision in the Senate bill.

The Senate bill language that made knowingly fraudulent defendants ineligible for the safe harbor was eliminated. Now, under this bill, deliberately fraudulent statements, written or oral, as long as they are accompanied by cautionary language, will be immunized from private liability. Let me repeat—this bill protects deliberately fraudulent statements.

Let me give you a frightening but likely scenario that could occur under the safe harbor provision in this bill: In an effort to entice unsuspecting consumers to purchase stock, company X makes a bunch of optimistic and fraudulent predictions about how great a new product will perform and how the company's profits will increase because of the manufacture of this new product. The company gets its lawyers and accountants to vouch for the representations.

Based on these rosy predictions, your uncle, your grandmother, your sister's teacher's union, your church, and the State of California decide to purchase the stock. All of them wind up losing their money when the fraud is exposed. Your grandmother believes the company should not be able to get away with lying to her. The company's lawyers argue, however, that even though there were fraudulent statements, there was a paragraph of cautionary language in some filing at the Securities and Exchange Commission. Under this bill, grandma loses, all the swindled investors lose, and the fraudulent company and its lawyers and accountants win.

This is absolutely outrageous. And it's just one example of the many anti-investor provisions in this bill.

To add insult to injury, this bill also fails to restore traditional aiding and abetting liability for securities fraud in private actions. Thus, lawyers, accountants, and others who turn a blind eye to the fraudulent activity of their clients, or who recklessly aid and abet their clients, will be let off scott free.

The bill also dramatically erodes the doctrine of joint and several liability and moves to a system of proportionate liability. The bottom line for an investor is that under this bill, if a corporate defendant is found guilty of fraud and goes bankrupt, the victim will not be able to recover all of his losses. In essence, what this bill does is determine, as policy matter, that it is more important to protect adjudged wrongdoers from having to pay more than their strict proportion of the harm than it is to protect the innocent victims of fraud.

Another of the troubling provisions in this bill, is the one which adopts a higher pleading standard than was in the Senate bill—higher in fact than the standard adopted by the second circuit—which is currently the highest standard in the land.

As my colleague Senator SPECTER discussed earlier, it was Senator SPECTER who offered an amendment that clarified that the heightened pleading standard in the Senate bill could be satisfied by evidence of a defendant's motive and opportunity to commit securities fraud. The current version of this bill, however, eliminates the language in the Specter amendment.

This bill is also worse than the Senate bill because it imposes a mandatory loser-pays fee shifting penalty under rule 11 of the Federal Rules of Civil Procedure that is harsher on plaintiffs than on defendants.

Under current law, rule 11 gives courts the discretion to impose sanctions for pleadings and motions that are unwarranted, without evidentiary support, or otherwise abusive.

The Senate bill required courts to determine whether any party violated rule 11 and to presume that the appropriate penalty for violating rule 11 is fee shifting. Under the Senate bill, the party who violated rule 11 would have to pay the opposing party's legal fees incurred as a direct result of the violation.

The bill on the floor today is worse than the Senate bill because it unfairly increased the penalty imposed against plaintiffs who are found to have violated rule 11 while not doing so for defendants who are found to have violated rule 11. The presumptive penalty for plaintiffs is have to pay all of the defendant's legal fees and costs incurred in the entire action.

Proponents of this bill claim that the bill is balanced and fair. Is this provision balanced or fair? Not by any stretch of the imagination.

This bill, unlike the Senate bill, also adopts a provision, modeled on the House bill, that may require plaintiffs to post a bond to cover a possible fee-shifting penalty. Moreover, there is no limitation on the amount of the bond. This could be a major obstacle for individual victims or their attorneys in bringing a meritorious action against a large corporation defendant. The bill also fails to restore an adequate statute of limitations for private securities fraud actions, and gives the greatest control in cases to the wealthiest plaintiffs.

Lastly, as someone who has long sought to do what he could to combat crimes of all kind, I also find it incredible that language in the Senate bill concerning the application of our RICO laws in securities fraud cases has been almost eliminated entirely.

Under an amendment I offered, the Senate bill allowed the RICO statute to be used in a securities fraud civil case if at least one person in the civil case has been criminally convicted. Under this bill, RICO could only be used in the civil case against the person who was actually criminally convicted.

The safe harbor, proportionate liability, pleading, aiding and abetting, fee-shifting, and RICO provisions, are bad enough alone, but together, they will actually encourage the kind of conduct our securities laws were designed to eliminate.

I am sure that there is not one Member in this body who does not want to bring an end to all frivolous lawsuits, not just shareholder lawsuits. Yet, the legislation before us today is not the answer—it is far from it.

Indeed, the managing editor of Money magazine, the largest financial publication in the United States, with over 10 million, largely middle-class readers, said it well when he stated, and I quote:

> At a time when massive securities fraud has become one of this country's growth industries, this law would cheat victims out of whatever chance they may have of getting their money back . . . in the final analysis, this legislation . . . would actually be a grand slam for the sleaziest element of the financial industry, at the expense of ordinary citizens.

The president of the Fraternal Order of Police said it best, however, when, in his letter to the President urging him to veto the bill, he stated:

> Mr. President, our 270,000 members stand with you in your commitment to a war on crime; the men and women of the Fraternal Order of Police are the foot soldiers in the war. On their behalf, I urge you to reject a bill which would make it less risky for white collar criminals to steal from police pension funds while the police are risking their lives against violent criminals!

I urge my colleagues to heed these words.

Mr. BRYAN. Mr. President, I thank the distinguished senior Senator for his statement and for his insight.

Mr. COHEN. Mr. President, I am well aware of the hazards of abusive class action lawsuits and unethical attorney conduct.

Just before Thanksgiving there was an article on the front page of the New York Times about a constituent of mine who received a benefit of $2.91 from a class action suit concerning overcharges in mortgage escrow accounts, but had $91.00 removed from his account to pay the attorney's fees of class counsel. I will soon be introducing legislation to protect consumers from these types of abuses.

There are undoubtedly abusive securities class actions as well. But the key to reforming this area of the law, like all litigation reform, is to devise remedies that will weed out the frivolous lawsuits while allowing the meritorious ones to go forward.

The conference report under consideration contains a number of necessary and well-crafted reforms. It requires that class members receive intelligible notices explaining the terms of class action settlements, prohibits secret settlement agreements, and promotes enforcement of rules sanctioning attorneys for unethical behavior.

Unfortunately, the conference report also contains provisions that will prevent potentially meritorious cases from being pursued. In some instances, those who knowingly and intentionally mislead investors will be fully immunized from liability. Consequently, I will vote against this conference bill as I did when it was first considered by the Senate.

I am especially concerned about the consequences that the bill will have on

the elderly. The Special Committee on Aging, which I chair, has held a series of hearings on fraud against small, unsophisticated investors.

The committee's investigation revealed that in an era of low interest rates, when retirees are seeking out higher yield investments, the elderly are particularly vulnerable to securities scams. Fraud against the elderly is particularly odious because their savings cannot be replaced by new earnings—losses resulting from fraud can affect middle-income seniors' standard of living for the rest of their lives.

The safe-harbor contained in the conference report shields issuers of securities, or those working on their behalf, from lawsuits based on predictive statements they make about the future performance of a stock. The immunity is absolute, so long as the predictions are accompanied with cautionary statements indicating that actual results may differ from those predicted.

The effect of this safe harbor is that corporate officials are immune from suit even if they make factual statements that they know to be false and that are intended to mislead investors. At least under the Senate bill, knowing and intentionally misleading statements would have been actionable. I am disappointed that the conference committee chose to broaden, rather than narrow, this provision.

I am also concerned about the cumulative effect of some of the procedural changes made to the bill.

The bill requires that before initiating a suit a plaintiff must be able to allege specific facts giving rise to a strong inference of the defendants' state of mind. A Senate amendment clarifying how plaintiffs could meet this burden was dropped by the conference. In addition, the bill prohibits plaintiffs from taking any discovery before it must defend a motion to dismiss the lawsuit.

Together, the pleading standard and the bar on discovery will make it extraordinarily difficult to maintain a lawsuit because it is virtually impossible to prove the state of mind of a party until you have an opportunity to conduct interviews and examine documents.

These and other provisions will not only deter frivolous lawsuits, but will create roadblocks and obstacles to suits that seek recoveries for genuine victims of fraud. For decades these private class action lawsuits have provided a necessary supplement to the enforcement efforts of the Securities and Exchange Commission.

Enforcement of the securities laws and the confidence in our markets that these laws have engendered have contributed to making our stock markets the most robust in the world. The benefits this legislation is intended to achieve—the deterrence of abusive litigation—does not justify the potential costs of weakening an enforcement scheme that has effectively protected our markets for many years.

Mr. GRAMS. Mr. President, I rise in support of the conference report.

I am proud to say that I served on the conference committee which produced this report. As a freshman Senator, I was particularly honored to play a role in crafting legislation which will benefit so many Americans who find themselves victimized by the social costs of frivolous litigation.

The legislation before us today, H.R. 1058, is entitled the ''Private Securities Litigation Reform Act of 1995.'' In my opinion, a better title would have been the ''Investors, Workers and Consumers Legal Protection Act.'' After all, this legislation is designed to protect those very people—investors, workers and consumers—from the high cost of meritless and abusive litigation.

Today, we have an opportunity to make some modest and reasonable changes which will help weed out the most abusive lawsuits in the field of securities litigation while at the same time, preserving the right of action for shareholders who are truly victimized by securities fraud.

I am particularly pleased with a number of the provisions in this bill, including:

Mandatory sanctions against attorneys who file abusive lawsuits;

Codification of the pleading standard adopted by the second circuit court of appeals;

Elimination of bounty payments to named plaintiff, plaintiff referral fees, and undeserved windfall damages;

A safe harbor for forward-looking statements to encourage companies to voluntarily disclose information to help investors make better decisions; and

A reduction in the level of liability for secondary defendants who do not knowingly engage in securities fraud.

In addition, I am pleased that this legislation does not extend the current statute of limitations established by the U.S. Supreme Court in the 1991 Lampf decision. That's one year from the date the plaintiff knew of the alleged violation and 3 years from the date the alleged violation occurred.

While some critics of this legislation have seized upon the statute of limitations as a wedge to defeat this important bill, they have failed to present a convincing case for why this period should be extended.

They have tried to suggest that the current statute of limitations has curbed the number of meritorious cases filed in the courts, but the evidence proves otherwise.

According to the administrative office of the U.S. courts, during the 4 years prior to the Lampf decision, the average number of cases filed was 162 per year. In the 4-year period since Lampf, the average number of cases filed has risen to 278 per year, an increase of nearly 72 percent.

Contrary to the claims of the bill's opponents, securities litigation has increased under Lampf, not decreased. This should not be surprising, given the fact that many of these claims can now be filed within days, even hours, after a movement in the market.

There are a number of other reasons why the current statute of limitations should be preserved.

A longer period would simply allow speculators too much time to wait and see how their decisions to buy or sell securities turned out, permitting them to abuse our legal system to cover their losses in the market.

In addition, a longer period of limitations would make it more difficult for innocent defendants to protect themselves in court. Forcing companies to keep track of every rise and fall of their stock value for 5 years and allowing strike suit attorneys to attack job creators well after the memory of a reasonable person would have faded would only lead to more frivolous litigation, more exorbitant settlements, and more pain for investors, workers and consumers.

Under current law, plaintiffs with meritorious claims have more than enough time to file their suits; unfortunately, so too do strike suit attorneys. Even with the enactment of this bill, some meritless claims will survive. If our intent is to reverse the current litigation explosion, why would we want to invite more frivolous lawsuits by extending the statute of limitations?

In June, when this legislation was debated on the Senate floor, 52 of our colleagues wisely decided to retain the current statute of limitations. That was the right decision in June and it is the right decision today, and I am pleased that this conference report preserves current law.

Finally, I'd like to say something about how this legislation will benefit everyday Americans. Securities litigation reform is not a subject discussed every morning around the kitchen table, but its results will have a major and beneficial impact on most Americans.

It will protect the worker who worries about being laid off because his employer had to pay attorneys' fees instead of his salary.

It will help the consumer who has to pay higher prices for products today because of the hidden cost of frivolous litigation.

It will pay off for the legitimate investors and pensioners whose life savings are being jeopardized by strike suit attorneys.

And finally, it will benefit the thousands of honest, hard-working attorneys who have watched the public image of their profession being tarnished by a few greedy quick change artists.

It is for the sake of these Americans that we have put in long hours of hard work to craft this balanced and reasonable bill.

None of us are totally satisfied with this legislation. There are some supporters who feel that certain provisions in the conference report go too far.

There are others like me who would like to see this legislation go further. But I think we can all agree that this conference report does what it's supposed to do: protect legitimate investors, save jobs, and preserve the right of actions for true victims of securities fraud.

When I think of this bill, I am reminded of a quote by one of the strike suit attorneys who testified on this subject before the Senate Banking Committee. In a moment of honesty, this prominent and wealthy securities action lawsuit attorney said: ''I have the best practice of law in the world. I have no clients.''

In my opinion, these words best illustrate the problem that this legislation is designed to address.

I commend the managers of the conference, Senator D'AMATO and Congressman BLILEY, for crafting this report, as well as our colleagues, Senators DOMENICI and DODD for pushing this issue for so many years.

As a conferee, I am proud to have played a role in this legislation and urge my colleagues to adopt the conference report.

Mr. BRYAN. Mr. President, I ask unanimous consent I be allowed to use a portion of the time of the senior Senator from Minnesota as he will not be on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, if I may, there has been some discussion as to the position of the Securities and Exchange Commission on this piece of legislation. I have in my possession a letter dated November 22, signed by Arthur Levitt, the Chairman of the Securities and Exchange Commission, who has written to the Los Angeles Times, the editor, Mr. Coffey. I am just going to read a portion of his statement: ''I am concerned and disappointed with several major points in today's Los Angeles Times article entitled 'SEC Chief Shift on Investor Bill is Linked to Senate Pressure.' '' The Chairman goes on to say, ''The article is wrong in reporting that I now support the litigation reform bill.''

I think that needs to be said. The Chairman of the SEC has not and does not support the legislation in the current form.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, November 22, 1995.

SHELBY COFFEY III,
Editor, Los Angeles Times, Times Mirror Square, Los Angeles, CA.

DEAR MR. COFFEY: I am concerned and disappointed with several major points in today's Los Angeles Times article entitled ''SEC Chief Shift on Investor Bill Is Linked to Senate Pressure.''

The article is wrong in reporting that I now support the litigation reform bill.

The article is wrong in reporting that I've reversed my position.

The article is wrong in reporting that my position was influenced by political pressure.

In the sub-heading and again in the lead sentence of the article, I am represented to ''back'' and ''support'' the proposed legislation. This is simply not the case. This point was repeatedly stressed to the reporter.

Secondly, the position outlined in the SEC's letter in no way can be construed as a reversal of the SEC's position. The article fails to describe the significant changes that were made in the most recent draft of the legislation that precipitated our letter. To do so would have made it clear that our letter did not represent any ''reversal.''

Finally, my staff repeatedly and unequivocally expressed to Mr. Paltrow that it was simply not true to say that the SEC responded to political pressure in issuing our letter. The letter represents the Commission's position arrived at thoughtfully, independently and deliberately. To suggest anything less is an insult. To build an entire story about political influence around one quote from one Senate staff member opining about the motivations of the SEC is, at best, unfair; especially when you consider that the two SEC Commissioners who signed the letter—the only people in any position to accurately describe the circumstances surrounding it—unambiguously denied that they did so in response to political pressures.

I hope you will correct these misstatements.

Sincerely,

ARTHUR LEVITT, *Chairman.*

Mr. BRYAN. Mr. President, I realize it is very easy to demonize lawyers. Some of my colleague who have taken the opportunity this afternoon and this morning to do so would not be the first to do that. Dating back to the time of Shakespeare, ''The first thing we ought to do,'' Shakespeare said, ''is kill all the lawyers.''

I believe this is not a warm, cuddly group that is easy to love. Having once practiced law, I share some of that antipathy to lawyers, when lawyers get out of line, as they from time to time do.

As I indicated, I fully support the provisions that deal with the frivolous lawsuits, and my colleague from Minnesota itemized a number of those.

Let me try to turn this to a broader perspective: Over 150 editorials and columns that have appeared in newspapers across the United States, in every region, newspapers whose philosophies are conservative, liberal, middle of the road. Overwhelmingly, the informed judgment and opinion by these editorial writers is in strong opposition to the bill—not because they do not recognize, as I, and I think all of my colleagues do, that we need to make some changes with respect to the frivolous lawsuits, but because this bill goes far beyond that.

It is really a Trojan horse in which those who seek to minimize or immunize themselves from liability have entered into the courtyard under this frivolous lawsuit flag, when in point of fact they are trying to protect themselves from liability after their misconduct has been adjudicated.

Among those organizations that have expressed their opposition are the National League of Cities, the National Association of Counties, the Government Finance Officers Association, the U.S. Conference of Mayors, the Municipal Treasurers Association. I do not know what the political affiliation is of all of these people, but I daresay if you examine it you would find Republicans and Democrats alike that hold these offices, all essentially reaching the same conclusion, that they and their constituent interests, namely, the people who live in these various communities, are at risk in terms of being protected in the event that investor fraud causes them to lose money in any of the portfolios they hold in behalf of the public, as members of counties or cities, municipal officers, and others.

I suspect that this group is about as neutral and objective as any that you might find. I think it is instructive that virtually all have expressed their strong opposition. They are extremely concerned that they might be the next Orange County. It could happen in their State, in their county, in their city to their university investment portfolio, and they know that they would be irreparably damaged if we do not take corrective action to balance this piece of legislation.

In recent weeks, well over 1,000 State and local officials and opinion leaders have written the Congress and the President to express their strong opposition. Among those letters, Mr. President, is a letter signed by 99 California government officials, including the Mayors of San Francisco and San Jose and officials in 43 of the State's 58 counties; a letter signed by 34 county treasurers in Arkansas; a letter signed by 24 opinion leaders in Iowa, including the State's Attorney General Tom Miller; a letter signed by 51 public officials in Georgia; a letter signed by 51 Maine opinion leaders, including State Treasurer Sam Shapiro and 9 State legislators; a letter signed by 60 public officials in Massachusetts, including the Massachusetts Association of County Commissioners; a letter signed by 33 opinion leaders in Montana, including Attorney General Joseph Mazurek and State Auditor Mark O'Keefe; a letter signed by 39 officials in New Jersey, including the New Jersey Conference of Mayors and the New Jersey League of Municipalities; a letter signed by 27 Ohio public officials, including the mayor of Cincinnati and the Ohio County Treasurers Association; a letter signed by 27 Vermont opinion leaders.

My point is that this spans the continent, from east to west, from north to south. Whether one is liberal, conservative, or middle of the road, virtually all have concluded that this legislation overreaches and clearly places those persons in their communities and their States at risk as a consequence of this legislation.

Mr. President, I reserve whatever time I have remaining and note the presence on the floor of my distinguished friend and colleague, the Senator from Alabama, Senator SHELBY.

The PRESIDING OFFICER. The Senator from Alabama has 7 minutes.

Mr. SHELBY. Mr. President, I am disappointed to say that the conference report before us today is not a balanced bill. It was not a balanced bill when it left the Senate several months ago, and it has not improved by any measure in conference.

Plain and simple, Mr. President, it remains unbalanced against the defrauded investor.

I am disappointed, as I was when the Senate passed S. 240, because I believe that there are some worthy provisions in this bill that would go far in reducing frivolous suits without compromising the rights of victims of fraud.

These few, worthy provisions, however, are insufficient to overcome the unbalanced nature of this bill.

While I support efforts to reduce frivolous litigation, I simply cannot support the approach taken here today.

This past year I have actively sought alternatives that would seek a middle ground between weeding out meritless litigation and preserving legitimate claims.

I have actively sought alternatives that would seek a middle ground between eliminating economic incentives to pursue frivolous litigation and protecting the rights of the defrauded investor.

And, I have actively sought alternatives that would seek a middle ground between opportunistic strike suits and preserving the powerful check of private litigation on professional misconduct.

Earlier this year, I joined Senator BRYAN in introducing a securities litigation reform bill that, I believe, struck the proper balance between protecting investors and reducing meritless litigation.

Our bill contained some of the same worthy provisions also incorporated in this conference report, like the ban on referral fees and the payment of attorney fees from the SEC disgorgement fund, increasing fraud detection and enforcement and ensuring adequate disclosure of settlement terms.

In addition, however, our bill sought balance by including several provisions to protect the rights of the defrauded investor.

It restored aiding and abetting liability; extended the statute of limitations for private fraud actions to the earlier of 5 years after the violation or 2 years after discovery, and ensured that the victim of fraud was made whole in the case of an insolvent joint and several defendant.

When S. 240 came before the Senate I, again, sought to improve the balance of the bill by offering an amendment on proportionate liability.

My amendment would have ensured that the insolvency of the defendant does not prevent the innocent victim from obtaining a full recovery by making proportionate defendants liable for the remaining uncollectible amount of an insolvent joint and several defendant.

Again, this provision would have weighted in favor of the victim of the fraud over the perpetrator of the fraud—a balance which is still missing from the conference report before us today.

Mr. President, these provisions are crucial, in my view, to ensuring that rights of defrauded investors are not unfairly impaired in an effort to reduce litigation—meritorious or meritless.

Mr. President, the conference report fails to do what S. 240 failed to do—and I, therefore, cannot support it.

The conference report, put simply, fails to ensure adequate protection of the rights of the innocent victim of securities fraud, and, in fact, makes it harder for the small investor to gain access to the courts and obtain a full recovery for securities fraud.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, let me express my appreciation to the Senator from Alabama for his comments and for his balance. I believe he would agree with me that there are abuses that need to be corrected. None of us who oppose this legislation are arguing the status quo is what we favor. Indeed, he is a cosponsor with me of the legislation that would have dealt with a number of those things. The Senator will recall that incorporated in that we had provisions to eliminate bonus payments being paid to brokers. That is dead wrong. He and I agree on that.

The Senator would agree with me, I am sure, that payments that would be made as bonus payments to certain plaintiffs are wrong as well. The referral fees—we clearly agree that before a settlement should be effected, the lawyers on behalf of the plaintiffs need to make a full disclosure as to what the terms of the settlement are to be. And we fully agreed that, if there are frivolous lawsuits, the courts need to be very aggressive in imposing sanctions.

I note my friend wants to respond. I will not purport to speak for him.

Mr. SHELBY. If the Senator from Nevada will yield just for a few brief comments?

Mr. BRYAN. I will be happy to.

Mr. SHELBY. I believe in any piece of legislation we need balance. We need balance for the people who are the issuers of stock in the public domain. But, on the other hand, we need some safeguards for the investor. If you do not have balance in a situation, you are going to have trouble later.

I believe this bill is not a panacea. This bill is fraught with danger. I think it is a bad bill the way it is constructed today, but it could have been a good bill if we had stayed with the basics and if we were able to work out a bipartisan approach to a very serious thing, and that is excessive litigation.

No one, I believe, in his right mind could do anything but agree that a lot of litigation is out of control in America. But how do you balance that? I believe we have that responsibility and obligation, to make sure it is balanced, especially when you are dealing with people who probably are not going to be as sophisticated about the marketplace as people who come to the marketplace, but will invest their life savings and will invest everything they have. And what remedy will they have in the future as victims? I think this is what some of this is about.

Mr. BRYAN. Mr. President, I note the distinguished Senator from New Mexico is on the floor, and he previously had some time. I would be willing to offer him some time and ask unanimous consent that we split the remainder of the time.

Mr. DOMENICI. How much time does the Senator have?

Mr. BRYAN. I think we have about 5 minutes.

Mr. DOMENICI. I do not need that time. I will take 2 of the 5. It is very generous of the Senator to split it with me.

Mr. BRYAN. Three.

Mr. DOMENICI. I do not really need that much, but I will accept it.

Mr. President, I would have stopped the distinguished Senator from Nevada had I had a chance and asked a question. I did not do that because I just did not get in the right position with reference to his speech.

He mentioned a lot of organizations, institutions, and editorial writers who are opposed to this bill. I guess if I had a chance to ask those associations, institutions, and editorial writers a question, I would just ask one. Let us assume in addressing them that I am saying, ''Mr. Jones,''—that addresses all of them—''did you know that the investors' share of what is collected in a lawsuit of the type we are concerned about, out of every dollar collected, that 14 cents goes to the investor?'' That is that poor stockholder that everybody is talking about being sorry for. Fourteen cents goes to that person, and the balance, if my arithmetic is correct, 86 cents goes to the lawyers, court costs, deposition costs, and the other things.

That is why the program needs to be fixed. There is no doubt about it. This part of the American judicial system and litigation system is not working. It is not worth the consequences to the enterprises being affected that normal litigation brings to the marketplace of American capitalism. It is sort of part of the system that has gone eccentric, that lawyers have found a bird's nest on the ground, and this is the result—settlements all over the place, deep pocket lawsuits, and even with all of that available to the lawyers of this country, 14 cents goes to that little investor whom everybody is trying to protect.

I would like to close by saying I am very pleased that the oldest and largest investment group around that takes care of small stockholders, the National Association of Investors Corp., which has a letter to the President saying protect their stockholders, endorses this.

There is a long list here of investors who say to the President, ''We want

your support.'' There is a huge list from the American Business Conference to the public trading companies, maybe 30 of them.

I ask unanimous consent that all of these be printed in the RECORD in support of the cause that this bill contains.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF INVESTORS CORPORATION,
Royal Oak, MI, October 25, 1995.

The PRESIDENT,
The White House,
Washington, DC.

MR. PRESIDENT: I am writing as chairman of America's oldest and largest organization of small investors—the lifeblood of our nation's capital markets. NAIC is a prime mover behind the popular trend of investment clubs, where investors share information and expertise while reducing risks. The number of investment clubs affiliated with NAIC has grown to 17,000, representing more than 325,000 individual investors.

Mr. President, America's small investors urgently want reform of our broken system of securities litigation.

We pride ourselves in making our own investment decisions, based on information in the marketplace. But because of the current legal system, we have been getting less and less access to voluntary information from publicly traded companies. Companies balk at disclosing useful information for fear of frivolous class-action securities lawsuits. To make matters worse, meritless securities lawsuits unjustly take money from the pockets of small investors by driving down the value of growth companies in which we invest. In the past four years alone, class-action securities suits have milked more than $2.5 billion from American companies. Plaintiff's lawyers have pocketed approximately one-third—$825 million—of these funds that otherwise could have gone to more productive use.

We want to be able to recover our investments in cases where we have been defrauded. Just as important, we want protection from unscrupulous ''strike suit'' attorneys who file baseless suits that coerce companies into spending our investment capital on settlement and defense costs.

That is why NAIC members support securities litigation reform legislation that cracks down on frivolous securities lawsuits while strengthening effective protection against real fraud. The bill's strong new fraud prevention provision would require public auditors to identify and report illegal activities as soon as discovered. This reform bill stops the abusive practice of using ''professional plaintiffs'' who buy small amounts of stock in many companies simply to gain the right to sue. It gives real investors more power to direct securities lawsuits.

Mr. President, on behalf of small investors across the nation, I urge you to work with Congress to enact securities litigation reform into law this year.

Sincerely yours,

THOMAS E. O'HARA.

INVESTORS AND THOSE WHO PROTECT INVESTORS HAVE SPOKEN OUT IN FAVOR OF SECURITIES LITIGATION REFORM

National Association of Investors Corporation, the largest individual shareowners organization in the United States.

Managers of public and private pension funds, including: New York City Pension Funds, Connecticut Retirement and Trust Funds, Oregon Public Employees' Retirement System, State Universities Retirement System of Illinois, Teachers Retirement System of Texas, State of Wisconsin Investment Board, Washington State Investment Board, Eastman Kodak Retirement Plan.

State treasurers and state officials responsible for state securities laws and pension funds, including: Treasurer, Commonwealth of Massachusetts, Treasurer, State of Ohio, Treasurer, State of Illinois, Commissioner of Corporations, California, Treasurer, State of North Carolina, Treasurer, State of South Carolina, Treasurer, State of Delaware, Treasurer, State of Colorado.

Senior citizen investors spoke out in a recent poll in favor of legal reforms to curb lawsuit abuse.

SUPPORTERS OF SECURITIES LITIGATION REFORM

American Business Conference.—Members of the American Business Conference include 100 chief executive officers of high-growth companies with revenues over $25 million. ABC serves as the voice of the midsize, high-growth job creating sector of the economy.

American Electronics Association.—The American Electronics Association represents some 3,000 companies in 44 states that span the breadth of the electronics industry, from silicon to software, to all levels of computers and communication networks, and systems integration.

American Financial Services Association.—The American Financial Services Association is a national trade association for financial service firms and small business. Its 360 members include consumer and auto finance companies, credit card issuers, and diversified financial services firms.

American Institute of Certified Public Accountants.—The American Institute of Certified Public Accountants is the national professional organization of over 310,000 CPAs in public practice, industry, government, and academia.

Association for Investment Management and Research.—The Association for Management and Research is an international nonprofit membership organization of investment practitioners and educators with more than 40,000 members and candidates.

Association of Private Pension and Welfare Plans.—The Association of Private Pension and Welfare Plans membership represents the entire spectrum of the private pension and employee benefits community: Fortune 500 companies, banks, insurance companies, law, accounting, consulting, investment and actuarial firms. APPWP members either sponsor directly or administer employee benefit plans covering more than 100 million Americans.

Association of Publicly Traded Companies.—The Association of Publicly Traded Companies has an active membership of over 500 corporations consisting of a broad cross section of publicly traded companies, especially those traded on the NASDAQ national market.

BIOCOM/San Diego (Formerly the Biomedical Industry Council).—BIOCOM/San Diego is a business association representing over 60 biotechnology and medical device companies in San Diego, CA.

Biotechnology Industry Organization.—The Biotechnology Industry Organization represents more than 525 companies, academic institutions, state biotechnology centers and other organizations involved in the research and development of health care, agriculture and environmental biotechnology products.

Business Software Alliance.—The Business Software Alliance promotes the contained growth of the software industry through its international public policy, education and enforcement programs in more than 60 countries, including the U.S., throughout North America, Asia, Europe and Latin America. BSA represents leading publishers of software for personal computers.

Information Technology Association of America.—The Information Technology Association is a major trade association representing over 5,700 direct and affiliated member companies which provide worldwide computer software, consulting and information processing services.

National Association of Investors Corporation.—The National Association of Investors Corporation is the largest individual shareowners organizations in the United States. NAIC has a dues-paid membership of investment clubs and other groups totalling more than 273,000 individual investors.

National Association of Manufacturers.—The National Association of Manufacturers is the nation's oldest voluntary business association, comprised of more than 13,000 member companies and subsidiaries, large and small, located in every state. Its members range in size from the very large to the more than 9,000 small members that have fewer than 500 employees each. NAM member companies employ 85% of all workers in manufacturing and produce more than 80% of the nation's manufactured goods.

National Investor Relations Institute.—The National Investor Relations Institute, now in its 25th year, is a professional association of 2,300 corporate officers and investor relations consultants responsible for communication between corporate management, shareholders, security analysts and other financial publics.

National Venture Capital Association.—The National Venture Capital Association is made up of 200 professional venture capital organizations NVCA's affiliate, the American Entrepreneurs for Economic Growth, represents 6,600 CEOs who run emerging growth companies that employ over 760,000 people.

Public Securities Association.—The Public Securities Association is the international trade association of banks and brokerage firms which deal in municipal securities, mortgages and other asset-based securities, U.S. government and federal agency securities, and money market instruments.

Securities Industry Association.—The Securities Industry Association is the securities industry's trade association representing the business interests of more than 700 securities firms in North America which collectively account for about 90% of securities firm revenue in the U.S.

Semiconductor Industry Association.—The Semiconductor Industry Association represents the $43 billion U.S. semiconductor industry on public policy and industry affairs. The industry invests 11% of sales on R&D and 15% of sales on new plant and equipment—more than a quarter of its revenue reinvested in the future—and thus seeks to improve America's equity capital markets.

Software Publishers Association.—The Software Publishers Association is the principal trade association of the personal computer software industry, with a membership of over 1,000 companies, representing 90% of U.S. software publishers. SPA members range from all of the well-known industry leaders to hundreds of smaller companies; all of which develop and market business, consumer, and education software. SPA members sold more than $30 billion of software in 1992, accounting for more than half of total worldwide software sales.

MANAGERS OF PRIVATE OR PUBLIC PENSION FUNDS

Champion International Pension Plan.—Champion International Pension Plan controls over $1.8 billion in total assets.

Connecticut Retirement and Trust Fund.—The Connecticut Retirement and Trust Fund invests over $11 billion on behalf of over 140,000 employees and beneficiaries.

Eastman Kodak Retirement Plan.—Eastman Kodak Retirement Plan manages over $10.9 billion in total assets and is ranked as one of the largest 60 pension plans in the U.S.

Massachusetts Bay Transportation Association.—With over 12,000 participants, the Massachusetts Bay Transportation Association controls over $772 million in total assets.

New York City Pension Funds.—Over $49 billion have been invested in the fund to insure the retirement security of 227,000 retirees and 138,000 vested employees.

Oregon Public Employees' Retirement System.—Assets controlled by the fund total over $17.2 billion. The Oregon Public Employees' Retirement System is ranked among the largest 30 pension plans in the U.S.

State of Wisconsin Investment Board.—One of the 10 largest pension funds in the United States, the State of Wisconsin Investment Board manages over $33 billion contributed by the State's public employees.

State Universities Retirement System of Illinois.—The State Universities Retirement System is ranked as one of the country's 100 largest pension funds with total assets of $5.3 billion.

Teachers Retirement System of Texas.—The Teachers Retirement System of Texas controls over $36.5 billion in total assets on behalf of its 700,000 members.

Washington State Investment Board.—With assets totaling over $19.7 billion, the Washington State Investment Board is ranked in the largest 25 pension funds.

Mr. DOMENICI. I yield the floor.

I thank my friend for the time.

Mr. BRYAN. Mr. President, let me compliment my friend from New Mexico. I know he is sincere. He has been laboring in the vineyards for a good many years on this legislation. Let me say by way of rebuttal that, if this legislation was about how we could increase that 14 cents that the investors currently receive according to the information provided, I would like to work with him. In point of fact, the concern is that this legislation will, in many cases, reduce the recovery to zero and in no instance is there a provision in this bill that would enhance the recovery beyond the 14 cents even if recovery is possible.

Finally, let me say by way of winding it up, our friend, the distinguished chairman of the Select Committee on Aging, has certainly provided a number of insights in terms of who really gets hurt in this legislation. He points out cogently and definitively that the seniors in America are going to be among its principal victims.

Mr. President, I note that our time is up. If there is any remainder of time, I yield it.

Have the yeas and nays been asked for?

The PRESIDING OFFICER (Mr. SANTORUM). They have not.

Mr. BRYAN. 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.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 1058, the Private Securities Litigation Reform Act of 1995.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 589 Leg.]

YEAS—65

Abraham	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Grams	Mikulski
Bennett	Grassley	Moseley-Braun
Bingaman	Gregg	Murkowski
Brown	Harkin	Murray
Burns	Hatch	Nickles
Campbell	Hatfield	Pell
Chafee	Helms	Pressler
Coats	Hutchison	Reid
Cochran	Inhofe	Robb
Coverdell	Jeffords	Rockefeller
Craig	Johnston	Santorum
D'Amato	Kassebaum	Simpson
DeWine	Kempthorne	Smith
Dodd	Kennedy	Snowe
Dole	Kerry	Stevens
Domenici	Kohl	Thomas
Exon	Kyl	Thompson
Faircloth	Lieberman	Thurmond
Feinstein	Lott	Warner
Ford	Lugar	

NAYS—30

Akaka	Dorgan	Levin
Biden	Feingold	McCain
Boxer	Glenn	Moynihan
Breaux	Graham	Nunn
Bryan	Heflin	Pryor
Bumpers	Hollings	Sarbanes
Byrd	Inouye	Shelby
Cohen	Kerrey	Simon
Conrad	Lautenberg	Specter
Daschle	Leahy	Wellstone

"ANSWERED PRESENT"—1

Bond

NOT VOTING—3

Bradley	Gramm	Roth

So, the conference report was agreed to.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1833) to amend Title 18 U.S. Code to ban partial-birth abortions.

The Senate resumed consideration of the bill.

MORNING BUSINESS

Mr. SMITH. Mr. President, I ask unanimous consent that there be a period for morning business until 5:30.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object. I want to know what the intention is as far as going to the late-term abortion ban.

Mr. SMITH. The intention is to go to it at about 5:30.

Mrs. BOXER. How long does my colleague wish to continue the debate?

Mr. SMITH. I do not have any information on that at this time. I have no intention to delay the debate, I say to the Senator from California.

Mrs. BOXER. I know there are some people here who wish to speak, and they are here because it is their understanding that we were moving to it immediately. Is there any reason in delaying going to this bill?

Mr. SMITH. Only that Senator THOMAS asked me for time to give a tribute to Senator SIMPSON. That is the only reason.

Mrs. BOXER. Thank you. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized to speak as in morning business.

TRIBUTE TO ALAN SIMPSON

Mr. THOMAS. Mr. President, I appreciate the opportunity to come to the floor to talk about a friend, to talk about a man whom I respect as a friend, whom I respect as a public servant, a man—to quote a phrase he uses—"who is a friend to his friends," ALAN SIMPSON.

As you all know, AL SIMPSON indicated in Cody, WY, last Saturday that he would not seek another term in the U.S. Senate and would end his career at 18 years. ALAN SIMPSON is a special guy, a unique U.S. Senator. There are none other like him. He can be outspoken, very candid, very frank, and very kind.

This Cody boy is an outstanding Senator and my lifelong friend, a good and gracious man. I know that so many of you have known him well and also call him a friend. We are lucky in that way. Both he and Ann have given grace and style in their personal relationships as well as in their political life. All of us in Wyoming have been very proud of his representation in the Senate and his and Ann's representation as Wyomingites in the Nation's Capital.

I have had the privilege to serve as a part of a team with AL on the Wyoming delegation for 5 years, when I was in the House and he and Malcolm Wallop were here. This one very special year, ALAN SIMPSON and I have had the opportunity to serve together. There will be more accolades, tributes, and reactions, of course, to their decision. Many are surprised, certainly, and many are saddened by AL SIMPSON's decision not to run. I defend it because I know it was truly their decision and they are at peace with it and look forward to life beyond these Chambers, as we all know there is. I am sure that life will be centered in Cody, WY.

I know that AL could have done anything he chose to. People in Wyoming

adore him, respect him, and he could have won the race easily. I have a selfish reaction to this. I wanted him to run again. We in Wyoming have a unique relationship in this delegation—all Republicans, and we are all friends. I think it is especially unique that AL and I grew up in the same little town, Cody, WY—which was about 6,000—across the alley from one another. We played sports together, grew up together. I can tell a few scandalous stories, but AL has told most of them already.

Few men in Washington have the gift of skill and the gift of humor that AL SIMPSON has. He has always been that way. I can recall when I was just a kid, Milward Simpson was probably the most famous man in our little town. I can remember being so astonished that he could stand up and extemporaneously speak, and it would just flow.

So now we are here serving the Wyoming people in the Senate, and here ALAN SIMPSON is my political mentor, our senior Senator and, very selfishly, I wanted him to run again, to continue his excellent representation and clear leadership. Many of you will have your own testimony to AL SIMPSON during the coming year. But I can tell you from one who has known the SIMPSON family, I know Milward and Lorna Simpson would have been very proud of AL, both in the way he has served and will serve throughout 1996, but also as proud as only a father and a mother can be in the way he has come to and announced his decision. He announced it with courage, with class, and with a positive view for the future—the qualities that define AL and Ann Simpson.

He has 1 more year to go. No one should make a mistake or forget about that. He will do many things in that year. He will achieve much. So I will, at the end of that year, miss my good friend and mentor. All of us, I think, will miss his good western advice, little bits of western wisdom, such as ''don't squat with your spurs on'' and other little bits like that.

So I say to my friend, hats off to a true trail boss, good luck, and I hope you do as well as you have done in the past, my friend, AL SIMPSON.

TRIBUTE TO ALAN SIMPSON AND MARK HATFIELD

Mr. JOHNSTON. Mr. President, I would like to remark at what a diminished place this will be because of the loss of Senator SIMPSON and Senator HATFIELD, both of whom announced over the weekend that they would be leaving. There are no Senators in this body, any that I know of, who have served here who have been more distinguished than the Senator from Wyoming and the Senator from Oregon. I might say that there are none for whom I have higher personal esteem and affection than both of these Senators.

It was truly a historic weekend for both of them to announce that they were leaving the Senate. I must say, had I not myself announced that I was leaving, I would be much sadder than I am. Since I will be leaving, I will not miss them here. I despair, though, because of the vacuum that will be left in this Nation when these two very great public servants will be leaving the Senate.

I did not come for that specific purpose, Mr. President. I will later talk about my two friends. But I could not miss the opportunity when the junior Senator from Wyoming brought up the subject to say how much I share his sentiments and how great I think the loss is for the country.

THE FARM PROVISIONS OF THE RECONCILIATION BILL

Mr. JOHNSTON. Mr. President, we knew that when the farm provisions of the reconciliation bill were agreed to, they were bad for the State of Louisiana, but we had no idea how bad these provisions were for the State of Louisiana when they were passed.

The reason is, Mr. President, we had no opportunity to be involved in this, no input into the provisions of it, no ability to evaluate it, no ability to discuss it. It was in conference committee and the reconciliation bill. The chairman of the House Agriculture Committee met with the Speaker of the House and, boom, ipso facto, it was created out of the ashes in whole part without any input from anybody.

Mr. President, now we have evaluated this bill. I can tell my colleagues that the agricultural provisions of the reconciliation bill will simply destroy the cotton industry and the rice industry in the State of Louisiana.

Let me repeat that: The agricultural provisions of the reconciliation bill will destroy the rice industry and the cotton industry in the State of Louisiana.

Mr. President, these are two of our largest crops. They contribute over $2 billion to the State of Louisiana, 7,000 direct jobs and 27,000 indirect agriculture jobs, according to Louisiana State University and the Louisiana Cooperative Extension Service.

Mr. President, they have done an analysis of what the bill does for rice and cotton. They have taken a typical Louisiana rice tenant farm, which is 287 planted acres—and this takes up about 90 percent of our tenant farms in the State of Louisiana—and they have a whole series of calculations as to what the economic effect on that rice farmer will be.

Mr. President, I ask unanimous consent that the calculations which they have done in great detail both as to the comparison of net returns for cotton, net returns for rice under the conference committee, and rice gross returns under alternative farm program, that these figures be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF NET RETURNS FOR COTTON UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Cotton farm acreage:				(acres)			
Base acres	353	353	353	353	353	353	353
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base) [1]	300	300	300	300	300	300	300
Cotton yields:				(lbs/acre)			
Louisiana actual yield	740	740	740	740	740	740	740
Louisiana program yield	722	722	722	722	722	722	722
Current program parameters:				(cents/lb)			
Target price	72.90	72.90	72.90	72.90	72.90	72.90	72.90
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Estimated deficiency payment	13.22	13.22	13.22	13.22	13.22	13.22	13.22
Conference program parameters:				(acres)			
Estimated transition payment [2]	7.93	7.53	8.06	7.74	7.09	5.71	5.50
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Market price level analyzed:				(cents/lb)			
1990–94 Louisiana average price	59.68	59.68	59.68	59.68	59.68	59.68	59.68
Estimated Net Returns (tenant operator)							
Current program				(Total cotton returns ($) per farm)			
Total farm market returns [3]	149,720	149,720	149,720	149,720	149,720	149,720	149,720
Total farm deficiency payments	28,639	28,639	28,639	28,639	28,639	28,639	28,639
Total farm gross returns [4]	178,359	178,359	178,359	178,359	178,359	178,359	178,359
Land rent (25 percent)	44,590	44,590	44,590	44,590	44,590	44,590	44,590
Net returns above land rent	133,769	133,769	133,769	133,769	133,769	133,769	133,769
Variable costs ($332.73/acre)	99,836	102,831	105,916	109,093	112,366	115,737	119,209
Net returns above variable costs	33,933	30,938	27,854	24,676	21,403	18,032	14,560
Fixed costs ($72.09/acre)	21,631	21,847	22,065	22,286	22,509	22,734	22,961

COMPARISON OF NET RETURNS FOR COTTON UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Net returns above total costs	12,303	9,092	5,788	2,390	(1,106)	(4,702)	(8,401)
Conference program:							
Total farm market returns [3]	149,720	149,720	149,720	149,720	149,720	149,720	149,720
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns [4]	166,899	166,032	167,180	166,487	165,079	162,089	161,635
Land rent (25 percent)	41,725	41,508	41,795	41,622	41,270	40,522	40,409
Net returns above land rent	125,174	124,524	125,385	124,865	123,809	121,567	121,226
Variable costs ($332.73/acre)	99,836	102,831	105,916	109,093	112,366	115,737	119,209
Net returns above variable costs	25,338	21,693	19,470	15,772	11,443	5,830	2,017
Fixed costs ($72.09/acre)	21,631	21,847	22,065	22,286	22,509	22,734	22,961
Net returns above total costs	3,708	(153)	(2,596)	(6,514)	(11,065)	(16,904)	(20,944)

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Includes sales of cottonseed valued at $0.05 per lb.
[4] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

COMPARISON OF NET RETURNS FOR RICE UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Rice farm acreage:				(acres)			
Base acres	338	338	338	338	338	338	338
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base) [1]	287	287	287	287	287	287	287
Rice yields:				(cwt/acre)			
Louisiana actual yield	48.00	48.00	48.00	48.00	48.00	48.00	48.00
Louisiana program yield	41.31	41.31	41.31	41.31	41.31	41.31	41.31
Current program parameters:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Estimated deficiency payment	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Conference program parameters:				($/cwt)			
Estimated transition payment [2]	1.52	2.66	2.86	2.77	2.53	2.04	1.98
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Market price level analyzed:				($/cwt)			
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Estimated Net Returns (tenant operator)							
Current program:				(Total rice returns ($) per farm)			
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm deficiency payments	45,337	45,337	45,337	45,337	45,337	45,337	45,337
Total farm gross returns [3]	140,353	140,353	140,353	140,353	140,353	140,353	140,353
Land and water rent (20 percent for each)	56,141	56,141	56,141	56,141	56,141	56,141	56,141
Net returns above land/water rent	84,212	84,212	84,212	84,212	84,212	84,212	84,212
Variable costs	67,605	69,633	71,722	73,873	76,090	78,372	80, 723
Net returns above variable costs	16,607	14,579	12,490	10,338	8,122	5,840	3,488
Fixed costs	13,543	13,679	13,816	13,954	14,093	14,234	14,377
Net returns above total costs	3,064	900	(1,325)	(3,615)	(5,971)	(8,395)	(10,888)
Conference program:							
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm transition payments	18,040	31,570	33,944	32,875	30,027	24,211	23,499
Total farm gross payments [3]	113,056	126,586	128,959	127,891	125,043	119,227	118,515
Land and water rent (20 percent for each)	45,222	50,634	51,584	51,156	50,017	47,691	47,406
Net returns above land/water rent	67,833	75,951	77,376	76,735	75,026	71,536	71,109
Variable costs	67,605	69,633	71,722	73,873	76,090	78,372	80,723
Net returns above variable costs	229	6,319	5,654	2,861	(1,064)	(6,836)	(9,614)
Fixed costs	13,543	13,679	13,816	13,954	14,093	14,234	14,377
Net returns above total costs	(13,314)	(7,360)	(8,162)	(11,092)	(15,157)	(21,070)	(23,991)

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

LOUISIANA RICE GROSS RETURNS UNDER ALTERNATIVE FARM BILL PROPOSALS, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Rice yields:				(cwt/acre)			
Louisiana actual yield	48.00	48.00	48.00	48.00	48.00	48.00	48.00
Louisiana program yield	41.31	41.31	41.31	41.31	41.31	41.31	41.31
Current program:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Deficiency payment	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm deficiency payments [1]	13,413	13,413	13,413	13,413	13,413	13,413	13,413
Total farm gross returns	41,252	41,252	41,252	41,252	41,252	41,252	41,252
Conference bill:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Transition payment	1.52	2.66	2.86	2.77	2.53	2.04	1.98
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm transition payments [1]	5,337	9,340	10,042	9,726	8,884	7,163	6,952
Percent change from current program [3]	−60	−30	−25	−27	−34	−47	−48
Total farm gross returns	33,448	37,451	38,154	37,838	36,995	35,274	35,064

LOUISIANA RICE GROSS RETURNS UNDER ALTERNATIVE FARM BILL PROPOSALS, 1996–2002—Continued

	1996	1997	1998	1999	2000	2001	2002
House bill:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	100	100	100	100	100	100	100
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Transition payment	4.10	3.98	4.26	4.13	3.80	3.12	3.04
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm deficiency payments [2]	16,937	16,441	17,598	17,061	15,698	12,889	12,558
Percent change from current program [3]	26	23	31	27	17	−4	−6
Total farm gross returns	45,048	44,553,	45,709	45,172	43,809	41,000	40,669
Senate bill:				(acres)			
Base acres	100	100	100	100	100	100	100
Percent of base paid	70	70	70	70	70	70	70
Acres planted (85 percent of base)	85	85	85	85	85	85	85
Price/payment rates:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Deficiency payment	3.82	3.82	3.82	3.48	3.23	2.89	2.66
Estimated gross returns:				(Total rice returns ($))			
Total farm market returns	28,111	28,111	28,111	28,111	28,111	28,111	28,111
Total farm deficiency payments [1]	11,046	11,046	11,046	10,063	9,340	8,357	7,692
change from current program [3]	−18	−18	−18	−25	−30	−38	−43
Total farm gross returns	39,157	39,157	39,157	38,174	37,451	36,468	35,803

[1] Marketing loan payments not included.
[2] No marketing loan program in House bill.
[3] Percent change in program payments from continuation of current program (excluding marketing loan).

COMPARISON OF GROSS RETURNS FOR COTTON UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Cotton farm acreage:				(acres)			
Base acres	353	353	353	353	353	353	353
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85 percent of base)[1]	300	300	300	300	300	300	300
Cotton yields:				(lbs/acre)			
Louisiana actual yield	740	740	740	740	740	740	740
Louisiana program yield	722	722	722	722	722	722	722
Current program parameters:				(cents/lb)			
Target price	72.90	72.90	72.90	72.90	72.90	72.90	72.90
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Conference program parameters:				(cents/lb)			
Estimated transition payment [2]	7.93	7.53	8.06	7.74	7.09	5.71	5.50
Loan rate	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Market price levels analyzed:				(cents/lb)			
10 percent above CBO baseline	70.40	67.10	66.00	64.90	66.00	66.00	66.00
CBO baseline	64.00	61.00	60.00	59.00	60.00	60.00	60.00
10 percent below CBO baseline	57.60	54.90	54.00	53.10	54.00	54.00	54.00
Estimated Gross Returns							
''Current program'':				(Total cotton returns ($) per farm)			
10 percent above CBO baseline prices:							
Total farm market returns	156,314	148,987	146,544	144,102	146,544	146,544	146,544
Total farm deficiency payments	5,416	12,565	14,948	17,331	14,948	14,948	14,948
Total farm gross returns [3]	161,730	161,552	161,492	161,433	161,492	161,492	161,492
CBO baseline prices:							
Total farm market returns	142,104	135,443	133,222	131,002	133,222	133,222	133,222
Total farm deficiency payments	19,281	25,780	27,946	30,112	27,946	27,946	27,946
Total farm gross returns [3]	161,384	161,222	161,168	161,114	161,168	161,168	161,168
10 percent below CBO baseline prices:							
Total farm market returns	127,893	121,898	119,900	117,902	119,900	119,900	119,900
Total farm deficiency payments	33,145	38,994	40,944	42,894	40,944	40,944	40,944
Total farm gross returns [3]	161,039	160,893	160,844	160,796	160,844	160,844	160,844
''Conference program'':							
10 percent above CBO baseline prices:							
Total farm market returns	156,314	148,987	146,544	144,102	146,544	146,544	146,544
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns [3]	173,493	165,300	164,005	160,870	161,904	158,914	158,459
Percent change from current program	7.3	2.3	1.6	−0.3	0.3	−1.6	−1.9
CBO baseline prices:							
Total farm market returns	142,104	135,443	133,222	131,002	133,222	133,222	133,222
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns [3]	159,283	151,755	150,683	147,769	148,582	145,592	145,137
Percent change from current program	−1.3	−5.9	−6.5	−8.3	−7.8	−9.7	−9.9
10 percent below CBO baseline prices:							
Total farm market returns	127,893	121,898	119,900	117,902	119,900	119,900	119,900
Total farm transition payments	17,179	16,313	17,461	16,768	15,359	12,370	11,915
Total farm gross returns [3]	145,073	138,211	137,361	134,669	135,259	132,270	131,815
Percent change from current program	−9.9	−14.1	−14.6	−16.2	−15.9	−17.8	−18.0

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

COMPARISON OF GROSS RETURNS FOR RICE UNDER CONFERENCE COMMITTEE FARM PROPOSAL AND EXTENSION OF CURRENT FARM BILL, LOUISIANA, 1996–2002

	1996	1997	1998	1999	2000	2001	2002
Analysis Parameters							
Rice farm acreage:				(acres)			
Base acres	338	338	338	338	338	338	338
Percent of base paid	85	85	85	85	85	85	85
Acres planted (85% of base)[1]	287	287	287	287	287	287	287
Rice yields:				(cwt/acre)			
Louisiana actual yield	48.00	48.00	48.00	48.00	48.00	48.00	48.00
Louisiana program yield	41.31	41.31	41.31	41.31	41.31	41.31	41.31
Current program parameters:				($/cwt)			
Target price	10.71	10.71	10.71	10.71	10.71	10.71	10.71
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Estimated deficiency payment	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Conference program parameters:				($/cwt)			
Estimated transition payment[2]	1.52	2.66	2.86	2.77	2.53	2.04	1.98
Loan rate	6.50	6.50	6.50	6.50	6.50	6.50	6.50
Market price level analyzed:				($/cwt)			
1990–94 Louisiana average price	6.89	6.89	6.89	6.89	6.89	6.89	6.89
Estimated Gross Returns							
Current program:				(Total rice returns ($) per farm)			
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm deficiency payments	45,337	45,337	45,337	45,337	45,337	45,337	45,337
Total farm gross returns[3]	140,353	140,353	140,353	140,353	140,353	140,353	140,353
Conference program:							
Total farm market returns	95,016	95,016	95,016	95,016	95,016	95,016	95,016
Total farm transition payments	18,040	31,570	33,944	32,875	30,027	24,211	23,499
Total farm gross returns[3]	113,056	126,586	128,959	127,891	125,043	119,227	118,515
Percent change from current program:							
Percent change in market returns	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Percent change in program payments	−60.2	−30.4	−25.1	−27.5	−33.8	−46.6	−48.2
Percent change in gross returns[3]	−19.4	−9.8	−8.1	−8.9	−10.9	−15.1	−15.6

[1] Estimated planted acreage level at maximum deficiency payment rate under $50,000 payment limitation.
[2] Preliminary payment rates under Agricultural Market Transition Program, November 1995.
[3] Marketing loan payments are excluded from the analysis since the provisions for a marketing loan are the same under both programs.

Mr. JOHNSTON. Mr. President, when you boil the figures down, what it shows is that the average rice farmer in 1996 has a net income of minus $13,314. The average rice farmer in Louisiana for 1996 loses $13,314. In 1997, it is $7,360.

You say, why would he lose twice as much in 1996 as he would lose in 1997? The reason is, under this bill, incredibly, they have to pay back the payment they received for the last quarter of calendar 1996. They have to pay that back, so that you actually lose $13,314.

It gets worse from there. In 1998, $8,162; in 1999, $11,092; in the year 2000, $15,157; in 2001, $21,070; and 2002, $23,991.

Mr. President, these are not rich farmers but the average rice farmer in Louisiana who has planted 287 acres. Mr. President, this is not some Democratic Policy Committee who has come out with these figures; it is the Louisiana State University Agriculture Department.

Mr. President, this is actually not going to happen. The reason is that they are not going to plant the rice. With these kind of economic figures shown to the bankers, no banker is going to lend any money to plant this crop. So you will not have these losses. You will not have a rice industry in the State of Louisiana because it shows a negative cash flow for each of these years through the year 2002.

Again, Mr. President, this is the Louisiana State University who has come up with these figures.

Mr. President, it is only slightly less bad for cotton. Under cotton—and all of the figures under which we calculated each one of these figures has now been put into the RECORD—for the average cotton farmer, that is 300 planted acres, he makes $3,708 in 1996, begins to lose the next year, and by the year 2002 he is losing a net of $20,944.

This, again, Mr. President, is the average cotton farmer in the State of Louisiana.

You say, how in the world could they have done such folly in this bill? Mr. President, they did it without hearings, they did it without consultation, they did it without input. The Speaker got together with the head of the Agriculture Committee in the House and, bam, here it came. Here is the result.

Mr. President, this is an emergency. I think sooner or later this is going to be straightened out, because, as George Bush said about the invasion of Kuwait, this cannot stand. It just cannot be, Mr. President.

This Congress has done some dumb things, Mr. President, but we have never that I know of intentionally wiped out an industry—the cotton industry, the rice industry—in a State. If this is happening in the State of Louisiana, it is going to happen elsewhere across the country. We cannot intentionally do this.

Mr. President, it is an emergency that needs to be corrected now because if we wait, we are going to miss this crop year. Typically, Mr. President, the preparations for the crop year begin in December. The farmers decide what kind of money they are going to need to borrow, what kind of crops they want to plant, how much it is going to cost, et cetera, and they begin those negotiations with the bank, typically, in December. Certainly by the middle of January, they must have their bank arrangements pretty well in line because they have to plant that crop in the spring.

They have to not only order the seed, insecticide, pesticide, and the other things they will need for that crop, but their suppliers need to know sufficiently in advance how much they will need to order, how much seed to have on hand, how much insecticide.

Mr. President, you cannot pass a rule one week and expect the crop to be planted the next week.

Mr. President, you might ask, without support, if the Louisiana rice industry cannot survive, why is it that we plant rice in the United States? Why not just let the whole thing move overseas?

The reason is, Mr. President, that the subsidy, the support which we have for agriculture in the United States for rice, is a fraction of what it is in the European market, Japan, and our other foreign competitors. The fact of the matter is the EU, the European Union, subsidizes their farmers three to five times more than they do in the United States. They place high tariffs on some U.S. agricultural products which create artificially high prices.

I am informed, Mr. President—and I will get the exact figure and supply them for the RECORD later—I am informed that rice can fetch as high a price as $27 per 100-weight in Europe, compared to $6 in the United States.

Mr. President, if we intentionally wipe out the rice industry and the cotton industry in the State of Louisiana and elsewhere in our country, then we will be subject to the manipulation of foreign suppliers who will dominate and monopolize the whole market.

Mr. President, I do not believe there is time to legislate this year. Regulations must be put out under any new legislation that comes out, and regulations are going to take many weeks in order to determine how to interpret whatever law finally comes out. I believe it will be too late for the planting season even assuming that there is a

veto of the reconciliation bill, which surely there should be if these are representative of the kind of provisions that are in that bill. If the Congress passes a new bill, I do not believe there is going to be time to get the regs out to borrow the money, to make the preparations in order to get the crop out this year.

So, Mr. President, what I am saying is the Congress needs to act as in an emergency and to extend the present law. We need to extend that present law so we can get the crop in the ground this year. If we do not do that, and if we have the reconciliation bill as passed, then we are going to wipe out the cotton and rice industry in the State of Louisiana and elsewhere in this country.

CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, on the rollcall vote on the conference report accompanying H.R. 1058, I was recorded as voting in the affirmative. I ask unanimous consent to change my vote, which was recorded as ''yes'', to ''no.'' It will not change the outcome of the vote.

I ask unanimous consent I be recorded as a ''no'' vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The foregoing tally has been changed to reflect the above order.]

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1833

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. 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. BOXER. 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. BOXER. Mr. President, I ask unanimous consent the Senator from California, Senator FEINSTEIN, be allowed to speak until such time as the majority leader comes to the floor and has a chance to discuss with the manager of the bill how we are going to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, as everyone knows, about a week ago the Judiciary Committee held hearings on this so-called partial-birth abortion legislation. I wanted to speak today on what I learned from the hearings and my reasons for opposing this bill. Let me summarize those reasons up front, and then go into each one specifically.

First, I believe that this bill attempts to ban a specific medical procedure which is called, in this bill, a ''partial-birth abortion,'' but there is no medical definition for what a ''partial-birth abortion'' is.

Second, the language in the bill is so vague that I believe it will affect more than any one single medical procedure.

Third, the bill presumes guilt on the part of the doctor, so that every physician may have to prove that in fact he did not perform this procedure, or justify his reasons for so doing if he did.

This bill could be an unnecessary, I think an unconscionable complication to families who face many tragic circumstances involving severely deformed fetuses. I also believe it is an unnecessary Federal regulation, since 41 States have already outlawed postviability abortions, except to save a woman's life or health.

Finally, I hope to make a case that this bill is very carefully crafted to provide a direct challenge to Roe versus Wade.

First and foremost, this legislation claims to outlaw a medical procedure called a partial-birth abortion. As I said, this medical term does not, in fact, exist. It does not appear in medical textbooks. It does not appear in medical records. The medical doctors who testified before the Senate Judiciary Committee 2 weeks ago could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to.

I would like to read some of the responses to my question in the committee, when I asked these doctors what a partial birth abortion is.

Dr. Pamela Smith, director of ob/gyn medical education at Mt. Sinai Hospital in Chicago, said it was ''* * * a perversion of a breech extraction.''

Dr. Nancy Romer, a practicing ob/gyn and assistant professor at Wright State University School of Medicine, said it is ''a dilation and extraction, distinguished from dismemberment-type D&Es.''

Dr. Norig Ellison, President of the American Society of Anesthesiologists, who was at the hearing to represent anesthesiologists who supposedly participate in these procedures, said, ''I pass on that one. I am as confused as you are.''

And, Dr. Mary Campbell, medical director of planned parenthood of Washington, defined it as ''* * * a procedure in which any part of the fetus emerges from the cervix before the fetus has been documented to be dead.''

Others have said it is an ''intact dilation and evacuation,'' or a ''total breech extraction.''

I asked Dr. David Grimes of the University of California at San Francisco this same question, and he put it in writing.

First, the term being used by abortion opponents, ''partial-birth abortion,'' is not a medical term. It is not found in any medical dictionary or gynecology text. It was coined to inflame, rather than to illuminate. It lacks a definition.

As I understand the term, opponents of abortion are using this phrase to describe one variant of the dilation and evacuation procedure, known as a D&E, which is the dominant method of second trimester abortion in the United States.

Second trimester abortion.

If one does not use the D&E, the alternative methods of abortion after 12 weeks gestation are total birth abortion—labor induction is more costly and painful—or hysterotomy, which is the 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 decisionmaking with the patient.

Then I asked one of the professors who testified at the hearing about this. I will get to what he said in a moment. But for just 1 minute let me read the exact language of the bill. We have heard testimony from the authors that this refers to a breech extraction by stopping the head from leaving the birth canal and injecting scissors into the base of the skull and draining fluid. But the definition of the bill is entirely different. The bill says, ''The term 'partial-birth abortion' means an abortion in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery.'' There is no reference to scissors in the bill. There is no reference to drawing fluid from the brain in this bill. In fact, many people believe that the purpose of this bill is really to get at second trimester abortions.

I believe that the language in this bill, Mr. President, is vague for very deliberate reasons, because by making it vague every doctor that performs even a second trimester abortion could face the possibility of prosecution in that he or she could be hauled before a court and have to defend their abortion. So this bill in effect could affect all abortions.

I asked the legal and medical experts who testified at the Judiciary Committee hearing last week if this legislation could affect abortion—not just late-term abortions but earlier abortions of nonviable fetuses as well. Dr. Louis Seidman, professor of law from Georgetown, gave the following answer, and I quote:

> . . . as I read the language, in a second trimester pre-viability abortion where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for 2 years.

That is a law professor's reading of the bill. He then continued his testimony, and I quote:

> If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

Dr. Richardson, associate professor of gynecology and obstetrics at Johns Hopkins, in testimony before a House Committee said, ''[the language] . . . is vague, not medically oriented, and just not correct. In any normal second trimester abortion procedure by any method, you may have a point at which a part, a one-inch piece of [umbilical] cord, for example, of the fetus passes out of the cervical [opening] before fetal demise has occurred.

So contrary to proponents' claims, this bill could affect far more than just the few abortions performed in the third trimester and far more than just one procedure being described.

Another part of this bill which is very troubling to me is that an affirmative defense automatically presumes guilt. The legislation provides what is known as the ''affirmative defense,'' whereby an accused physician could escape liability only by proving that he or she ''reasonably believed'' that the so-called banned procedure—whatever that procedure is proved to be—was necessary to save the woman's life and that no other procedure would have sufficed. I think it also opens the door to the prosecution of any doctor who performs a second or third trimester abortion for any purpose whatsoever.

As has been said, there is no health exception in this bill at this point. With that, it offers a direct challenge to both Roe versus Wade and Planned Parenthood versus Casey, both of which provide a health exception.

So, if this legislation were law, a pregnant woman seriously ill with diabetes, cardiovascular problems, cancer, stroke, or any other health-threatening illness would be forced to carry the pregnancy to term or run the risk that her physician could be challenged and have to prove in court, A, what procedure he actually used, and B, whether or not the abortion partially, vaginally delivered a living fetus before the death of that fetus.

One of the things that also came forward very clearly in this and is important to point out is that any third trimester abortion is virtually always used in the case of severe fetal abnormality, and the fact is that not always is this fetal abnormality able to be detected early in the pregnancy. Many women undergo sonograms and other routine medical procedures in the early weeks of pregnancy to monitor fetal development. If a woman is over 35 years of age, she may also undergo amniocentesis. These tests are not routine in women under 35. Ultrasound could also provide early detection of fetal anomalies. But these tests also add considerable expense and are not routinely used until late in pregnancy.

As a result, some women carry fetuses with severe birth defects late into pregnancy without knowing it. For example, fetal deformities that are not easy to spot early on in the pregnancy include: cases where the brain forms outside the skull, or the stomach and intestines form outside the body, or do not form at all; or fetuses with no eyes, ears, mouths, legs, or kidneys—sometimes tragically unrecognizable as human at all.

But even with advanced technology, many serious birth defects can only be identified later, often in the third trimester when the fetus reaches a certain size. Among those is hydrocephaly. Another abnormality is polyhydramnios—too much amniotic fluid.

So families that face these unexpected tragedies are often only diagnosed late in their pregnancy. In fact, both Senator SMITH, I believe, and Senator HATCH said none of the women who came before the committee and talked about their third trimester abortion—all of which were the product of major fetal deformities—would be affected by that legislation, but every one of them testified after reading the bill and believing that they would have been affected by this legislation.

I think that only points out the vagueness and the flaws in the drafting of this legislation. In fact, no one knows who would really be affected by this legislation.

The next point I would like to make is that Roe already allows States to ban late-term abortions. It clearly allows States to ban all post-viability abortions unless necessary to protect a woman's life or health. And 41 States have already done that. So all I can believe is that the purpose of this bill is to invade a guarantee provided by Roe versus Wade, and that is to protect the health of the mother or the life of the mother.

As a matter of fact, my colleagues have made much of a statement made by an obstetrician/gynecologist, Dr. Martin Haskell, of Dayton, OH, who indicated that 80 percent of the late-term abortions he performed were so-called elective. I would like to point out that just this year Ohio became the 41st State to ban all post-viability abortions. So, clearly that State has taken care of whatever it was that Dr. Haskell was doing by banning all third-trimester abortions. As I said, 40 other States have done this. So this legislation is effectively unnecessary.

The whole focus of this Congress has been to remove the Federal Government where it is within the rights of the State to legislate. Yet this is the first time I can remember in this Congress, when the State has a clear right and ability to legislate and, in fact, has done so in 41 States, that the Federal Government is now saying, no, that is not enough. We want to legislate federally.

Let me touch for a moment on the commerce clause. I believe, and others do as well, that this legislation is meaningless under the commerce clause because it would only apply to patients or doctors who cross State lines in order to perform an abortion under these specific circumstances, whatever they may eventually be adjudicated to be. So what is the point?

The point is, that this legislation, I believe, has little or nothing to do with stopping the use of some horrific and unnecessary medical procedure performed by evil or inhumane doctors. If that were simply the case, we would all be opposed. I believe this legislation's major purpose is the camel's nose under the tent to get at second-trimester abortions and to put a fear over all legitimate physicians, obstetricians who do perform an abortion when an abortion is necessary—a fear that they could be hauled into court and have to defend themselves and prove that they did not perform whatever a partial-birth abortion is eventually adjudicated to be.

So the legislation is vague, it is flawed, and it presumes guilt on the part of the doctor. It ignores the vital health interest of women. I believe these are strong reasons to vote against this bill.

I thank the Chair. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 1833.

AMENDMENT NO. 3080

(Purpose: To provide a life-of-the-mother exception)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3080.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, at the end of line 9, insert the following:

''This paragraph does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose.''

AMENDMENT NO. 3081 TO AMENDMENT NO. 3080

Mr. DOLE. I send a second-degree amendment to the Smith amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3081 to amendment No. 3080.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the word ''This'' and insert in lieu thereof

the following: ''paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose.

This paragraph shall become effective one day after enactment.''

Mr. DOLE. Mr. President, we now return to important legislation to ban a reprehensible procedure that has no place in a civilized society. The ban on the so-called partial-birth abortions passed the House by a vote of 288 to 139 on November 1. The Senate called for a hearing on the legislation before the Committee on the Judiciary which was held on November 17.

The testimony before the Judiciary Committee reinforced what we already knew—this is a straightforward and narrowly crafted bill that bears no similarity to the caricature offered by those who oppose the bill.

Thus, for example, the hearing highlighted what medical authorities have already made clear—there is no situation where the life of a mother is at risk that calls for a partial-birth abortion. After all, this is a procedure that takes place over several days. In short, arguments about protecting the life of the mother are merely an attempt to scare people and avoid defending the indefensible.

Nonetheless, since there is no situation where the life of the mother calls for a partial-birth abortion, there is no reason not to make clear with explicit language that this legislation would not apply in any situation where the life of the mother is endangered. I therefore support the Senator from New Hampshire, Senator SMITH, in taking this issue off the table.

Mr. President, this is a bill that deserves overwhelming bipartisan support. This is our opportunity to show the American people that we can rise above the argument that says that compassion must give way to a rigid ideology that refuses to recognize any constraints of decency.

I therefore urge my colleagues to support Senator SMITH's amendment and to support the bill on final passage.

I now understand the Senator from Arkansas is going to set these amendments aside and offer a different amendment.

Mr. PRYOR. Mr. President, with that understanding, I ask unanimous consent that the amendment offered by the distinguished Senator from New Hampshire, second-degreed by the majority leader from Kansas, be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. Reserving the right to object. Just to clarify, that is amendment No. 3080 and amendment No. 3081 to amendment No. 3080, is that correct?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. SMITH. No objection.

Mr. PRYOR. Mr. President, I thank the Senator from New Hampshire.

AMENDMENT NO. 3082

(Purpose: To clarify certain provisions of law with respect to the approval and marketing of certain prescription drugs)

Mr. PRYOR. Mr. President, I have an amendment that I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. CHAFEE, and Mr. BROWN, proposes an amendment numbered 3082.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . APPROVAL AND MARKETING OF PRESCRIPTION DRUGS.

(a) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), or (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, or in an application submitted on or after that date in which the applicant certifies that substantial investment was made prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(b) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made, prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983).

(c) EQUITABLE REMUNERATION.—For acts described in subsection (b), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (a); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (a).

(c) APPLICABILITY.—The provisions of this section shall govern—

(1) the approval or the effective date of approval of applications under section 505(b)(2), 505(j), 507, or 512(n), or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2) and (j), 357, and 360b(n)) submitted on or after the date of enactment of this Act; and

(2) the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

AMENDMENT NO. 3083 TO AMENDMENT NO. 3082

(Purpose: To clarify the application of certain provisions with respect to abortions where necessary to preserve the life or health of the woman)

Mrs. BOXER. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 3083 to amendment No. 3082.

At the end of the amendment, add the following new sentence: ''The prohibition in section 1531 (a) of Title 18, United States Code, shall not apply to any abortion performed prior to the viability of the fetus, or after viability where, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.''.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. First, I would like to just take a very, very few moments of the Senate's time this evening to explain basically what my amendment does. I know there will be no vote on this amendment this evening, Mr. President. I realize that. I know that to accommodate some schedules tomorrow, it is likely that we will come back to this legislation late in the afternoon.

But having said that, Mr. President, I would like to state that this amendment relates to the issue of GATT and prescription drugs. I have spoken on this issue on several occasions on the floor of the Senate. And I would like, if I might, to just take a very few moments to explain basically what we have done and what I plan to speak about tomorrow.

When Congress voted on the GATT treaty, Mr. President, we did two things. First, we extended all patents from 17 to 20 years in duration. Second, we said in the GATT treaty that a generic drug company could market their product on a 17-year expiration date if they had already made a substantial investment and were willing to pay a royalty to the particular drug company that they were going in competition with.

We all considered and all agreed that this was a fair balance of interests. The treaty, Mr. President, applies in our country to every person, to every product, to every company and every industry in our country. We thought it was fair. We thought it was universal. But we were wrong. We simply made a mistake.

We accidentally left the prescription drug industry out of the picture. Today there are certain prescription drug companies that get the patent extension, but the GATT loophole shields them from any generic competition. Why is this, Mr. President?

First, because we by our own mistake—and we should admit that mistake; and, by the way, we have the opportunity to correct that mistake—we failed to have the food, drug and cosmetic law of our country comply to the GATT treaty language.

Second, the Food and Drug Administration tried in vain to correct this mistake. The U.S. Patent Office tried in vain to correct this mistake, but to no avail because the law was written and we failed to conform the food, drug, and cosmetic law to the specific GATT treaty language.

The drug industry is the only industry which enjoys this special protection under GATT. The American consumers are going to be paying, therefore, much more for their drugs as a result, as much, as a matter of fact, $2 to $6 billion a year more.

If we take Zantac, for example, Mr. President, the world's best selling drug for uclers, we will have to pay a price twice as much as we would be paying for a generic competitor. As a matter of fact, Mr. President, tomorrow, on Wednesday, we will see the drug company that manufactures Zantac—we will see that particular company taking in profits that they did not expect of $2 to $6 billion a year, unless we correct this outrageous loophole.

There is no conceivable reason why we should allow this loophole to remain uncorrected. Mickey Kantor, our own U.S. Trade Representative, the Patent Office, and the FDA all agree that it should be fixed. Even the drug companies admit that it was all a mistake.

Mr. President, we think that our cause is correct, and on behalf of Senator CHAFEE of Rhode Island and Senator BROWN of Colorado, I submit this amendment this evening. We will be talking about this amendment and what it does tomorrow. But I urge my colleagues to remember: Congress made a mistake. It led to consumers being forced to subsidize an unjustified multibillion-dollar windfall to a few undeserving companies. And tomorrow, we will have our sole opportunity to do the right thing and correct this mistake.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from California.

Mrs. BOXER. Mr. President, yesterday I spoke, I thought, at great length about this bill. For the first time, it would criminalize a medical procedure that saves lives. The important part, I thought, of the Judiciary hearing was that we had testimony from physicians who said clearly it is sometimes extremely risky to use other procedures. Cesarean sections or induced labor could cause the woman to bleed to death, to have serious health consequences even if she pulled through, and sometimes those consequences impact on her ability to have children at a later date.

What I did last night, and what I intend to do throughout the course of this debate—I will not go on at length tonight—is to try and put the woman's face on this issue. We see many times my colleague from New Hampshire bring out the diagram, and it shows the lower part of a woman's body. It is almost as if a woman's body is a vessel. It does not show the woman's face. It does not show her anguish when she learns that her baby is in serious trouble and could even die if she went forward with birth. So it is my intention to put that face on.

The women who came forward at that hearing were magnificent in their courage. I received many other letters from other women who said, ''Please, Senator BOXER, don't let them talk about this as if it doesn't affect real, living moms and dads and families who desperately want these children but who come upon these horrible outcomes of pregnancies.''

We deal here with situations in life that we hope never happen to any of us or our loved ones or anyone at all. We do not wish these things on anyone: When a woman, who is so excited about this pending birth of a child, goes to the physician in the late stages of her pregnancy and suddenly is told the most horrible news that the baby's brain is growing outside the skull, that there are no eyes. My colleague, Senator FEINSTEIN, talked about that. These anomalies go along with a great threat to the woman's life if the fetus is carried to term.

My colleagues say nobody ever talks about baby. Yes, I want to talk about baby. This is a baby. This is a late-term abortion. This is an emergency medical procedure, and I hope that the Senate will not go down the slippery slope of outlawing a procedure.

Where do we stop? Senator SIMON said yesterday he has heard about some procedures that are used for brain tumors and he has questions about them. We are not a medical school here. As Senator KENNEDY said, we should not be Senators practicing medicine without a license. We should leave that to physicians. And physicians are split. The physicians that came before the Judiciary Committee, some said this is a necessary procedure, we need it to save the life of a mother, protect her health and her fertility. Others said it is not.

I say, let us be conservative. Even if several physicians—and their qualifications were never questioned by the committee—say it could mean a woman's life, let us not take away her option to have a safe conclusion to a very tragic event because of some political agenda. We have a lot of work to do around here. We have a lot of debate to do around here with the budget, where we are seeing looming ahead on December 15 another shutdown, another crisis, while we are taking up a bill to tell physicians what they cannot do.

It seems to me a very dangerous course for Government, particularly a Republican Congress that says we should not interfere in local decisions, we should not interfere with States. States already control these abortions in the late term.

I have to say, the amendment that my friend has offered, I think, is quite interesting, because all through this debate the Senator from California was saying there is no exception, there is no exception if there is really a problem. And now here we have it. Here we have it, an exception now for life of the mother.

I think that is progress. I think that is progress, because when we started, there was no exception. It was an affirmative defense. My friend kept saying, ''Oh, no, you don't need an exception, you don't need an exception.'' We went on television and debated this, and I said, ''You do not even have an exception here.''

He said, ''It is already in the bill.''

It was not in the bill. We knew it; that is why we slowed this train down, that is why we had hearings.

I have offered a second-degree amendment to the amendment of my friend, Senator PRYOR. He is trying to protect the consumers of this country, and I offered an amendment that essentially says that, yes, if we are going to outlaw this procedure—and by the way, I do not think we should get into that slippery slope—but if we are going to do that, it should apply only to the late-term abortion, which is what it is supposed to do, and it clears it up and says, in the medical judgment of the attending physician, the abortion is necessary for the life of the woman or to prevent serious adverse health consequences to the woman.

I feel these amendments are moving in the right direction, but the whole issue of telling doctors what to do, of interfering in an emergency medical procedure has no place in the U.S. Senate. To quote a woman whose testimony I read yesterday, Coreen Costello, she said so beautifully the last thing she wants to see happen when a family is in crisis like this is for the Government to be involved.

It is such a tragedy, and these women who have gone through this were so eloquent. No matter what your view on a woman's right to choose, if you will simply read the testimony—and I handed it out today to my colleagues for them to read her words—it seems to me outrageous that politicians would insert themselves into matters that impact a family, matters like this.

As we get back to this bill, and I understand we will be back to it tomorrow evening about 5, I am going to bring out those photos of those women who have shared their stories with the Senate and want to share it with the American people and let us get this issue out there.

Let us not outlaw a medical procedure that doctors have testified is necessary to save the life of a mother and, in fact, if it is outlawed, could lead to her family losing her. A lot of these women have other healthy children. Let us think about those babies as well.

So, Mr. President, I shall not go on much longer at all tonight because, again, it looks like we are delaying this debate, and that is fine with me, because, as far as I am concerned, we do not need this law. This is an intrusion into the hospital room. This is a criminalization of a procedure, and, as far as I am concerned, it has no place here at all. We are not doctors, and we are not God. We are U.S. Senators. We should leave medical decisions up to medical doctors, and we should leave these tragic matters to the families and let them face it with their God and with each other.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. SMITH. Mr. President, I ask unanimous consent that four members of my staff, Steven R. Valentine, Tom Hodson, Ed Corrigan, and Noah Silverman, be granted the privilege of the floor simultaneously during the consideration of H.R. 1333, the Partial-Birth Abortion Ban Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I rise today to urge my colleagues to pass the partial-birth abortion ban. I have looked at the testimony presented before the Judiciary Committee, I have gotten letters and phone calls, and I have come to the conclusion that this is not about being pro-life or pro-abortion. It is not even about a woman's choice. Laws have already established that they have that choice.

This is about a procedure—a procedure that I do not know how anyone can perform or even condone, once you know what it is. We are talking about the practice of late-term abortion, but a specific procedure in which the fetus is turned around so that it is delivered feet first. And before the head is delivered, while it is still in the birth canal, the physician makes a hole with scissors in the base of the skull and suctions out the brains. And the majority of the time, the baby is alive when this procedure is performed. The heart is beating, the limbs are functioning, they feel, they react, they may even have a good chance of living if they had been allowed to be fully born.

To me this just sounds repulsive, absolutely inhumane. And it makes me wonder, if they were doing this to dogs or horses, whether we would have more support to ban this procedure. My daughter, who is a third year medical student, assures me that I would probably find most surgeries pretty hard to stomach. But even she agrees that this procedure is intolerable.

And I find it interesting that the American Medical Association's Council on Legislation has unanimously supported this bill. The argument is made that these procedures are done to save the life of the mother. Yet, even some physicians who specialize in this procedure claim otherwise. Dr. Martin Haskell conceded that 80 percent of his late-term abortions were elective.

Dr. Pamela Smith, up at Mt. Sinai Hospital in Chicago, recently wrote that ''There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life of the mother.'' And that is what I would think. If you are going to put the mother through delivery of a 24- or 26-week-old or even a full-term fetus, and the fetus is almost completely delivered, except for the head, why not just finish the birth?

I will tell you why. Because once the head is out, it is a child, a human being by legal standards, with all the constitutional rights that come with being alive and then it cannot be killed. But by common sense, not just conservative sense, that fetus is not any less human just because the head is still in the birth canal. And I found it ironic that, if the head does slip out and a live baby is born, the physician calls this a complication.

I realize that, for parents who have been told their long-anticipated child will be deformed or has little chance of living, this is a horrendous decision. And some may decide to abort. This bill does not restrict late-term abortions—only this method of doing it.

I have read some of the personal experiences of families who have chosen this option, and in the cases where the fetus developed organs outside the body, the recurring sentiment is that that baby would never have survived outside the mother's womb. If that is the case, why then should the fetus be killed while the head is still in the uterus?

Some say this is the safest procedure for the mother. But even the doctor who wrote ''Abortion Practices,'' the Nation's most widely used textbook on abortion standards and procedures, disputes this. Dr. Hern states that he could not imagine a circumstance in which the partial-birth abortion procedure would be the safest. And after all, I think that is what we should be aiming for.

I am not doubting for an instant that carrying to term or delivering a baby that has little to no chance of survival would be difficult. And that's an understatement. You would need the mental fortitude of Jeannie French, whose testimony before the Senate Judiciary Committee was inspiring. She delivered by C-section twins, one of which she knew would not live. Against her doctor's recommendation to abort, she opted to go ahead with delivery and here little Mary's vital organs were used to save the lives of two children. Some may not think that is heroic, but I would bet you those two children are glad that Jeannie chose to deliver Mary.

Mr. President, our debate here today is not a debate on choice. It is not even a debate on abortion. Let no one convince you of that. The debate is whether or not this procedure, a procedure that most physicians do not approve of, and that most agree is not safe for the mother—certainly not safe for the fetus—should be legal. I believe it should be banned. For the health of the mothers and the health or our Nation, we should pass the partial-birth abortion ban bill.

Mr. SMITH. Mr. President, some of the debate and comments made on the floor on this issue never cease to amaze me. The distinguished Senator from California, Senator FEINSTEIN, a few moments ago on the floor of the Senate, made the statement that the doctors, in the medical testimony that she had seen or heard, said that partial-birth abortion procedures do not exist. If they do not exist, then why is there a problem in banning it? Maybe the Senator from California, Senator FEINSTEIN, could come back and explain that to me. If the procedure does not exist, as she says, then there ought not to be any problem banning something that does not exist.

Again, these things never cease to amaze me. Also, Senator BOXER of California, a few moments ago again referred to the case of Coreen Costello, who spoke very passionately—and it was a very compelling story—before the committee of her terrible tragedy of losing a child. And, again, Mr. President, let me repeat that Miss Costello's abortion was not a partial-birth abortion. So that is not what we are talking about here today.

We are talking about partial-birth abortions, when a child is allowed to come through the birth canal, with the exception of the head, and then is killed with the use of scissors and a catheter. That is what we are talking about—no other type of abortion.

I have made it very clear, and I think most of my colleagues know, that I oppose abortion. I believe abortion takes an innocent human life, no matter what stage of life it is in, whether the day after conception or the day of birth. But that is not the issue today. The issue here is partial-birth abortion.

Yesterday, we learned on the floor of the Senate, even though information was presented to the contrary, that when the witnesses came to testify before Senator HATCH's Judiciary Committee on this matter, there were no doctors called to testify, or no doctors who testified that had ever performed a partial-birth abortion, and there were no women who ever had one who testified. And we asked Dr. Haskell, who performed a thousand of them, partial-birth abortions, to come, and he refused. No women who had partial-birth abortions came. So it is interesting that Senator FEINSTEIN says that partial-birth abortion procedures do not exist when Dr. Haskell has performed 1,000 of them. Maybe somebody can explain that to me with some logic. But it beats me, Mr. President. You have a doctor who is an abortion doctor, who has performed 1,000 partial-birth abortions, and then the Senator from California comes to the floor and says it does not exist. I will leave that to my colleagues to decide what the facts are.

Mr. President, the amendment that I submitted a short time ago, which was

second-degreed by the majority leader, Senator DOLE, would make a very explicit exception to the ban on partial-birth abortions for cases in which the life of the mother is in danger. It is very specific. The language could not be clearer.

To be perfectly candid about it, Mr. President, I do not believe that this amendment is really necessary. In the first place, there was no medical evidence—no medical evidence—presented at the November 17 Judiciary Committee hearing that the partial-birth abortion procedure, that brutal procedure that has been described a number of times here on the floor, which is banned by this bill, is ever necessary to save the life of the mother. There was no testimony to that effect.

In the second place, Mr. President, the bill already includes an affirmative defense for cases in which the doctor reasonably believes the mother's life is in danger. For all intents and purposes, this affirmative defense provision, found in subsection (e) of the bill, is a life-of-the-mother exception.

But that did not satisfy a number of my colleagues because they expressed to me their discomfort with the affirmative defense approach and asked me to consider placing a more explicit, more clear, if you will, life-of-the-mother exception in the bill, because I support a life-of-the-mother exception. Even though we cannot find any testimony anywhere in the record that I know of—no one has produced it yet—that it is necessary to do it to save the life of the mother, I am still willing to put that exception there. That is what I have done with the amendment that I have offered.

I do not believe it is necessary because the affirmative defense provision provides for that exception, and the amendment now before the Senate would place an explicit life-of-the-mother exception into subsection (a) of the bill. I am more than happy to do that. I am more than happy to clarify for my colleagues. The issue is the life-of-the-mother exception here, even though there was no evidence presented at the hearing that a mother's life was threatened. No one testified to that effect. But I am willing to do that because I think it is fair, and colleagues of mine have expressed the concern that we clarify the language, and that is what I have done.

So the language of this life-of-the-mother exception amendment is clear, Mr. President. It states, ''The ban on partial-birth abortions shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is in danger by a physical disorder, illness, or injury, provided that no other procedure would suffice for that purpose.''

That is very clear and explicit. Even though Senator FEINSTEIN says there are no such procedures as partial-birth abortions, it is interesting that they also want an exception to a procedure that does not exist, and they ignore the testimony of a doctor who has performed 1,000 of them.

So the first part of the amendment is designed to make it very clear and certain that the exception only applies to cases where the mother's life is genuinely physically threatened by some physical disorder, illness, or injury.

Let me also state that, yesterday, when we discussed this process, this brutal procedure, we discussed the fact that this baby—this is a late-term baby, Mr. President, as you know, anywhere from the fifth month of gestation to the ninth—is prevented, physically restrained, from completely exiting the birth canal. The baby is turned in the uterus with forceps so that it comes out feet first, and the baby is then restrained and not allowed to be completely born, if you will, where it is then killed by using an incision with scissors and a catheter which sucks the brains from the child.

We heard very compelling testimony at the hearing. We recited it here on the floor. There was testimony of a nurse who had witnessed this and had become so upset by it that she left the clinic because, as she stated it, after looking into the ''angelic face'' of this child that was aborted in this fashion, it was more than she could bear. She was horrified. We have heard a lot about the life of the mother and the eyes of the mother. We looked into this young woman's eyes, too, this mother of two daughters, and she was horrified by what she saw, that this child, contrary to what has been stated again on the floor of the Senate over and over again, this child's life was terminated for one reason—one reason, Mr. President. This child had Down's syndrome, so somebody made a decision to take the life of this child who had Down's syndrome.

I remind my colleagues, not that they need reminding, there are a lot of very productive people in our society today who happen to have Down's syndrome. There is a television show involving people with Down's syndrome.

The point I made yesterday, I guess we really did not need the Americans with Disabilities Act if we are going to terminate all the people who are going to be born disabled. I guess we could have it for those people who might be injured during the course of their lifetime. If anybody is going to be born disabled or in any way not normal, if you will, we would not need to have any coverage for them because we could just elect to terminate the pregnancy.

I was accused—because I was horrified by that—I was accused of playing God. I do not know where that comes from. It would seem to me someone who chooses to terminate a pregnancy simply because a child has Down's syndrome, perhaps they may be playing God.

Again, the issue here is 80 percent of the cases—not 20, not 10, not 5, not 1, in 80 percent of the cases—this is an elective procedure for no other reason other than that particular woman decides to have that abortion because—for whatever. ''I do not want a child, I do not want a child with Down's syndrome,'' or whatever. Mr. President, 80 percent of the cases are elective, not some horrible threat to the life or the health of the mother at all.

The second part of this amendment is intended to ensure that in such dire emergencies, a partial-birth abortion could only be performed if it were the medical procedure, the only medical procedure available to save the life of the mother. I support that. I have no problem supporting it because I have no problem in understanding the fact that there is not any need, absolutely no medical need that anyone has ever testified to, that says that this is necessary to protect the life of the mother.

Let me say why. How would restraining a child from coming through the birth canal, that could come through the birth canal, enhance the life or the health of the mother? I do not understand that. I do not think any reasonable person could understand it. We have had testimony that in the case of the hydrocephalic children, where the head is enlarged with fluids, that that can be drained so that the head can be a normal size and can be allowed to come through the birth canal.

So we are talking about a brutal practice here, in 80 percent of the cases elective, and nothing to do with the life of the mother.

Be that as it may, I agree with my colleagues. I agree with the Senator from California that a life-of-the-mother exception should be there, even though I disagree with her that there is a threat to the life of the mother. At least I have not seen any evidence to that in terms of testimony, but even that does not mean it cannot happen in the future. I am willing, certainly willing to protect the life of the mother.

Mrs. BOXER. Would my friend yield about timeframe? I would be appreciative, if my friend would yield 5 minutes, I will finish my remarks for the evening and leave him the rest of the evening if we could agree not to take any other action or lay down any other amendments.

Mr. SMITH. I know of no other amendments on my side. I certainly will not be offering any, and I do not intend to go very long.

I am happy to yield to the Senator.

Mrs. BOXER. I know my friend and I have different things pulling on us.

Mr. SMITH. I am happy to yield to the Senator.

Mrs. BOXER. I just want to say that we are going to have a very interesting debate about the competing amendments that will come before the Senate on this issue. One is Senator SMITH's and Senator DOLE's amendment, which they call a life-of-the-mother exception. The other is the Boxer amendment, which makes a life-of-the-mother exception and a serious adverse health consequences exception to the woman.

I have to just say to my colleagues if they may be watching, and I will discuss this with them at great length, that the Smith-Dole amendment which is stated as if it is, in fact, an exception, I have now had an opportunity to read it. I want everyone to know that it is really not an exception for the life of the mother because what it says is, essentially, that this procedure will be banned, except it will not apply to partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.

I say to my friend, that is not a life-of-the-mother exception. That is a preexisting situation. So, yes, if a woman had diabetes or some other disease, there would be an exception, but if, in fact, the birth endangered her life there would be no exception.

So this so-called exception, life-of-the-mother exception that has been offered by my friend from New Hampshire with Senator DOLE, is not—let me repeat, is not—in any way a life-of-the-mother exception.

We have life-of-the-mother exceptions in many other bills that deal with Medicaid funding, and they never use this language. It just simply says ''except if the life of the mother is threatened.'' No such thing as ''if she is endangered by a physical disorder, illness, or injury.''

Let me repeat, most of the women would not fall in this category.

The first fight we had, or argument or debate, was over the issue of the life-of-the-mother exception in the bill as it was referred here to the Senate. My colleague from New Hampshire said there is a life-of-the-mother exception, and he insisted on it. We debated it over and over again. I said there was not; he said there was.

Now, today, he and the majority leader say, oh, you were right, there was not a life-of-the-mother exception. Here it is. And this one is not a life-of-the-mother exception; it is only an exception for a woman who comes to the birth with a preexisting condition or injury.

So we will make that debate clear, I hope tomorrow, or we can get more into this issue.

My goodness, let us not endanger a woman who has no preexisting condition such as diabetes. Let us not take away an option for her to have a safe outcome of a tragic situation.

I hope that Members will, in fact, vote for the Boxer amendment and not for the Smith-Dole. I yield the floor.

Mr. SMITH. Mr. President, I might just respond briefly. It is amazing what you can do with semantics. This language is as clear as it can possibly be. This paragraph is exactly the line—referring back to the paragraph in terms of the issue of whether or not you can have a partial-birth abortion—this paragraph does not apply to a partial-birth abortion.

Here is the language: ''That is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice.''

The focus of the remarks of Senator BOXER is physical disorder, a complication resulting from a pregnancy; if it is not a physical disorder, what is it? What is it? Of course it covers that. The Senator knows it. You cannot make it any clearer. We could play word games, but it is very, very clear.

Again, the argument is so unbelievable here because, A, they use the line that the partial-birth abortion procedure does not exist, yet they still say we should not have to ban it.

If it does not exist, what are they worried about the life-of-the-mother exception for? The truth of the matter is, of course, it exists. There are 1,000 that have been performed by Dr. Haskell alone. There are at least one or two that we know of, roughly, per day, that are still being performed in this country. Some people say that is not very many. Well, that is somewhere between 365 and 700 or 750. How many physicians who might cure cancer are in that group? How many future Presidents are in that group? Future Senators—perhaps from California or New Hampshire? Who knows, maybe even from Minnesota? Who knows who is in that group?

It is interesting. We have heard on the floor here that President Clinton will veto this horrible bill as soon as he gets to it, this bill to ban partial-birth abortions that execute innocent children, three-quarters of the way out of the womb, but we heard it proudly stated on the floor that the President is going to veto this bill.

I might say to the President of the United States—I know he is not listening tonight, probably—but, if he is, I would like to have the opportunity to have 15 minutes in the Oval Office to discuss this bill with him, because I do not believe, if he looked at the facts, that he would veto it because this process is so horrible that I think we have more important things to do in America than do that.

Let me just conclude on this point this evening, again, on the amendment. This amendment is designed to assure that no baby will be subjected to this brutal procedure unless this partial-birth abortion procedure is the only way to save the mother, in other words, in a true case of self-defense. Everyone has the right to self-defense.

In sum, I believe this is very carefully crafted language. It is fully adequate to provide the explicit life-of-the-mother exception to the bill's ban on partial-birth abortions. And those people who are now taking the words and fiddling with the words a little bit, trying to make things out of the words that are not there—do you know what the real issue is here, Mr. President? It is not that they object to this life-of-the-mother exception. No, it is not that. Their real problem is they do not want any exceptions. They do not want any exceptions. They want abortion on demand for whatever reason, mongoloid child, Down's syndrome child, a child with a cleft palate, a female child, a child with blue eyes, whatever.

I call on any one of my colleagues who is opposed to me on this issue to come down to the floor and say to me, ''I will not support an abortion, partial-birth or otherwise, because it was a female child.'' Come down to the floor and state that right now. I think you will find the silence is quite deafening, because it is abortion on demand. But, and this is the key, it is abortion on demand in the most horrible way that any abortion could ever be performed.

In spite of the fact that all of us have different opinions about when life begins—and everyone knows my position on that—that is not the issue here, my position on when life begins. That is not relevant today. What is relevant today in this discussion is whether or not we have the right, morally or otherwise, to kill an unborn child who is held in the hands of this doctor with the exception of the head. Three or four more inches and that doctor could place that tiny little head into his hand and cradle it. But, instead, he turns that baby over and executes him, with no novocaine, no anesthetic, nothing— with a pair of scissors and a catheter, a child.

That is what this is about. That is why, when this bill came to the floor for a vote, even without the language that I have now crafted for the life-of-the-mother exception—but with language that perhaps was not as clear but did have the life-of-the-mother exception—even with the old language, it passed overwhelmingly in the House. Why? Why did a pro-choice Republican woman like SUSAN MOLINARI vote for it? Why did a liberal Democrat like PATRICK KENNEDY, son of Senator TED KENNEDY, vote for it? Because it is reasonable. Because it is sickening to think of the fact that we would do this to our children here in America. That is the reason. This is not a radical, extremist position. The radicals and the extremists are the people who do this.

So, I urge my colleagues to oppose Senator BOXER's amendment whenever we vote on it, tomorrow or whenever. Because basically it provides the opportunity to drive a truck through this whole process. It is a killer amendment. It might as well be called the partial-birth abortion-on-demand amendment, because it is designed to gut the bill.

When you say ''health,'' you say anything. What is health? A sore toenail? A sore knee? I mean, it is a totally gutting amendment. If you want to gut the bill, then you would vote for Boxer. If you want abortion on demand, if you want to abort a perfectly normal, healthy child at 9 months because that child has blue eyes, or is a female, or a male, or whatever, then vote for Boxer. That decision is quite easy.

But, again, the health-of-the-mother issue is a phony issue. It is not the

issue at all. Everyone knows it. We have had this debate here before. We have had the votes before. It has always been voted down. So the issue is, if you want to truly protect the life of the mother, then you would vote for the Smith-Dole amendment because that is exactly what it does, it protects the life of the mother.

Mr. President, Douglas Johnson, legislative director of the National Right to Life Committee, has prepared an outstanding, comprehensive analysis of H.R. 1833. It is entitled ''The Facts On Partial-Birth Abortions.'' For the benefit of my colleagues, I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FACTS ON PARTIAL-BIRTH ABORTIONS

(By Douglas Johnson)

The Partial-Birth Abortion Ban Act (HR 1833) was introduced in Congress on June 15, 1995. From that day on, many opponents of the bill—including the National Abortion and Reproductive Rights Action League (NARAL), Planned Parenthood, and the National Abortion Federation—have manufactured and disseminated blatant misinformation regarding partial-birth abortions and about the bill. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This feature summarizes key facts on partial-birth abortions and on HR 1833. For additional documentation, contact the NRLC Federal Legislative Office at (202) 626–8820.

What is the Partial-Birth Abortion Ban Act (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) is a proposal currently under consideration in Congress, which would place a national ban on use of the partial-birth abortion procedure (except when a doctor could show that he ''reasonably believed'' that the procedure would prevent the death of a pregnant woman, and that no other medical procedure would suffice).

The bill would ban abortions that are performed by an abortionist (1) delivering a *living* fetus/baby into the vagina, and then (2) killing him or her. The bill specifically defines a ''partial-birth abortion'' as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such abortion.

What is the Status of the Bill?

The Partial-Birth Abortion Ban Act (HR 1833) was passed by the House of Representatives on November 1 by a vote of 288 to 139. As of November 28, the bill is awaiting action by the full U.S. Senate, which could occur as early as December 4.

The bill strongly opposed by pro-abortion advocacy groups and by their Senate allies, who will attempt to amend it to death—for example, by a proposed amendment to allow partial-birth abortions to be performed for ''health'' reasons. Legally, with reference to abortion, ''health'' is a term that covers emotional ''well-being.'' Thus, addition of a ''health exception'' would in practice allow unrestricted use of the partial-birth abortion procedure.

President Clinton opposes the bill.

How is a Partial-Birth Abortion Performed?

The bill is aimed at the basic method practiced by Dr. Martin Haskell of Dayton, Ohio, and by the late Dr. James McMahon of Los Angeles, among others. The *Los Angeles Times* accurately described this abortion method in a June 16 news story:

''The procedure requires a physician to extract a fetus, feet first, from the womb and 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' skull, and a suction catheter is inserted through the openings and the brain is removed.''

In 1992, Dr. Haskell wrote a paper on this abortion method. The paper (''Dilation and Extraction for Late Second Trimester Abortion'') describes in detail, step-by-step, how to perform the procedure.

Dr. Haskell wrote that he ''routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions'' [4½ to 5½ months]. He also wrote that he used the procedure through 26 weeks [six months] ''on selected patients.'' Dr. McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28).

How many partial-birth abortions are performed?

Nobody knows. Pro-abortion groups claim that ''only'' 450 such procedures are performed every year. But the practices of Dr. Martin Haskell and the late Dr. James McMahon alone would approximate that figure, and press reports indicate that other abortionists also utilize the procedure.

Both Haskell and McMahon have spent years trying to convince other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, McMahon was director of abortion instruction at the Cedar Sinai Medical Center in Los Angeles. It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. The New York Times reported in a Nov. 6, 1995 news story about the bill:

'''Of course I use it, and I've taught it for the last 10 years,' said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. 'So do doctors in other cities.'''

There are 164,000 abortions a year performed after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which should be regarded as conservative estimates.

For what reasons are partial-birth abortions performed?

The Planned Parenthood Federation of America recently issued a press release that asserted that the procedure is ''done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.'' Many reporters, commentators, and members of Congress have accepted such assertions uncritically and publicly disseminated them as ''facts.''

Yet, the claim that partial-birth abortion procedures are done only (or mostly) in life-endangerment or grave-fetal-disorder cases cannot be reconciled with many documents and reliable reports that are readily available.

In Dr. Haskell's 1992 instructional paper, he wrote that he ''routinely performs this procedure on all patients 20 through 24 weeks'' (4½ to 5½ months). In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

''And I'll be quite frank: most of my abortions are elective in that 20–24 week range. . . . In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.''

Recently, during testimony in a lawsuit in Ohio, Dr. Haskell was asked to list some of the medical problems of women on which he'd performed second-trimester abortions. Among the conditions he listed was ''agoraphobia'' (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinics for abortions ''well beyond'' 4½ months into pregnancy, and that ''none of these women had any medical illness, and all three had normal fetuses.''

Dr. James McMahon voluntarily submitted to the House Judiciary Constitution Subcommittee a breakdown of a self-selected sample of 175 partial-birth abortions that he performed for what he called ''maternal indications.'' Of these, the largest single category of ''maternal indications''—39 cases, or 22% of the total sample—were for ''depression.''

Dr. McMahon's self-selected sample of ''fetal indications'' cases showed he had performed nine of these procedures for ''cleft palate.''

Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7 press conference about ''arguments . . . that these procedures . . . are given for depression or cleft palate,'' Ms. Michelman responded, ''That is . . . not only a myth, it's a lie.''

Reporter Karen Tumulty wrote an article about late-term abortions, based in large part on extensive interviews with Dr. McMahon and on direct observation of his practice, which appeared in the Los Angeles Times Magazine (January 7, 1990). She concluded:

''If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.''

(Dr. McMahon used the term ''pediatric indications'' to refer to abortions performed on these young mothers.)

In 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for ''many reasons'';

''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.'' [emphasis added]

Likewise, a June 12, 1995, letter from NAF to members of the House of Representatives noted that late abortions are sought by, among other, ''very young teenagers . . . who have not recognized the signs of their pregnancies until too late,'' and by ''women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers.''

True, some partial-birth abortions involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

Is the baby already dead before she is pulled feet-first into the vagina?

In his 1992 paper explaining step-by-step how to perform this type of abortion, Dr. Martin Haskell wrote that he performs the procedure ''under local anesthesia'' [emphasis added], which would have no effect on the baby/fetus. Nevertheless, since HR 1833 was introduced in June, many critics of the bill have insisted that the unborn babies are killed by anesthesia given to the mother, prior to being ''extracted'' from the womb.

For example, syndicated columnist Ellen Goodman wrote in November that, based on her review of statements by supporters of the bill, ''You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal.''

Likewise, Kate Michelman, president of the National Abortion and Reproductive Rights Action League (NARAL), said at a Nov. 7 press conference, ''These experts have made it very clear that the fetus undergoes demise before the procedure begins. And because of the anesthesia, which is, you know, something like 50 to 100 times what a fetus can withstand, because it's given according to the weight of the woman.''

However, according to testimony presented to the Senate Judiciary Committee (Nov. 17) by the American Society of Anesthesiologists, such claims have ''absolutely no basis in scientific fact.'' The ASA says that regional anesthesia (used in many partial-birth abortions and most normal deliveries) has no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; even pain relief for the fetus is doubtful, and certainly anesthesia would not kill the baby, the ASA testified.

Dissemination of the false claim that anesthesia kills the baby is endangering the health and lives of pregnant women and their unborn children, because such erroneous information may frighten pregnant women away from obtaining medically necessary surgical procedures while they are pregnant, for fear of harming their unborn children, the ASA said.

Moreover, American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors ''told AM News that the majority of fetuses aborted this way are alive until the end of the procedure.'' On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

''American Medical News. Let's talk first about whether or not the fetus is dead beforehand.

''Dr. Haskell. No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.''

In another interview, quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: ''When I do the instrumentation on the skull...it destroys the brain tissue sufficiently so that even if it (the fetus) falls out at that point, it's definitely not alive,'' Dr. Haskell said.

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17), Mrs. Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the abortionist.

''...delivered the baby's body and the arms—everything but the head. 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 startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.''

Since the baby is usually not dead before being removed from the womb, does the baby experience pain? Yes, according to experts such as Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, who testified before the House Judiciary Constitution Subcommittee: ''The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain.'' After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: ''Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.''

Dr. Harlan R. Giles, a professor of ''high-risk'' obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until ''viability,'' but he does not perform partial-birth abortions. In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

''In my own personal opinion, particularly when there are other techniques available, that the introduction of a sharp instrument into the brain and sucking out the brain constitutes cruel and unusual fetal punishment.''

IS THE TERM ''PARTIAL-BIRTH ABORTION'' MISLEADING, OR IS IT ACCURATE?

In his 1992 paper, Dr. Haskell referred to the method as ''dilation and extraction'' or ''D&X''—noting that he ''coined the term.'' However, that nomenclature was rejected by Dr. McMahon, who refers to the method as ''intact dilation and evacuation'' and (in an interview in the Los Angeles Times Magazine in 1990) as ''intrauterine cranial decompression.'' There are also some variations in the procedure as performed by the two doctors.

None of the terms that the abortion practitioners prefer would be workable as a legal definition. The bill creates a legal definition of ''partial-birth abortion,'' and would ban any variation of that method—no matter what new idiosyncratic name any abortionist may invent to refer to it—so long as it is ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

Beyond the legal point, the term ''partial-birth abortion'' is accurate and in no way misleading. In explaining how to perform the procedure in his 1992 instruction paper, Dr. Martin Haskell wrote:

''With a lower [fetal] extremity in the vagina, the surgeon uses his fingers *to deliver* the opposite lower extremity, then the torso, the shoulders and the upper extremities.'' [Haskell paper, page 30, emphasis added]

In sworn testimony in a lawsuit pending in U.S. District Court for the Southern District of Ohio (Nov. 8, 1995), Dr. Haskell said that he first learned of the method when a colleague

. . . described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate if and accomplish—be somewhat equivalent to a breach type of delivery.''

Are the drawings of the procedure circulated by NRLC accurate, or are they misleading?

At a June 15, 1995, public hearing before the House Judiciary Subcommittee on the Constitution, Dr. J. Courtland Robinson, a self-described ''abortionist'' who testified on behalf of the National Abortion Federation, was questioned about the drawings by Congressman Charles Canady (R–Fl.). Mr. Canady directed Dr. Robinson's attention to the drawings, which were displayed in poster size next to the witness table. Dr. Robinson agreed with Mr. Canady's statement that they were ''technically accurate,'' and added:

''That is exactly probably what is occurring at the hands of the two physicians involved.'' [Transcript, page 80.]

Moreover, American Medical News (July 5, 1993) reported: ''Dr. [Martin] Haskell said the drawings were accurate 'from a technical point of view.' But he took issue with the implication that the fetuses were 'aware and resisting.' ''

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady: ''Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. . . . Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.''

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL PERMIT THE PARTIAL-BIRTH ABORTION PROCEDURE TO BE UTILIZED TO SAVE THE LIFE OF THE MOTHER? ARE PARTIAL-BIRTH ABORTIONS RELATIVELY SAFE FOR THE PREGNANT WOMAN?

Under the bill, a doctor is not subject to penalty if he shows that he ''reasonably believed'' that the mother's life was in jeopardy and that no other medical procedure will save her life. However, many medical authorities, both pro-life and pro-abortion, say that this procedure would never be necessary to save a woman's life.

Moreover, some medical experts—on both sides of the abortion issue—say that the procedure itself carries special risks for the pregnant woman. American Medical News, the official newspaper of the American Medical Association, reported in its November 20, 1996 edition: '' 'I have very serious reservations about this procedure'' said Colorado physician Warren Hern, MD. The author of *Abortion Practice*, the nation's most widely used textbook on abortion standards and procedures, Dr. Hern specializes in late-term procedures. . . . [O]f the procedure in question he says, 'You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it.' ''

''Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for the pregnant woman, and that

without this procedure women would have died. 'I would dispute any statement that this is the safest procedure to use,' he said. Turning the fetus to a breech position is 'potentially dangerous,' he added. 'You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that.'

''Dr. Hern said he could not imagine a circumstance in which this procedure would be safest. He did acknowledge that some doctors use skull-decompression techniques, but he added that is those cases fetal death has been induced and the fetus would not purposely be rotated into a breech position.''

Dr. Harlan R. Giles, a professor of ''high-risk'' obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until ''viability.'' In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

''[After 23 weeks] I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Cesarean section for that matter, depending on the choice of the parents with informed consent. * * * But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

''I cannot think of a fetal condition or malformation, no matter how severe, that actually causes harm or risk to the mother of continuing the pregnancy. I guess one extremely rare example might be a partial hydatidiform mole. But that's a one-in-a-million situation. In most cases, mothers carrying an abnormal fetus, such as with Down's syndrome, anencephaly, the absence of a brain itself, dwarfism, other severe, even lethal chromosome abnormalities—those mothers, if you follow their pregnancy, have no higher risk of pregnancy complications than for any other mother who's progressing to term for a delivery. [court transcript, pp. 241–42]

''There is no need to perform a D and X ['dilation and extraction,' i.e., partial-birth] procedure. That is not part of the required teaching of the D and E ['dilation and evacuation,' the technique of dismembering the baby inside the uterus]. [court transcript, p. 260.]''

Dr. Pamela Smith, Director of Medical Education in the Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, told the Senate Judiciary Committee that the partial-birth abortion procedure is an adaptation of the ''internal podalic version'' procedure that obstetricians occasionally use to purposely deliver a baby breech (feet first)—but that this procedure is risky to the mother, and its use is recommended only to deliver a second twin. ''Why, if it's dangerous to the mother's health to do this when your intent is to deliver the baby alive, that this should suddenly become . . . the safe method when your intention is to kill the baby?'' Dr. Smith said.

Dr. Smith also gave the Judiciary Committee her analysis of a sample of 175 cases, selected by Dr. McMahon himself, in which he claimed that he had used the procedure because of maternal health indications. Of this sample, the largest group, 39 cases (22%) were for maternal ''depression,'' while another 16% were ''for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis),'' Dr. Smith noted. She added that in one-third of the cases, the conditions listed as ''maternal indications'' by Dr. McMahon really indicated that the procedure itself would be seriously dangerous to the mother.

What would be the effect of adding to the bill an exception to allow partial-birth abortions for ''health'' reasons, as proposed by pro-abortion Senator Barbara Boxer (D-Ca.) and others?

In the context of abortion-related law, ''health'' is a legal term of art. In Doe v. Bolton (the companion case to Roe v. Wade), the Supreme Court defined ''health'' to include ''all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient.'' Thus, the bill with a ''health'' exception would permit abortionists to perform partial-birth abortions at will—even for ''depression,'' as Dr. James McMahon did (see page 4). Adding the word ''serious'' before ''health'' changes nothing, because it is the abortionist who would determine whether the ''depression'' or other distress was ''serious.''

Does the bill contradict U.S. Supreme Court decisions?

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 is not an ''assault'' on Roe v. Wade, but rather, could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that ''the unborn fetus is not a person'' under the Constitution (even during the final months of pregnancy). So, in the Supreme Court's doctrine, a human being becomes a legal ''person'' upon emerging from the uterus. But a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court. Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by *Roe v. Wade*.

What position has the American Medical Association taken on H.R. 1833?

On September 23, the national Council on Legislation of the American Medical Association (AMA) voted unanimously to recommend AMA endorsement of H.R. 1833. (*Congress Daily*, Oct. 10.) The Council on Legislation is made up of about 12 physicians of different specialities, who are charged with studying proposed federal legislation with respect to its impact on the practice of medicine. A member of the Council told *Congress Daily* that ''this was not a recognized medical technique'' and that ''this procedure is basically repulsive.''

However, meeting in October, the AMA Board of Trustees was divided on this recommendation, and therefore took no position either for or against the bill. According to an October 23 letter from AMA headquarters in Chicago, ''The AMA Board of Trustees has determined that it will not take a position on H.R. 1833 at this time.''

From the perspective of those who believe that unborn children should be protected from all methods of abortion, what is the point of supporting a bill that would ban only one method?

Each human being is a unique individual with immeasurable worth. Pro-abortion advocates often try to dismiss the significance of partial-birth abortions by observing that they appear to account for ''only'' less than one percent of all abortions. But for each and every human individual who ends up at the pointed end of the surgical scissors, the procedure is a 100 percent proposition.

Should Congress be in the business of banning specific surgical procedures?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should not attempt to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of HR 941, the ''Federal Prohibition of Female Genital Mutilation Act.'' (The Senate companion bill is S. 1030.)

This bill generally would ban anyone (including a licensed physician from performing the procedure known medically as ''infibulation,'' or ''female circumcision,'' which is practiced by some immigrants from certain countries. The bill provides a penalty of up to five years in federal prison. Supporters of this bill argue, persuasively, that subjecting a little girl to infibulation is a form of child abuse. But then, so too is subjecting a baby to the partial-birth abortion procedure.

WHY DID THE BILL PASS THE HOUSE OF REPRESENTATIVES BY A MORE THAN 2-TO-1 MARGIN?

In the House, the bill won support from more than a few lawmakers who generally favor legal abortion. Once they had the facts, a significant number of those self-described ''pro-choice'' lawmakers experienced an authentic moral revulsion regarding the procedure. In certain other cases, the revulsion was probably more political than moral. For whatever combination of these reasons, HR 1833 won support from a broad spectrum of House members, including: 73 Democrats and 215 Republicans (37% of voting Democrats, 93% of Republicans); nearly one-third of the women in the House (15 of 47), Democratic Leader Richard Gephardt (Mo.); Democratic Whip David Bonior (Mi.); Rep. John Dingell (Mi.), ranking Democrat on the Commerce Committee; Rep. Lee Hamilton (D-In.), ranking on the International Relations Committee; Rep. Dave Obey (D-Wi.), and Congressman Patrick Kennedy (D-RI), the son of Sen. Edward Kennedy (D-Mass.)

THE ARCTIC WILDLIFE REFUGE

Mr. STEVENS. Mr. President, I come to the floor once again to talk about the appearance that I had on ''Nightline'' with the Secretary of the Interior, Mr. Babbitt. In that program, which I call a debate, on ''Nightline,'' the Secretary claimed that the development of the coastal plain of our arctic for its oil potential would mean the end of that wildlife refuge.

He referred to the Arctic National Wildlife Refuge, which is some 19 million acres of our northern part of Alaska. It is above the Arctic Circle, as indicated. As a matter of fact, there are 21.2 million acres of wilderness in this whole area, and that area is larger than Vermont, New Hampshire, Connecticut, and Rhode Island put together.

Of this area, in 1980, 1.5 million acres of the arctic plain was set aside for development for oil and gas exploration, subject only to an environmental review to determine whether that type of development would result in irreparable harm to our arctic plain. That is what we call section 1002 of ANILCA, the Alaska National Interest Lands Conservation Act. That 1.5 million acres was the only area in the 1980 bill, that dealt with over 100 million acres, that provided for any development in our State. The Secretary says that proceeding as was intended in 1980 would be the end of that wildlife refuge. That is what I am here to talk about today.

If we proceed with oil and gas exploration, as is intended by the Balanced Budget Act of 1995, this area will be

leased. There will be bonus bids that will bring in some $2.8 billion, we estimate. It will be at least that because one small area offshore here, the Mukluk, brought in over $1 billion—$1 billion—in a very small area. It was a dry hole.

But this leasing will take place. As the exploration takes place, the total area that will be used out of that 1.5 million acres is about 12,000 acres. That is about the size of Dulles Airport. And, after that exploration takes place, the actual area of development, for the roads, the buildings, the rigs that will be in place for the period of development, will be about 2,000 acres; 2,000 acres of the 1.5 million which is part of 19 million acres total in that refuge.

I come to speak about this rhetoric because the administration is trying to leave the impression with the American public that, if this leasing takes place, it is the end of this whole refuge. As a matter of fact, Mr. President, the wilderness area selected by the Interior Department is in the area south of the arctic coastal plain and just at the slope of the Brooks Range. We call it the North Slope of the Brooks Range. It is not in the arctic plain.

You know, Mr. President, it is a very difficult thing for people to understand that this is an arctic desert. The oil exploration will take place in an area which is an arctic desert. The problem comes that the porcupine caribou herd, which lives approximately 9 months of the year in Canada on the Porcupine River area, migrates into Alaska and goes 150 miles up onto the North Slope. It is present on the plain maybe 6 to 8 weeks when it decides to go up there. Some years it does not go at all, as I will mention. But when we were debating the oil pipeline—this is the area of the oil pipeline up to the Prudhoe Bay. This is the Prudhoe Bay development right there. It is on State land. The land belongs to the State of Alaska. The claim was made 20 years ago that approval of that pipeline would lead to the destruction of the caribou herd. We call it the central arctic caribou herd. One person actually stood on the floor here and said that, if we got the approval to build the Alaska oil pipeline, all of the caribou would die, that it would be the end of the central arctic herd that lives near Prudhoe Bay.

Did the caribou disappear? Did the pipeline, this tremendous pipeline that has brought us 11 billion barrels of oil so far—cause the caribou to disappear? Have they been injured? As a matter of fact, at the time we debated that pipeline, the caribou herd was about 6,000 animals. It went up to 23,400 animals by 1992. As we came to 1992, the development was over, and really man's presence started to be reduced in this area. The caribou have actually reduced in number as the number of people involved in the Prudhoe Bay area has been reduced. They are down to about 18,100 this year. But that is still more than three times the size of the caribou herd at the time the prediction was made that they would all die if the oil pipeline was put in place.

The health of the caribou has very little to do with man's presence. As a matter of fact, that caribou herd is a very healthy herd. I have been up there. I would be glad to one of these days bring some photographs showing the caribou standing next to oil rigs, caribou rubbing up against the pipeline to scratch their backs, caribou coming up on top of the crosswalks to go over the pipeline because they are trying to get away from the mosquitoes. They are trying to get in a breeze, get high enough to get rid of the mosquitoes.

That is a very flat area—the arctic plain. It is an area that has so many mosquitoes that very few animals or people spend much time there. If they do, they are very heavily loaded down with mosquito dope. I mean real, real mosquito dope.

But technology is different now than 20 years ago when that pipeline was developed. There is no question, as I said, that the size of the actual development in the arctic plain will be quite small. We are looking now at the problem of what will human activity in this area do that might affect the caribou that might be different from this area around Prudhoe Bay. The answer is nothing.

This will not be the end of the wildlife refuge. That assertion cannot be supported by any facts. It really is not only misleading; it is wrong. It is not truthful.

This herd, as I said, does not stay there permanently. The central arctic herd stays there—in Prudhoe Bay—permanently. The central arctic herd is a very migrating herd. Sometimes it does not go up there. Our records show that in 1973, 1974, 1982, and 1988 the caribou did not come into this area at all. The caribou wander around in terms of this whole area.

It is the fact that the caribou sometimes actually come over and go back into Canada into the area where there is substantial presence of the oil and gas industry over by the Beaufort Sea.

Our arctic plain is, as I said, a desert. It is almost perfectly flat. It is treeless. That might surprise people because they see the photographs that are in the brochures of all of these extreme environmental organizations saying ''save this place from development.'' They show you beautiful lakes and hills, trees, bear, and caribou, and even, one time, an elk. There has never been any elk up there. It is a frozen desert.

It has about 5 to 7 inches total of precipitation, snow and rain, in a 12-month period. Think of that—5 to 7 inches. This ground is permanently frozen. Water will not even penetrate it. Whatever melts from the snow gathers in small pools. They become shallow and stagnant. That is where we get the mosquitoes. It is probably the best breeding ground for mosquitoes in the whole United States. There is no question that the animals that are there, particularly the caribou, are driven nuts by the mosquitoes. They are very vicious. As I said, the mosquitoes drive these caribou so that they go under and on top of the pipeline. They try to get away from them by getting into the breeze that may be caused by wind blowing under the pipeline or over the pipeline.

The wilderness area that we have is here. It is south of the 1002 area. When you listen to the Secretary of the Interior, it sounds like we are trying to lease a wilderness area. That again is not true. It has never been true.

This area once was the Arctic Wildlife Range. It was created by a secretarial order, and that order specifically stated that oil and gas leasing could take place on the range subject to stipulations to protect the fish and wildlife.

At the time we considered this enormous act that withdrew all of these areas that are outlined in either blue or green or red, the Congress looked at all of them. And this is the only area, as I said, where the natural resources were so significant that the area was set aside, specifically stating that it would be subject to oil and gas leasing. The only thing that had to happen was that there had to be an environmental study made.

It came to Congress not for the purpose of trying to open it. It has always been open. The question is, Should Congress approve the finding of the Secretary of the Interior that there would not be irreparable harm to this area if oil and gas development took place?

It is 1½ million acres. Out of all of this area, as I said, of the whole area that belongs to the Federal Government up here, some 21.2 million acres of the arctic is set aside as wilderness. As a matter of fact, Mr. President, 65 percent of all wilderness in the United States is in our State. Sixty-five percent of all the wilderness in the United States is in our State. Fifty-six million acres total have already been set aside as wilderness.

In addition to that, we have 70 percent of the national parklands. We have 85 percent of all the national wildlife refuges in Alaska.

That is the only area that Congress has ever designated as being set aside for oil and gas development. The Secretary tries to let the American public believe that this Senator is trying to authorize drilling in a wilderness area. It is not a wilderness area. It never was a wilderness area. It has never been withdrawn from oil and gas leasing. Oil and gas leasing was subject to this environmental impact statement that was made and has been presented to Congress. Two Secretaries of the Interior have recognized that and recommended to Congress that the oil and gas leasing proceed as was intended by my good friend, the late Scoop Jackson, in 1980.

Mr. President, I am going to come back again and again and talk about

all the statements the Secretary made that night on ''Nightline'' that were not true. I think the American public should know. And I intend to find some way to be sure that cabinet officers that discuss pending legislation speak the truth.

Thank you very much, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, was leader's time reserved?

The PRESIDING OFFICER. The Senator is correct.

TRIBUTE TO TROOP 7 OF TOPEKA, KS, ON THEIR 75TH ANNIVERSARY

Mr. DOLE. Mr. President, today I take great pride in recognizing Boy Scout Troop 7 from Topeka, KS, for 75 years of honorable Scouting service.

If ever a troop has exemplified the high ideals of Scouting, Troop 7 has. These young men have not only been of great service to their community since 1920, but 147 of them have risen to a rank few achieve, that of Eagle Scout.

The young men of Troop 7 have dedicated themselves to becoming conscientious and responsible citizens with the help of their adult volunteers. The Scout oath and law instill moral uprightness and the precious selflessness of duty to others, while the motto, ''Be Prepared,'' entreats them to never rest on their laurels. This untiring endeavor to personal fulfillment and service to others is a standard of excellence that will challenge them throughout their lives.

Mr. President, it is only fitting that we honor the young men and the adult leaders of Troop 7 on the occasion of their diamond anniversary. After all, Scouting has only been in the United States for 85 years, which makes Troop 7 one of the oldest in the country.

With their record of excellence, I am confident that Troop 7 will continue to embody the spirit of Scouting for many years to come.

TRIBUTE TO CONGRESSWOMAN JAN MEYERS

Mr. DOLE. Mr. President, anyone who has been to the Kansas City and Johnson County area during any of the last 6 election years could not go far without seeing campaign signs that said ''Jan Can.''

The signs were referring to JAN MEYERS, who, since 1985, has represented the Third District of Kansas in the U.S. House of Representatives with great ability.

Congresswoman MEYERS announced this week in Overland Park that this will be her final term in Congress, and I wanted to take a moment to pay tribute to my friend and colleague.

JAN MEYERS' dedication to public service extends nearly 30 years. Before her election to Congress, she served 5 years as an Overland Park City councilwoman, and 12 years as a Kansas State senator.

Throughout her years in the political arena, JAN MEYERS has earned a reputation as a public servant of great competence, compassion, and common sense.

During her years here in Washington, she has devoted a great deal of time to fighting the scourge of illegal drugs. She successfully fought to ensure that operators of common carriers involved in accidents that cause death and injury while under the influence of drugs and alcohol would face tough criminal penalties.

Congresswoman MEYERS also spoke out on the need to reform welfare and to return power to the States well before those causes gained favor here in Washington.

But perhaps Congresswoman MEYERS' greatest sphere of influence involved issues affecting small business. Kansas is a small business State, and as ranking member, and now chairman of the House Small Business Committee, JAN MEYERS never stopped fighting to reduce the regulatory and tax burdens on America's small businessmen and women.

I look forward to working with Congresswoman MEYERS in the year ahead, and wish her, her husband Dutch, and their family many years of health and happiness.

TRIBUTE TO SENATOR MARK HATFIELD

Mr. DOLE. Mr. President, 45 years ago a young political science professor went to Silverton, OR, to announce his candidacy for the Oregon State House of Representatives.

In the years that followed, MARK HATFIELD would return to Silverton to announce his candidacy for the Oregon State Senate, for secretary of state, for Governor, and for U.S. Senator. And each and every time MARK HATFIELD put his name on the ballot, Oregonians responded by voting for him in overwhelming numbers.

Not only did MARK HATFIELD never lose an election, he never lost the total trust and respect or Oregonians.

Last Friday, Senator HATFIELD returned again to Silverton.

Only this time, he did not announce his candidacy for a sixth term in this Chamber—even though he would easily have been reelected.

Instead, Senator HATFIELD announced that he will retire from the Senate at the end of the 104th Congress so that he can return to Oregon. And I might say, I had the pleasure of watching much of his retirement speech on C–SPAN.

And when Senator HATFIELD leaves this Chamber for the final time, he will leave behind an enduring legacy of statesmanship, leadership, dignity, and integrity.

No matter if any Senator agreed or disagreed with MARK HATFIELD, no one could ever doubt that he was standing up for what the he believed was right for Oregon and for America.

And just as Oregonians have grown to count on Senator HATFIELD's leadership, many Senators have also grown to count on his friendship.

Many of us will never forget the day when our late colleague Senator Stennis was shot in a burglary attempt, and how Senator HATFIELD raced to the hospital to be with Senator Stennis, and how he personally manned the telephone lines, responding to inquiries about the condition of Senator Stennis.

Senator HATFIELD also served his country during World War II, where he saw battle at Iwo Jima and Okinawa, and was among the first U.S. servicemen to enter Hiroshima following the atomic explosion.

With Senator HATFIELD's retirement, the Senate will also be losing one of the Nation's leading scholars of the life of Abraham Lincoln. And those colleagues who have not seen Senator HATFIELD's Lincoln collection are now on notice that they have about a year to do so.

In one of the last letters that Lincoln wrote, he said that his goal was not just that America be a Union of States, but also a ''Union of hearts and hands.''

That goal has also been the life's work of MARK HATFIELD, and the Senate, Oregon, and America, are all better because of him.

TRIBUTE TO SENATOR AL SIMPSON

Mr. DOLE. Mr. President, finally Saturday night another of our colleagues announced his retirement.

Mr. President, 40 years ago, then-Senator John Kennedy wrote a best-selling book called ''Profiles in Courage.'' It consisted of biographies of a number of U.S. Senators who took courageous positions in their time.

If a similar book was written today, I have no doubt that it would include a biography of our colleague, Senator ALAN SIMPSON.

As my colleagues know, Senator SIMPSON returned to his home town of Cody, WY, this weekend to announce that he would not be a candidate for a fourth term in the U.S. Senate.

Again, I had the pleasure of watching about 45 minutes of his retirement speech to the Cody Chamber of Commerce on C–SPAN.

In his announcement, however, Senator SIMPSON left no doubt that his final year in the Senate would be no different from the first 17—from immigration to entitlement reform, he will continue to courageously tackle the toughest and most controversial of issues, calling them as he sees them, and letting the cards fall where they may.

AL SIMPSON is a man of strong opinions, but he also is someone who knows

how to count votes and how to get things done. As Republican whip for 10 years, AL was a trusted member of our leadership team.

He made being Republican leader a much easier job—and all Senators will attest to the fact that with his unique sense of humor, AL has made serving in the Senate much more enjoyable.

Senator SIMPSON has served in Washington for 17 years, and although he and his wife, Ann, have devoted themselves to many cultural and charitable causes here in the Nation's capital. AL SIMPSON never forgot that Wyoming was home.

The great Alf Landon once said that ''there are some intelligent people in Washington. But there are more of them in Kansas.'' AL SIMPSON never forgot that there are also more of them in Wyoming, and he has never tired of fighting for returning power to where it belongs—to the people of Wyoming and our other 49 States.

I have long thought that AL embodies the ''American spirit'' that many Americans associate with Wyoming and with the American cowboy. He is honest, independent, and judges people not by money or position—but by character.

AL's father also represented Wyoming here in this Chamber. And when Milward Simpson passed away in 1993, AL delivered a very moving eulogy on the Senate floor.

I re-read that eulogy the other day, and it struck me that the words spoken about a father, could also be applied to the son.

AL SIMPSON said:

> My father was a man who did not just take little philosophies and paste them on the wall and then ignore them and yet say, ''I live by that.'' No, he did live by those things that he told us . . . . and one of those things he told us was ''I cannot tell you how to succeed, but I can sure tell you how to fail—and that is to try and please everybody.''

Mr. President, AL SIMPSON is retiring from the Senate, but he is not retiring from life. He will continue to make a difference. He will continue to live by his philosophies. And he will continue to succeed, because no matter what, AL SIMPSON won't try to please everybody—and Wyoming and America would want it no other way.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until the hour of 7:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about another go, as the British put it, with our pop quiz. Remember—one question, one answer.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about $12 billion shy of $5 trillion.

To be exact, as of the close of business yesterday, December 4, the total Federal debt—down to the penny—stood at $4,988,891,675,281.12. Another depressing figure means that on a per capita basis, every man, woman and child in America owes $18,937.92.

Mr. President, back to our quiz—how many millions in a trillion?: There are a million million in a trillion, which means that the Federal Government will shortly owe five million million.

Now who is not in favor of balancing the Federal budget?

TRIBUTE TO LADY CLIO CRAWFORD

Mr. PRESSLER. Mr. President, Lady Clio Crawford was a personal friend of mine. I recall many great conversations with her when I was a student at Oxford. I remember in particular a wonderful dinner at Elizabeth's Restaurant, at which we discussed all of Africa and the problems of the emerging states of the continent. Having spent much of her life there, she was an expert on Africa. Later, when I was a lieutenant in the U.S. Army in Vietnam, serving in the Mekong Delta, she sent me some audio tapes on which she spoke to me, expressed concern about my safety, and wished me well. Her son, Tony, was a good friend of mine at Oxford University.

Lady Clio Crawford passed away in Geneva, Switzerland, on October 25, 1995, after a short illness.

Lady Clio Crawford was born Clio Colocotronis on February 2, 1925. Her mother came from the island of Crete and her father from the Peloponnese. Her family were direct descendants of Gen. Theodore Colocotronis, who was instrumental in liberating Greece from Turkish occupation 150 years ago, and whose statue and name adorn present-day Athens. At the age of 17, Clio Colocotronis, whose family were living in Alexandria, Egypt at the time (her father was a banker), was courted by and married Vassos Georgiadis, who was a highly successful Greek industrialist in East Africa and some 20 years her senior. Clio Georgiadis bore two sons in Kampala, Alexander and Antony, but she became a widow at the tender age of 27 in 1952.

With all the energy, courage and determination which were hallmarks of this remarkable lady, she took over responsibility of her late husband's multi-faceted business empire: This included the East Africa Tobacco Co. which was one of Africa's dominant corporations. She learned the complexities of the businesses, expanded them, and even diversified in Europe to become a major shipowner. But what she considered her major achievement was bringing up her two sons on her own, ensuring they had the best education at Oxford and U.S. business schools, watching with pride as they succeeded in life.

In 1961, she married Sir Frederick Crawford, who was then British Governor and Commander-in-Chief in Uganda. After he handed Uganda over to majority rule in 1961, he moved to Rhodesia (now Zimbabwe), where he became the head of the British South Africa Co. and was on the boards of many Anglo-American companies in southern Africa. Sir Frederick Crawford sadly died in 1978.

Lady Clio Crawford resided in Geneva since that time. She travelled extensively throughout her life. She was one of the most energetic, charming, imposing and kind-hearted persons I have ever met. From her early days and throughout her life, she was also very actively involved in all sorts of charities. She became the honorary consul for Greece in Uganda, which was the first time a woman held this post. She was head of the Red Cross, and was instrumental in establishing the Greek Orthodox Church in Uganda. In Switzerland, she and her sister were very much the pillars of the Greek community. Lady Crawford had a close connection with Oxford University in that her husband, Sir Fredrick, was a graduate of Balliol College. Her sons and stepsons all attended St. Edmund Hall (one of Oxford's oldest colleges), with which she maintained a close association over the years. She and her family were generous sponsors of many college developments and an area of St. Edmund Hall bears her name. She left behind two sons, Alec and Tony Georgiadis, who have charming wives—Ann and Elita—and six grandchildren, three from Tony and Elita (Clio, Vassos John and Ileana), and three from Alec (Vassos, Nicholas and Philip).

In tribute to this grand lady, I quote the comments sent to her family by a former vice chancellor of Oxford University:

> ''I remember her as one of the most cheerful, energetic, independent and altogether delightful women I have every met. I always found her confident good humour and marvellous 'joie de vivre' infectious. . . . She never seemed to lack the vigour and vitality and warm understanding which were her hallmark. She was a wonderful, gracious lady who enriched the life of a friend like myself. The thought that I shall not see her again is a sad wrench. May she rest in peace—no one better deserves to do so.

TRIBUTE TO THE REVEREND DR. RICHARD C. HALVERSON

Mr. LIEBERMAN. Mr. President, I rise today to pay my respects to the Rev. Richard Halverson, whose recent passing saddened all of us in this Chamber. He was, for us, a spiritual Rock of Gibraltar, always present as a reminder of eternal values, in the midst of even the most temporal of debates.

One of the remarkable things about the life of this faith-filled man is the fact that he became the Chaplain of the

U.S. Senate at a time when most people his age retire and go fishing or play golf. At 65, Reverend Halverson undertook the most significant, perhaps the most difficult, task of his life—ministering to the spiritual needs of 100 U.S. Senators, their staffs, employees of the Senate and countless others who came to him for counsel and prayer. He fulfilled that mission with great honor.

I will always remember Reverend Halverson as a gracious man, a man of considerable intellect, and especially a scholar of the Old Testament and the Jewish religion, about which we had memorable conversations.

We will miss Reverend Halverson, especially in a time when partisan rancor seems so sharp and divisive here in Capitol Hill, and in a society where bedrock values like belief in God and respect for one another seem to be at such risk. His warm presence always stood in strong contrast to the trials of the moment. We have faith that he is in the embrace of a loving God.

Yet, I am confident he is praying for us still. May God bless Reverend Halverson, and may He grant his family and many friends solace from the grief we share at his passing, and confidence that life eternal is the reward for those who live to His will.

MEMORIAL TRIBUTE TO DR. RICHARD HALVERSON

Mrs. KASSEBAUM. Mr. President, last week the Senate and the Nation lost a gifted spiritual adviser. All of us mourn the death of Dr. Richard Halverson, who served here for 14 years as Senate Chaplain before retiring last February.

As shepherd of his Senate flock, Dr. Halverson always brought strength of faith and a wealth of patience in his actions to all, whether on the floor of the Senate or to the broader national audience. For 14 years, his prayers began each of our working days and did so with spiritual substance, expecting from all of us the very best standards of conduct, understanding and commitment.

I valued his friendship as well as his spiritual leadership. I will hold a special memory of his committed caring and the twinkle in his eye.

TRIBUTE TO THE REVEREND DR. RICHARD HALVERSON

Mr. JEFFORDS. Mr. President, in one of his books, Dr. Halverson wrote, ''It is foolish to say there is no God. But it is infinitely more foolish to say there is and to live as though there were not.'' Dr. Halverson's special grace was in his way of helping us to bridge the gap between faith and practice. As a preacher, Chaplain Halverson fought against unbelief but, as a pastor, he was equally concerned about hypocrisy.

Dick, as he was known to all of us in the Senate, loved his country, loved the Senate as an institution, but more importantly he loved us as individual Members of the Senate. His deep caring spirit was evident in his availability at all times to attend to the needs of Senators and our families. He knew us all and, even so, managed to love us whatever our backgrounds may have been. And, not only the Senators, Dick loved the staffers, the elevator operators, the police officers, and everyone he met in the course of a day on the Hill. No one knew more people than did Dick.

His daily prayers in the Senate acted as a reality check for each of us. One morning his prayers began:

Gracious Father in Heaven, help us to keep our priorities straight. In this center of power, secondary matters have a way of preoccupying our attention and preempting our time. Help us not to take ourselves too seriously, forgetting that we are fallible human beings with many needs. Deliver us from VIP syndrome which expects or demands preferential treatment.

It is these actions and thoughts which live on in our hearts and minds as we think of Dick. His words and love taught us much and each of us is the better for having known him. He was a special gift to us and we shall remember him.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1659. A communication from the Senior Deputy Assistant Administrator of the U.S. Agency for International Development (for Legislative and Public Affairs), transmitting, pursuant to law, the report on financial statements on the Micro and Small Enterprise Development (''MSED'') Program for fiscal year 1994; to the Committee on Governmental Affairs.

EC–1660. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1661. A communication from the Executive Director of the Federal Retirement Investment Board, transmitting, pursuant to law, audit reports issued during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1662. A communication from the Executive Director of the Harry Truman Scholarship Foundation, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1663. A communication from the Comptroller General of the United States, transmitting, pursuant to law, reports of three deferrals of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Finance, and to the Committee on Foreign Relations.

EC–1664. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93-02; to the Committee on Appropriations.

EC–1665. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–1666. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the final report during calendar year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–1667. A communication from the Secretary of Transportation, transmitting, pursuant to law, the final report on the Tanker Navigation Safety Research Baseline study; to the Committee on Commerce, Science, and Transportation.

EC–1668. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the nondisclosure safeguards information for the quarter beginning July 1 through September 30, 1995; to the Committee on the Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–476. A resolution adopted by the Nevada League of Cities relative to the Nevada Test Site; to the Committee on Armed Services.

POM–477. A resolution adopted by the Interfaith Council to Assist Vietnamese Refugees relative to Vietnamese asylum seekers; to the Committee on Foreign Relations.

POM–478. A resolution adopted by the Greater Nashville Regional Council of Nashville, Tennessee relative to the Southern Power Administration; to the Committee on Energy and Natural Resources.

POM–479. A resolution adopted by the American Legislative Exchange Council relative to the Consumer Price Index; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following U.S. Army Reserve officers for promotion in the Reserve of the Army to the grades indicated under title 10, U.S.C. sections 3371, 3384 and 12203(a):

To be major general

Brig. Gen. Jorge Arzola, 000–00–0000.
Brig. Gen. William E. Barron, 000–00–0000.
Brig. Gen. Tommy W. Bonds, 000–00–0000.
Brig. Gen. William N. Clark, 000–00–0000.
Brig. Gen. George W. Goldsmith, Jr., 000–00–0000.
Brig. Gen. Ralph L. Haynes, 000–00–0000.
Brig. Gen. William B. Hobgood, 000–00–0000.
Brig. Gen. Curtis A. Loop, 000–00–0000.
Brig. Gen. James M. McDougal, 000–00–0000.
Brig. Gen. William C. Mercurio, 000–00–0000.
Brig. Gen. Evo Riguzzi, Jr., 000–00–0000.

To be brigadier general

Col. Patricia J. Anderson, 000–00–0000.
Col. William S. Anthony, 000–00–0000.
Col. David R. Bockel, 000–00–0000.
Col. Robert W. Chestnut, 000–00–0000.
Col. Richard E. Coleman, 000–00–0000.
Col. James M. Collins, Jr., 000–00–0000.

Col. Perry V. Dalby, 000–00–0000.
Col. William N. Kiefer, 000–00–0000.
Col. Robert M. Kimmitt, 000–00–0000.
Col. Robert A. Lee, 000–00–0000.
Col. Paul E. Lima, 000–00–0000.
Col. Richard D. Lynch, 000–00–0000.
Col. Robert G. Mennona, Jr., 000–00–0000.
Col. H. Douglas Robertson, 000–00–0000.
Col. Jon R. Root, 000–00–0000.
Col. John L. Scott, 000–00–0000.
Col. Gerry G. Thames, 000–00–0000.
Col. Thomas A. Wessels, 000–00–0000.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, U.S.C., section 601(a):

To be lieutenant general

Maj. Gen. Thomas A. Schwartz, 000–00–0000.

The following-named officer to be placed on the retired list of the U.S. Army in the grade indicated under section 1370 of title 10, U.S.C.

To be lieutenant general

Lt. Gen. Paul E. Funk, 000–00–0000.

The following-named officer for appointment to the grade of Vice Admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Alexander J. Krekich, 000–00–0000.

The following-named officer to be placed on the retired list of the U.S. Navy in the grade indicated under section 1370 of title 10, U.S.C.

To be admiral

Adm. Henry G. Chiles, Jr., 000–00–0000.

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of October 27 and 31, November 7 and 8, 1995, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of October 27, 31, November 7 and 8, 1995, at the end of the Senate proceedings.)

*Rear Admiral Alexander J. Krekich, USN to be vice admiral (Reference No. 682)

**In the Army Reserve there are 49 promotions to the grade of colonel and below (list begins with Raymond W. Carpenter) (Reference No. 700)

**In the Army Reserve there are 2 appointments to the grade of lieutenant colonel (list begins with Nelson M. Alverio) (Reference No. 704)

**In the Navy there are 1,233 appointments to the grade of ensign (list begins with Bobby Z. Abadi) (Reference No. 705)

**In the Army Reserve there are 583 promotions to the grade of colonel (list begins with Virgil A. Abel) (Reference No. 706)

*In the Army Reserve there are 29 promotions to the grade of major general and below (list begins with Jorge Arzola) (Reference No. 711)

**In the Air Force Reserve there are 19 promotions to the grade of lieutenant colonel (list begins with Monika K. Botschner) (Reference No. 714)

**In the Navy there are 6 appointments to the grade of lieutenant (list begins with Brian G. Buck) (Reference No. 715)

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Travis L. Hooper) (Reference No. 718)

**In the Army there are 4 promotions to the grade of lieutenant colonel list begins with Bobby T. Anderson) (Reference No. 719)

*Admiral Henry G. Chiles, Jr., USN to be placed on the retired list in the grade of admiral (Reference No. 724)

Total: 1,932.

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. BREAUX (for himself and Mr. JOHNSTON):

S. 1444. A bill to provide for 1 additional Federal judge for the middle district of Louisiana and 1 less Federal judge for the eastern district of Louisiana; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 1445. A bill to authorize appropriations for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources, pursuant to the order of March 3, 1988, with instructions, that if reported the bill then be referred to the Committee on Commerce, Science and Transportation for a period not to exceed 30 session days.

By Mr. MCCAIN:

S. 1446. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish an Inspector General of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. PRYOR):

S. 1447. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the Act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the Act through fiscal year 1998, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1448. A bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 1449. A bill to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers on such boards and councils, to ensure the independence of such boards and councils, to ensure the appropriate use of promotion funds, to prevent legislatively authorized promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy, 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. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. Res. 197. A resolution to congratulate the Northwestern University Wildcats on winning the 1995 Big Ten Conference football championship and on receiving an invitation to compete in the 1996 Rose Bowl, and to commend Northwestern University for its pursuit of athletic and academic excellence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 1445. A bill to authorize appropriations for the National Science Foundation, and for other purposes.

THE NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1995

Mr. PRESSLER. Mr. President, today, as chairman of the Committee on Commerce, Science, and Transportation, I am introducing the National Science Foundation Authorization Act of 1995. The bill provides a 3-year authorization for the science and education programs of the National Science Foundation [NSF]. Our economy, our quality of life, and our national security are increasingly dependent on our leadership in science and technology. Since its beginnings in 1950, the NSF has played a central role in maintaining that leadership through its research programs. In fact, NSF remains the principal source of funding for fundamental research at our Nation's academic institutions.

While America is still doing well in science and technology, our leadership position is slipping. For example, while the U.S. leads the world in total dollars spent on research and development, both Japan and Germany currently outspend the United States as a percentage of GNP. Similarly, a recent study by the White House Office of Science and Technology Policy revealed the U.S. leads in 27 critical technologies, but Europe and Japan are catching up in many of those areas.

There is little question that meeting these challenges in science and technology requires a strong and robust NSF. To that end, the legislation I am introducing today provides $3.2 billion for each of fiscal years 1996, 1997, and 1998 to allow NSF to continue its efforts to keep America at the forefront of basic research. In a fiscal environmental in which we are looking to eliminate entire agencies, this authorization bill reflects a strong commitment to basic science. The annual funding is only slightly below NSF's fiscal year 1995 funding level. Moreover, the bill's funding authorizations for both the overall agency and its

major individual accounts correspond to the appropriations levels approved for NSF by the Senate in September.

Mr. President, of the total NSF authorization, the bill authorizes $2.3 billion for the research and related activities account, the main source of NSF's research grants. This is roughly the same as the fiscal year 1995 funding level. NSF's research programs support important work in advanced materials, biotechnology, global climate studies, general science and math, and high performance computing. Many of the products and services we take for granted are the direct result of research funded by NSF grants.

Within the Research Account, let me make special mention of one program: the Experimental Program to Stimulate Competitive Research [EPSCoR] at NSF. This program has been particularly helpful in strengthening the research capabilities of colleges in States that historically have been unable to effectively compete for Federal research opportunities. EPSCoR has been so successful at NSF that it has also been adopted at five other Federal science agencies, including NASA.

To allow EPSCoR to continue its important work in our rural States, my bill provides an annual authorization of $46 million for the program. This is a 24-percent increase over its fiscal year 1995 level of $37 million. Unfortunately, when it comes to many Federal science programs, my home State of South Dakota and other rural States have had little, if any, involvement—either as participants or beneficiaries. These States, too, must be part of the technological revolution. In that regard, the National Science Foundation, through EPSCoR and other programs, has done a tremendous job of including rural States in that revolution.

I should mention the bill funds EPSCoR out of the Research Account rather than its current funding source, the Education Account. This change is intended to encourage greater coordination and interaction between EPSCoR and the larger research programs.

To further build on the successful EPSCoR concept, my bill authorizes $10 million a year for a new pilot program to provide research grants to partnerships formed by EPSCoR institutions and large research universities. This program will enable small schools participating in EPSCoR to graduate from the smaller EPSCoR science projects into larger mainstream programs by joining with a big brother research university like MIT. The large schools participating in the program stand to gain as well. The program would enable large schools to become more competitive by combining their talent, experience, and resources with those of their rural counterparts. In short, Mr. President, if approved, this program will help broaden and strengthen America's science and technology base.

My bill also provides $599 million for the education account at NSF to help develop a new generation of scientists and engineers to tackle future scientific challenges and to ensure a technologically literate Nation. NSF's programs support educational activities reaching students at all levels in South Dakota and all across the Nation. Science education must be a national priority if we are to remain competitive in our increasingly global and technologically oriented marketplace. My bill's full funding for NSF's education programs indicates the high priority I place on science education.

Finally, I note that my bill authorizes $100 million for the facilities program at NSF. Good science requires good research facilities. The NSF facilities program provides funding to enable our research institutions to renovate old facilities and buy up-to-date lab equipment so our scientists will have the proper tools and environment to conduct their studies.

Mr. President, we in South Dakota are especially grateful for the work of NSF. Currently, NSF is supporting more than 50 research and education projects in South Dakota educational institutions ranging from elementary school to graduate school. These activities have been crafted to reflect the special expertise of those schools and universities as well as the particular needs of our region.

For instance, NSF is supporting research at the South Dakota School of Mines and Technology designed to better understand and predict weather and climate to help our agriculture community. NSF also is funding several projects in South Dakota to improve the teaching of math and science at our schools. In September, for example, NSF began funding for a project designed to create degree programs in science, engineering, and mathematics at our tribal colleges. This important work must be allowed to continue.

Mr. President, my bill will enable these and other NSF projects to move forward and to keep America strong in science and technology. I look forward to working with my colleagues to get this important legislation enacted.

Mr. BURNS. Mr. President, today I stand with Senator PRESSLER as a cosponsor of the National Science Foundation Authorization Act of 1995 (S. 1445). The National Science Foundation is an independent Federal agency that provides grants for basic research to colleges, universities, and nonprofit organizations. NSF supports research in the basic science and mathematic areas in addition to supporting precollege, undergraduate, and graduate students, as well as post-doctoral associates. The foundation's support for basic research and science education is one major reason for our world leadership in science and technology.

The bill authorizes the National Science Foundation to spend $3.2 billion in fiscal years 1996, 1997, and 1998, which is 95 percent of the administration's budget request. The bill authorizes the Foundation's research and related activities at $2.3 billion and its education and human resources activities at $599 million each year.

Our authorization includes a total of $56 million for the Experimental Program to Stimulate Competitive Research [EPSCoR] and related activities that have provided needed assistance for universities in rural States such as my State of Montana. The primary purpose of EPSCoR is to serve as a change agent and catalyst to develop a competitive research base in our rural areas. The development of this strong research base will in turn improve the quality of education we provide to our citizens at all levels, and generate spin-off technologies.

The Bill also authorizes the National Science Foundation to spend $100 million each year for Academic Research Infrastructure. This activity provides grants to universities to upgrade and improve research and lab equipment and renovate facilities. Good research requires good facilities and good lab equipment. Full funding for this account will help to rebuild the U.S. academic institutions to facilitate the conduct of leading-edge research.

Finally, this bill supports the Foundation's science education programs. Strengthening the math and science literacy of our young people is the only way to insure their involvement in our increasingly technological world. I am especially interested in activities aimed at K through 12 education. I also think it is important to take advantage of communications technology to make our educational system more effective, such as the distance learning/teacher enhancement projects at Montana State University developed to improve the skills of teachers in remote areas of the Northwest. In that connection, I sponsored language in the bill which establishes a pilot program at the Foundation to provide, in a competitive basis, financial support for States with two or more tribally-controlled community colleges. This assistance will establish interactive telecommunication systems at these colleges to enhance and improve their educational programs and curricula. These are the kinds of activities that we need to stress if our Nation is to remain competitive.

Again, I would like to state my support for the National Science Foundation Authorization Act of 1995 and look forward to working with my colleagues to enact this legislation during this Congress.

By Mr. MCCAIN:

S. 1446. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish an inspector general of the Administrative Office of the United States Courts, and for other purposes; to the Committee on the Judiciary.

THE INSPECTOR GENERAL OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS ACT OF 1995

● Mr. MCCAIN. Mr. President, today I am introducing legislation to establish

an inspector general within the Administrative Office of the United States Courts.

The Administrative Office, commonly referred to as the AO, was established in 1939 to provide the Federal courts with administrative support. The office is in charge of the day-today operations of the Federal judiciary, including budgets, automation, security, and office space. The AO operates on a budget of $44 million and a staff of 900 but coordinates the judiciary's budget of $2.7 billion and a staff of over 27,000 employees.

While the AO employs a significant number of people and manages a sizable budget, it has no inspector general to promote efficiency within its programs. Many agencies within the executive branch, including those similar in size to the AO—such as the Smithsonian Institution, the Corporation of Public Broadcasting, the Corporation for National and Community Service, the EEOC, the OPM, the Nuclear Regulatory Commission, the Railroad Retirement Board, and the U.S. Information Agency—have inspector generals which provide the American public with a valuable service by conducting objective and independent oversight of agency activity.

In the past, the Congress has been hesitant to require the AO, a judicial agency, to have an inspector general like executive agencies, in the effort to avoid even the appearance of encroaching on the separation of powers. However, I trust my colleagues will agree that the efficient and cost-effective use of taxpayer dollars is as important in the administration of the judiciary as it is in the executive branch. The establishment of an IG within the AO will help ensure the appropriate and efficient use of taxpayer dollars without unduly burdening or diminishing in any way the independence of the Judiciary.

Mr. President, this legislation is not intended to be a harsh criticism of the AO. Certainly, the Administrative Office, like many other governmental agencies, has had its share of waste and inefficiency. My colleagues are aware of concerns I have expressed about the National Fine Center, which the AO is taking steps to rectify, and the Federal Courthouse Construction Program. I simply believe any bureaucracy with a large budget and many employees can benefit from independent oversight. However, I am certainly open to any suggestions about how this bill could be improved.

I want to make clear that the inspector general at the AO would have no authority to review and report on matters involving the Federal courts' judicial decisions. Jurisdiction would be limited strictly to the administrative functions performed by the AO.

Again, I believe this is a common sense, good Government piece of legislation which will enhance the cost-effective use of the taxpayer resources utilized to administer our Federal courts.●

By Ms. MIKULSKI (for herself, Mr. KENNEDY, and Mr. PRYOR):

S. 1447. A bill to amend the Older Americans Act of 1965 to provide for Federal-State performance partnerships, to consolidate all nutrition programs under the Act in the Department of Health and Human Services, to extend authorizations of appropriations for programs under the Act through fiscal year 1998, and for other purposes; to the Committee on Labor and Human Resources.

THE OLDER AMERICANS ACT AMENDMENTS OF 1995

● Ms. MIKULSKI. Mr. President, I introduce the Older Americans Act Amendments of 1995, which is the Clinton administration's proposal for the reauthorization of this critical legislative initiative.

The Older Americans Act [OAA] celebrated its 30th anniversary this year and with it, a great number of accomplishments. The Older Americans Act, enacted in 1965, was the first program to focus on the community-based services for seniors. It articulates a comprehensive set of services, designed to meet the diverse needs of older persons. Implemented at state and local levels, these programs are critical to the health and well-being of millions of senior Americans in Maryland and throughout the United States.

Now, the Congress is beginning the process of reauthorizing the Older Americans Act for another 3 to 5 years. As we seek a vision for the Older Americans Act in the 21st century, I believe we must assess all aspects of the program and look to the future needs of seniors and their families. This includes examination of the core elements of the act, being more realistic to streamlining the scope of services that the act provides, and allowing service providers to focus on improving the quality of those services.

In an effort to expand the debate on the reauthorization of the Older Americans Act, I am introducing today the administration's proposal. This legislation combines consolidation of programs while encouraging greater flexibility in the delivery of services to seniors. While I am not in agreement with every aspect of this proposal, I do believe that it will contribute to the debate of this very important program.

I look forward to collaborating with Senator JUDD GREGG, our chairman of the Subcommittee on Aging and Senator NANCY KASSEBAUM, our chair of the Senate Labor and Human Resources Committee, as we work together with out Senate colleagues in reauthorizing the Older Americans Act. I am dedicated to seeing that the best of the Older Americans Act remains and thrives. I ask my colleagues to join me in this important effort.

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. 1447

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Older Americans Act Amendments of 1995''.

(b) REFERENCE.—Except as otherwise expressly provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE III—WHITE HOUSE CONFERENCE ON AGING

TITLE I—PERFORMANCE PARTNERSHIPS

SEC. 101. RESPONSIBILITIES OF ASSISTANT SECRETARY.

(a) FUNCTIONS OF ASSISTANT SECRETARY.—Section 202(a)(3) is amended by inserting before the semicolon '', and to negotiate performance partnership agreements with the States under titles III and VII''.

(b) PERFORMANCE PARTNERSHIPS.—Title II is amended by inserting after section 202 the following new section:

''PERFORMANCE PARTNERSHIPS

''SEC. 202A. (a) IN GENERAL.—The Assistant Secretary shall negotiate performance partnership agreements with States in accordance with the provisions of this section.

''(b) PERFORMANCE OBJECTIVES AND MEASURES.—

''(1) DESIGNATION OF OBJECTIVES.—The Assistant Secretary, in consultation (as appropriate) with the States, local governments, tribal organizations, and other entities, shall specify, by the end of September 1996 (and from time to time revise, as needed), with respect to the goals specified in sections 305A and 704A—

''(A) a list of performance partnership objectives to accomplish the goals of each such section, and

''(B) a core set for each such section of objectives that address needs of older Americans of national significance.

''(2) ELEMENTS OF PERFORMANCE PARTNERSHIP OBJECTIVES.—Each performance partnership objective specified under paragraph (1) shall include—

''(A) a performance indicator;

''(B) the specific population being addressed;

''(C) a quantifiable performance target; and

''(D) a date by which the target level is to be achieved.

''(3) GENERAL CRITERIA FOR DESIGNATION OF OBJECTIVES.—In specifying the performance partnership objectives, the Assistant Secretary shall be guided by the following principles:

''(A) objectives should be closely related to the goals of the section concerned, and be viewed as important by and understandable to State policymakers and the general public;

''(B) actions taken under the partnership agreement should be expected to have an impact on the objective;

''(C) measurable progress in achieving the objective should be expected over the period of the grant;

''(D) objectives should be results-oriented, including a suitable mix of outcome, process and capacity measures, and, if an objective measures process or capacity, it should be demonstrably linked to the achievement of a specified outcome for older Americans; and

''(E) data to track the objective shall, to the extent practicable, be comparable for all States, meet reasonable statistical standards for quality, and be available in a timely fashion, at appropriate periodicity, and at reasonable cost, and, with respect to core objectives, shall include as appropriate the data specified in section 202(a)(19), collected in accordance with the uniform procedures established pursuant to section 202(a)(29).

''(c) STATE PERFORMANCE PARTNERSHIP PROPOSAL.—

''(1) IN GENERAL.—In order to meet the requirements of this subsection, a performance partnership proposal submitted to the Assistant Secretary by a State agency under title III or VII shall contain—

''(A) a list of one or more objectives (derived from the performance partnership objectives specified under subsection (b)) toward which the State will work and a performance target for each objective which the applicant will seek to achieve by the end of the partnership period (which shall be coterminous by the period covered by the State plan under section 307);

''(B) a rationale for the applicant's selection of its objectives, including its performance targets, and timeframes;

''(C) a statement of the applicant's strategies for achieving the objectives over the course of the grant period;

''(D) a statement of the estimated amount to be expended to carry out each strategy; and

''(E) an assurance that the State will report to the Assistant Secretary, not later than 60 days after the end of each fiscal year, on progress in the State toward accomplishing core performance objectives specified under subsection (b)(1)(B) (regardless of whether it is working toward those objectives) and the specific objectives toward which the State is working under the performance partnership. A State may select an objective that is not a specified performance partnership objective under subsection (b)(1)(A) if it demonstrates to the Assistant Secretary that the objective relates to a significant concern of older Americans in the State that would not otherwise be addressed appropriately (and that a suitable performance indicator exists to measure progress toward the objective).

''(2) ELEMENTS OF STATE PROPOSALS RELATING TO SPECIAL POPULATIONS.—Each State proposal for a performance partnership under title III or VII shall, as appropriate, include objectives—

''(A) designed, in consultation with tribal governments (or their representatives) to address the needs of older Indians or Native Hawaiians within the State to ensure that an appropriate and equitable share of State funding under such title is used to meet such needs; and

''(B) designed to give priority to activities addressing the needs of vulnerable older individuals in the State.

''(d) NEGOTIATIONS AND ADJUSTMENT.—

''(1) INITIAL NEGOTIATIONS.—In the negotiations concerning a proposed performance partnership agreement submitted under this section, the Assistant Secretary shall—

''(A) consider the extent to which the State's proposed objectives, performance targets, timeframes, and strategies are likely to address appropriately the most significant needs of older Americans (as measured by applicable indicators) within the State, including the needs of vulnerable populations, and

''(B) give particular consideration to the State's proposed performance partnership in addressing progress toward the core set of performance partnership objectives.

''(2) ADJUSTMENT.—The Assistant Secretary and a State may at any time in the course of a performance partnership renegotiate, and revise by mutual agreement, the elements of the partnership agreement in light of new information or changed circumstances (including information or changes identified during assessments or on-site reviews under subsection (e)).

''(e) ANNUAL ASSESSMENTS; PERIODIC ON-SITE REVIEWS.—

''(1) ASSESSMENTS.—The Assistant Secretary shall assess annually with respect to performance partnerships under such titles III and VII, on the basis of the report submitted by a State under subsection (c)(1)(E)—

''(A) the progress achieved nationally toward each of the objectives in the core set of performance partnership objectives; and

''(B) in consultation with each State, the State's progress toward each objective agreed upon in the performance partnership under such title.

The Assistant Secretary shall make assessments publicly available.

''(2) PERIODIC ON-SITE REVIEWS.—The Assistant Secretary shall conduct an on-site review of each State's adherence to its performance partnership agreement under title III or VII not less often than every five years.

''(f) INCENTIVE AWARDS FOR EFFECTIVE PERFORMANCE.—From amounts reserved under section 304(a), the Assistant Secretary may make an incentive award to any State determined, on the basis of assessments or on-site reviews under subsection (e) or other investigation, to have performed effectively under a performance partnership agreement under title III or VII and to have made significant progress toward meeting core national objectives. Incentive awards made to States shall be available only for use in furnishing additional services under the State's agreement under such title.''.

(c) DEFINITIONS.—Section 102 is amended by adding at the end the following new paragraph:

''(45)(A) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(B) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

SEC. 102. FUNDING OF PERFORMANCE PARTNERSHIP ADMINISTRATIVE COSTS AND INCENTIVE AWARDS.

(a) STATE ADMINISTRATIVE COSTS RELATED TO PERFORMANCE PARTNERSHIPS.—Section 308 is amended by adding at the end the following new subsection:

''(d) In addition to amounts otherwise available under this section, each State may use, for costs relating to the administration of performance partnerships under this title and title VII, including costs of developing, negotiating, administering, monitoring, evaluating, and reporting on performance under, such partnerships, such additional amounts from the allotment to the State under section 304 (not to exceed 2 percent of such allotment) as the Assistant Secretary may permit.''.

(b) SET-ASIDE FOR INCENTIVE AWARDS.—(1) IN GENERAL.—Section 304 is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f); and

(2) by inserting after ''SEC. 304.'' the following new subsection:

''(a) RESERVATION OF FUNDS FOR PERFORMANCE PARTNERSHIP INCENTIVE AWARDS.—From each of the sums appropriated under section 303 for each fiscal year, the Assistant Secretary may reserve up to 10 percent for performance incentive awards to States in accordance with section 205(f).''.

(2) CONFORMING AMENDMENT.—Section 304(b), as redesignated by subsection (a), is amended by striking ''from the sums appropriated'' and inserting ''from the amounts remaining, after application of subsection (a), from the sums appropriated''.

SEC. 103. RESPONSIBILITIES OF STATES.

(a) UNDER BASIC STATE GRANTS PROGRAM.—Title III is amended by inserting after section 305 the following new section:

''PERFORMANCE PARTNERSHIPS

''SEC. 305A. (a) GOALS.—The goals of this section are for the States and the Federal Government, working together in a partnership, to accomplish the purposes specified in section 301(a).

''(b) PERFORMANCE PARTNERSHIP AS ELEMENT OF STATE PLAN.—In order to be eligible to receive a grant from its allotment under this title, except as provided in section 309(a), a State shall propose to and negotiate with the Assistant Secretary a performance partnership agreement in accordance with the provisions of this section and section 202A, and shall include such agreement as part of the State plan under section 307.

''(c) ADVISORY COUNCIL.—The State shall establish an Advisory Council, with members including representatives of other State agencies administering programs serving the elderly, private entities providing services under the State plan, and older individuals (with appropriate efforts to include members of minority groups), whose responsibilities shall include—

''(1) reviewing and commenting on the State's proposed performance partnership agreement under this section (and such comments shall be included with the State plan submission under section 307); and

''(2) evaluating and reporting on the State's performance under the final agreement negotiated with the Assistant Secretary.''.

(b) UNDER VULNERABLE ELDER RIGHTS PROTECTION PROGRAM.—Title VII is amended by inserting after section 704 the following new section:

''PERFORMANCE PARTNERSHIPS

''SEC. 704A. (a) GOALS.—The goals of this section are for the States and the Federal Government, working together in partnership, to protect the rights of vulnerable older individuals and to prevent elder abuse, neglect, and exploitation.

''(b) STATE PERFORMANCE PARTNERSHIP AS ELEMENT OF STATE PLAN.—In order to be eligible to receive a grant from its allotment under this title, a State shall propose to and negotiate with the Assistant Secretary a performance partnership agreement in accordance with the provisions of this section and section 202A, and shall include such agreement as part of the State plan under section 307.

''(c) ADVISORY COUNCIL.—The responsibilities of the advisory council established by the State pursuant to section 305A(c) State shall include—

''(A) reviewing and commenting on the State's proposed performance partnership agreements under this title (and such comments shall be included with the State plan submission under section 307); and

''(B) evaluating and reporting on the State's performance under the final agreement negotiated with the Assistant Secretary under this title.''.

(c) STATE PLAN REQUIREMENT.—Section 307(a) is amended in the first sentence by striking ''which meets such criteria'' and inserting ''which includes the performance partnership agreements under this title and title VII negotiated with the Assistant Secretary under sections 202A, 305A, and 704A, and meets such other criteria''.

SEC. 104. AREA PLANS: REORGANIZATION, STREAMLINING, AND INCORPORATION OF PERFORMANCE PARTNERSHIPS.

(a) AREA PLAN REQUIREMENTS.—Section 306(a) is amended—

(1) in the matter preceding paragraph (1), by striking ''Each such plan shall—'' and inserting ''Each such plan shall comply with the following requirements:'';

(2) in paragraph (1), to read as follows:

''(1) SERVICES PROVIDED.—The plan shall provide for the furnishing, through a comprehensive and coordinated system, of services the need for which has been determined pursuant to paragraph (3), and which are designed to meet the performance objectives specified under paragraph (4), including—

''(A) supportive services (including at least the service specified in paragraph (2));

''(B) nutrition services; and

''(C) where appropriate, the establishment, maintenance, or construction of multipurpose senior centers.'';

(3) in paragraph (2)—

(A) by inserting ''PRIORITY SERVICES.—The plan shall'' after ''(2)'';

(B) by striking ''section 307(a)(22)'' and inserting ''section 307(a)(2)'';

(C) by striking ''and specify annually in such plan, as submitted or as amended'' and inserting ''and assurances that the area agency will report annually to the State agency''; and

(D) by striking the semicolon at the end and inserting a period;

(4) by striking paragraphs (3) (designation of focal points for service delivery in each community) and (4) (information and assistance services);

''(5) by inserting after paragraph (2) the following new paragraphs:

''(3) DETERMINATION OF NEEDS.—The plan shall provide for determining the extent of need for the services specified in paragraphs (1) and (2) in the area taking into consideration, among other things—

''(A) the numbers of older individuals residing in such area—

''(i) who have low incomes,

''(ii) who have greatest economic need (with particular attention to individuals who are members of historically disadvantaged groups),

''(iii) who have greatest social need (with particular attention to individuals who are members of historically disadvantaged groups), or

''(iv) who are Indians; and

''(B) the effectiveness of use of resources (including efforts of volunteers and voluntary organizations) in meeting such need.

''(4) PERFORMANCE PARTNERSHIP OBJECTIVES.—The plan shall identify area objectives, for purposes of the performance partnership required under sections 305A and 704A, on the basis of the determinations under paragraph (3) (and including objectives required under paragraph (5)), and shall be amended as necessary to incorporate, as appropriate, the objectives specified in the agreements negotiated by the State agency under such sections 305A and 704A.'';

(6) in paragraph (5)—

(A) by inserting ''OBJECTIVES FOR SERVICES TO OLDER INDIVIDUALS WITH GREATEST NEED.—The plan shall'' after ''(5)''; and

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

(7) in paragraph (6)—

(A) by inserting ''Policy Development.—The plan shall—'' after ''(6)'';

(B) by striking subparagraphs (A) (evaluations and public hearings) and (B) (technical assistance to providers);

(C) by relocating and redesignating subparagraph (D) as subparagraph (A);

(D) by relocating and redesignating subparagraph (F) as subparagraph (B);

(E) by striking the semicolon at the end of subparagraph (C) and inserting a period; and

(F) by striking subparagraphs (E) (arrangements with specified organizations), (G) (methods for determining priority services), (H) (coordination among programs), (J) (identification of protective services providers, (L) (coordination of services for Alzheimer's patients), (M) (coordination of mental health services), (O) (information on higher education), (Q) (coordination with housing providers), (R) (telephone listings of area agencies), and (S) (coordination of transportation services);

(8) by striking paragraphs (7) through (10) (assurances that funds will be spent for the purposes awarded);

(9) by striking subparagraphs (I) and (K) of paragraph (6) (community-based long-term care services) and inserting after paragraph (6) the following new paragraph:

''(7) COMMUNITY-BASED LONG-TERM CARE SERVICES.—The plan shall provide that the area agency will facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including—

''(A) development of case management services as a component of the long-term care services, consistent with the requirements of paragraph (8);

''(B) involvement of long-term care providers in the coordination of such services; and

''(C) increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities.'';

(10) by relocating and redesignating paragraph (20) as paragraph (8), and amending such paragraph by inserting ''PROVISION OF CASE MANAGEMENT SERVICES.—The plan shall'' after ''(8)'';

(11) by redesignating paragraph (11) as paragraph (9), and amending such paragraph—

(A) by inserting ''MAINTENANCE OF EFFORT FOR OMBUDSMAN PROGRAM.—The plan shall'' after ''(9)'';

(B) by striking ''section 307(a)(12)'' and inserting ''section 307(a)(9)''; and

(C) by striking the semicolon at the end and inserting a period;

(12) by redesignating and relocating paragraph (6)(P) as paragraph (10), and amending such paragraph—

(A) by inserting ''GRIEVANCE PROCEDURE.—The plan shall'' after ''(10)''; and

(B) by striking the semicolon and inserting a period;

(13) by striking paragraphs (6)(N), (18), and (19), and inserting after paragraph (10) the following paragraph:

''(11) SERVICES TO NATIVE AMERICANS.—The plan shall provide the following assurances concerning services to older Native Americans:

''(A) If there is a significant population of older individuals who are Indians in the area, the area agency will pursue activities, including outreach, to increase access of such individuals to programs and benefits under this title.

''(B) The area agency will, to the maximum extent practicable, coordinate the services it provides under this title with services provided under title VI.'';

(14) by striking paragraph (12) (area option concerning volunteer services coordinator);

(15) by striking paragraphs (13) through (16) (description of and assurances concerning activities of area agency); and

(16) by redesignating paragraph (17) as paragraph (12) and amending such paragraph—

(A) by inserting ''SPECIAL MENUS IN NUTRITION PROGRAMS.—'' after ''(12)'';

(B) by striking ''section 307(a) (13) (G)'' and inserting ''section 307(a) (10) (D)''; and

(C) by striking the semicolon and inserting a period.

(b) STATE WAIVERS.—Section 306(b) is amended—

(1) by striking paragraph (2) (procedural requirements for State agency waivers to area agencies); and

(2) by striking ''(1)'' after ''(b)''.

SEC. 105. STATE PLANS: REORGANIZATION, STREAMLINING, AND INCORPORATION OF PERFORMANCE PARTNERSHIPS.

(a) STATE PLAN REQUIREMENTS.—Section 307(a) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) AREA PLANS AND PERFORMANCE PARTNERSHIPS.—The plan shall—

''(A) require each area agency designated under section 305(a) (2) (A) to—

''(i) develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306 which specifies area objectives for purposes of performance partnerships under sections 305A and 704A, as required by section 306(a)(4); and

''(ii) amend such area plan as necessary to incorporate, as appropriate, objectives specified in the performance partnership agreements negotiated by the State agency under such sections 305A and 704A;

''(B) be based on such area plans; and

''(C) include the performance partnership agreements negotiated by the State agency with the Assistant Secretary under such sections 305A and 704A.'';

(2) by striking paragraphs (3) (A) (evaluation of need for services), (9) (information and assistance services), and (22) (funding shares for priority services), and amending paragraph (2) to read as follows:

''(2) DETERMINATION OF SERVICE NEEDS.—The plan shall provide that the State agency will—

''(A) evaluate, using uniform procedures under section 202(a) (29) the need for supportive services (including legal assistance, information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;

''(B) determine the extent to which existing public or private programs and resources (including volunteers and programs and services of voluntary organizations) meet such need; and

''(C) specify a minimum percentage of the funds received by each area agency for part B to be expended (unless waived by the State agency under section 306(b)) by such area agency to provide each of the categories of services specified in section 306(a) (2).'';

(3) by striking paragraphs (3)(B) (maintaining rural funding), (29) and (37) (rural services and costs thereof), and (33) (intra-State funding formula), and adding after paragraph (2) the following new paragraph:

''(3) INTRA-STATE FUNDING REQUIREMENTS.—The plan shall—

''(A) shall include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305 (d) (concerning intra-State distribution of funds); and

''(B) with respect to services to older individuals residing in rural areas—

''(1) provide assurances that the State agency will spend for each fiscal year, under this title and titles V and VII, not less than 105 percent of the amount so expended for fiscal year 1978;

''(ii) identify, for each fiscal year under the plan, the projected costs of providing such services (including the cost of providing access to such services); and

''(iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.'';

(4) by striking paragraph (4) (methods of administration, personnel standards);

(5) by striking paragraph (8) (evaluations and hearings) and inserting after paragraph (3) the following paragraph:

''(4) EVALUATIONS.—The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan.'';

(5) by striking paragraph (43) (grievance procedures) and amending paragraph (5) (hearing for area agencies and providers) to read as follows:

''(5) ''HEARINGS FOR AREA AGENCIES AND PROVIDERS; GRIEVANCE PROCEDURES.—The plan shall provide that the State agency will—

''(A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agency submitting a plan under this title, or to any provider of (or applicant to provide) services under such a plan; and

''(B) issue guidelines applicable to grievance procedures required by section 306(a)(10).'';

(6) in paragraph (6), by inserting ''REPORTS:—'' after ''(6)'';

(7) in paragraph (7)—

(A) by inserting ''FISCAL CONTROLS.—'' after ''(7)''; and

(B) by striking subparagraph (C);

(8) by redesignating paragraph (10) as paragraph (8) and amending such paragraph by inserting ''RESTRICTION ON DIRECT PROVISION OF SERVICES.—'' after ''(8)'';

(9) by striking paragraph (11) (hiring preference for older individuals and individuals trained in field of aging);

(10)(A) by redesignating paragraph (12) as paragraph (9), and amending such paragraph—

(i) by inserting ''LONG-TERM CARE OMBUDSMAN PROGRAM.—'' after ''(9)''; and

(ii) by adding before the period '', and ''will expend for such purpose not less than the total amount so expended by the State agency in fiscal year 1991''; and

(B) by striking paragraph (21);

(11) by redesignating paragraph (13) as paragraph (10), and amending such paragraph—

(A) by inserting ''NUTRITION SERVICES.—'' after ''(10)'';

(B) by striking subparagraphs (B) (primary consideration to congregate meals), (D) (accessibility of congregate meal site), (E) (outreach), (H) (grandfathered providers of home-delivered meals), and (M) (nonfinancial eligibility criteria); and

(B)(i) by inserting ''and'' at the end of subparagraph (K);

(ii) by striking ''; and '' at the end of subparagraph (L) and inserting a period; and

(iii) by redesignating subparagraph (C) and the remaining subparagraphs as subparagraphs (B) through (H);

(12) by striking paragraph (14) (restrictions on use of funds under the Act for acquisition, alteration, or construction of facilities);

(13) (A) by redesignating paragraph (15) as paragraph (11), and amending such paragraph—

(A) by inserting ''LEGAL ASSISTANCE.—'' after ''(11)''; and

(B) (i) by striking ''and'' at the end of subparagraph (D); and

(ii) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(B) (i) by amending paragraph (18) by striking all that precedes ''assign personnel'' and inserting ''the State will''; and

(ii) by relocating and redesignating such paragraph (18) as paragraph (11)(F);

(14) by redesignating paragraph (16) as paragraph (12), and amending such paragraph by inserting ''PREVENTION OF ABUSE.—'' after ''(12)'';

(15) by striking paragraph (17) (in-service personnel training);

(16) by striking paragraph (19) (guarantees that area agencies may give grants or contracts to providers of education and training services);

(17) by redesignating paragraph (20) as paragraph (13), and amending such paragraph by inserting ''OLDER INDIVIDUALS OF LIMITED ENGLISH-SPEAKING ABILITY.—'';

(18) by redesignating paragraph (23) as paragraph (14), and amending such paragraph by inserting ''SPECIAL NEEDS POPULATIONS.—'' after ''(14)'';

(19) by redesignating paragraph (24) as paragraph (15), and amending such paragraph by inserting ''OUTREACH.—'' after ''(15)'';

(20) by redesignating paragraphs (25) as paragraph (16), and amending such paragraph by inserting ''OLDER INDIVIDUALS WITH SEVERE DISABILITIES.—'' after ''(15)'';

(21) by redesignating paragraph (26) as paragraph (17), and amending such paragraph—

(A) by inserting ''COMMUNITY-BASED SERVICES.—(A) LONG-TERM CARE SERVICES.—'' after ''(26)''; and

(B) by striking ''section 306(a)(6)(I)'' and inserting ''section 306(a)(6)(D)'';

(22) by relocating and redesignating paragraph (44) as paragraph (17)(B);

(23) by striking paragraph (27) (assurances concerning part D in-home services program);

(24) by striking paragraph (28) (assurances concerning part E special needs program);

(25) by redesignating paragraph (30) as paragraph (18), and amending such paragraph by inserting ''TITLE VII PROGRAM.—'' after ''(18)'';

(26) by striking paragraph (31) (State volunteer services coordinator);

(26) by redesignating paragraph (32) as paragraph (19), and amending such paragraph by inserting ''TECHNICAL ASSISTANCE TO PROVIDERS.—'' after ''(19)'';

(27) (A) by redesignating paragraph (34) as paragraph (20), and amending such paragraph by inserting ''OLDER NATIVE AMERICANS.—(A)'' after ''(34)''; and

(B) by redesignating subparagraphs (A) and (B) of paragraph (35) as clauses (i) and (ii), and redesignating and relocating such paragraph (35) as subparagraph (B) of paragraph (20);

(28) by redesignating paragraph (36) as paragraph (21), and amending such paragraph by inserting ''CASE MANAGEMENT PROVIDERS.—''after ''(21)'';

(29) by striking paragraphs (38) and (39) (assurances concerning use of funds);

(30) by striking paragraph (40) (assurances concerning part G program for in-home caretakers);

(31) by striking paragraph (41) (efforts to coordinate services and provide multigenerational activities); and

(32) by striking paragraph (42) (coordination of transportation services).

SEC. 106. EFFECTIVE DATE.

The amendments made by this title shall become effective with respect to a State on the effective date of the first State plan under section 307 of the Older Americans Act of 1965 that takes effect one year or later after the enactment of this Act.

TITLE II—OTHER AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—ADMINISTRATION OF AGING

SEC. 201. NATIONAL ELDERCARE LOCATOR SERVICE.

Section 202(a)(24) is amended to read as follows:

''(24) develop and operate, either directly or through contracts, grants, or cooperative agreements, a National Eldercare Locator Service, providing nationwide toll-free information and assistance services to identify community resources for older individuals;''.

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FEDERAL COUNCIL ON THE AGING.—Section 204(g) is amended by striking all that follows ''to carry out this section'' and inserting ''$226,000 for fiscal year 1996 and such sums as necessary for each of fiscal years 1997 and 1998.''.

(b) ADMINISTRATION ON AGING.—Section 215 is amended to read as follows:

''SEC. 215. There are authorized to be appropriated, for carrying out the responsibilities of the Administration on Aging under this title—

''(1) for fiscal year 1996, $18,149,000, plus such additional sums as may be necessary to

carry out responsibilities with respect to programs under section 311 and title V transferred to the Administration on Aging by the Older Americans Act Amendments of 1995, and

''(2) such sums as may be necessary for each of fiscal years 1997 and 1998,

of which up to $1,000,000 for each such fiscal year shall be available for operation of the National Eldercare Locator Service under section 202(a)(24).''.

PART B—STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 211. CLARIFICATION CONCERNING SERVICES TO NONELDERLY.

Section 301 is amended by adding at the end the following new subsection:

''(d) SCOPE OF SERVICES; USE OF FUNDS.—

''(1) RESTRICTED USE OF RESOURCES UNDER ACT.—Federal funds paid to States under this title, and cash and in-kind contributions required by section 304(e) (as redesignated by section 102 of this Act) as the non-Federal share of expenditures under this title, shall be used only for activities and services to benefit older individuals and other individuals as specifically provided in this title.

''(2) RESTRICTION INAPPLICABLE TO OTHER RESOURCES.—Neither paragraph (1) nor any other provision of this title shall be construed to prohibit State or area agencies on aging from engaging in activities or providing services to benefit individuals not described in paragraph (1) using cash or in-kind resources from sources not described in paragraph (1).

SEC. 212. COORDINATION OF SERVICES FOR INDIVIDUALS WITH DISABILITIES UNDER AREA PLANS.

Section 306(a) (as amended by section 104 of this Act) is further amended by inserting after paragraph (3) the following new paragraph:

''(4) provide assurances that the area agency on aging will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities, with particular attention to individuals with severe disabilities, with agencies that develop or provide services for individuals with disabilities.''.

SEC. 213. ELIGIBILITY OF OLDER INDIANS FOR SERVICES UNDER AREA PLANS.

(a) UNDER AREA PLANS.—Section 306(a) (18) is amended by inserting before the semicolon '', including assurances that, notwithstanding any provision of this Act restricting eligibility for services to individuals aged 60 or older, it will make services under the area plan available, to the same extent as such services are available to older individuals within the service area, to older Indians eligible for services under an approved plan under title VI''.

(b) UNDER GRANTS FOR NATIVE AMERICANS.—Sections 602, 611, 613, and 614 are each amended by striking ''individuals who are'' each place it appears.

SEC. 214. STATE OPTION FOR COST SHARING.

(a) STATE PLAN REQUIREMENT.—Section 307(a) (as amended by section 105 of this Act) is further amended by adding at the end the following new paragraph:

''(31) If the State elects to require cost sharing by recipients of services under the State plan (or to require or permit area agencies on aging to require cost sharing by recipients of services under area plans), the plan shall—

''(A) provide that no cost sharing shall be required for—

''(i) information and assistance, outreach, or case management services;

''(ii) ombudsman or other protective services; or

''(iii) congregate or home-delivered nutrition services; and

''(B) (i) exempt from cost-sharing requirements individuals with incomes below a low-income threshold set by the State, and

''(ii) set cost-sharing rates for individuals with incomes above such threshold on a sliding-fee scale based on income.''.

(b) AREA PLAN REQUIREMENT.—Section 306(a) (as amended by section 104 of this Act) is further amended—

(1) by striking the period at the end of paragraph (11) and inserting a semicolon; and

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

''(12) provide assurances that any requirements for cost-sharing by recipients of services under the plan will be consistent with the provisions of the State plan under section 307(a)(31)''.

SEC. 215. STATE OPTION CONCERNING CONSUMER-DIRECTED SERVICES.

Section 307(a) (as amended by sections 105 and 214 of this Act) is further amended by adding at the end the following new paragraph:

''(32) The plan shall specify—

''(A) whether (and if so, with respect to which supportive or nutrition services) the State elects to permit area agencies on aging—

''(i) to provide services to older individuals through direct contracts with the individuals delivering such services; or

''(ii) to provide vouchers or cash to older individuals to permit such older individuals to contract with individuals or entities for the delivery of such services (and, if so, any requirements for the setting of payment rates or amounts);

''(B) the qualifications and other requirements that must be met by individuals and entities providing services under such arrangements; and

''(C) whether (and, if so, the conditions under which) services may be provided to an older individual by a family member under such an arrangement.''.

SEC. 216. TRANSFER OF FUNDS BETWEEN PROGRAMS.

(a) STREAMLINING OF GENERAL RULES.—Section 308(b) is amended—

(1) in paragraph (4)—

(A) by striking ''(A)'' after ''(4)''; and

(B) by striking subparagraph (B) (Assistant Secretary's discretion to permit State to transfer additional amounts between congregate and home-delivered meal programs); and

(2) in paragraph (5) (authority to transfer funds between nutrition and services programs), to read as follows:

''(5) Of the funds received by a State for a fiscal year from funds appropriated under subsections (a)(1), and (b)(1) and (2), of section 303, the State may elect to transfer not more than 20 percent between programs under part B and part C, for use as the State considers appropriate.

(b) WAIVER AUTHORITY.—For the Assistant Secretary's authority to waive limitations on amounts transferable between programs, see section 219 of this Act, adding a new section 314.

SEC. 217. AVAILABILITY OF DISASTER RELIEF FUNDS TO TRIBAL ORGANIZATIONS.

Section 310 is amended—

(1) in subsection (a)(1)—

(A) by inserting ''(or to any tribal organization receiving a grant under title VI)'' after ''any State''; and

(B) by inserting ''(or used by such tribal organization)'' before ''for the delivery of supportive services'';

(2) in subsection (a)(2), by inserting ''and tribal organizations'' after ''States''; and

(3) in subsection (a)(3), by inserting ''or tribal organization'' after ''State'' each place it appears; and

(4) in subsections (b)(1) and (c,) by inserting ''and tribal organizations'' after ''States''.

SEC. 218. NUTRITION SERVICES INCENTIVE PROGRAM.

(A) ESTABLISHMENT OF PROGRAM.—Section 311, including the heading thereof, is amended to read as follows:

''NUTRITION SERVICES INCENTIVE PROGRAM

''SEC. 311. (a) PURPOSE.—The purpose of the program under this section is to provide incentives to encourage and reward effective performance by States and tribal organizations in the efficient delivery of nutritious meals to older Americans.

''(b) PAYMENTS TO TRIBAL ORGANIZATIONS.—(1) FUNDING.—The Assistant Secretary shall reserve 3 percent of the total amount appropriated for a fiscal year under subsection (d) for payment to tribal organizations in accordance with paragraph (2).

''(2) ALLOTMENT AND PAYMENT.—The Assistant Secretary shall allot and pay, to each tribal organization with a plan approved under title VI for a fiscal year, an amount bearing the same ratio to the total amount reserved under paragraph (1) as the number of meals served by such tribal organization, under such plan approved for the preceding fiscal year, bears to the total number of meals served by all tribal organizations under all such plans approved for such preceding fiscal year.

''(c) PAYMENTS TO STATES.—(1) FUNDING.—The Assistant Secretary shall allot among the States for each fiscal year, in accordance with paragraph (2), the balance of amounts appropriated under subsection (d) remaining after application of subsection (b).

''(2) ALLOTMENT AND PAYMENT.—The Assistant Secretary shall allot and pay, to each State agency with a plan approved under this title for a fiscal year, an amount bearing the same ratio to the total amount reserved under paragraph (1) as the number of meals served in the State, under such plan approved for the preceding fiscal year, bears to the total number of meals served in all States under all such plans approved for such preceding fiscal year.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For carrying out the purposes of this section, there are authorized to be appropriated $151,250,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 and 1998.''.

(b) ELIMINATION OF MAINTENANCE OF EFFORT.—Section 339A is repealed.

SEC. 219. WAIVERS OF CERTAIN REQUIREMENTS FOR STATE PROGRAMS.

(a) GENERAL WAIVER AUTHORITY.—Part A of title III is amended by adding at the end the following new section:

''WAIVERS

''SEC. 315. (a) IN GENERAL.—The Assistant Secretary may waive any of the provisions enumerated in subsection (b) with respect to a State, upon application by the State agency containing or accompanied by documentation sufficient to establish, to the satisfaction of the Assistant Secretary, that—

''(1) approval of the State legislature has been obtained or is not required;

''(2) the State agency has consulted with area agencies on aging with respect to the proposal for which waiver is sought;

''(3) such proposal has been made available for public review and comment within the State (and a summary of comments received shall be included with the application); and

''(4) the State agency has given adequate consideration to the probable positive and negative consequences of approval of the waiver application, and the probable benefits for older individuals can reasonably be expected to outweight any negative consequences, or particular circumstances in the State otherwise justify the waiver.

''(b) REQUIREMENTS SUBJECT TO WAIVER.—The provisions of this title that may be waived under this section are—

''(1) any provisions of sections 305, 306, and 307 requiring statewide uniformity of programs under this title, to the extent necessary to permit demonstrations, in limited areas of a State, of innovative approaches to assist older individuals;

''(2) any area plan requirement under section 306(a);

''(3) any State plan requirement under section 307(a);

''(4) any restriction, under section 308(b)(4) or (5), on the amount that may be transferred between programs under part B and part C, or between programs under subpart 1 and subpart 2 of part C; and

''(5) all or any part of the reduction in allotment required under section 309(c) with respect to a State which reduces expenditures under its State plan (but only to the extent that the non-Federal share of expenditures is not reduced below any minimum specified in section 304(d) or any other provision of this title.''.

(b) CONFORMING AMENDMENT.—Section 307(b) is amended—

(1) by striking paragraph (2) (waiver of maintenance of effort for rural areas); and

(2) by striking ''(1)'' after ''(b)''.

SEC. 220. CONSOLIDATION OF AUTHORITIES FOR SUPPORTIVE SERVICES AND SENIOR CENTERS.

(a) COMMUNITY-BASED CARE AND SERVICES.—Section 321(a)(5) is amended by striking ''including'' and all that follows and inserting ''including—

''(A) client assessment, case management, and development and coordination of community services;

''(B) in-home services for frail older individuals (including supportive services for victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and for the families of such individuals);

''(C) supportive activities to meet the special needs of caregivers, including caretakers who provide in-home services to frail older individuals;

''(D) in-home and other community services, including home health, homemaker, shopping, escort, reader, and letter writing services, to assist older individuals to live independently in a home environment;''.

(d) DISEASE PREVENTION AND HEALTH PROMOTION.—Section 321(a)(8) is amended by inserting ''disease prevention and health promotion services and information, including'' after ''(8)''.

(c) GENERAL AUTHORITY.—Section 321(a)(22) is amended by inserting ''necessary for the general welfare of older individuals'' after ''any other services''.

(d) RELOCATION OF DEFINITIONS.—

(1) Section 342 (definition of ''in-home services'') is relocated and redesignated as paragraph (46) of section 102, and is amended by striking ''For purposes of this part, the term'' and inserting ''The term''.

(2) Section 363 (definition of ''disease prevention and health promotion services'') is relocated and redesignated as paragraph (47) of section 102, and is amended by striking ''For purposes of this part, the term'' and inserting ''The term''.

(e) REPEAL OF SUPERSEDED AUTHORITIES.—

(1) SUBSTANTIVE AUTHORITY.—Part D (In-Home Services for Frail Older Individuals), part E (Additional Assistance for Special Needs of Older Individuals), part F (Disease Prevention and Health Promotion Services), and part G (Supportive Activities for Caretakers Who Provide In-Home Services to Frail Older Individuals) are repealed.

(2) AUTHORIZATION OF APPROPRIATIONS.—(A) REPEALS; REDESIGNATION.—Section 303 is amended by striking subsection (d), (e), (f), and (g), and by redesignating subsection (h) as subsection (d).

(B) CONFORMING AMENDMENT.—Sections 202(a)(24) and 304(b)(2) are each amended by striking ''303(h)'' and inserting ''303(d)''.

SEC. 221. CONSOLIDATION OF AUTHORITIES FOR NUTRITION SERVICES.

(a) SCHOOL/BASED MEALS AS CONGREGATE NUTRITION SERVICES.—

(1) Section 331 is amended by inserting ''(a) IN GENERAL.—''after ''331.''.

(2) Section 338(a) is relocated and redesignated as subsection (b) of section 331, and is amended, in the matter preceding paragraph (1), by striking all that precedes ''projects'' and inserting instead the following:

''(b) SCHOOL-BASED MEALS AND MULTIGENERATIONAL PROGRAMS.—The State may include, in programs under this section,''.

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) SUBSTANTIVE AUTHORITY.—Part C of title III is amended by striking subpart 3 and redesignating subpart 4 as subpart 3.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 303(b)(3) is repealed.

SEC. 222. AUTHORIZATION OF APPROPRIATIONS.

(a) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a)(1) is amended by striking all that precedes ''for the purpose'' and inserting ''There are authorized to be appropriated $306,711,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 and 1998,''.

(b) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) is amended by striking all that precedes ''for the purpose'' and inserting ''There are authorized to be appropriated $375,809,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years year 1997 and 1998,''.

(c) HOME-DELIVERED NUTRITION SERVICES.—Section 303(b)(2) is amended by striking all that precedes ''for the purpose'' and inserting ''There are authorized to be appropriated $94,065,000 for fiscal year 1996 and such sums as may be necessary for each of fiscal years 1997 and 1998,''.

PART C—RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS

SEC. 231. REVISION OF TITLE IV.

Title IV is amended by striking all that follows the heading of the title and inserting the following:

''STATEMENT OF PURPOSE

''SEC. 401. (a) It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process; to design, test, and promote utilization of innovative ideas and best practices in programs and services for older individuals; to help meet the needs for trained personnel in the field of aging; and to increase the awareness of citizens of all ages of the need to assume personal responsibility for their own aging through—

''(1) education and training to develop an adequately trained work force to work with and on behalf of older individuals;

''(2) research and policy analysis to improve access to and delivery of services;

''(3) development of methods and practices to improve quality and effectiveness of services;

''(4) demonstration of new approaches to design, delivery and coordination of programs and services;

''(5) technical assistance on planning, development, implementation, evaluation, and improvement of programs and services under this Act; and

''(6) dissemination of information on aging issues, their impact on individuals and society, and programs and services benefiting older individuals.

''(b) ACTIVITIES GIVEN SPECIAL ATTENTION.—The activities supported under this title are intended to fulfill the objectives for older Americans specified in section 101, with special attention to the service and advocacy goals expressed in section 301(a)(1)(A), (B), (C) and (D) and section 601, and to the special population groups identified as vulnerable and at risk throughout the Act.

''PART A—EDUCATION AND TRAINING

''PURPOSE

SEC. 410. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by activities including—

''(1) identifying work force training and development needs in the field of aging;

''(2) developing a broad range of educational and training programs and activities for professionals, paraprofessionals, administrators, technicians and service workers;

''(3) encouraging recruitment, training and placement of minority trainees in key positions within agencies and organizations of the aging network;

''(4) improving academic gerontology training and education programs to make them more responsive to changing requirements;

''(5) increasing the capacity of aging planning and service organizations to improve the performance of their staff and other providers through training and other developmental activities; and

''(6) improving the knowledge and skills of teachers, instructors, trainers, guidance counselors and other personnel development staff in aging concepts and workforce opportunities and practices.

''GRANTS AND CONTRACTS

''SEC. 411. (a) IN GENERAL.—The Assistant Secretary may make grants to any public or nonprofit private agency, organization or institution, and may enter into contracts with any agency, organization, institution, or individual, or activities to achieve the purposes of this part, including—

''(1) development and improvement of multidisciplinary education and training programs (including expansion and improvement of curricula, instructional methods and materials, faculty and teacher development, and program administration) in academic institutions and other educational organizations which prepare individuals for employment in programs and occupations serving older individuals;

''(2) development and improvement of continuing education and in-service training opportunities for individuals already working in the field of aging, including the personnel of State offices, area agencies on aging, senior centers, and nutrition, counseling, ombudsman, adult protective services, and legal assistance programs; and

''(3) development of curriculum and guidance materials for students in secondary and vocational schools to encourage them to pursue employment and careers in the field of aging.

''(b) PROJECTS GIVEN SPECIAL CONSIDERATION.—To achieve the purposes of this title, the Assistant Secretary shall give special consideration to the support of projects that—

''(1) improve opportunities for career training activities to ensure an adequate and competent workforce in aging;

''(2) increase the capacity of State and area agency and non-profit service organizations to provide short-term in-service training to staff and volunteers;

''(3) develop leadership knowledge and skills of managers and administrators of organizations and agencies which plan, advocate, and provide services to older individuals, through workshops, seminars, and training institutes;

''(4) provide in-service training opportunities for program directors and providers of services to older Indians under title VI through grants to tribal and other nonprofit Indian aging organizations; and

''(5) improve the training and preparation of the workforce (including professionals, paraprofessionals and volunteers) providing home and community services for older individuals with physical and cognitive disabilities and mental health disorders.

''PART B—RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS

''PURPOSE

''SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

''(1) conduct research and policy analysis to—

''(A) develop and synthesize knowledge about aging programs, practices and policies from multidisciplinary perspectives; and

''(B) assess the effectiveness of services and practices designed to improve access to and delivery of service programs; and

''(2) develop, test, and evaluate innovative planning, advocacy, and service practices and programs.

''RESEARCH AND DEVELOPMENT PROJECTS

''SEC. 421. (a) IN GENERAL.—The Assistant Secretary may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual for research or policy analysis related to the purposes of this part, including development of practices, assessment instruments, and applications involving—

''(1) use of technology for planning and delivery of services; and

''(2) use of interactive communication systems and assistive devices to maintain or increase the independence of older individuals.

''(b) CONSULTATION AND COLLABORATION WITH OTHER FEDERAL AGENCIES.—The Assistant Secretary may consult with, and may enter into formal agreements with, other Federal agencies supporting aging research and development activities, including agreements involving interagency transfer of funds to support collaborative research activities consistent with the conditions specified in section 451(b).

''DEMONSTRATION PROJECTS

''SEC. 422. (a) IN GENERAL.—The Assistant Secretary may make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization to design, test and demonstrate new approaches to planning and delivery of supportive services, nutrition services and other activities to maintain or increase the independence and improve the quality of life of older individuals.

''(b) PROJECTS GIVEN PRIORITY CONSIDERATION.—The Assistant Secretary shall give priority consideration to funding the following projects under this section:

''(1) COMMUNITY SERVICES FOR FUNCTIONALLY IMPAIRED INDIVIDUALS.—Planning, development, and implementation of new approaches to delivery of home and community-based supportive services for older individuals with disabilities limiting their ability to perform activities of daily living, including projects involving coordination and integration of such services with those for nonelderly individuals with similar disabilities, including approaches that—

''(A) promote individual choice in the selection of services;

''(B) eliminate access barriers for populations with greatest need;

''(C) reduce or eliminate duplication and fragmentation of services;

''(D) strengthen the quality, efficiency, and cost-effectiveness of non-profit service providers;

''(E) improve the quality and effectiveness of personnel of public and private entities involved in service delivery; and

''(F) develop cooperative relationships with private entities to increase the effective use of available public and private resources.

''(2) PREVENTION OF CRIME, VIOLENCE, AND ABUSE.—Planning, development, implementation, and evaluation of comprehensive community, State, and tribal models designed to prevent crime, violence and abuse against the elderly which include—

''(A) public education on prevention for older individuals;

''(B) supportive services for older individuals who have been victimized;

''(C) improvements in information and data reporting systems;

''(D) coordination of public and private sector services and resources; and

''(E) in-service and cross-service training of personnel in criminal justice, health, mental health, law enforcement, social and protective services, and aging and advocacy service systems.

''(c) ADDITIONAL PROJECTS.—The Assistant Secretary may support under this section any project designed to achieve the purposes of this part, including the following:

''(1) COMPREHENSIVE COMMUNITY SERVICES TO INDIVIDUALS AT RISK OF LOSING INDEPENDENCE.—Projects to assist older individuals at risk of losing their independence without assistance in accomplishing activities of daily living, including those disabled by Alzheimer's Disease and related disorders, physical disability, mental illness or emotional stress, and developmental disabilities, through comprehensive State and community model programs for such supportive services to such individuals, their families and caregivers, including—

''(A) in-home health care;

''(B) social and medical adult day care;

''(C) homemaker aides and personal care attendants;

''(D) transportation to and from community health, mental health and social service facilities;

''(E) respite care, caregiver education, training, and counseling and other supportive services for primary caregivers of persons with Alzheimer's Disease, physical and developmental disabilities, or other serious functional impairments; and

''(F) information and referral, outreach, counseling and other services to increase access to appropriate medical, nutritional, and supportive services.

''(2) HOUSING SERVICES.—Projects addressing the special housing needs of older individuals by activities including—

''(A) developing programs to enable or assist older homeowners—

''(i) to maintain their residences through repairs or renovations, and

''(ii) to increase their physical safety through structural modifications or alterations and installation of security devices;

''(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals with functional impairments;

''(C) coordinating counseling services with those available to residents of Federal and State assisted housing facilities with high concentrations of older residents;

''(D) developing information, counseling and referral programs for older renters and homeowners on housing options, including eligibility requirements; application processes; financing; and legal rights and responsibilities of tenancy and restricted ownership, including foreclosure and eviction.

''(3) EDUCATION AND TRAINING.—Projects to provide education and training to older individuals designed to enable them to lead more productive lives through development and demonstration of—

''(A) older adult literacy programs, including use of peer tutoring;

''(B) pre-retirement counseling and education programs; and

''(C) older adult occupational training and employment placement and counseling activities not currently supported under title V or programs administered by the Department of Labor.

''(4) TRANSPORTATION SERVICES.—Projects to improve and develop transportation systems which—

''(A) increase access of older individuals, especially low-income individuals and those living in rural areas, to community services essential to independent living;

''(B) provide low-cost commuter transportation for in-home personal care aides serving functionally impaired older individuals in under-served public transit areas; and

''(C) provide assisted transportation services for frail and disabled older individuals.

''(5) VOLUNTEER OPPORTUNITIES.—Projects developed in conjunction with the Corporation for National and Community Service to develop—

''(A) innovative opportunities for older volunteers to fulfill community needs which are not being met by existing programs (including volunteer programs), including opportunities to provide—

''(i) multigenerational services addressing the needs of youth and children; and

''(i) peer support and home and community services to other older individuals with functional impairments or otherwise at risk of losing their ability to live independently; and

''(B) innovative multigenerational volunteer programs affording opportunities for children, youth, and adults to serve unmet needs of functionally impaired older individuals regardless of their living situation.

''(6) HEALTH-RELATED SERVICES.—Projects to demonstrate effective home and community rehabilitative, health and mental health promotion, and disease prevention activities for older individuals at risk of losing their ability to live independently.

''(7) CONSUMER PROTECTION.—Projects to develop innovative approaches to consumer protection for older individuals in home and community settings, addressing consumer rights and protections relating to auto, health, life, and other insurance policies; mortgages, leases, and similar property and housing rights; and personal loans and other financial transactions.

''PART C—CENTERS

''PURPOSE

''SEC. 431. The purpose of this part is to improve the quality of services available to older individuals through multi-function, multi-disciplinary centers and other cross-cutting activities as resources for planners, administrators, policy-makers and providers in the field of aging.

''FUNCTIONS OF GRANTEES AND CONTRACTORS; ADVISORY BOARDS

''SEC. 432. (a) FUNCTIONS.—Grantees and contractors under this part shall, as appropriate, perform the following functions:

''(1) evaluate, analyze, and report on program policies and practices to assess their effectiveness in meeting the needs and improving the quality of life of older individuals and their families and caregivers;

''(2) compile, select, and make available research, evaluation and demonstration findings which provide useful guidance in determining the needs of older individuals and improving practices in the field of aging;

''(3) develop strategies and models to improve the quality, efficiency, and effectiveness of service programs and activities;

''(4) develop technical assistance and training materials and participate in workshops, conferences and events which promote transfer of useful information and practices;

''(5) sponsor activities which enhance the education and training of a competent workforce in the field of aging;

''(6) assist other grantees conducting demonstration or pilot projects under the Act by providing documentation, assessment, and other assistance in the planning and implementation of such pilot projects; and

''(7) conduct information dissemination activities in coordination with such activities of the National Aging Information Center.

''(b) ADVISORY BOARDS.—Each center supported by a grant under this part shall establish an advisory board which—

''(1) shall provide policy guidance with respect to the planning and conduct of activities under such grant; and

''(2) whose members shall include representatives of—

''(A) State and area agencies on aging;

''(B) appropriate national, State, and local service organizations; and

''(C) other groups as appropriate.

''GRANTS AND CONTRACTS

''SEC. 433. (a) NATIONAL CENTERS PROVIDING SUPPORT TO ADMINISTRATORS OF GRANT PROGRAMS.—(1) IN GENERAL.—The Assistant Secretary may make grants to or enter into contracts with any public or non-profit private entities, for the purpose of operating national centers serving primarily as informational resources to State and area agencies administering programs under titles III and VII, tribal organizations and other organizations administering programs under title VI, and providers of services under such programs.

''(2) FUNCTIONS OF CENTERS.—Centers funded under this subsection shall focus on selected subject-matter areas (including all policy and program issues, such as development, delivery, financing, and coordination of services, concerning such subject-matter area) relating to programs under titles III, VI, and VII, and may include centers such as those focusing on the following program areas:

''(A) Comprehensive home and community-based services, including long-term care services, intended to enable functionally impaired elderly to remain in their homes and communities.

''(B) Nutrition services, including congregate and home-delivered meals, dietary standards, and related matters.

''(C) Information and referral services.

''(D) Older Native Americans, including individuals living in tribal and in non-tribal areas.

''(E) Legal assistance.

''(3) NATIONAL OMBUDSMAN AND ELDER ABUSE CENTERS.—Funds available under this subsection may be used, to the extent the Assistant Secretary finds necessary, to support the activities of the National Ombudsman Resource Center under section 202(a)(21) and the activities of the National Center on Elder Abuse under section 202(d).

''(b) NATIONAL EDUCATION AND TRAINING CENTERS.—(1) IN GENERAL.—The Assistant Secretary may make grants to or enter into contracts with any public or non-profit private entities, for the purpose of operating national centers to encourage leadership and improve education, training, and employment practices for the workforce needed to plan, administer and provide services under this Act, and to promote policy discussion and development to prepare the Nation for the increased and changing demands of its aging population.

''(2) FUNCTIONS OF CENTERS.—Centers funded under this subsection may include—

''(A) multidisciplinary academic centers of gerontology to conduct applied research, education, training, technical assistance and dissemination activities with special attention to human resource and development issues affecting special population groups; and

''(B) a national leadership institute on aging to develop and conduct training activities for executive managers and senior officials of government and non-profit agencies, voluntary groups, professional associations, and other organizations responsible for planning, financing, and providing programs and services for older individuals.

''(c) CROSS-CUTTING POLICY CENTERS.—(1) IN GENERAL.—In addition to the grants and contracts authorized under subsections (a) and (b), the Assistant Secretary may make grants to or enter into contracts with any public or non-profit private entities, for research, policy analysis, technical assistance, information dissemination or training activities, as appropriate on any area or areas of broad national interest (including social, economic, health, mental health, and environmental issues) affecting older individuals.

''(2) ISSUES ADDRESSED.—Issues that may be addressed under a grant under this subsection include—

''(A) broad societal issues addressed in section 101, including transportation, housing, employment, income security, public safety, health, and mental health; and

''(B) concerns of special population groups among older individuals, including low income, older women, rural elderly, minorities, and disabled populations.

''PART D—INFORMATION DISSEMINATION AND RELATED ACTIVITIES

''PURPOSE

''SEC. 441. (a) IN GENERAL.—The purpose of this part is to improve the quality, efficiency, availability, and accessibility of services for older individuals through support of information dissemination and utilization activities which—

''(1) collect, preserve, and disseminate, publish, or otherwise make available relevant materials concerning matters such as research and demonstration findings, and training and technical assistance materials;

''(2) synthesize, publish, and disseminate information concerning completed projects under this title which are of demonstrated value, including—

''(B) technical assistance and training in the implementation and adaptation of project methods; and

''(C) the development of additional materials which increase the awareness and acceptance of such project results;

''(3) locate, publicize, and make available practical self-help information for older individuals and their families and encourage development of appropriate public education activities;

''(4) support conferences, forums, and other meetings designed to identify, disseminate and promote utilization of research findings, policy practices, and best practices; and

''(5) provide technical assistance to grantees under this title and other recipients of support under this Act on the design, development and promotion of products and information materials.

''(b) COORDINATION WITH OTHER INFORMATION SOURCES.—Activities supported under this part will be coordinated with the information dissemination activities of Centers authorized under part C and other Federal information clearinghouses and document repositories.

''GRANTS AND CONTRACTS

''SEC. 442. (a) IN GENERAL.—The Assistant Secretary may make grants to any public agency or non-profit private organization or enter into contracts with any agency or organization for activities to carry out the purposes of this part, including the following:

''(1) activities of the National Aging Information Center established under section 202(e).

''(2) sponsorship and co-sponsorship with other Federal agencies and other public and private organizations of national and regional conferences and other meetings which disseminate discretionary project findings and information related to issues and concerns affecting the well-being of older individuals; and

''(3) A National Academy on Aging to serve as a forum for policy analysis and debate on current and emerging issues and for informing policy officials and the public about such issues.

''PART E—GENERAL PROVISIONS

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 451. (a) AUTHORIZATION.—There are authorized to be appropriated to carry out the provisions of title $44,384,000 for fiscal year 1996, and such sums as necessary for each of fiscal years 1997 and 1998.

''(b) RESTRICTONS.—No funds appropriated under this title—

''(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Assistant Secretary, unless those funds are used for purposes authorized under this title in accordance with conditions specified by formal inter-agency agreements with other Federal agencies;

''(2) may be used for any program or activity which is not specifically authorized by this title (except as specifically authorized by this Act); or

''(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

''PAYMENT OF GRANTS

''SEC. 452. (a) CONTRIBUTIONS BY GRANTEES AND CONTRACTORS.—To the extent the Assistant Secretary deems appropriate, the Assistant Secretary shall require the recipient of any project grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract is made.

''(b) METHOD OF PAYMENT.—Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Assistant Secretary may determine.

''ADMINISTRATION

''SEC. 453. (a) ADMINISTRATION ON AGING.—In order to carry out the provisions of this title effectively, the Assistant Secretary shall administer this title through the Administration on Aging.

''(b) ASSISTANCE FROM OTHER AGENCIES.—In carrying out the provisions of this title, the Assistant Secretary may request the technical assistance and cooperation of other agencies and departments of the Federal Government as may be appropriate.

''(c) OUTREACH TO APPLICANTS.—The Assistant Secretary shall ensure that applications from agencies, organizations, and institutions representing minorities, are encouraged in the writing of grant proposal solicitations and contract requests for proposals.

''(d) CONSULTATION.—The Assistant Secretary shall, in developing priorities, consistent with the requirements of this title, for awarding grants under this title, consult with State agencies on aging, area agencies on aging, recipients of grants under title VI, institutions of higher education, organizations representing beneficiaries of services under this Act, and other organizations and individuals with expertise in aging issues.

''(e) EVALUATIONS AND REPORTS.—The Assistant Secretary shall ensure that grants and contacts awarded under this title—

''(1) conduct evaluations and prepare reports indicating their benefit to older individuals, and to programs under this Act; and

''(2) comply with the requirements under this Act.

''(f) REPORT TO CONGRESS.—The Assistant Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for each fiscal year that describes activities for which funds were provided under this title including—

''(1) an abstract describing the purpose and activities of each grant or contract awarded or continued;

''(2) the name and address of the organizational recipient;

''(3) the name and affiliation of the project director;

''(4) the period of project performance; and

''(5) the amount of Federal funds awarded in the fiscal year on which the report is made.

''(g) EXTERNAL REVIEW.—The Assistant Secretary shall establish by regulation and implement an external review process to evaluate applications for discretionary grant awards under this title.''.

PART D—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 241. TRANSFER OF AUTHORITY.

(a) IN GENERAL.—Section 502(a) is amended by striking ''Secretary of Labor (hereinafter in this title referred to as the 'Secretary')'' and inserting ''Assistant Secretary''.

(b) TRANSFER OF CONTRACTS, GRANTS, ETC.—

(1) IN GENERAL.—There are transferred from the Department of Labor to the Department of Health and Human Services any contracts, grants, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with or arising from the administration of the program under title V of the Older Americans Act of 1965.

(2) INTERAGENCY ARRANGEMENTS.—The Secretaries of Labor and Health and Human Services shall enter into and implement such arrangements as they find reasonable and necessary for the orderly transfer of such program in accordance with this section.

(3) CONTINUATION OF REGULATIONS, GRANTS, CONTRACTS, ETC.—All rules, regulations, administrative directives, grants, contracts, and other determinations and agreements in effect under such title V on the effective date of this section shall remain in effect until modified, terminated, suspended, set aside, or repealed by the Secretary of Health and Human Services or the Assistant Secretary. References to the Secretary of Labor in such determinations and agreements shall be considered references to the Secretary of Health and Human Services or the Assistant Secretary for Aging, as appropriate.

(4) CONTINUATION OF AUDITS.—Audits relating to such title V pending on the effective date of this section shall be on the effective date of this section shall be unaffected by the enactment of this section.

(5) CONTINUATION OF SUITS.—Judicial proceedings and proceedings before administrative law judges under or with respect to such title V pending on the effective date of this section shall be unaffected by the enactment of this section, except that the Secretary of Health and Human Services and the Assistant Secretary for Aging shall be substituted for the Secretary of Labor as parties to such proceedings.

(c) CONFORMING AMENDMENTS.—

(1) Section 502(b) (1) (P) is amended by striking ''Department of Labor'' and inserting ''Department of Health and Human Services''.

(2) Section 502(c)(1) is amended by striking ''Health and Human Services'' and inserting ''Labor''.

(3) Section 503(a)(1) is amended by striking ''the Secretary shall, through the Assistant Secretary for Aging,'' and inserting ''the Assistant Secretary shall''.

(4) Section 503(a)(2) is amended by striking ''The Secretary of Labor and the Assistant Secretary for Aging'' and inserting ''The Assistant Secretary''.

(5) Section 503(b)(1) is amended—

(A) in the first sentence, by striking ''The Secretary'' and inserting ''The Assistant Secretary and the Secretary of Labor''; and

(B) in the second sentence—

(i) by striking ''The Secretary'' and inserting ''The Assistant Secretary'', and

(ii) by striking ''by the Assistant Secretary for Aging,''.

(6) Section 505(a) is amended—

(A) by striking ''The Secretary'' and inserting ''The Assistant Secretary''; and

(B) by striking ''the Assistant Secretary for Aging'' and inserting ''the Secretary of Labor''.

(7) Section 505(b) is amended by striking ''Secretary of Health and Human Services'' and inserting ''Secretary of Labor''.

(8) Title V is further amended throughout by striking ''Secretary'' each place it appears (except where preceded by ''Assistant'' or followed by ''of'') and inserting ''Assistant Secretary''.

SEC. 242. PHASED REDUCTION OF FEDERAL SHARE.

Section 502(c) is amended—

(1) in paragraph (1), by striking ''90 percent'' and inserting ''the Federal share, as specified in paragraph (2),'';

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(3) by adding after paragraph (1) the following new paragraph:

''(2) the Federal share, for purposes of this subsection, shall be—

''(A) 90 percent for fiscal year 1996,

''(B) 89 percent for fiscal year 1997,

''(C) 87.5 percent for fiscal year 1998,

''(D) 86.5 percent for fiscal year 1999, and

''(E) 84 percent for fiscal year 2000 and each succeeding fiscal year.''.

SEC. 243. AUTHORIZATION OF APPROPRIATIONS.

Section 508(a) is amended to read as follows:

''(a) There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996, 1997, and 1998.''.

PART E—GRANTS FOR NATIVE AMERICANS

SEC. 251. AUTHORIZATION OF APPROPRIATIONS.

Section 633(a) is amended by striking all that precedes ''to carry out this title'' and inserting ''There are authorized to be appropriated $18,402,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal years 1997 and 1998''.

PART F—VULNERABLE ELDER RIGHTS PROTECTION

SEC. 261. ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFITS.

(a) CLARIFICATION OF IMPLEMENTATION OPTIONS.—Section 741(d) is amended by adding at the end the following new sentence: ''If the State elects to award funds under this section to area agencies on aging or other local entities, it shall give priority to local areas which have high concentrations of older individuals with greatest economic or social need, and in which outreach activities, application assistance, and benefits counseling are inadequate.''.

(b) REPEAL OF INCONSISTENT PROVISION.—Section 705(a) is amended—

(1) by adding ''and'' at the end of paragraph (6);

(2) by striking paragraph (7); and

(3) by redesignating paragraph (8) as paragraph (7).

SEC. 262. AUTHORIZATION OF APPROPRIATIONS.

(a) OMBUDSMAN PROGRAM.—Section 702(a) is amended by striking all that follows ''chapter 2,'' and inserting $4,449,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal years 1997 and 1998.''.

(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—Section 702(b) is amended by striking all that follows ''chapter 2,'' and inserting $6,232,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal year 1997 and 1998.''.

(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—Section 702(c) is amended by striking all that follows ''chapter 4,'' and inserting such sums as may be necessary for each of fiscal years 1996, 1997, and 1998.''.

(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—Section 702(d) is amended by striking all that follows ''chapter 5,'' and inserting $1,976,000 for fiscal year 1996, and such sums as may be necessary for each of fiscal years 1997 and 1998.''.

(e) NATIVE AMERICAN PROGRAMS.—Section 751(d) is amended by striking all that follows ''this section,'' and inserting ''such sums as may be necessary for each of fiscal years 1996, 1997, and 1998.''.

PART G—TECHNICAL AMENDMENTS

SEC. 271. DEFINITIONS.

(a) RELOCATION, REORDERING, AND REDESIGNATION OF DEFINITIONS.—

(1)(A) Paragraphs (1) and (2) of section 302 are relocated and redesignated as paragraphs (48) and (49) of section 102.

(B) Paragraph (3) of section 302 is repealed.

(2)(A) Section 102(5) is amended by inserting ''(A)'' after ''(5)''.

(B) Section 102(6) is amended—

(i) by striking ''(A)'' and ''(B)'' and inserting ''(i)'' and ''(ii)''; and

(ii) by striking ''(6)'' and inserting ''(B)''.

(C) Section 102(7) is amended by striking ''(7)'' and inserting ''(C)''.

(3)(A) Section 102(8) is amended—

(i) by striking the subparagraph designations ''(A)'' through ''(H)'' and inserting clause designations ''(i)'' through ''(viii); and

(ii) by inserting ''(A)'' after ''(8)''.

(B) Section 102(9) is amended—

(i) by striking the subparagraph designations ''(A)'' and ''(B)'' and inserting the clause designations ''(i)'' and ''(ii)''; and

(ii) by striking ''(9)'' and inserting ''(B)''.

(4) The paragraphs of section 102 are reordered in alphabetical order by term defined, and renumbered accordingly.

PART H—EFFECTIVE DATE

SEC. 281. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this title shall become effective October 1, 1995.

TITLE III—WHITE HOUSE CONFERENCE ON AGING

SEC. 301. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) AUTHORITY TO CALL CONFERENCE.—Not later than December 31, 2005, the President shall convene the White House Conference on Aging in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Assistant Secretary for Aging and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the interdependence of generations and the essential contributions of older individuals to society for the well-being of all generations:

(2) to identify the problems facing older individuals and the commonalities of the problems with problems of younger generations;

(3) to examine the well-being of older individuals, including the impact the well-being of older individuals has on our aging society;

(4) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of the aging;

(5) to develop recommendations for the coordination of Federal policy with state and local needs and the implementation of such recommendations; and

(6) to review the status and multigenerational value of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging. Delegates shall include individuals who are professionals, individuals who are nonprofessional, minority individuals, and individuals from low-income families. A majority of delegates shall be aged 55 or older.

SEC. 302. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,

(2) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(3) furnish all reasonable assistance, including financial assistance, to State agencies on aging and to area agencies on aging, and to other appropriate organizations (including organizations representing older Indians), to enable them to organize and conduct conferences and other activities in conjunction with the Conference (including activities in advance of the Conference, as part of the process of planning for the Conference, and activities subsequent to the Conference in connection with dissemination, discussion, and implementation of recommendations of the Conference);

(4) make available for public comment a proposed agenda, prepared by the Policy Committee, for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(5) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(6) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, and as part of the White House Conference on Aging, ensure that—

(1) the conferences under subsection (a)(3) shall—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to ensure broad participation of older individuals,

(2) the agenda prepared under subsection (a)(4) for the Conference is published in the Federal Register not later than 30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda,

(3) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(4) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgement of the Conference, and

(5) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this paragraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title. Gifts of cash shall be available in addition to amounts appropriated to carry out this title.

(d) RECORDS.—The Secretary shall maintain records regarding—

(1) the sources, amounts, and uses of gift accepted under subsection (c); and

(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.

SEC. 303. POLICY COMMITTEE; RELATED COMMITTEES.

(a) POLICY COMMITTEE.—

(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 25 members to be selected, not later than 90 days after the enactment of the Older Americans Act of 1995, as follows:

(A) PRESIDENTIAL APPOINTEES.—13 members shall be selected by President and shall include—

(i) 3 members who are officers or employees of the United States; and

(ii) 10 members with experience in the field of aging, who may include representatives of public aging agencies, institution-based organizations, and minority aging organizations, and shall include a member of the Federal Council on the Aging.

(B) HOUSE APPOINTEES.—4 members shall be selected by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House of Representatives, and shall include members of the Committee on Economic and Educational Opportunities and the Committee on Ways and Means of the House of Representatives. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

(C) SENATE APPOINTEES.—4 members shall be selected by the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, and shall include members of the Committee on Labor and Human Resources and the Special Committee on Aging of the Senate. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

(D) JOINT APPOINTEES.—4 members shall be selected jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate, after consultation with the minority leaders of the House and Senate, and shall include representatives with experience in the field of aging, who may include representatives described in subsection (a)(1)(A)(ii). Not more than 2 members selected under this subparagraph may be associated or affiliated with the same political party.

(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not later than 30 days after the last member is selected under subsection (a). Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

(B) formulate and approve a proposed agenda for the Conference not later than 60 days after the first meeting of the Policy Committee;

(C) make recommendations for participants and delegates of the Conference;

(D) establish the number of delegates to be selected under section 301(d)(2); and

(E) formulate and approve the initial report of the Conference in accordance with section 304.

(3) QUORUM; COMMITTEE VOTING; CHAIRPERSON.—

(A) QUORUM.—13 members shall constitute a quorum for the purpose of conducting the business of the Policy Committee, except that 17 members shall constitute a quorum for purposes of approving the agenda required by paragraph (2)(B) and the report required by paragraph (2)(E).

(B) VOTING.—The Policy Committee shall act by the vote of the majority of the members present.

(C) CHAIRPERSON.—The President shall select a chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) COMPOSITION OF COMMITTEES.—Each committee established under subsection (b) shall be composed of professionals and public members, and shall include individuals from low-income families, and individuals who are Native Americans. Appropriate efforts shall be made to include individuals who are members of minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) COMPENSATION.—Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS–18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5708 of such title for persons employed intermittently in Federal Government service.

SEC. 304. REPORT OF THE CONFERENCE.

(a) PROPOSED REPORT.—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 90 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Policy Committee, not later than 90 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) REPORTS.—

(1) INITIAL REPORT.—The Policy Committee shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare and approve an initial report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(2) PUBLICATION OF INITIAL REPORT; FINAL REPORT.—Not later than 60 days after such initial report is transmitted by the Policy Committee, the Secretary shall publish such initial report in the Federal Register. The Secretary shall republish a final report together with such additional views and recommendations as the Secretary considers to be appropriate.

(d) RECOMMENDATIONS OF THE POLICY COMMITTEE.—The Policy Committee shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

SEC. 305. DEFINITIONS.

For the purposes of this title—

(1) the term ''area agency on aging'' has the meaning given the term in section 102 of the Older Americans Act of 1965,

(2) the term ''State agency on aging'' means the State agency designated under section 305(a)(1) of the Act,

(3) the term ''Secretary'' means the Secretary of Health and Human Services,

(4) the term ''Conference'' means the White House Conference on Aging, and

(5) the term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2005 through 2007 to carry out this title.

(2) CONTRACTS.—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriation Acts.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 303(c) shall remain available for obligation or expenditure until the expiration of the one-year period beginning on the date the Conference adjourns.

(2) UNOBLIGATED FUNDS.—Except as provided in paragraph (3), any such funds neither expended nor obligated before the expiration of the one-year period beginning on the date the Conference adjourns shall be available to carry out the Older Americans Act of 1965.●

By Mr. KERRY:

S. 1448. A bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention, and for other purposes; to the Committee on Labor and Human Resources.

THE GAY AND LESBIAN YOUTH SUICIDE PREVENTION ACT

● Mr. KERRY. Mr. President, today I am introducing the Gay and Lesbian Youth Suicide Prevention Act.

Mr. President, my bill is a companion to legislation introduced in the House of Representatives by my friend, Congressman MARTIN MEEHAN of Massachusetts. This bill is a modest beginning to address a pernicious crisis among our teenagers. The bill establishes a Federal commission seeks to identify the root causes and report on possible methods to prevent suicide among gay and lesbian adolescents.

In 1989, then Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, issued a report on youth suicide. The report's most dramatic findings included a particularly alarming statistic—nearly one-third of all teen suicide occurred among gay and lesbian youth.

This is a disturbing trend. Instead of ignoring this epidemic as past administrations have chosen to do, the Commission my bill would establish will devise ways to address effectively the situations of gay youth in existing suicide prevention programs. It will make recommendations to the Secretary of HHS on methods to curb suicide among gay teens. And it will expand existing research on youth suicide to include gay and lesbian adolescents. A full and appropriate airing of these issues will mean the beginning of the end of the tragic waste of young life in our country that the suicides of gay teens represent.

Although the benefits from the Commission will be great, its cost will not. The Commission will use the existing resources of the Department of Health and Human Services. The members of the Commission will not be paid. And the Commission will not be another of the Government bodies that, once established, endures to eternity. It will sunset 6 months after its initial meeting.

Too often, Mr. President, we hear stories of harassment and abuse which lead to depression, emotional problems and suicide. We cannot ignore the obvious fact that gay and lesbian youth are subjected to enormous societal pressure and we certainly cannot turn our back on the chilling evidence that gay and lesbian youth are three times more likely to commit suicide than other young people.

Current official youth suicide prevention programs do not address this issue, and it is high time they did. We need to get serious about putting an end to this preventable epidemic. That is what this bill does. I urge my colleagues to support this effort.

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. 1448

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 ''Gay and Lesbian Youth Suicide Prevention Act''.

SEC. 2. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Gay and Lesbian Youth Suicide Prevention (referred to in this Act as the ''Commission'').

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 31 members appointed by the Secretary of Health and Human Services. Members of the Commission shall include professionals and experts in the field of youth suicide prevention.

(b) TERMS.—Each member of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner as the original appointment.

(c) MEETINGS.—The Commission shall, during a 6-month period, meet with the Secretary of Health and Human Services and advise various offices within the Department of Health and Human Services on an ongoing basis.

(d) CHAIRPERSON.—The Secretary of Health and Human Services shall select a chairperson for the Commission from among the members of the Commission.

SEC. 4. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall carry out activities to combat the epidemic of suicide among gay and lesbian youth, who account for 30 percent of completed youth suicides, as reported by the Department of Health and Human Services in the 1989 ''Report of the Secretary's Task Force on Youth

Suicide''. The Commission shall advise the Secretary of Health and Human Services and heads of other Federal and State youth service agencies concerning how to include the concerns of gay and lesbian youth in suicide prevention policies, programs, and research.

(b) GOALS OF COMMISSION.—The goals of the Commission shall be to—

(1) work to include the concerns of gay and lesbian youth in suicide prevention programs at the national and State level;

(2) develop and make specific recommendations to the Secretary of Health and Human Services and heads of other relevant Federal and State agencies about how to stem the epidemic of gay and lesbian youth suicide;

(3) work to expand research on youth suicide to include research on gay and lesbian youth suicide; and

(4) work to amend existing youth suicide policies, guidelines, and programs to include policies, guidelines, and programs appropriate for gay and lesbian youth.

SEC. 5. REPORTS.

(a) INTERIM REPORTS.—The Commission shall conduct regional public hearings around the United States to gather information from youths, family members of such youths, and professionals, about the problem of gay and lesbian youth suicide, on an ongoing basis. The Commission shall prepare and submit an interim report to the Secretary of Health and Human Services. The interim report shall contain findings and conclusions of the Commission, based on the hearings.

(b) FINAL REPORT.—The Commission shall prepare and submit a final report to the Secretary of Health and Human Services. The final report shall contain a detailed statement of the findings and conclusions of the Commission.

SEC. 6. POWERS OF THE COMMISSION.

(a) 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 Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(b) 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.

(c) USE OF VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Health and human Services is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

SEC. 7. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION.—Members of the Commission shall serve on the Commission without compensation.

(b) TRAVEL EXPENSES.—The members of the Commission 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 6, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(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 Chairperson 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. 8. SUNSET PROVISION.

The Commission shall terminate 6 months after the date of the first meeting of the Commission.●

By Mr. FEINGOLD:

S. 1449. A bill to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers of such boards and councils, to ensure the appropriate use of promotion funds, to prevent legislatively authorized promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL PROMOTION ACCOUNTABILITY ACT

● Mr. FEINGOLD. Mr. President, I introduce legislation addressing existing and future agricultural promotion programs. Fundamentally, Mr. President, my legislation, the Agricultural Promotion and Accountability Act, makes some modest and common sense reforms to all of the existing agricultural promotion programs in order to make them more accountable to, and representative of, the farmers who pay for the programs. These congressionally authorized programs create boards and councils, made up of agricultural producers, which have the authority to assess a mandatory fee on producers to pay for the costs of board or council sponsored self-help promotion activities.

Agricultural promotion programs are designed to allow producers to engage in self-help initiatives to promote their products to the consumer, to enhance demand and ultimately improve the economic security of farmers paying the assessment. It is hard to argue with that basic goal, Mr. President. These programs are fully funded and managed by farmers, with oversight conducted by the Department of Agriculture. The boards or councils authorized by Congress collect the producer funds and then conduct generic promotion activities for the specific commodity by contracting out the specific advertising and research projects to private entities.

While some of these programs have existed for nearly 30 years, the majority were created and implemented in the last 10 years. In fact, since 1982, when national promotion programs collected just $45 million annually, the amount of money collected under mandatory promotion programs has increased ten-fold.

These programs currently cover about 16 agricultural commodities including milk, beef, pork, eggs, soybeans, cotton as well as many specialty commodities. All totalled these programs collect roughly $500 million annually from producers and processors of commodities. According to USDA, 90 percent of all U.S. producers contribute money for promotion programs, either State or federally authorized. The growth in the number of these programs in the last decade is not surprising. As Federal dollars to support agriculture dwindle due to budget constraints, Congress has stood ready to allow producers to engage in these self-help efforts. I understand that when the Congress addresses omnibus farm legislation either this year or next year, that my colleagues and I will be asked to approve additional commodity promotion programs for popcorn, canola and rapeseed and perhaps other commodities as well.

But Mr. President, while the goals of these programs are truly admirable, I am concerned that some of the issues raised by some farmers with respect to these programs have been swept away in the Congressional tide to approve more and more producer-supported checkoff programs. Congress has approved so many of these programs in such a short period of time that we have not taken a step back to look at overall principles guiding these programs and whether or not the programs are operating as they should be.

These programs are typically referred to as checkoff programs since the funds that producers must pay to the promotion boards and councils are automatically deducted from the producer's check received for commodities sold. In many cases, the checkoff is a fixed amount, such as 15 cents per hundred pounds of milk sold, or $1 per head of beef or dairy cattle sold. In other cases, the amount deducted is a percentage of the market value of the commodity sold. The checkoff payment is mandatory and essentially permanent once a majority of producers approve of the overall program in an initial referendum.

To give my colleagues an idea of the scope of producer contributions, consider the annual investment of a small Wisconsin dairy farm. A milk producer with a 50 cow herd, averaging 18,000 pounds per cow per year, would pay about $1,350 annually for State, regional, and Federal milk promotion activities. Mr. President, that is a large contribution for such a small farm. Consider that a large dairy with 1,000 cows, such as those in the southwest and western regions of the country, averaging 18,000 pounds of milk per cow, contributes about $27,000 annually for mandatory milk promotion. Consider also that a dairyman who also raises hogs, replacement heifers, and soybeans would contribute to the pork, beef, and soybean promotion program. Mr. President, these mandatory contributions represent a sizable investment by the individuals required to pay them.

On the surface, these programs appear well-supported by farmers and others paying the mandatory assessments. However, as I have travelled the

countryside of Wisconsin, holding listening sessions in each of Wisconsin's 72 counties each year, I have learned that, in fact, these programs tend to be controversial among farmers in Wisconsin. In my home State, where some counties are home to more cows than people, the most controversial of the boards are the National Dairy Promotion and Research Board and the Cattlemen's Beef Promotion and Research Board.

In the 103d Congress, when I served as a member of the Senate Agriculture Committee, I had the opportunity to be involved in the creation of new promotion programs as well as the modification of existing programs. I learned, Mr. President, that the controversy stemming from these programs goes well beyond the beef and dairy programs. In each case, Mr. President, when the Committee addressed promotion programs from eggs to sheep to beef, the controversy among the producers footing the bill for the program was significant. In response to some of the concerns raised by farmers, the Senate Subcommittee on Domestic and Foreign Marketing and Promotion held a hearing on the beef and dairy promotion programs. The House Agriculture Committee held a similar hearing on the beef, pork, eggs and dairy checkoff programs in the 103d Congress. The bill I am introducing today addresses the concerns that have been voiced in these hearings during my tenure on the Committee and since that time.

The concerns checkoff paying farmers have raised include:

The promotion programs do not provide for adequate input by,or representation of, the producers paying for the program.

The programs once authorized continue into perpetuity with little opportunity for producer review or reauthorization. All but one of the existing programs are permanently authorized by Congress.

In most cases concerned producers must expend their own time and resources to gather enough names on a petition—usually 10 percent of all eligible producers—in order to call for another approval referendum.

In the case of the dairy promotion program, cooperatives are allowed to vote on behalf of their producers, which some farmers contend biases the referendum by drowning out the voices of dissenting producers.

The promotion programs require all producers to pay for a program regardless of whether they agree with the program, whether they think the program is working, and whether they spend their own money on individual promotion efforts.

The programs far too often engage in activities well beyond those intended by the producers who approved the program at its initiation. Some producers complain that broad-scale public relations work funded by checkoff dollars does little to enhance demand and far more to advance the political objectives of certain contracting organizations. Such activities may violate the prohibition on the use of checkoff funds to influence government action or policy. Last August, during the Senate subcommittee hearing mentioned previously, staff of USDA pointed out one specific promotion effort that may have entered the grey area of prohibited activities.

The programs provide preferential treatment to certain industry-governed farmer organization to the exclusion of others. Some farmers contend that the ties between some promotion boards and the industry-lobbying organization are too tight and may create a conflict of interest for those boards.

The programs that do provide contracts or grants to specific lobbying organizations may be indirectly supporting or subsidizing the legislative activities of that organization. This concern has been voiced by a number of members of the Senate and the House with respect to the use of Federal funds and grants provided to lobbying organizations. In fact, much time and effort has been expended in the Senate to ensure that Congressionally authorized funding is not ultimately used for lobbying activities. The concerns that farmers have raised with respect to the use of checkoff dollars are consistent with these concerns.

The mandatory nature of the programs and the contractual relationship maintained by some of the boards implicate the First Amendment rights of producers who should not be required to associate with a group with whom they do not agree. In fact, some statewide promotion programs similar to the individual promotion programs addressed in my legislation, have been successfully challenged on First Amendment grounds.

Mr. President, I think these are serious concerns. The fact that these programs impose an additional targeted tax on producers purportedly for their own good, should compel the Congress to take these complaints seriously, as well. Producers initially approved all of these promotion programs based on very specific goals and with a number of requirements and constraints. As members of the body that authorized these programs, we must ensure that the initial goals of these programs are being met and that those farmers required to pay for them have assurances that the programs are operated fairly and democratically within the bounds of the statute and without bias towards or against specific segments of the taxed industry.

The legislation I am introducing today will help accomplish those goals without restricting the ability of the promotion boards to accomplish their objectives of enhancing consumer demand for the commodity. The Agricultural Promotion and Accountability Act provides guidelines to promotion boards and councils on the prohibited activities with respect to lobbying and other activities intended to influence government action or policy. It makes some conforming changes to existing statutes to ensure that all promotion programs are subject to the same restrictions.

The bill addresses the concern that too much money is spent on broad scale public relations work and not enough on direct promotion of the product, by limiting the types of public relations works that can be conducted. In fairness to all producers in arguably heterogenous agricultural sectors, industry image enhancement activities are prohibited. What might be a desirable image for one segment of an agricultural sector, might not be desirable for other segments of the industry. Since the checkoff assessments are levied equally on all producers, in most cases, general public relations work with checkoff funds is not an appropriate or equitable use of promotion dollars. Instead, all boards will be allowed to promote the image of the generic product itself, which is consistent with the goal of enhancing consumer demand.

The bill also improves the democratic nature of promotion boards and councils by providing producers with an opportunity to reauthorize their program, on average, every 5 years. Referenda on approval or termination of the mandatory promotion programs would be held periodically to assure that producers continue to support the program in which they make substantial annual investments. During that referendum, producers will also be allowed to decide whether or not they favor instituting refunds of assessments to producers who request them. These provisions will provide the checkoff paying producer with more control over the promotion boards they fund. Additionally, producers argue that if they are allowed a regular review of their programs, the boards will be more accountable to the farmers who foot the bill.

The concern about the fungibility of checkoff dollars paid in contracts to industry-governed lobbying organizations is perhaps one of the most difficult issues to address. It is, of course, not a new issue. In fact, just 3 years ago, Secretary of Agriculture Dan Glickman, then a member of Congress, stated in a promotion program oversight hearing that ''Congress should not be in the business of enacting programs which will result in the collection of funds from all farmers for the benefit of lobbying groups which may represent the view of just a fraction of the farmers.'' As I stated earlier, that is exactly what some producers contend is happening under some of the agricultural promotion programs.

To address those concerns the Agricultural Promotion Accountability Act creates a number of safeguards to ensure the independence of the boards from their contractors, to avoid conflicts of interest between the board and any contractor or grantee, to ensure

that contracts are let on both an equitable and efficient basis providing a voice for all check-off paying producers, and to safeguard against any checkoff dollars being used for prohibited activities.

Mr. President, I think the modest changes this legislation makes to promotion programs will go a long way to ensure the continued productivity and success of these promotion boards while providing producers a greater voice in how their money is spent. I urge my colleagues to support this legislation.

I ask unanimous consent that a letter of support for the Agricultural Promotion Accountability Act from the National Farmers Union be included in the RECORD. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1449

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 Promotion Accountability Act of 1995''.

SEC. 2. PURPOSE.

The purpose of this Act is to make agricultural promotion boards and councils more responsive to producers whose mandatory assessments support the activities of such boards and councils, to improve the representation and participation of such producers on such boards and councils, to ensure the independence of such boards and councils, to ensure the appropriate use of promotion funds, and to prevent legislatively authorized agricultural promotion and research boards from using mandatory assessments to directly or indirectly influence legislation or governmental action or policy.

SEC. 3. DEFINITIONS.

In this Act:

(1) INFLUENCING LEGISLATION OR GOVERNMENTAL ACTION OR POLICY.—The term ''influencing legislation or governmental action or policy'' includes—

(A) establishing, administering, contributing to, or paying the expenses of a political party campaign, political action committee, or other organization established for the purpose of influencing the outcome of an election;

(B) attempting to influence—

(i) the outcome of any Federal, State or local election, referendum, initiative, or similar procedure through a cash contribution, in-kind contribution, endorsement, publicity or public relations activity or similar activity;

(ii) the introduction, modification, or enactment of any Federal or State legislation or signature or veto of any enrolled Federal or State legislation, including through—

(I) communication with any member or employee of a legislative body or agency or with any governmental official or employee who may participate in the formulation of the legislation, including engaging State or local officials in similar activity (not including a communication to an appropriate government official in response to a written request by the official for factual, scientific, or technical information relating to the conduct, implementation, or results of promotion, research, consumer information and education, industry information, or producer information activities under a promotion program);

(II) planning, preparing, funding, or distributing any publicity or propaganda to affect the opinion of the general public or a segment of the public in connection with a pending legislative matter; or

(III) urging members of the general public or any segment of the general public to contribute to, or participate in, any mass demonstration, march, rally, fund-raising drive, lobbying campaign, letter-writing campaign, or telephone campaign in connection with a pending legislative matter;

(C) carrying out a legislative liaison activity, including attendance at a legislative session or committee hearing to gather information regarding legislation or to analyze the effect of legislation, if the activity is carried on in support of, or in knowing preparation for, an effort to influence legislation or government action or policy;

(D) carrying out an opinion survey of the general public or a segment of the public, general research, or information gathering, if carried out in support of, or in knowing preparation for, an effort to influence legislation or government action or policy; or

(E) attempting to influence any agency action or agency proceeding, as the terms are defined in section 551 of title 5, United States Code, through—

(i) communication with any government official or employee who may participate in the action or proceeding (not including a communication to an appropriate government official in response to a written request by the official for factual, scientific, or technical information relating to the conduct, implementation, or results of promotion, research, consumer information or education, or industry information of producer information activities under a promotion program);

(ii) planning, preparing, funding, or distributing any publicity or propaganda to affect the opinions of the general public or any segment of the general public in connection with the action or proceeding; or

(iii) urging members of the general public or any segment of the general public to contribute to, or participate in, any mass demonstration, march, rally, fundraising drive, lobbying campaign, letter-writing campaign, or telephone campaign in connection with the action or proceeding.

(2) PROMOTION PROGRAM.—The term ''promotion program'' means—

(A) the cotton research and promotion program established under the Cotton Research and Promotion Act (7 U.S.C. 2101 et seq.);

(B) the potato research, development, advertising, and promotion program established under the Potato Research and Promotion Act (7 U.S.C. 2611 et seq.);

(C) the egg research, consumer and producer education, and promotion program established under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.);

(D) the beef promotion and research program established under the Beef Research and Information Act (7 U.S.C. 2901 et seq.);

(E) the wheat research and nutrition education program established under the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.);

(F) the dairy promotion program established under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.);

(G) the honey research, promotion, and consumer education program established under the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.);

(H) the pork promotion, research, and consumer information program established under the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4801 et seq.);

(I) the watermelon research, development, advertising, and promotion program established under the Watermelon Research and Promotion Act (7 U.S.C. 4901 et seq.);

(J) the pecan promotion, research, industry information, and consumer information program established under the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001 et seq.);

(K) the mushroom promotion, research, and consumer and industry information program established under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101 et seq.);

(L) the lime research, promotion, and consumer information program established under the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201 et seq.);

(M) the soybean promotion, research, consumer information, and industry information program established under the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301 et seq.);

(N) the fluid milk advertising and promotion program established under the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401 et seq.);

(O) the flowers and greens promotion, consumer information, and related research program established under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6801 et seq.);

(P) the sheep promotion, research, consumer information, education, and industry information program established under the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101 et seq.); and

(Q) any other coordinated program of promotion, research, industry information, and consumer information that is funded by mandatory assessments on producers and designed to maintain and expand markets and uses for an agricultural commodity, as determined by the Secretary.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 4. INFLUENCING LEGISLATION OR GOVERNMENTAL ACTION OR POLICY.

(a) IN GENERAL.—A board or council established by a promotion program may not use any funds collected by the board or council for the purpose of directly or indirectly influencing legislation or governmental action or policy, except for the development and recommendation of amendments to the promotion program to the Secretary.

(b) CONFORMING AMENDMENTS.—

(1) COTTON.—Section 7(h) of the Cotton Research and Promotion Act (7 U.S.C. 2106(h)) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(2) POTATOES.—Section 308(f)(3) of the Potato Research and Promotion Act (7 U.S.C. 2617(f)(3)) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(3) EGGS.—Section 8(h) of the Egg Research and Consumer Information Act (7 U.S.C. 2707) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(4) BEEF.—Section 5(10) of the Beef Research and Information Act (7 U.S.C. 2904(10)) is amended—

(A) by striking ''influencing governmental action or policy'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''; and

(B) by inserting ''to the Secretary'' before the period at the end.

(5) WHEAT.—Section 1706(i) of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3405(i)) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(6) DAIRY.—Section 113(j) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(j)) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995),''.

(7) HONEY.—Section 7(h) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(h)) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(8) PORK.—Section 1620(e) of the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4809(e)) is amended by striking ''influencing legislation'' and all that follows through the period at the end and inserting the following: ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995), except to recommend amendments to the order to the Secretary.''.

(9) WATERMELONS.—Section 1647(g)(3) of the Watermelon Research and Promotion Act (7 U.S.C. 4906(g)(3)) is amended by striking ''influencing governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(10) PECANS.—Section 1910(g)(1) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6005(g)(1)) is amended—

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

(i) by striking ''to,'' and inserting ''for the purpose of,''; and

(ii) by striking ''to—'' and inserting ''for the purpose of—'';

(B) in paragraph (1), by striking ''influence legislation or governmental action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)'';

(C) in paragraph (2), by striking ''engage'' and inserting ''engaging''; and

(D) in paragraph (3), by striking ''engage'' and inserting ''engaging''.

(11) MUSHROOMS.—Section 1925(h) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(h)) is amended by striking ''influencing legislation or governmental action or policy'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(12) LIMES.—Section 1955(g) of the Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6204(g)) is amended by striking ''influencing legislation or governmental policy or action'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(13) SOYBEANS.—Section 1969(p) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6304(p) is amended—

(A) in paragraph (1), by striking ''influencing legislation or governmental action or policy'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ''to the Secretary'' before the semicolon; and

(ii) in subparagraph (B), by inserting '', in response to a request made by the officials,'' after ''officials''.

(14) MILK.—Section 1999H(j)(1) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6407(j)(1)) is amended by striking ''influencing legislation or governmental action or policy'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(15) FLOWERS AND GREENS.—Section 5(i) of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6804(i)) is amended by striking ''influencing legislation or government action or policy'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

(16) SHEEP.—Section 5(l)(1) of the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7104(*l*)(1)) is amended by striking ''influencing legislation or government action or policy'' and inserting ''directly or indirectly influencing legislation or governmental action or policy (as defined in section 3(1) of the Agricultural Promotion Accountability Act of 1995)''.

SEC. 5. PROMOTING THE IMAGE OF AN INDUSTRY PROHIBITED.

(a) IN GENERAL.—A board or council established by a promotion program may not use any funds collected by the board or council for the purpose of enhancing the image of an industry, except that the board or council may promote the image of a product with the express intent of stimulating demand for and sales of an agricultural product in the marketplace.

(b) CONFORMING AMENDMENTS.—

(1) BEEF.—Section 3(9) of the Beef Research and Information Act (7 U.S.C. 2902(9)) is amended by striking '', increased efficiency'' and all that follows through ''industry'' and inserting ''and increased efficiency''.

(2) PECANS.—Section 1907(12) of the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6002(12)) is amended by striking '', increased efficiency'' and all that follows through ''industry'' and inserting ''and increased efficiency''.

(3) MUSHROOMS.—Section 1923(7) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6103(7)) is amended by striking '', increased efficiency'' and all that follows through ''industry'' and inserting ''and increased efficiency''.

(4) SOYBEANS.—Section 1967(7) of the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6302(7)) is amended by striking '', and activities'' and all that follows through ''industry''.

SEC. 6. LIMITATIONS ON CONTRACTING.

(a) PERMITTED CONTRACTS OR AGREEMENTS.—Notwithstanding any other provision of law, a board or council established by a promotion program shall not be limited to contracting with, or entering into an agreement with, an established national nonprofit industry-governed organization.

(b) COMPETITIVE BIDDING.—It is the policy of Congress that boards and councils should, to the extent practicable, use competitive bidding in the awarding of contracts and grants for activities authorized under a promotion program.

(c) INDEPENDENCE OF BOARDS AND COUNCILS.—

(1) APPLICATIONS AND RECOMMENDATIONS NOT BINDING.—Notwithstanding any other provision of law, a board or council established by a promotion program shall not be bound by a proposed application for a board or council contract or a recommendation or advice of a potential contractor or a national nonprofit industry-governed organization on the use of board or council receipts.

(2) INTERLOCKING BOARDS OR MEMBERSHIP.—Notwithstanding any other provision of law, no person shall be eligible to be a member of any board or council established by a promotion program (including operating and nominating committees) if the person serves in any decision making capacity, such as that of a member of the board of directors, executive committee, or other committee, for an entity that enters into a contract or other agreement with the board or council.

(3) REQUIREMENTS FOR CONTRACTING.—A contractor or grantee of a board or council may not use funds collected through mandatory assessments under a promotion program to fund any staff (including expenses or other activities of the staff) who, in part, engage in 1 or more activities to influence legislation or governmental action or policy.

(d) PRODUCER APPROVAL OF RELATIONSHIPS WITH BOARDS OR COUNCILS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the entering into of a permanent cooperative arrangement or the establishment of a joint committee (including an arrangement that is advisory in nature) by a board or council established by a promotion program with a national nonprofit industry-governed organization shall require the prior approval of at least ⅔ of the eligible producers under the promotion program.

(2) EXCEPTION.—Paragraph (1) shall not apply to a cooperative arrangement or joint committee—

(A) that was established prior to January 1, 1995; or

(B) that includes representatives or participation from all producer-, processor-, or handler-governed national nonprofit organizations (including general farm organizations) that represent any but an insignificant number of producers, processors, or handlers paying assessments under the promotion program to the board or council, as determined by the Secretary.

(3) PERMANENT COOPERATIVE ARRANGEMENT.—In this subsection, the term ''permanent cooperative arrangement'' means a formal or informal, written or unwritten agreement or understanding establishing a relationship, a liaison, a sole source contract, or an operational mechanism under which a board or council shares staff, facilities, or other resources or carries out coordinated activities with any entity on a more or less permanent and exclusive basis.

(e) FUNGIBILITY OF BOARD OR COUNCIL FUNDS.—

(1) IN GENERAL.—The Inspector General of the Department of Agriculture shall conduct an annual review of contractual arrangements between each board or council established by a promotion program and any entity or association that engages in activities to influence legislation or governmental action or policy and receives a significant

amount of funding from the board or council as determined by the Secretary.

(2) SCOPE OF REVIEW.—A review under paragraph (1) shall examine whether any funds collected by the board or council are used to directly or indirectly fund or subsidize an entity or association that engages in influencing legislation or governmental action or policy.

(3) REPORT.—The Secretary shall submit a report on the findings of any review under this subsection and make recommendations for any actions that should be taken as a result of the findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 7. PERIODIC REFERENDA.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than 4 nor more than 6 years after the date of enactment of this Act or the date on which the Secretary determines the results of the most recent referendum for a promotion program, whichever is earlier, and not less than once every 5 years thereafter, the Secretary shall conduct a referendum to determine whether to approve or terminate the order under the promotion program and whether refunds should be made under the order.

(b) PROCEDURE.—The referendum under subsection (a) shall be conducted using the same eligibility and other procedures as the referendum used to approve the original order under the promotion program, except that, notwithstanding any other provision of law, no greater than a simple majority of eligible producers shall be required to approve the making of refunds to producers.

(c) TERMINATION.—

(1) IN GENERAL.—If the percentage of persons voting to approve the order does not equal or exceed the percentage of persons necessary to approve the continuation of the original order under the promotion program, the Secretary shall terminate the order.

(2) TIME OF TERMINATION.—The Secretary shall terminate the order at the end of the marketing year during which the referendum is conducted.

(d) REFUNDS.—If the making of refunds is approved in a referendum under subsection (a), the Secretary shall establish a procedure for making the refunds not later than 180 days after the date of the referendum.

(e) COOPERATIVE ASSOCIATION.—Notwithstanding subsection (b), a cooperative association may not vote on behalf of the members of the association in a referendum conducted under this section.

(f) INACTIVE PROMOTION PROGRAMS.—The Secretary shall not conduct a referendum of a promotion program under this section if the Secretary determines that the promotion program is not active.

NATIONAL FARMERS UNION,
November 7, 1995.

Re legislation to regulate producer assessments for promotion funding.

Hon. RUSS FEINGOLD,
U.S. Senator,
Washington, DC.

DEAR SENATOR FEINGOLD: On behalf of the nearly 300,000 farm families of the National Farmers Union, I write to express our strong support of the Agricultural Promotion Accountability Act of 1995. Many of our members pay multiple mandatory assessments for promotion funding, amounting to thousands of dollars per year, per producer. Our 1995 national policy statement calls for legislative safeguards to insure the use of promotion funds is controlled by the producers who pay the assessments, and that dollars are used to enhance producer profitability. Your proposed legislation will help address several items of concern.

(1) It is essential that mandatory assessments are not used for lobbying. Although lobbying is prohibited under current law, your bill makes the prohibition meaningful by clearly defining the prohibited activities.

(2) It is essential that producers control how their dollars are spent. Your legislation ensures that decisions are made by independent, accountable boards. Your legislation also helps ensure that all producers have a voice, not just those who belong to a specific trade association. Your legislation further promotes producer control by prohibiting bloc voting.

(3) It is essential that an independent review of funding be conducted annually. We support naming the Inspector General of USDA to conduct this review.

(4) It is essential that periodic referenda are held to provide producers the opportunity to review whether the promotion program is worth continuing. Your legislation achieves this by specifying a referendum every five years, including a referendum on refunds.

(5) It is essential that assessments are used for activities to enhance producer price. The proposed legislation meets this goal by prohibiting use of funding for influencing regulatory bodies, and other purposes not specifically linked to product promotion.

Thank you for your work on behalf of family farmers. Promotion assessments affect nearly every farmer and the topic always produces much debate whenever discussed by producers. Your legislation is a positive step in addressing many concerns. We look forward to working with you to pass this bill.

Sincerely,

LELAND SWENSON,
President.●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Montana [Mr. BURNS] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1058

At the request of Mr. WELLSTONE, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1058, a bill to provide a comprehensive program of support for victims of torture.

S. 1178

At the request of Mr. CHAFEE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1178, a bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare Program.

S. 1335

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1335, a bill to provide for the protection of the flag of the United States and free speech, and for other purposes.

S. 1432

At the request of Mr. MCCAIN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1432, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

SENATE RESOLUTION 197—TO CONGRATULATE THE NORTHWESTERN UNIVERSITY WILDCATS

Mr. SIMON (for himself and Ms. MOSELEY-BRAUN) submitted the following resolution; which was considered and agreed to:

S. RES. 197

Whereas the Northwestern University Wildcats are the 1995 Big Ten Conference football champions and have been invited to participate in the Rose Bowl on January 1, 1996, in Pasadena, California;

Whereas the winning of the 1995 Big Ten Conference football championship by the Wildcats completes an unprecedented 1-year turnaround of the Northwestern University football program; and

Whereas Northwestern University is committed to athletic competitiveness without diminution of scholastic standards: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Northwestern University and its athletes, coaches, faculty, students, administration, and alumni on the winning of the 1995 Big Ten Conference football championship by the Wildcats and on the receipt by the Wildcats of an invitation to compete in the 1996 Rose Bowl; and

(2) recognizes and commends Northwestern University for its pursuit of athletic as well as academic excellence.

AMENDMENTS SUBMITTED

THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

SMITH AMENDMENT NO. 3080

Mr. SMITH proposed an amendment to the bill (H.R. 1833) to amend title 18,

United States Code, to ban partial-birth abortions; as follows:

On page 2, at the end of line 9, insert the following: ''This paragraph does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose.''

DOLE AMENDMENT NO. 3081

Mr. DOLE proposed an amendment to amendment No. 3080 proposed by Mr. SMITH to the bill, H.R. 1833, supra; as follows:

In the pending amendment, strike all after the word ''This'' and insert in lieu thereof the following: ''paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose.''

This paragraph shall become effective one day after enactment.

PRYOR (AND OTHERS) AMENDMENT NO. 3082

Mr. PRYOR (for himself, Mr. CHAFEE, and Mr. BROWN) proposed an amendment to the bill, H.R. 1833, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . APPROVAL AND MARKETING OF PRESCRIPTION DRUGS.

(a) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance and consideration by the Secretary of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), (iii), or (iv), section 505(j)(2)(A)(vii) (II), (III), or (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, or in an application submitted on or after that date in which the applicant certifies that substantial investment was made prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(b) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made, prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983).

(c) EQUITABLE REMUNERATION.—For acts described in subsection (b), equitable remuneration of the type described in section 154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (a); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (a).

(c) APPLICABILITY.—The provisions of this section shall govern—

(1) the approval or the effective date of approval of applications under section 505(b)(2), 505(j), 507, or 512(n), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2) and (j), 357, and 360b(n)) submitted on or after the date of enactment of this Act; and

(2) the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

BOXER AMENDMENT NO. 3083

Mrs. BOXER proposed an amendment to amendment No. 3083 proposed by Mr. PRYOR to the bill, H.R. 1833, supra; as follows:

At the end of the amendment, add the following new sentence: ''The prohibition in section 1531(a) of title 18, United States Code, shall not apply to any abortion performed prior to the viability of the fetus, or after viability where, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or avert serious adverse health consequences to the woman.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, December 5, 1995, beginning at 10 a.m. in room SD–215, to conduct a hearing on the Organization for Economic Cooperation and Development [OECD] Shipbuilding Subsidies Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, December 5, at 9:30 a.m. for a hearing on S. 88, Local Empowerment and Flexibility Act of 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on the Administrative Oversight and the Courts of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, December 5, 1995, at 10 a.m., in the Senate Dirksen Building, room 226, to hold a hearing on S. 984, the Parental Rights and Responsibilities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GLAXO WELLCOME

● Mr. FAIRCLOTH. Mr. President, I want to applaud a dramatic new commitment by Glaxo Wellcome, a North Carolina-based pioneer pharmaceutical research company whose contributions to medicine and biotechnology have helped to make the American health care industry the most innovative and productive in the world.

Glaxo Wellcome has just received approval from the Food and Drug Administration for its latest drug, Epivir, an aggressive new treatment for AIDS. Epivir received FDA approval in less than 5 months, but the advent of this new treatment is the result of years of hard work and millions of dollars invested by Glaxo Wellcome.

The firm also announced that it has set itself the goal of bringing an unprecedented three new medicines to market each year by the beginning of the next century. This is an enormous endeavor. It will require threefold increase in Glaxo Wellcome's research and development productivity.

The merger of Glaxo and Burroughs Wellcome produced an enormous portfolio of research and development projects. The ensure the most efficient integration of the two firms, the entire portfolio was reviewed according to rigorous standards. The resulting R&D portfolio now includes 50 major research projects and 93 development projects. These projects run the gamut from cardiovascular disease and cancer to the neurosciences. Significant resources are being committed to projects involving the respiratory system: anti-viral infection: the central nervous system and other areas. Together, Glaxo Wellcome's total R&D spending for 1996 will exceed $1.9 billion.

That's good news for the millions of Americans who suffer from life threatening diseases for which there is currently no known treatment. Good news also for their families, their employers, and their neighbors. This massive investment in the future of American health care is good news for all of us.

Pioneering the next ''miracle drug'' is not easy. It costs, on average, 12 years and $350 million to develop just one new pharmaceutical. Only one in 5,000 compounds tested in a laboratory ever finds its way onto pharmacy shelves. And only a third of those ever earns full return on the vast investment of time, money, and thought made to discover it.

Because of the costly pioneering research of pharmaceutical companies like Glaxo Wellcome, American consumers have access to the next generation of pharmaceuticals and state-of-the-art medical treatments. Taxpayers also benefit because of the savings to be realized in future health care costs. Pioneers like Glaxo Wellcome hold our best hope for the discovery of breakthrough medicines in the future. I salute Glaxo Wellcome for deepening its commitment to the future of American medicine.●

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

● Mr. JOHNSTON. Mr. President, on November 28, 1995, President Clinton

signed into law the National Highway System Designation Act of 1995 which will make a number of desperately needed changes to our Nation's transportation infrastructure. I am pleased to have had the opportunity to work with my colleagues to pass this legislation. More importantly, I want to take special notice of a particular section of this law and the Louisiana citizens who did their civic duty in bringing a serious problem to the attention of their representatives in Washington.

The National Highway System Designation Act contains numerous specific projects that will benefit society and commerce and, as with all of the legislation we concern ourselves with in the U.S. Senate, proves the worth of our democratic process. Included in this law is a provision which I think most clearly demonstrates how important our system of representative democracy is and, hopefully, will help to renew our sense of civic duty and alleviate the apathetic attitude toward government that is so common today.

In one of the fastest growing areas in Louisiana, Ascension Parish, there is a section of State Highway 42 known commonly as ''Dead Man's Curve.'' Unfortunately, this name truly reflects the road's history. On this section of the two lane highway which curves drastically and cannot accommodate its growing traffic load, nearly 50 serious automobile accidents have occurred in the last 4 years. When the road becomes wet, as roads often do in south Louisiana, this poorly designed road becomes a death trap causing numerous multiple car sideswipes and head-on collisions. One particularly tragic accident last year took the lives of three young people and galvanized public support for the effort to make LA 42 safe.

On August 20, 1994, in a head-on collision on this dangerous S-curve, Mandy Acosta age 18, her cousin Brett Leggette age 13, and his friend Brett Frederic also age 13 died. In one horrible accident two sisters had lost their teen-aged children. An extended family and an entire community were devastated.

When the grieving period had run its course, these sisters decided that they would not simply stand by and watch history repeat itself, but would become involved to make sure that this road would not take more of our sons and daughters. Ms. Templet and Ms. Leggette organized the community through public marches and petition drives. They contacted Parish President Tommy Martinez who immediately mobilized his resources. Engineers Mr. Glenn Shaheen and Mr. Mark DeBossier were called in to find out what needed to be done. Mr. David Young coordinated their message and worked with the Louisiana congressional delegation to find the surest way to get the Government to fulfill its duty in protecting the lives of its citizens.

Mr. President, the dedicated and passionate work of these two sisters, Parish President Martinez, and their community did make a difference. As a result of their involvement, the Federal Government has now dedicated itself to finding the best way to fix Dead Man's Curve. I am pleased that the National Highway System Designation Act of 1995 includes $250,000 for this problem. I am most pleased, however, that Congress and the President have proven that our system works and that civic duty has not lost its meaning.●

TRIBUTE TO PAUL O. BOFINGER

● Mr. GREGG. Mr. President, it gives me great pleasure today to rise to pay tribute to Paul O. Bofinger, president of the Society for the Protection of New Hampshire Forests, upon his retirement. Paul has served the New Hampshire conservation community loyally for 30 years as an intelligent and clear voice of reason and stubborn common sense. Upon graduation from Cornell University in 1953 and the University of Michigan in 1955, Paul has been actively involved in the New Hampshire conservation debate. Paul's profound insight and powerful influence on New Hampshire environmental policy has helped to create the special tradition of balance and consensus building that we are proud of in New Hampshire.

Over the past three decades Paul Bofinger has received numerous awards and honors including the American Foresters John Artson Warder Medal, the Nature Conservancy's Conservation Achievement Award, the University of New Hampshire Granite State Award, and the Audubon Society of New Hampshire Tudor Richards Award. Paul received a 1982 Governor's Award of Distinction and was named 1994 Forester of the Year by the Granite State Division of the Society of American Foresters. He is a Franklin Pierce College Honorary Doctor of Human Letters, and a recipient of the Chevron Conservation Award. Paul Bofinger served in 1984 and 1985 at Harvard University as a C. Bullard Fellow.

Paul's leadership assured the success of the New Hampshire Land Conservation Investment Program and the creation of the majestic Lake Umbagog National Fish and Wildlife Refuge. Under his presidency, the New Hampshire Forest Society has become one of the premier land trusts in the Nation. During the past several years Mr. Bofinger and the New Hampshire Forest Society have contributed greatly to the work of the Northern Forest Lands Council. He has positioned New Hampshire as a leader in the regional effort to protect the traditional land use patterns of the great Northern Forest for the benefit of future generations. Through Paul's stewardship of New Hampshire conservation policy, his strong commitment to the development of broad consensus-based groups, and his disciplined approach to conservation policy through respectful dialog, New Hampshire's forest conservation and land use process has become a model for the rest of the country to learn and benefit from.

Mr. President, I ask that my colleagues join me in congratulating Paul Bofinger on an exemplary career as a leader of New Hampshire forest conservation and a voice of wise moderation. I wish him good fortune and Godspeed as, upon retirement, he pursues new life challenges.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following military nominations reported out of the Armed Services Committee today: Thomas Schwartz and Paul Funk.

I further ask unanimous consent that the nominations be confirm, en bloc; that the motions to reconsider be laid upon the table, en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

To be lieutenant general

Maj. Gen. Thomas A. Schwartz, 000–00–0000, U.S. Army.

To be lieutenant general

Lt. Gen. Paul E. Funk, 000–00–0000, U.S. Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 239, H.R. 2204.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2204) to extend and re-authorize the Defense Production Act of 1950, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2204) was deemed read the third time and passed.

ORDERS FOR WEDNESDAY, DECEMBER 6, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Wednesday, December 6; that following the prayer, the Journal of proceedings be deemed approved to date; that no resolutions come over under the rule; that the call of the Calendar be dispensed with; that the morning hour be deemed to have expired; and that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I further ask unanimous consent that the hour of 5 p.m. on Wednesday, the Senate resume consideration of H.R. 1833, regarding partial-birth abortions in status quo.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, it will be the majority leader's intention to move to proceed to House Joint Resolution 79, the constitutional amendment regarding flag desecration, at 10 a.m. on Wednesday, December 6. I hope between now and then we will have consent to go to that. We would like to complete action on this bill on December 7.

I know there has been an objection raised as to consideration. I hope we do not have to file cloture to proceed to this very important piece of legislation and that my colleagues may cooperate with us. If it takes that, we will proceed on that basis. I know we have at least 60 votes to proceed and I hope we have 60 votes if cloture is needed on the amendment itself.

We can expect votes to occur possibly on the constitutional amendment and can expect amendments to the partial-birth abortions bill.

Also, for the information of all my colleagues, the schedule for the next few days is as follows: As I said, tomorrow we will start at 10 a.m. on flag burning, or debate a motion to proceed to that measure; at 5 p.m., resume the partial-birth abortions bill. Therefore, late sessions can be anticipated.

On Thursday and Friday, complete action on partial-birth abortions if not previously disposed of; resume and, hopefully, complete action on the constitutional amendment regarding flag desecration.

Also, the Senate could be asked to consider any available appropriations conference reports once received from the House. We expect to receive State, Justice, Commerce from the House on Wednesday afternoon.

And then the following week, the State Department reorganization bill, S. 1441, if agreement cannot be reached to activate the original consent agreement of September 29, 1995, we will start on that bill on Monday.

Other items next week: Available appropriations conference reports; H.R. 660, fair housing exemption bill, hopefully under a time agreement of 1 hour. It may be that we can dispose of that this week.

There will be a Bosnia resolution next week. We are still in the process of drafting that resolution. We have had meetings today, and we hope to have additional discussions tomorrow and the next day. It is my hope that we can have some resolution that can be supported by a majority of our colleagues. I am not certain what day next week that will come up.

It is very likely next week there will also be a conference report on welfare reform. I think we have about concluded the conference. I just ask my colleagues, the original bill passed in the Senate by a vote of 87 to 12. We believe we have retained most of the Senate provisions in the conference, and I ask my colleagues on both sides—this bill had strong bipartisan support—to take a close look.

Eighty-eight percent of the American people want welfare reform. We will have it on the floor, we hope, next week. We hope the President of the United States will sign it. In my view, it is a good resolution of differences between the House and the Senate. We still have one or two minor—well not minor—issues in disagreement we hope to resolve tomorrow, and then we hope to bring it up by midweek next week.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is 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 7:19 p.m., adjourned until Wednesday, December 6, 1995, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 5, 1995:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS A. SCHWARTZ, 000–00–0000

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. ARMY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, U.S.C.

To be lieutenant general

LT. GEN. PAUL E. FUNK, 000–00–0000

EXTENSIONS OF REMARKS

MOVEMENT TOWARD PERMANENT PEACE IN NORTHERN IRELAND

HON. BENJAMIN A. GILMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GILMAN. Mr. Speaker, President Clinton's recent visit to the north and south of Ireland, has enhanced the momentum toward finding lasting peace and justice on the whole island. The President is to be commended for his efforts in this important cause.

The peace process that has seen a ceasefire in the north of Ireland honored on all sides for more than 15 months, has yet to produce the critical all-party inclusive talks essential to finding through political dialogue, a lasting reconciliation and a permanent peace. The people of all Ireland clearly desire those goals, as was demonstrated by the joyous, supportive, and warm reception the President's peace visit received in both parts of the island.

The Congress was well represented on this important, historical trip of President Clinton to help advance the peace process in Ireland, at a point in time when it was stalled, the momentum lost, and a return to violence a real possibility.

A strong bipartisan delegation of both House and Senate members led by my good friend JAMES WALSH (R–NY), the chairman of the Friends of Ireland accompanied the President. The congressional delegation met with all the parties in the north and south, and engaged in an important and further dialogue to help sustain the progress toward peace, which President Clinton's visit had motivated.

The bipartisan congressional delegation issued a statement, which in part unanimously stated, that the delegation urges that "* * * a fixed and concrete date be promptly set for all party inclusive talks following the completion of the International Body's findings under the leadership of former United States Senator George Mitchell of Maine."

The arms decommissioning issue that this International Body will address by mid-January 1996 has sadly too often been a smoke screen, and unfortunately used as a totally unwarranted precondition by many to stall and prevent critical all-party inclusive talks and dialogue. What the north of Ireland needs in order to truly get the arms held by both sides out of the process, is really a decommissioning of the mind set of the many who are resistant to change on both sides. That must and can only take place across the bargaining table in this long, tragic, and deeply divisive "troubles" that must come to a permanent end.

Once the arms issue report is completed by the International Body in mid-January next year, it is hoped that no more excuses, delaying tactics, nor any one side's veto will be tolerated by the interested governments. We must soon thereafter have a fixed concrete and nonnegotiable date set for all party talks at the peace table. The target date for these talks in late February, can not, and must not, become a moving target.

The delegation is commended for its firm statement and understanding of what needs to be done. Talks must soon begin in earnest, and the future of all Ireland settled at the bargaining table by the warm and generous people of Ireland, not by any bombs or guns.

The future generations of Irish youth and Ireland's many friends here and all around the world will be following very closely the progress toward lasting peace which President Clinton's visit has stimulated once again. We in the Congress will do all in our power to see that this momentum does not slip away.

Mr. Speaker, I request that the full text of the bi-partisan delegation's statement be included at this point in the RECORD.

CONGRESSIONAL DELEGATION APPLAUDS MOVEMENT TOWARD PERMANENT PEACE AND RECONCILIATION; URGES CONTINUED PROGRESS

(Dublin, Ireland, December 1, 1995)

Chairman James Walsh (R–NY)—Head of the Bi-Partisan Delegation accompanying President Clinton's visit to Ireland issued the following statement on behalf of the delegation.

"The enormous celebration of Peace we have all witnessed among people of both the north and south of Ireland is a reflection of the enormous desire to make the current peace permanent, and find lasting justice on the whole island of Ireland. The young people of Ireland's future must be secured through the removal of violence as a means for change.

"After seeing an obvious display of support for peace by the people of Ireland, and after meeting with all political parties, north and south, the delegation is firmly convinced that a lasting political solution can, and must, be found through political dialogue. Specifically, we support the recent twin track agreement.

Mr. Walsh went on to say, "I applaud President Clinton's continued leadership in helping move the peace process forward and using the influence and moral will of America to help advance the peace process."

Mr Walsh concluded by saying, "The delegation was unanimous in urging that a fixed and concrete date be promptly set for all-party inclusive talks following the completion of the International Body's findings under the leadership of former United States Senator George Mitchell of Maine."

A TRIBUTE TO EARL WESLEY BASCOM

HON. JERRY LEWIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LEWIS of California. Mr. Speaker, I am proud, yet saddened, to bring to your attention today the recent passing of Earl Wesley Bascom of Victorville, CA. Earl was a cowboy hero and a true inspiration to many of us, particularly in the West. I'd like to take a moment to share with you a glimpse of Earl's remarkable life and the legacy he has left for future generations.

Earl was born in a sod-roofed log cabin on a ranch near Vernal, UT, on June 19, 1906. His grandfather, Joel Bascom, was one of the very first frontier lawmen, and his father, deputy sheriff John Bascom, chased the outlaw Butch Cassidy in the late 1880's. Earl showed an early interest in art, drawing scenes of his young cowboy life on pieces of scrap paper. This interest blossomed when his family left Utah by covered wagon to start a new ranch life in Alberta, Canada in 1914. There he worked as a cowhand for a dollar a day and furthered his dream under the direction of renowned western artist Charlie Russell.

In 1933, at the age of 27, and having never graduated from high school, Earl was accepted to study art at Brigham Young University. He was the first student to pay his way through college exclusively as a rodeo cowboy, giving him the title of "Rodeo's First Collegiate Cowboy." As an early pioneer of rodeo, he invented innovative rodeo equipment still used today. He graduated as one of the great rodeo legends, with his art degree, in 1940.

Earl retired from rodeo, married Nadine Diffey, and moved to Los Angeles in 1940 to pursue his art career. As that developed, he worked in construction, ranched, taught, and even did some film work with Roy Rogers. In 1968, Earl began sculpting, and 5 years later, he and his youngest son, John, set up their own bronze casting foundry to produce magnificent works of western art.

Mr. Speaker, I ask that you join me, our colleagues, Earl's family and many friends in recognizing Earl Bascom's extraordinary work and remarkable life. Earl lived one of the most interesting lives ever known in modern cowboy history. "I've tried to portray the West as I knew it—rough and rugged and tough as an old boot but with a good heart and honest as the day is long," he said. It is only fitting that the House recognize Earl Bascom today.

TRIBUTE TO WILLIAM F. ARMSTRONG

HON. JOSEPH P. KENNEDY II
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today in honor and recognition of Mr. William F. Armstrong and 1995 marks Mr. Armstrong's 50th anniversary of being founder and president of Armstrong Ambulance Services.

Mr. Armstrong is certainly dedicated. He dutifully served his tour of duty in the U.S. Marine Corps. Upon his return, he established his very own ambulatory service. This personal service currently thrives as the Armstrong Ambulance Service.

Mr. Armstrong's perseverance and hard work to benefit and safeguard the well-being of others is exemplary. He lived on call for others 24 hours a day, for over five decades.

Due to his unwavering leadership, Armstrong Ambulance Service has grown to accommodate the medical transportation for over 40,000 people a year in the Greater Boston area.

I applaud the accomplishments of Mr. Armstrong. His special evening of recognition on December 16, 1995, will be a perfect opportunity to reflect upon such a joyous occasion with family and friends. I would like to extend my deepest congratulations to Mr. William F. Armstrong. His 50th anniversary of serving others is truly commendable and is a fine example of the notion of community.

IN MEMORY OF H.G. ''SKINNY'' TAYLOR

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. POSHARD. Mr. Speaker, I rise today to commemorate the passing of H.G. ''Skinny'' Taylor, an Illinois political legend. For years an actively involved Republican, friends on both sides of the aisle throughout the 19th Congressional District and the State of Illinois will miss his wit, style, and grace. It is with great sadness that I offer my condolences to his family.

A graduate of Robinson, IL, High School and Millikin University, Skinny owned and operated the Decatur Warehouse Co. A dedicated member of his community, Skinny took leadership roles in the Kiwanis Club, the Decatur Association of Commerce, the Westminster Presbyterian Church, and the Millikin Alumni Association. But his greatest impression was left in politics, presiding as the chairman of the Macon County Republican Party for 39 years, while also serving as a Republican precinct committeeman for 54 years. In both posts he was instrumental in acquainting the Decatur area with State and national politicians. Skinny introduced many statewide candidates to the nuances of campaigning in downstate Illinois, urging them to get in touch with the problems that affected rural communities.

Mr. Speaker, ''Skinny'' Taylor handled these many roles with a gentleness that impressed all that met him. He touched many lives, and brought to politics the common sense belief that good government was good politics. In the sometimes fractious environment in Washington, we can all learn from his example. Let us duly note a life well lived.

A 104TH BIRTHDAY SALUTE TO JAMES EDWARD GIBSON OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute James Edward Gibson on the occasion of his 104th birthday and for his dedicated service to the New Central Baptist Church.

On December 25, 1995, the New Central Baptist Church will proudly join with James Edward Gibson on the occasion of his 104th birthday and for his tireless dedication as trustee emeritus of the New Central Baptist Church of Philadelphia. Brother Gibson has lived a life of service to God and the church. He has served the New Central Baptist Church since 1915, in many capacities from usher board member to trustee emeritus. Not only is he a valued and cherished member of the trustees, he is so much more, he is a source of inspiration and comfort to the entire congregation of the New Central Baptist Church. Brother Gibson has served the New Central Baptist Church with honor, dignity, and commitment, offering new and innovative ideas to the community.

I join with the congregation of the New Central Baptist Church, friends, family, and the Philadelphia community today in celebrating the 104th birthday of James Edward Gibson. I wish Brother Gibson and the New Central Baptist Church the very best as together they continue their service to the Philadelphia community.

PROCLAMATION HONORING DONNA MAHFOUZ

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Donna Mahfouz has faithfully served the Anthem Blue Cross and Blue Shield family for twenty-three years; and

Whereas, Donna Mahfouz has held the post of legislative secretary for the Government Relations Office, since its inception seventeen years ago; and,

Whereas, her strong work ethic, superlative organizational skills, and warm sense of humor have greatly contributed to the success of Blue Cross and Blue Shield; and

Whereas, Anthem Blue Cross and Blue Shield owes Donna Mahfouz a great deal of gratitude for her selfless devotion and dedicated service; and,

Whereas, I join the employees of Anthem Blue Cross and Blue Shield, with distinct pleasure, in honoring Donna Mahfouz upon her retirement as legislative secretary for the Government Relations Office.

PROPOSING CUTBACKS IN ENVIRONMENTAL POLICY REGARDING THE OZONE LAYER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. STARK. Mr. Speaker, according to TOM DELAY, House majority whip, ''What has happened over the last 10 to 20 years is the environmental extremists have had their way with regulators and with Congress and they've gone way beyond reasonableness and common sense''—October 8 Houston Chronicle.

In support of this argument, Mr. DELAY has introduced a bill to lift the ban on the chemicals covered by the ozone-layer ban and other substances. In the October 27 Washington Post, DELAY, a former exterminator, was quoted as saying ''the science underlying the CFC ban is debatable'' and the agreement to terminate the use of CFC's ''is the result of a media scare.''

A couple of weeks later, the Royal Swedish Academy of Science announced this year's Nobel Prize in chemistry was awarded for work that led to the international ban on chemicals believed to be depleting the Earth's protective ozone layer. These scientists discovered that when chlorofluorocarbons [CFC's], standard coolants in refrigerators and air-conditioners, leak, they rise heavenward and destroy ozone molecules that shield the Earth from the Sun.

As you know, in 1985, scientists confirmed the existence of a hole in the ozone layer over Antarctica. This ecological crisis spurred more than 120 countries to negotiate and approve the Montreal Protocol on Substances That Deplete the Ozone Layer, which President Reagan signed in 1987. In 1989, Congress enacted a tax on ozone-depleting chemicals—CFC's or chlorofluorocarbons—to provide an economic incentive to reduce production and use of these destructive substances. This tax has very successfully accelerated the phaseout of harmful chemicals while at the same time it has spurred development of ozone-safe alternatives.

However, TOM DELAY, the House majority whip, remains unconvinced. In the November 4 Houston Chronicle, DELAY said the Nobel Prize has not changed his opinion that the ban on the chemicals to protect the ozone layer was the result of media scare. In a separate interview, one of the three Nobel winners for ozone-depletion research, Mario Molina of the Massachusetts Institute of Technology, said such charges evidently result from DELAY's lack of knowledge * * * and that all I can say is it's ignorance, real ignorance. DELAY was also quoted as saying that Sweden—where the Nobel program is based—is an extremist country, and the award to Molina and the two other scientists was nothing more than the Nobel appeasement prize linked to a Swedish agenda.

DELAY said the Nobel Prize notwithstanding, he and a number of scientists are not persuaded by the Chicken Little theory that ozone depletion is being caused by CFC's or other manmade materials, or that there would be substantial negative effects even if that happened.

DELAY said his University of Houston biology degree and his many years of dealing with chemicals as owner of a pest-control company enable him to interpret scientific findings, including emerging research that calls the CFC ban into question.

To support a ban on chemicals to protect the ozone layer, he said he would want to see ''a direct correlation'' between CFC's and ozone depletion, and also ''make sure the so-called UV [ultraviolet] radiation that's supposed to make people drop like flies is actually making people drop like flies.

Common sense dictates that waiting for this degree of evidence is waiting too long. A person doesn't need to wait for a brick to drop on his head before he believes it would hurt. The proof that Mr. DELAY requires is exactly the type of catastrophe that current legislation regarding ozone-depleting chemicals was enacted to prevent.

Normally, I would not take this type of know-nothingness seriously. However, with the new Republicans and their antienvironment. Contract With America it appears they are not

going to let real ignorance stand in the way of attacking environmental policy, policy which was supported by Republican Presidents Ronald Reagan and George Bush. Therefore, it is very important that we continue to rally support from the scientific community, environmental groups, and our constituents in opposition to this type of real ignorance so that we may preserve our Nation's and the world's most precious commodity, the environment.

JAMES COLGATE CLEVELAND, FORMER MEMBER OF CONGRESS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to James C. Cleveland, a long-time and invaluable member of the Public Works and Transportation Committee. Jim passed away on December 3, in his beloved State of New Hampshire.

Jim came to the House of Representatives in 1963 after more than a decade in the New Hampshire State Senate. His tenure in the Granite State legislature was marked by an intense and detailed interest in infrastructure and economic development issues. Indeed, he was the chief force behind creation of the New Hampshire Industrial Development Authority.

When Jim came to Congress in 1963, he immediately sought and gained a seat on the Public Works Committee, a position he would hold for the next 18 years. He was a recognized legislative expert in the fields of transportation, water resources, and economic development. His determined belief in the value of public works projects—projects which then and now add value to our Nation and to our everyday lives—helped drive the committee through the 1960's and 1970's.

In addition to his leadership in the House, he was also an inspiration to those of us new arrivals on the committee. I was one of those arrivals—in 1973—and I can say that Jim was a superb mentor and a good friend. His belief in infrastructure and his leadership style was not forgotten when I had the distinct honor to pick up the gavel as committee chairman in the 104th Congress.

There is another and equally compelling aspect to Jim's passing—we have lost yet another member of the ''Command Generation.'' These were the men and women who were born during the Nation's resurgence in the 1920's, weathered with determination the Great Depression, served in World War II, and then helped create the international leviathan for prosperity and justice that was post-war America.

Jim Cleveland was a soldier, a statesman, and a committed private citizen who selflessly served his country with extraordinary distinction. The entire Nation is diminished by his passing.

A TRIBUTE TO HENRY AND BOBBIE SHAFFNER; TWO EXCEPTIONAL COMPOSERS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in thanking and congratulating Henry and Bobbie Shaffner who composed an evocative and hauntingly beautiful musical score dedicated to Swedish humanitarian and Holocaust hero, Raoul Wallenberg. Their composition of the song, ''Wallenberg,'' together with the lyrics of Ms. Lillian Lewis, captivated an audience of over 650 people at the dedication of the bust of Wallenberg in the Great Rotunda of the U.S. Capitol on November 2, 1995.

The song, ''Wallenberg,'' is a tribute to Raoul Wallenberg the Swedish diplomat credited with savings 100,000 Jewish lives in Budapest in 1944. Using false passports, diplomat safe houses, and extraordinary bravery, Wallenberg repeatedly deceived and evaded the Nazis in his heroic mission to prevent the deportation of Hungary's Jews in the death camps. Wallenberg was arrested by Soviet authorities after the war and disappeared into the Gulag. His ultimate fate remains a mystery.

The Shaffners' interest and concern about Wallenberg's fate grew after they read about him in a 1980 New York Times article. They joined the Wallenberg Committee of the United States decided to join those seeking to find him and honor his miraculous deeds.

In 1986, the committee commissioned the Shaffners to compose an inspiring piece that would embody Wallenberg's heroic spirit. In 1992, the song was performed with the lyrics of Lillian Lewis at the committee's annual meeting in New York.

Today's the Shaffners' inspirational music is part of a program titled: ''Raoul Wallenberg: A Study in Heroes'' which has been implemented in over 50 schools in New York, Massachusetts, and North Carolina, in kindergarten through the eighth grade. Plan call for the program to soon spread across the country.

At the dedication ceremony of the Wallenberg bust, the song was performed by the U.S. Army Band, Sergeant First Class Beverly Benda, soprano, and Staff Sergeant Mary Beth Mailand, harp.

A BETTER COUNTRY—THANKSGIVING SERMON

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LAHOOD. Mr. Speaker, I rise today to insert into the extension of remarks of the CONGRESSIONAL RECORD a sermon that my constituent, Dr. Randall Lee Saxon, pastor of the First Presbyterian Church, Peoria, IL, made to his congregation on November 19, 1995, in preparation for Thanksgiving.

Mr. Speaker, I read the sermon and was so moved by Dr. Saxon's words and insightful thought that I wanted to insert it in the CONGRESSIONAL RECORD for the benefit of all my colleagues. At a time when Congress, and the country, is wrestling with devolution of a Federal Government and personal responsibility, Dr. Saxon's words leapt from the pages as I read them.

A BETTER COUNTRY—A THANKSGIVING SERMON

(By Rev. Dr. Randall Lee Saxon)

HEBREWS 11: 8, 12–16

By faith Abraham obeyed when he was called to set out for a place that he was to receive as an inheritance; and he set out, not knowing where he was going.

Therefore from one person, and this one as good as dead, descendants were born, ''as many as the stars of heaven and as the innumerable grains of sand by the seashore''.

All of these died in faith without having received the promises, but from a distance they saw and greeted them. They confessed that they were strangers and foreigners on the earth, for people who speak in this way make it clear that they are seeking a homeland.

If they had been thinking of the land that they had left behind, they would have had opportunity to return. But as it is, they desire a better country, that is, a heavenly one. Therefore God is not ashamed to be called their God; indeed, he has prepared a city for them.

A BETTER COUNTRY

Christians are always in search of a better country. Those who take their faith seriously endeavor to move beyond a feel-good religion to a follow-Jesus faith. Such a faith demands that we continue on our journey of discovery, to build upon the good that was present before us, to bring down the walls that divide us, to bridge chasms—real or imagined—that separate us. Christians are always in search of a better country.

As with the people of the early Christian Church and as with the people who followed the patriarchs of early Judaism, the way of the Christian is the way of the Pilgrim.

Those who have the good fortune to visit the Old Town of Rotterdam, in The Netherlands, may visit still the Pilgrim Fathers' Church—as it is yet called—in which the Scrooby Pilgrims and the Leyden Pilgrims held their last service prior to entering on their incredible journey to discover a better country. Those staunch and visionary forebears of ours worshipped together, then made their way down to the water where they boarded the *Speedwell* to begin their westward journey. Written bold upon a plaque secured to a warehouse on that Rotterdam waterfront is a commemoration to the departure of the Pilgrims.

From The Netherlands, the little ship bearing the Pilgrim band sailed to Plymouth, England. In the English port, after a period of time, the pilgrims boarded a larger ship, the *Mayflower,* and set sail for the brave new world awaiting them across the dark and brooding Atlantic waters. As in Rotterdam, so in Plymouth one may today read of this bold departure of the Pilgrims, commemorating in words writ upon the grand Mayflower Monument the extraordinary event of the journey to discover a better country and thus a better life.

We can imagine that these pious people reflected on the words of Hebrews 11 in the Holy Scripture: People who speak in this way make it clear that they are seeking a homeland. If they had been thinking of the land that they had left behind, they would have had opportunity to return. But, as it is, they desired a better country . . .

We know that many factors figured in the Pilgrims' decision to leave home and cross the great sea in search of a new land, a better country. As children in public and private schools across America, we are given

opportunity to re-examine the religious and political persecutions and deep yearning of the human spirit which emboldened the Pilgrims to set sail for America. They sought an opportunity to worship as they thought fitting, to engage themselves in self-determination and the utilization of individual gifts for the common purpose of building community. They yearned for a government which would be best described by an American president 243 years after they sailed from Plymouth, a government in which the common people were involved; a government of the people, for the people, and by the people.

Yet, strange-seeming upon first consideration, these same Pilgrims who were willing to leave hearth and homeland for a wild and distant country viewed themselves as strangers and foreigners on the earth. As people of God, they sought with great diligence to live as people of faith in an often faithless world. These Pilgrims held values which transcended the simple ''be a good person, be nice to your neighbor'' values in human relationships. These values demanded much more of the individual and of society than simply ''being nice''; these values demanded one''s life commitment to the upbuilding of the kingdom of God. It is no wonder historians who trace the Euro-American pilgrimage from its inception to the present day call the experiment of the Pilgrims by the name ''Zion in the Wilderness''. There was purpose and commitment in what the Pilgrims set out to accomplish. Their journey was to a better country!

The Church today is called to remember it is still on that same journey that set sail the Pilgrims so long ago.

The Church exists today as resident aliens, an adventurous colony in a society of unbelief. As a society of unbelief, Western culture is devoid of a sense of journey, of adventure, because it lacks belief in much more than the cultivation of an ever-shrinking horizon of self-preservation and self-expression.

The ancient Hebrew patriarchs, the disciples of Jesus of Nazareth, the Pilgrims of the seventeenth century, the visionaries who 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, Liberty, and the Pursuit of Happiness'', the founders of this visionary congregation—First Presbyterian Church of Peoria, IL—160 years ago, all were traveling the road to a better country. They had, as the Rev. Dr. Martin Luther King has said, ''a dream.''

To tell the truth, that dream, those visions, have taken on the fearful characteristics of a nightmare. The nation—the better country—the Pilgrim people sought to discover and build upon has drifted loose from it moral moorings into a sea of self-centeredness, a Devil's Triangle of you-do-your-thing-and-I'll-do-mine-and-that's-all-that-matters-anyway boorishness that shakes the very foundation of our society.

The home of the brave and land of the free in the 1990s—fifteen generations after the Pilgrims landed on the Massachusetts shore—has become the home of the fearful and the land of the imprisoned. America today has more citizens in prison, per capita, than any other nation in the free world. The experience of being ''free'' is what many do not experience!

We have winked at the discord in our nation. We have turned away from taking personal responsibility to become change agents involved in the creation of a better country. We have come to blame the three branches of our federal government for our troubles, making scapegoats of the very people we have elected to lead us. It is hard to hear and harder again to admit, but many of us do not experience freedom as the Pilgrims sought to create to. We are fearful instead. Our everyday lives point to this truth.

Consider our overstocked medicine cabinets, burglar alarms, vast ghettos, and drug culture. Eighteen-hundred New Yorkers are murdered every year by their fellow citizens in a city whose police department is larger than the standing army of many nations.

We have become fearful of one another. We seem to have lost our way on that journey to a better country. Where is the vision of the Pilgrim people? Why do we cower in fear and confusion, choosing to attempt to outrun the darkness rather than turn and say with conviction, ''Enough!''. Those people of varied races and religious tradition and ages who have taken such a stand against corruption in their individual communities have made a difference, they have shined a light into the darkness and recaptured a vision of a better country. May God bless them, and our native land!

The time has come again for the people of God to become a Pilgrim people! The time has come again for the people of God to say what they believe, and to set sail on a journey that will lead us all to a better country. What am I saying? Leave America for another place?

Not at all! Despite her flaws, America is yet the greatest nation on earth, for people still risk their lives to make this land their home. Hear me now! I am calling us to recapture the vision of a better country. And to lift up that vision. I am calling us to work together, beginning right here in our own community, to shape a better country so that the little children around us can grow up in a better world. I am calling us to be done with the idiocy of self-centered pettiness that only desecrates, divides, and denigrates the World of God. I am calling us to catch the vision of a better country, and to lift it high in the name of our blessed Lord, Jesus Christ, who has already journeyed ahead of us, calling. ''Follow me!''.

How do we do this? How do we answer this call? We begin by doing away with the habit of blaming others for our troubles. We become more proactive and less reactive. I say this to you in response to the challenge before us:

1. Pray without ceasing that God will use you and this congregation to build a better country. Every great change in the nation began in the minds and hearts and spirits of the people who helped make this country great. Change may be facilitated ''out there'', but it must begin in here, in the mind and heart and spirit of the individual. And in the home towns of America.

2. Pray to forgive those who divide and deride; counsel them to repent and turn to the Lord, so their vision may be outward and upward rather than inward and downward. Remember John Kennedy's words: ''Ask not what your country can do for you, ask what you can do for your country!''. Then do it.

3. Open your eyes and your mind to see where your unique, personal gifts can be used to help make life better. For example, offer to ring a bell at a Salvation Army kettle, join hands with others at work in one of our city soup kitchens or other missions, assist as a hospital volunteer, give blood: one pint of that vital fluid may save a life, sign on the line on the back of your driver's license and commit yourself to becoming an organ donor (hundred of thousands of lives could be saved annually if more of us would do this), visit the hospitalized, run an errand for one who is ill, comfort the afflicted, challenge the comfortable, teach in our Sunday School. You get the idea. The need is great; open your eyes and minds and respond.

4. Contact our elected representatives and urge them to remember and act on the words of our sixteenth president, that our government may be of, by and for the people. Rather than deride the people you elected to represent you, work with them to shape a brighter, better future for all who call America home.

5. Live each day as if it were your last, devoting energy to those profoundly simple acts of discipleship we discover by lifting up faith, hope and love. And, in that instant, make a difference for good and to God's glory in the life of someone else. Do you begin to realize what a radical difference you can initiate simply by lifting up the values and mores which helped build this country, those aspects of national character which begin on our hearths and in our hearts as we teach our children about God and goodness and grace?

Yes, Christians are always in search of a better country. Those who take their faith seriously endeavor to move beyond a feel-good religion to a follow-Jesus faith. The choice, really, is up to you. You can sit morosely by, captured by a culture of complaint and compliance, or you can let the living God fill your sails with the wind of His Spirit, empowering you to move forward on that journey to a better country.

The America of tomorrow awaits your decision to act. Decide wisely, pilgrim, for you touch the trembling, fragile future with your individual hands and hearts. May God bless America. May God bless you. Amen.

PRESENTATION OF LIBERATION OF SURVIVORS STAMP

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GILMAN. Mr. Speaker, this morning I joined with Senator CARL LEVIN, Postmaster General Runyan, and Postal Governor David Fineman to present a framed enlargement of the liberation of survivors stamp to the U.S. Holocaust Museum.

It is appropriate that we are presenting this stamp this year, as we observe the 50th anniversary of the liberation of the concentration camps by U.S. Armed Forces. This Holocaust stamp pays tribute to the many thousands of American soldiers whose considerable self-sacrifice and heroism as liberators of the death camps led to the disclosure of the truth, and to the enormity of such crimes against the Jewish people and humanity. The liberators selfless dedication will never be forgotten, just as those who perished will never be forgotten.

Year after year there are fewer witnesses remaining among us. The efforts of institutions like the U.S. Holocaust Museum and the U.S. Postal Service in commemorating this historical event will help ensure that the future generations will not forget the Holocaust. We must remember that we must fight every day in the war against ignorance and bigotry. It is our responsibility to remain forever vigilant, as we pursue justice for ourselves and for others through out the world who face oppression.

A TRIBUTE TO HARDY L. BROWN

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. LEWIS of California. Mr. Speaker, I am proud to bring to your attention today the fine

work and outstanding public service of Hardy Brown. Hardy, the first African-American man to serve two terms as vice president and then two terms as president of the Board of Education of the San Bernardino City Unified School District, is retiring after 12 remarkable years of service with the board. He will be honored for his service at a dinner in his honor on December 14.

Hardy Brown was administered the oath of office for the board of education on December 6, 1983, and was elected vice president of the board for the 1985–86 school year. Shortly thereafter, he was elected as the first black male president of the board and served for both the 1987–88 and 1988–89 school years. In addition, he has served as a representative to the CSBA Delegate Assembly for the 1990–91 and 1992–93 school years, and has served CSBA in many diverse leadership roles.

The San Bernardino City Unified School District is the ninth largest in California with over 44,000 students, 60 percent of whom are minorities. Through his service to the board of education, Hardy Brown has been a thoughtful and dedicated advocate for providing equal educational opportunities to all children in our community. He is also well known and respected by community leaders, parents, clergy, business people, political leaders, representatives of higher education, and civil rights groups,

Hardy Brown has a great deal of experience with multiethnic, multicultural, and varied socioeconomic groups. His enthusiasm, commitment, and expertise in alternative programs addressing at-risk students, guidance, dropout prevention, school safety, and vocational education has made him particularly influential and well respected. Most importantly, his leadership style encourages creative and innovative ideas to deal with the greatest challenges facing education and society today.

Mr. Speaker, I ask that you join me, our colleagues, Hardy Brown's family, and many friends in recognizing his extraordinary work and selfless public service. His dedication to education and making a real difference in the lives of children is an example worthy of emulation by all of us. It is only fitting that the House pay tribute to Hardy Brown today.

TRIBUTE TO PERRY ANDERSON, JR.

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to honor and recognize Mr. Perry Anderson, Jr., who is currently the police commissioner of the Cambridge Police Department in Cambridge, MA

Commissioner Anderson has led a successful and distinguished career. He worked for the Miami Police Department for many years. During his tenure he rose from the ranks of police officer to the appointment of chief of police before retiring in 1991. His steadfastness is seen through his many police and executive positions. Most notably was his position as major in charge of the community relations section and deputy and assistant chief in charge of the criminal investigation division.

Commissioner Anderson's dedication to the Police Force is truly commendable. He has received great recognition for founding and implementing reverse sting operations in Miami, developing methods to curtail civil disturbances, and has authored various texts on sound managerial concepts and programs. Commissioner Anderson is also the recipient of the Bronze Star Medal for meritorious service in the armed services. In July 1992, he was elected the national president of the National Organization of Black Law Enforcement Executives.

I applaud the accomplishments of Commissioner Perry L. Anderson and would like to extend my congratulations and best wishes for his many years of service to safeguard others. As a paragon of leadership he has enabled many people to live with a bettered sense of security.

CONGRATULATIONS TO JOHN ROARK ON HIS RETIREMENT

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. POSHARD. Mr. Speaker, I rise today to wish Mr. John Roark a happy, and well deserved retirement. John is a trusted friend, and I always welcome the opportunity to talk with him about issues affecting the 19th Congressional District of Illinois.

Throughout his professional career John has worked hard to help improve his community. For 3 years he owned his own business, has 13 years teaching experience, was director of Organization for American Federation of Teachers for Illinois and Wisconsin, and has worked with the Macon-Dewitt Job Training Program Administration [JTPA] for 17 years. John will retire as the executive director of the Macon-Dewitt JTPA, and I am proud to join with his family and friends in celebrating his decades of community service.

Mr. Speaker, John Roark is a friend of many in central Illinois. He will be missed at the Macon-Dewitt JTPA, but I am confident that John will continue to discover new ways to help his community during his retirement. I want to take this opportunity to once again thank John for his decades of commitment to the people of the State of Illinois and wish him a healthy and memorable retirement.

A SALUTE TO NOVELLA LYONS OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Mrs. Novella Lyons on the occasion of her retirement from the Pennsylvania Department of Public Welfare and to congratulate her on her many years of service to the Philadelphia community.

In 1960, Mrs. Novella Lyons began her tenure with the department of public welfare. She has proudly held several positions within the department from repayment adjuster to income maintenance caseworker. In 1989, Mrs. Lyons received the Employee of the Year Award and has since served as chairperson for the SECA campaign. Mrs. Lyons is an outstanding individual who should be commended for her contributions to the Philadelphia community.

Mrs. Lyons has also played a vital role in many programs in the Philadelphia community as an active member of the Canaan Baptist Church, where she began working with the social service committee and the breast cancer support group. She was instrumental in organizing the breast cancer support group where her primary goals were to provide educational resources, international workshops, and spiritual uplifting. Through Mrs. Lyons' efforts, over 100 women have been reached throughout the Philadelphia area.

I wish to join today with the department of public welfare, Mrs. Lyons' family and friends in recognizing her for her many years of service with the Pennsylvania Department of Public Welfare and the Philadelphia community. I wish her health, happiness, and prosperity in her retirement years. It is well deserved.

TRIBUTE TO SALLY HAVICE FOR SERVICE TO THE ABC SCHOOL BOARD

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. TORRES. Mr. Speaker, I ask my colleagues to join me today in honoring Ms. Sally Havice as she steps down from the presidency of the ABC School Board. Sally was first elected to the school board in 1989 and was reelected to a second term in 1993. As board president, she chaired several committees, including the School Safety Committee and the District Goals Committee. During her leadership, she initiated a code of conduct for the members of the board.

Sally has devoted much of her life to improving herself and giving to others through education. After attending business college, she had a successful career in municipal government. She later returned to school to pursue a bachelor's degree and teaching credential that enabled her to realize her life-long ambition of becoming a teacher. She earned two associate in arts degrees from Cerritos College; one in social studies and the other in Spanish. She went on to receive her bachelor's degree in English and a master's degree in linguistics, with doctoral studies at USC and the University of Hawaii. During her active professional and academic career, she raised three sons: Edward, Raul, and Joseph. She is also grandmother to seven children.

For the last 22 years, Sally has been a professor of English at Cerritos College. She teaches English composition and literature, as well as speech communication. She also served as interim assistant dean of liberal arts and community liaison for the cultural arts. Her work on campus also has included participation on numerous committees such as the Citizen's Resource Advisory, Cerritos College Faculty Association Executive Board, and the faculty senate, which selected her after her first term as outstanding faculty senator.

Sally's involvement in the community has been extensive and impressive. She helped to implement the cultural performing arts afterschool program. This unique music and dance

instruction program benefits hundreds of children in Artesia, Cerritos, Downey, Hawaiian Gardens, Lakewood, La Mirada, and Norwalk. She is a member of the Southeast Area Task Force on Youth Violence, and an executive board member of the ''Su Casa'' Family Violence Center. Other memberships in area organizations include the Southeast Regional Occupations Program, the Latina Leadership Network, Comision Femenil, the National Women's Political Caucus, the American Association of University Women, the State Superintendent of Public Education's Advisory Committee, the Optimist International, the League of United Latin-American Citizens, and the Asian Indian Women's Rights Group. She has also been president of the Cerritos College Faculty Association, in addition to having served as vice president and secretary.

Mr. Speaker, I ask my colleagues to join me in saluting a model public servant. It is with great pride that we pay tribute to Sally Havice for her dedicated service to the ABC Unified School District.

TRIBUTE TO JUDY BLUESTONE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, today I congratulate Judy Bluestone, winner of the State of Israel Bonds—Golda Meir Division Leadership Award of 1995. The award will be presented tonight at a gala event in Milwaukee.

The Leadership Award is bestowed on those who provide outstanding leadership and devotion to Jewish values of community and compassion in the spirit of Golda Meir. Judy Bluestone, through her voluntarism and dedication to our community, exemplifies the intent of the award.

Judy Bluestone's efforts have focused on improving the lives of children. As a speech pathologist at St. Francis Children's Center, through her involvement with the Wisconsin Alliance for Children, and more recently as chair of Start Smart! Milwaukee, Judy Bluestone has been a successful advocate for children. She recognizes and promotes the importance of nurturing environments for all children.

The Leadership Award also commends a lifelong commitment to the Jewish people and the State of Israel. Here again, Judy Bluestone has achieved distinction with her involvement as a board member of the Jewish Community Center, and executive committee member of the Milwaukee Jewish Federation Women's Division. Her leadership and dedication is a lasting tribute to the spirit of Golda Meir and the prominent role women have played in Israel's growth and development.

I congratulate Judy Bluestone, along with her supportive husband Stanton, on her selection as the 1995 State of Israel Bonds Leadership Award winner.

NEW FACILITY TO BE NAMED CHARLES A. HAYES POST OFFICE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, today I am joined by my friend and Illinois colleague, Representative DENNIS HASTERT in introducing legislation naming a United States Postal Facility in Chicago as the ''Charles A. Hayes Post Office.'' The post office, to be located in the 2600 block of E. 75th Street in Chicago is currently under construction and will open in November 1996.

Congressman Charles A. Hayes was first elected to Congress in 1983, in a special election, succeeding former Member of Congress, Harold Washington who resigned from the House after being sworn in as Mayor of Chicago. He was the First international union leader to be elected to Congress and spent his early years as a working man, organizing his first union and elected to his first union office as President of Local 1424 of the Carpenter's International Union at age 20.

Congressman Hayes went on to secure bargaining rights for workers in Chicago's stockyards through the United Packinghouse Workers of America. In 1954 he was elected District Director of the Packinghouse Union and moved continuously through the ranks and after several mergers, became International Vice President of the United Food and Commercial Workers Union, then the largest union in the AFL–CIO. Rising from the small town of Cairo, IL, ''Charlie'' became one of the most important labor leaders in America.

Charlie was urged by labor leaders throughout Chicago to run for the Congressional seat vacated by Mayor Harold Washington. He won the August Democratic Primary, defeating 13 other Democratic contenders and was sworn into Congress in September of 1983.

Former Congressman Hayes fought fiercely to protect American jobs, has been active in the fight to increase Federal funds for schools, to increase funds for public works, protections for civil rights and the rights of ordinary workers. He introduced full employment legislation and denounced unemployment as ''morally unacceptable'' while politicians were arguing about how best to cut taxes on the rich. He supported National Health Insurance from his earliest union days and is the only Member of Congress with a 100 percent lifetime voting record on issues important to labor.

Prior to his departure, Congressman Charles A. Hayes chaired the Committee on Post Office and Civil Service Subcommittee on Postal Personnel and Modernization. He was known to his friends as the ''Labor Democrat'' and long recognized as a first-rate public servant and first-class friend, worked hard to make sure that workers across the country had food on the table, had pensions that were protected and were safe on the job.

Charlie's frequent calls for ''Regular Order'' on the House floor have been missed. We are pleased to honor his efforts on behalf of working Americans. We urge our Illinois colleagues to cosponsor this measure.

IN HONOR OF GERALDINE BARBARA POSNER

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. MORAN. Mr. Speaker, I would like to call my colleagues attention to the passing of a great American—Mrs. Geraldine Barbara Posner. Mrs. Posner served in the Air Force Nurse Corps and was among the first to land at Normandy.

After returning from the war, she continued her education and served as a training supervisor for the D.C. Department of Human Resources. Mrs. Posner was a beloved constituent and a patriot. Please join with me in honoring her memory.

GERALDINE BARBARA POSNER

Geraldine Barbara Posner, 73, a former captain in the Air Force Nurse Corps and a retired nurse in-service training supervisor for the D.C. Department of Human Resources, died of cancer Sept. 28 at the National Naval Medical Center in Bethesda.

Capt. Posner, who lived in Alexandria, entered the Army Nurse Corps in 1944 and, after basic training, landed on Normandy beaches shortly after D-Day, setting up combat field hospitals. After World War II, she was assigned to various military hospitals and received a commission in the Air Force in 1948.

A native of Brooklyn, N.Y., she received a diploma in nursing from Mercy Hospital in Springfield, Mass. After leaving the military in 1952, she received a nursing degree from Adelphi University in New York.

She also took postgraduate nursing courses at Hofstra College before settling in the Washington area in 1960. She began a seven-year career with the D.C. Department of Human Resources in 1970.

Survivors include her husband, retired Air Force Maj. Gen. Jack I. Posner of Alexandria; three daughters, Geraldine A. Porter of Marshall, Va., Air Force Maj. Jacqueline B. Posner of Alexandria and Ginnean C. Quisenberry of Enterprise, Ala.; two sons, Air Force Lt. Col. John D. Posner of Tyndall Air Force Base, Fla.; and Air Force Capt. Joseph R. Posner of Robins Air Force Base, Ga.; three sisters, Carol Fleury of Holyoke, Mass., Janice Devine of Ware, Mass., and Lorraine Curley of Centerville, Mass.; and three grandchildren.

PERSONAL EXPLANATION

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. STUPAK. Mr. Speaker, on Wednesday, November 29, 1995, I was unavoidably absent from the House on official travel and missed four recorded votes. Had I been here, I would have voted ''No'' on rollcall No. 833, the motion to table the measure House Resolution 288; ''yes'' on rollcall No. 832, the vote on final passage of H.R. 1788, to authorize appropriations for AMTRAK; ''yes'' on rollcall No. 831, the Nadler amendment to H.R. 1788; and ''yes'' on rollcall No. 830, the Collins Illinois amendment to H.R. 1788.

ROMANIAN NATIONAL DAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today in recognition of Romania's national day. On December 1, the people of Romania celebrated the 77th anniversary of the creation of the modern Romanian state. The Romanian nation, of course, is much older, and is one of the culturally richest societies in Europe.

The modern Romanian state arose after World War I and the demise of Austro-Hungarian empire. For most of the ensuing 70 years, Romania's people lived through one difficulty after another, culminating in the long oppressive rule of the communist dictator Nicolai Ceaucescu.

Just as modern Romania was created after the fall of an empire, so too has Romania been renewed by the fall of an empire. The demise of communism in Eastern Europe and the Soviet Union was welcomed by the Romanian people, who staged a revolution in 1989 that overthrew Ceaucescu and launched the rebirth of their nation. The new Romania has experienced the initial excitement of freedom tempered by the daunting realities of rebuilding its economy, solidifying democracy and catching up with the rest of Europe.

Mr. Speaker, I visited Romania earlier this year and have seen the hard work and commitment of its people. Romania is making steady progress on all fronts. The economy has been invigorated by the expanding role of the private sector and is growing at a healthy pace; Romania's multi-party parliament debates legislation openly and the free press has grown. Romania has expressed a strong desire to join NATO, affirming its desire to become a permanent member of the western camp of democracies. Next year, Romania like the United States, will hold an election for president. This election must and will be democratic, hotly contested and widely covered by the media.

Romania still has a long way to go. There is much to be done but the direction is clear. After 77 years of hardship, things are finally beginning to look up for the Romanian people. I ask my colleagues to join me in congratulating he people of Romania on their national day anniversary and expressing our support for Romania's continued progress.

A TRADITION COMES TO A CLOSE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. COBLE. Mr. Speaker, as the year comes to a close, a tradition also comes to a close in Denton, NC. I am, of course, referring to the sad departure of the Denton Record. I join with many other readers in saying we will miss our weekly copy of the Denton Record.

For years, Ed and Venus Wallace have kept the people of Denton and the surrounding area informed with news of community interest. The daily comings and goings of the hard-working men and women of Denton and their families were chronicled in the weekly publication of the Denton Record. News both big and small found a place in its pages. If it happened in Denton, you could read about it in the Denton Record.

In many ways, the Denton Record was a throwback to a bygone era. The newspaper has been published since 1940, the Wallaces have operated the Denton Record since 1962, and they have owned it since 1984. What made the weekly paper unique was that it cared about the community in which it was published. The citizens of Denton responded in kind and supported the Record for more than half a century. In this era of corporate-owned media giants, it was quite refreshing to have your hometown newspaper published by homegrown people. All of that will come to end with the end of 1995.

We will miss reading Venus' ''Squibbles'' column. We will miss Suzy's photos of sporting events and Miss Denton pageants. We will miss Ed's steady hand which has guided the paper through its weekly scramble to write headlines and meet deadlines. Most of all we will miss knowing that if something happened in Denton we could read about in the Denton Record.

On behalf of the citizens of the sixth district of North Carolina, we offer our congratulations to the Wallaces for decades of newspaper excellence and best wishes for life after the Denton Record.

TIM COUCH'S STANDOUT PREP CAREER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. ROGERS. Mr. Speaker, just this week, the Nation's football fans enjoyed a passing of the torch, or the football, in the National Football League. Miami Dolphins Quarterback Dan Marino, who recently became the NFL's all-time yardage leader, surpassed Fran Tarkenton's touchdown passes record.

The day before Marino's recordbreaking day, Kentucky's own recordbreaking prep quarterback struck again, too. Leslie County High School's Tim Couch, a legend at the prep level, threw his 133rd touchdown pass to become the all-time high school touchdown pass career leader. Tim's 1-yard pass to Jonathan Morgan on the last play of his high school career broke Bobby Lucht's national record in dramatic fashion.

Like Marino, Tim Couch had already become the all-time high school passing yardage leader by shattering Josh Booty's national passing record the week before. Couch completed his illustrious high school career with 12,092 yards. He also is the all-time leader in completions (872) and completed an outstanding 63.6 percent of his passes.

Recently featured in a two-page Sports Illustrated article, Tim Couch has given Leslie County, eastern Kentucky, and all of America's football fans something to stand up and shout about.

Tim, who is an A–B student, is also a standout basketball player (he averaged more than 36 points per game last year) and part of the wonderful community spirit and pride of Hyden and Leslie County.

Not only did this community of 375 rally around their favorite son, they brought out the best in their team (an 11–3 record) and the entire region.

Tim Couch's success provides hope not only for every aspiring young football player, but for his community and everyone who knows this very talented young man from the mountains with the desire and ability to make it big. He has set a standard of excellence for Leslie County, its young people and the entire Nation. I know that Tim will continue to be an excellent example for all to follow.

Congratulations on your standout prep career, Tim, and good luck in your future. Let's hope you are the one removing Dan Marino's name from the NFL's record books.

HONORING MARY GORMLEY

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. DAVIS. Mr. Speaker, I rise today to honor Mary Gormley, who was recently elected President of the Virginia Congress of Parents and Teachers—Virginia PTA—during the association's annual convention in Richmond.

I have had the privilege of knowing and working with Mary for over 16 years during my terms serving on the Fairfax County Board of Supervisors and since joining this honorable Chamber. Mary has been active in the PTA for more than 20 years, and has also been involved in many other community and school related activities. She has chaired or served on the executive Boards of a variety of committees. She chaired the Volunteers for the International Children's Festival, held annually at Wolftrap Farm Park in Vienna, VA. She was President of the Annandale High School Band Boosters as well as President of the Annandale High School PTSA. She also has served as Secretary and Membership Chairman of the Fairfax Committee of 100, and as 1st and 2nd Vice President of the Fairfax County Council of PTA's. Additionally, Mary has served on various Fairfax County School Board committees including, School Consolidation, Substance Abuse, and the Division Superintendent Dr. Robert Spillane's Advisory Committee to name a few.

On the road to attaining the prestigious position of Virginia State PTA President Mary served on the State level as 1st and 2nd Vice President.

Mary's many years of giving have been recognized by her receiving an Honorary Life Membership in the National PTA; an Honorary Life Membership in the Virginia PTA; Lady Fairfax for the Fairfax County Fair, and Commendations from the Fairfax County Board of Supervisors and the Fairfax County School Board.

Mary is the wife of Brian Gormley and the proud mother of 3 children, Sean, Matthew, and Brienne Gormley.

Mr. Speaker, I know my colleagues join me in honoring Mary Gormley, a woman who puts not only the good of the community, but our children's education and well-being ahead of herself.

NORTHWESTERN UNIVERSITY'S CHAMPIONSHIP FOOTBALL TEAM

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GEPHARDT. Mr. Speaker, I rise today in support of the resolution congratulating Northwestern University's championship football team, the Wildcats, for its 1995 Big Ten Conference Championship and for its invitation to the 1996 Rose Bowl.

For the second time in its 122-year history, Northwestern is going to a bowl game. The 1995 winning season represents an unprecedented turnaround for Northwestern football.

Northwestern University has won the Big Ten Conference Championship with a perfect record in conference play. It recently received its invitation to the Rose Bowl. We will all be watching New Year's Day as the Wildcats play our friends at USC. We will all be cheering with Coach Gary Barnett, just as we cheered 4 years ago, when he first came to Northwestern and promised to take ''the Purple to Pasadena.''

We celebrate with University's President Henry Bienen, Coach Barnett and his dedicated and hard working team of coaches and athletes. We commend Northwestern University for its Big Ten Championship and for its invitation to the Rose Bowl. Northwestern's academic excellence has never been doubted; now let no one doubt its athletic excellence. Everyone wondered how this miracle occurred, but for Northwestern fans, it wasn't a question of how, but a question of when.

Mr. Speaker, I encourage all my colleagues to join us in celebrating Northwestern football.

TRIBUTE TO CARMEN LOMAS GARZA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a very unique artist from Kingsville, TX, whose works illuminate the life and times of south Texans. Carmen Lomas Garza's impressionistic paintings illustrate the various aspects of life in our native community through the eyes of her childhood and can now be seen at the Smithsonian Museum.

Her exhibit, now showing at the Hirshorn Museum and Sculpture Garden, is entitled: ''Directions: Carmen Lomas Garza.'' Her work inspired a popular children's book. Children's Book Press of San Francisco saw the wisdom of illustrating her paintings with short descriptions of what the paintings show.

Cuadros de familia—Family Pictures—is Children's Book Press' best seller, selling over 195,000 copies. It includes 32 reflections of the Mexican-American life in south Texas. It is an ideal gift for a youngster at Christmas.

As a child, the artist was teased and punished for speaking Spanish in school. But as she grew older and wiser, she used her art as a bridge to get past her anger, and to reflect her pride in our culture.

Her work is a touching glossary of childhood memories in Kingsville, TX. The scenes she depicts include: her grandfather peacefully watering his corn; the local faith healer expelling the flu from a neighbor; and a community cakewalk to raise money to send young people to college.

She told me about the peace she found growing up in south Texas with her family, and her desire to pass that along to the next generation through her art. She remembers the times we all remember with our family, eating on the front porch, making tamales, picking oranges, swimming in the Gulf of Mexico, and celebrating birthdays.

One of the most memorable paintings—and one just purchased by the Smithsonian for its permanent collection—is a tribute to her mother who supported her dreams of becoming an artist. The painting portrays the artist and her sister laying on the roof dreaming under the stars as their mother prepares their beds. Lomas Garza describes her mother as laying out the bed for our dreams of the future.

Mr. Speaker and colleagues, I highly recommend this exhibit to you and your constituents.

SALUTE TO HOMETOWN HEROES

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Ms. DELAURO. Mr. Speaker, I rise today to pay tribute to Gerri Schmidt and Robin Dorman of Branford, CT for their truly heroic effort to save the lives of three small children from a fire last Wednesday. These women displayed inspiring selflessness in aiding their neighbors and dousing the flames that engulfed a local condominium.

According to the authorities with the Branford Fire Department, three children aged 5, 3, and 14 months are alive and well today because of these two fine women. Careless playing with matches by one of the children is said to have caused the blaze.

Yesterday, as Gerri Schmidt walked her dog and Robin Dorman backed her car out of the drive, an elderly woman raced from a condominium on Watch Hill Road, screaming, ''Fire! Fire!'' Schmidt and Dorman ran to the woman who told them of the children trapped by the fire inside the building.

Not thinking of themselves, these women raced inside. There Schmidt found the five-year-old and the three-year-old in a bedroom and the 14-month-old in a hallway and carried them outside to safety. Dorman, meanwhile, ran up the stairs through heavy smoke and beat back the flames with a blanket. By the time the firefighters arrived on the scene, the children were safe and the flames were nearly extinguished.

Real life heroes are all too rare in this day and age. Gerri Schmidt and Robin Dorman have earned our praise, our thanks, our admiration and our acknowledgement, and I want to recognize them for their bravery.

Webster's Dictionary defines heroism as ''fulfilling high purpose or attaining a noble end.'' On behalf of the House of Representatives, I would like to extend my praise of Gerri Schmidt and Robin Dorman who truly define heroism. Thanks to our hometown heroes.

THE BEST SMALL TOWN IN AMERICA

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GEJDENSON. Mr. Speaker, I rise today to recognize Essex, CT, on being named the Best Small Town in America by author Norman Crampton. Mr. Crampton's book, ''The 100 Best Small Towns in America,'' recognizes Essex for qualities its residents, and people across Connecticut, have appreciated for many years. The residents, officials, and business people of the community should be very proud of this honor, which acknowledges their commitment to their community.

Mr. Crampton ranked towns across the Nation using several criteria, including per capita income, crime rate, public school expenditure per pupil, and percentage of population with a bachelor's degree. While every survey seeking to rate communities relies on similar factors, the author also considered community efforts to provide housing to all income groups and to encourage residents to play an active role in town affairs.

In the final analysis, Essex rose above every other small town in America to be named No. 1. Since settlers first came to the area in the mid-1600's, Essex, which encompasses the villages of Centerbrook, Ivoryton, and Essex, has distinguished itself. For much of the 18th and early-19th centuries, Essex was known as a world-class shipbuilding center. In fact, the first ship commissioned by the U.S. Navy in 1775, the *Oliver Cromwell,* was built in Essex and provided to our fledgling Government by the State of Connecticut. In addition to building the ships which were the lifeline of commerce in the 1700's and 1800's, Essex was an important commercial port for trade throughout the world, especially between the eastern United States and the islands of the Caribbean. The village of Ivoryton was so names because Essex was home to one of the leading manufacturers of piano keys. Manufacturers in Essex also helped to pioneer commercial production of which hazel and the community remains home to one of the world's largest distillers of this product.

Mr. Speaker, it is obvious to this Member why Essex has been ranked No. 1. The community has something to offer to everyone. Families can take advantage of first-rate public schools, affordable housing, and local employment opportunities. Lying on the banks of the lower Connecticut River, Essex boasts tidal flats and marshes, coves and inlets which provide valuable habitat for many species of fish, wildlife and birds. Visitors can enjoy leisurely rides on the Connecticut Valley Railroad, affectionately known by locals as the Essex Steamtrain, and conclude their day with a great meal at the historic Griswold Inn, which has been serving visitors for more than 200 years.

During the course of writing his book, Mr. Crampton interviewed citizens in communities around the Nation. His conversations with

those in Essex highlighted another characteristic which makes this community special—the volunteer spirit of its residents. Until recently, virtually every local official served without pay and many continue to do so today. Fires are fought by volunteers, school playgrounds are built by parents, and elections are monitored by civic-minded citizens who never receive a penny for their dedication to their community. Mr. Richard Gamble summed up the contribution of Essex's residents by saying ''we're unusually blessed by people who are not only capable, but willing to spend the time.''

Mr. Speaker, I am proud to joint residents from Essex in celebrating this much deserved honor. Parochially, I believe every small town across the Second Congressional District could qualify for the No. 1 spot. However, today we celebrate the achievements of this community and welcome people from across the country to come join us in America's No. 1 Small Town—Essex.

TRIBUTE TO THE NORTHWESTERN WILDCATS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. YATES. Mr. Speaker, our long, long wait is over. The Northwestern Wildcats are going to the Rose Bowl.

The last time Northwestern went to the Rose Bowl was in 1949, my first year in Congress. Back then we all thought there was a dynasty in the making; we felt sure the Wildcats would play in the Rose Bowl for years to come. I never dreamed that I'd have to wait 46 years to see this moment again. But I am a patient man and this victory is well worth the wait. And knowing both the 1949 team and our current champions, I feel safe in saying that the Wildcats, like Congressmen, improve with age.

Thanks to a dedicated and talented Wildcat team, the leadership and patience of its coach, Gary Barnett, and the continuing insistence of Northwestern President Henry S. Bienen and Chancellor Arnold R. Weber that a university could simultaneously have academic and athletic excellence, the Big Ten Champion Wildcats will be playing in Pasadena on New Year's Day. These are accomplishments which should be celebrated in an era of athlete factories and degree mill universities. The Wildcats have the second highest team average SAT score in all of NCAA Division I. Newsweek notes that every one of Gary Barnett's players who didn't transfer to another school has continued on to graduation. The Wildcats, with grace and spirit, demonstrated that winning and learning are not inconsistent.

It is out of this incredible pride that I feel for Northwestern that I am today introducing a resolution which recognizes the amazing accomplishments of the Wildcats and congratulates them on winning the 1995 Big Ten Championship and on receiving the coveted invitation to compete in the 1996 Rose Bowl.

As an old alum from the University of Chicago, I long considered the Wildcats to be bitter rivals. But today, we are all Northwestern fans.

And regardless of the final outcome of the game, the Wildcats and all of Northwestern are winners.

REAL TALK ABOUT MEDICARE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. STARK. Mr. Speaker, I commend to my colleagues an opinion piece in today's Washington Post. Professors Jerry Mashaw and Theodore Marmor provide a straight to the point analysis of what maintaining the best health insurance program in the world, Medicare, requires.

REAL TALK ABOUT MEDICARE

Although Medicare reform has been at the very center of the budget negotiations between Congress and the administration, much of the political discussion on this issue has been about as thoughtful as a food fight.

Republicans have made the claim that Medicare faces bankruptcy and offered their ''Medicare Preservation Act,'' cutting $270 billion in projected spending on the program in order to ''preserve, protect and strengthen'' the program. Democrats respond that this would mean Medicare's destruction and that big cuts are unnecessary—except to facilitate tax cuts for the rich while keeping the Republican promise to eliminate the deficit.

Behind this unilluminating, alarmist debate there are some hard facts that need to be considered:

Medicare does need fiscal adjustment. A 10 percent annual growth rate in program costs is simply not sustainable in the long run. Changes in longevity, medical technology, cultural conceptions of adequate medical care, national fiscal capacity and a host of other factors demand that any long-term program of medical insurance accept periodic adjustments. Rigid defense of the status quo is silly. But so is the demand for ''preservation'' by complete overhaul. Reformers should attend to the many small adjustments that really will preserve a highly valued program. They should not search for some untried one big thing that will ''fix'' the system for all time.

Talk of the projected ''bankruptcy'' of the ''trust fund'' is an unhelpful way to think about the urgency of Medicare's financial problems. The trust fund is an accounting convention signaling that Medicare's hospital insurance (Part A) is financed by earmarked taxes. If time is needed to make sensible, gradual adjustments in Medicare, the ''fund'' for Part A can be increased by extremely modest new taxes or by temporary transfers from the surpluses in the Social Security retirement accounts. In any event, no one is going to wake up some Saturday morning to find that his hospital coverage has suddenly ceased because Medicare is ''broke.''

Costs are not the only problem. For example, major elements in the treatment of chronic disease are not covered by Medicare, nor are pharmaceutical therapies and long-term care. These gaps not only ensure that the program fails to meet important needs of the elderly and the disabled, they also promote costly gaming of the system. To get Medicare payments for nursing home care, patients must be cycled through hospital stays, whether needed or not. Personal assistance must be provided by highly paid nurses, even if the ''medical'' content of the care is minimal.

Reform should concentrate on helping Medicare meet the genuine needs of beneficiaries and avoid artificial boundaries that cannot, in any case, be policed effectively. Broadened coverage need not necessarily be the enemy of cost control and in some instances may be its ally.

Lest this proposal for expanded coverage suggest we have lost touch with fiscal reality, we must emphasize that the costs of care may be reduced in many ways. Less expensive forms of care can substitute for more heroic interventions. Unnecessary and marginally necessary care can be lessened. The amounts paid for particular interventions can be restrained.

But reformers should remember that Medicare administrators have been quite successful at constraining costs when given the tools and political support to do so. They can be even more effective in the current context, in which private insurers are doing similar things. Providers now have nowhere to hide from system-wide demands for cost control.

Taxes can be raised. So can premiums. Anyone who thinks that an earmarked tax for a popular program can't be increased marginally in the current political climate simply has not been paying attention to what we have been doing over the past decade—or to what opinion polls say Americans will support. On the other hand, there is no reason that a program originally designed to prevent financial catastrophe for the elderly and disabled should use general revenues to subsidize 80 percent of all their expenditures for physician services (Part B). Some of these costs can and should be distributed differently. In other words, reform should (and almost surely will) require some adjustments in current payment arrangements: who pays, how much and through what types of levies, charges or deductibles.

Finally, those who are old or disabled—and also sick—deserve a more patient-friendly system of health insurance. Offering them a smorgasbord of private insurance alternatives may appeal to those for whom ''privatization'' is the presumptive answer to all questions of public policy. The political and economic realities, however, are very different.

This type of ''freedom of choice,'' not of doctors but of ''plans,'' would increase the administrative costs and complexity of Medicare while driving most of the old and the sick to distraction. How it would save federal dollars remains a mystery. Moreover, responsible privatization would actually require massive federal regulation of the insurance industry to try to prevent ''cherry picking'' of the better risks and cost shifting between the Medicare and non-Medicare patients by insurers covering both.

The earlier proposal for mandatory HMOs for all generated effective political resistance—and for good reason. Most HMOs have catered to a quite different and much healthier slice of the population. Whether HMOs can serve the elderly and disabled well, and at reduced costs, is unknown.

Reforming Medicare will be neither simple nor painless, and wise solutions are unlikely to emerge from political processes that distort the real issues and the real alternatives. President Clinton should veto virtually any Medicare ''reform'' that emerges from the current, overheated, political context. The president should then remind Sen. Bob Dole and his congressional colleagues of the senator's earlier suggestion for a presidential commission on Medicare that would not report until after the 1996 elections. Handing off to a commission really is the right thing to do now just as it was in achieving sensible tension reforms in the early 1980s.

NATO ENLARGEMENT AND RUSSIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. HAMILTON. Mr. Speaker, on October 10, 1995, I wrote to Secretary of State Christopher concerning a study on NATO enlargement, issued by NATO in September 1995. I asked a number of questions about the study and the Russia factor in NATO policy. On November 28, 1995, I received a detailed reply from the State Department. I would like to bring the correspondence to the attention of my colleagues. The text follows:

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, October 10, 1995.

Hon. WARREN CHRISTOPHER,
Secretary, Department of State,
Washington, DC.

DEAR MR. SECRETARY: I write with respect to the recent study on NATO enlargement, issued by NATO on September 20, 1995. I would like to ask a number of questions about the study and about the Russia factor in NATO policy.

1. The North Atlantic Council communique of May 30, 1995 states: ''When the members of the Alliance decide to invite new members, their objective will be to enhance security for all countries in Europe, without creating dividing lines.''

How will NATO enlargement enhance the security of those European states that are not invited to join NATO?

How will NATO enlargement enhance security in Europe if key European powers—Russia, and perhaps states not invited to join NATO—oppose that enlargement?

How can NATO enlargement avoid creating new dividing lines in Europe?

2. The study of September 20th states: ''Russia has raised concerns with respect to the enlargement process of the Alliance.''

Does Russia have concerns about enlargement, or does Russia oppose NATO enlargement?

What is the impact of recent NATO airstrikes in Bosnia on Russia's perspective on NATO enlargement?

Does any political figure in Russia today support enlargement of NATO?

How do you respond to the stated views of leading Russian reformers that NATO enlargement undercuts political and economic reform and reformers, and enhances reactionary forces in Russia?

3. President Yeltsin stated last month that NATO's expansion to the ''borders of Russia'' would ''light the fires of war all over Europe.''

How do you respond to Russian statements that NATO enlargement will re-create new and hostile blocs in Europe?

4. How do you expect Russia to respond to NATO enlargement?

Would you expect increased pressure by Russia on neighboring states?

Would you expect Russia to repudiate arms control agreements, or try to re-create military alliances?

How would military confrontation between NATO and a non-communist Russia serve the interests of the United States?

5. What is your strategy for convincing Russia, Ukraine, Belarus and other states that NATO enlargement enhances their security?

What precise relationship do you envisage between an enlarged NATO and Russia?

6. The NATO study of September 20th mentions that NATO aims to achieve a ''political framework for NATO-Russia relations'' by the end of the year.

What is the content of that proposed NATO-Russia framework?

When the study mentions ''elaborating basic principles for security cooperation,'' what does that mean? What are those basic principles?

When the study mentions ''the development of mutual political consultations,'' what does that mean? How would that differ from current consultation?

7. The NATO study makes the following statements:

(Paragraph 23) ''We have agreed that constructive, cooperative relations of mutual respect, benefit and friendship between the Alliance and Russia are a key element for security and stability in Europe.''

(Paragraph 27) ''NATO decisions, however, cannot be subject to any veto or droit de regard by a non-member state . . . ''

How do you reconcile these statements?

If NATO decides to admit new members over the objections of Russia, how would this create constructive, cooperative relations between NATO and Russia?

How would enlargement of NATO over Russia's objections enhance security and stability in Europe?

I appreciate that these questions are difficult, but I believe your answers are important in enhancing articulation and public understanding of U.S. and NATO policy.

I look forward to your early reply.

With best regards.

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 28, 1995.

DEAR MR. HAMILTON: You have asked a thoughtful series of questions on NATO enlargement and NATO-Russia relations in your October 10 letter to Secretary Christopher. Agreement on a new framework for security cooperation in Europe is a task of historic proportions. Your voice has been one of the most consistent in support of a strong, decisive U.S. role in the world. We have especially appreciated your support for our comprehensive approach to European security, of which NATO enlargement is a very important component.

In preparing this reply, we welcomed the opportunity to review and sharpen our own thinking on these key issues. Because the security situation in Europe is continuously evolving, we and our NATO allies have sought to be flexible in responding to the fundamental changes that have taken place since 1989. However, we have been firm and absolute in our commitment that Alliance policies be inclusive rather than exclusive. This has been especially true in regard to Russia and NATO-Russian relations.

Your letter begins by asking how NATO's eventual enlargement will enhance the security of non-members and avoid the creation of new divisions in Europe. Before turning directly to that question, I want to make two important points. First, the Alliance's failure to expand would not be consistent with the evolutionary changes taking place in Europe. A number of European states have made tremendous political and economic progress in recent years and will soon be ready for full membership in various Western institutions. To exclude the possibility of their eventual NATO membership would condemn these countries to a security ''grey zone,'' which would itself be a source of instability. Moreover, it would freeze the Alliance within artificial boundaries—set by the historical anomaly of the Cold War—at the same time other institutions are adapting to meet new political, economic and security realities. Instead, as Secretary Christopher has said, ''Europe's institutional arrangements should be determined by the objective demands of the present, not the tragedies of Europe's past.''

Second, NATO's eventual enlargement will not take place in a vacuum. It represents but one aspect of our approach to the broader evolution of Europe's security architecture. European affairs can no longer be defined within the old ''zero-sum'' framework; the security of one state is indivisible from the security of all. Bodies such as the European Union (EU), the Western European Union (WEU), the Council of Europe (COE) and especially the Organization for Security and Cooperation in Europe (OSCE) will each play important roles as economic, political and security institutions continue to adapt and develop over the coming years. Each of these bodies contributes to European integration and stability. While NATO remains the key link between the U.S. and Europe, we should avoid lending credence to the false notion that NATO is the only organization with a direct impact on the European security equation.

It is within this overall framework that NATO can expand without creating new divisions in Europe. Because those states which do not join the Alliance—either early or at all—will continue to participate in European bodies like the OSCE, they will not be excluded from key decision-making institutions. While we reject any suggestion that the OSCE should assume the role of NATO's overseer, we nonetheless recognize that as the only all-European institution the OSCE plays a unique role in setting the European political and security agenda. For that reason, we are supporting the OSCE's ongoing work on a European security model for the next century and have consistently pushed for practical steps to enhance the organization's effectiveness.

Moreover, we do not accept the view that integration can only be achieved through membership in a particular institution. In some cases, membership is appropriate; NATO's expansion process will determine which states should join the Alliance. But in many other cases, active diplomatic engagement with an organization can be almost as useful as membership. A good example of this is the U.S. relationship with the European Union; we may not have a vote in EU councils, but through an active program of consultation and policy coordination we can often influence EU decisions. The two key elements in NATO's evolution and program of outreach have thus been the creation of the North Atlantic Cooperation Council (NACC) and the Partnership for Peace (PFP), which provides fora for non-member states to engage directly and consult closely with NATO.

The NACC and PFP ensure that non-members are able to cooperate with the Alliance on key European security issues. Russia and other states have taken full advantage of the opportunities thus provided to make their views known on a host of issues. Moreover, states which do not eventually join the Alliance can remain active members of the NACC and PFP. The post-expansion Alliance will not shut itself off from the rest of Europe; an enlarged NATO will have the same need for interaction and close relationships with non-members that currently exists. By expanding its membership and by maintaining these important and productive relationships, NATO will avoid either the reality or the appearance of creating new divisions or new blocs in Europe.

Turning to your questions regarding Russian concerns about NATO enlargement and the future of NATO-Russia relations, the Alliance and Russia have a complex, still

evolving relationship, which we hope will become a crucial element of the emerging European security architecture. This is not to suggest that NATO-Russia relations are without strain. As you note, Russian officials have objected to NATO actions in the former Yugoslavia, asserting that the Alliance acted without properly consulting other interested states. While we reject such contentions—NATO acted under a clear UN Security Council mandate—the fact remains that many Russians perceive themselves and their country as having been marginalized. Similarly, President Yeltsin and other senior Russian officials have voiced serious concerns about NATO's enlargement, often in quite stark terms.

Although Moscow's opposition to NATO enlargement is often based on misperceptions, we nevertheless recognize that these arguments must be addressed. Similarly, Russian concerns about their stature in European affairs are real, but our bilateral discussions—most recently at Hyde Park—have made clear that both sides remain committed to promoting Russia's integration into key Western structures. The Russian leadership understands that altering or otherwise slowing this course would only isolate Russia and hinder reform at home. While we must be careful neither to underestimate nor exaggerate the importance of European security matters in Russian domestic politics, Russian views will continue to evolve and we must be prepared for a lengthy—and sometimes heated—dialogue with the Russian government.

To put the broader issue of NATO-Russia relations in context, you should recall that the Alliance has engaged in a concerted effort to develop a close, cooperative partnership with the new Russia. Even before the break-up of the Soviet Union, NATO had sought to establish productive, non-adversarial relations with Moscow. With the dissolution of both the Warsaw Pact and the USSR, NATO created the North Atlantic Cooperation Council and the Russian Federation became one of its first members. This consultative arrangement set the stage for the establishment early last year of the Partnership for Peace, which Russia joined in June 1994. Within PFP, Russia has had the opportunity to engage directly with the Alliance to develop the capability of working with NATO in support of common interests and goals in Europe.

Moreover, under the ''Beyond PFP'' arrangement approved this past May, NATO and Russia have agreed to take their relationship a step further in terms of consultations and active cooperation. Finally, as you note in your letter, the Alliance has offered to develop a ''political framework'' for future NATO-Russia relations. As we envision it, in the near term NATO and Russia would agree on the basic principles which would guide the relationship well into the 21st century; NATO has already tabled a draft—which draws heavily on existing documents and agreements—for Russia's consideration. Once the final principles are hammered out, we would work together to turn them into a more formal, long-term understanding that would facilitate NATO-Russian cooperation.

Russia, therefore, already has a quite significant relationship with NATO. The key determinant in how our relations develop will be Russia's implementation of the various partnership mechanisms now available. This is an ongoing, evolutionary process, which will certainly be affected to some degree by the domestic political climate in Russia. We remain convinced, however, that Russian government will recognize that it is to Moscow's advantage to develop and maintain a close relationship with the Alliance as part of Russia's overall policy toward Europe. While no Russian leader has publicly endorsed NATO's enlargement, senior officials—including President Yeltsin—have repeatedly acknowledged the importance of partnership with NATO and the West.

Thus, in policy-level discussions with the Russians we will continue to state clearly that NATO is willing to go the extra mile in developing an effective partnership with Russia, that the Alliance's eventual enlargement is not aimed against Russia or any other state, and that Moscow's interests would not be served by repudiating the still-evolving NATO-Russian relationship (or any arms control agreements) because of NATO expansion. We will also continue to monitor carefully reports of undue Russian pressure on neighboring states to create new military blocs, as well as reports of Russian plans for military responses to NATO's enlargement. As necessary, we will make clear that such moves would only isolate Russia, impeding its further integration into the European mainstream.

Our demonstrated commitment to partnership and cooperation has already alleviated some of the fears and concerns expressed by Russian officials. For example, our active effort to involve the Russians in the implementation of a Bosnian peace settlement has demonstrated we do not want to go it alone. Instead, we have engaged in an intensive, ongoing dialogue with the Russians on this sensitive issue, most recently between President Clinton and president Yeltsin on October 23 and between Secretary of Defense Perry and Minister of Defense Grachev on November 8. While we will not compromise on the absolute need for an effective, NATO-led operation, if we are ultimately able to settle on a workable arrangement for Russian engagement we will have helped assuage Russian concerns that NATO is only interested in marginalizing Moscow.

In your final question you ask how the statements ''We have agreed that constructive, cooperative relations of mutual respect, benefit and friendship between the Alliance and Russia are a key element for security and stability in Europe'' and ''NATO decisions, however, cannot be subject to any veto or droit de regard by a non-member state . . .'' can be reconciled. But these statements are not, in fact, contradictory. Notwithstanding NATO's approach to enlargement, the Alliance has a strategic interest in seeking constructive, cooperative relations with Russia. The fact that we are actively planning to expand simply means that the enhanced Russian-NATO relationship will be with a larger NATO. We will listen to Russia's concerns about enlargement just as we listen to the thoughts of our other partners; their views will be taken into consideration and will certainly influence our thinking. But influence and a veto are two quite different things; neither Russia nor any other non-member will have a veto over Alliance membership (or any other) decisions.

Thank you for the opportunity to respond to your thoughtful questions. We look forward to continuing our exchange as the Alliance moves closer to enlargement and as NATO-Russian relations continue to develop.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary for Legislative Affairs.

THE ADMINISTRATION NEEDS TO SUPPORT TAIWAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. GILMAN. Mr. Speaker, recently A.M. Rosenthal of the New York Times wrote two thought provoking articles regarding Taiwan. He points out how the administration's apparent weakness in supporting our democratic friends there plays into the hands of the dictators in Beijing.

There are a number of territorial disputes in Asia. One of the most contentious is the ownership and future of the island of Taiwan. Regretably, short of an early collapse of the dictatorship in Beijing, the 45-year-old stalemate over the issue shows no signs of an immediate resolution.

Taiwan is a free democracy. A nation where people can express their thoughts and practice their religious beliefs. Through the long years it has remained a loyal friend and steadfast ally of the United States. The Republic of China is one of Asia's economic miracles featuring a strong and growing economy with less than 1-percent unemployment. From our perspective this is the type of free and democratic society we need to support in the region and around the world. On the other hand we have the People's Republic of China. The Beijing leadership has repeatedly proven itself over the years to be an oppressive dictatorship with little regard for human and religious rights, much less political freedom. Its military fought against ours in Korea, supported the Communists in North Vietnam, and currently ships weapons of mass destruction to terrorist nations in the Middle East.

For the past 10 years whenever an effort was attempted by the Congress to respond to Beijing's egregious behavior we were told, that there is a political transition period underway in China and if we took any substantive action we would be strengthening the hands of the hardliners.

And so for the last decade, whenever the Congress attempted to respond to China's export of products made by slave labor, we were told by the State Department to back off.

When we raised the issue of the Communist's repression of religious and political thought, the State Department told us that economic liberalization will bring about political pluralism.

Accordingly, Beijing has never paid a price for its unfair trade practices, arms proliferation, repression in occupied Tibet, massive military buildup, the recent aggression in the Spratly Islands, its disregard for intellectual property rights, its illegal detention of Harry Wu, an American citizen, and its threatening military exercise off the cost of Taiwan. On the contrary, the State Department believes that we need to further soften our approach to Beijing.

I am all for working peacefully and negotiating quietly with the Chinese. But time and time again, the State Department has failed to bring home the bacon. Constructive engagement cannot be just a one way endeavor. The State Department needs to recognize this and adjust its course.

Considering all these facts, the Congress is compelled to ask if Taiwan's time has come to be recognized by the world's community of nations. And if so, what can this body do to help

the free people of Taiwan. Taiwan leadership has repeatedly asked for our help in their quest for their people to have the last word in their own future.

Let me say that now is the time to help our friends on the island of Taiwan. We have been waiting far too long to respond to their aspirations and hope.

Accordingly, I ask that the full text of A.M. Rosenthal's articles be printed in the RECORD at this point.

[From the New York Times, Nov. 28, 1995]

YES, THERE IS A TAIWAN

(By A.M. Rosenthal)

TAIPEI, TAIWAN.—The trucks move day and night through the streets of Taiwan like creatures alive and wild with their own energy—shouting and singing through their loudspeakers, denouncing, trumpeting, cajoling, forbidding escape or the succor of a moment's silence.

The loudspeakers, mounted fore, aft and atop, deliver a gigantic rolling headache. But they also deliver the sound of democracy, to a small country new to it, and to a huge glowering country whose leaders detest the thought of it.

This is campaign time in Taiwan, a free campaign, fought hard, for the free election of a national legislature. It is the most important democratic step since 40 years of military rule ended in 1987 and the democratic process began on this island—an oftentested missile-distance across the waters from Communist China.

And next March an even more important election will take place. The people of the islands will take part in a direct presidential election—the first direct election of a national leader in the thousands of years of history of the Chinese people.

The economic development of Taiwan moves ahead smartly, and so does its democratic development. That is news of importance far beyond this island.

Asia has a batch of countries developing economically but not democratically. Just give Asians a full belly, the colonial West used to say. Now that is amended: Just give them a motorbike and big-screen TV.

Taiwan is crowded, its cities are messy and its roadsides junk-strewn. But politically it is becoming quite handsome, a living denial of the slur that Chinese are content to live without political freedom.

Westerners have a way of thinking of Taiwan in relation only to China and their own interests. Mostly they think nervously of how furious Beijing will get if the West gives any acknowledgment or respect to this island that the Communists say is their own province, now and forever.

The West trembles to breathe a word about allowing Taiwan to take part in international activities—even helping refugees. Its skin crawls with fear that Beijing will reduce the West's right to take part in the China trade and the privilege of buying from China billions of dollars more in goods than the West has any hope of ever selling to China.

The worldwide diplomatic blockade that Beijing has created against Taiwan is not the worst of it. When Beijing thinks that the substantial movement toward an independent Taiwan is getting stronger, or sees the horror of democracy rising on this prosperous island so close to the mainland, the Chinese Communists mount menacing military operations. No pretense is made that the exercise and the ugly warnings by top military men are not aimed at intimidating Taiwan and aborting its growing fascination with democratic practice. Expect more threats.

The people of the island, ethnically Chinese, descend either from families that have lived here for centuries or from immigrants who fled to Taiwan with Nationalist army when it was defeated by the Communists in 1949.

The ruling party is the Kuomintang, a mellowed offspring of the hard-handed party of Chiang Kai-shek. It is headed by President Lee Teng-hui. Mr. Lee gave Beijing a heart attack recently by visiting his American alma mater, Cornell University, Beijing has been trying ever since to give one apiece to him and the U.S. for such impertinence.

The Kuomintang stands for reunification with the mainland—some day, when Beijing manages to become non-Communist, and a convert to human rights. So the KMT is denounced by the New Party, made up of breakaway KMT hard-liners, as kind of Confucian Coalition.

The major opposition is the Democratic Progressive Party—strong for independence, but not ready to invite Communist attack by making a Taiwan July Fourth Declaration.

Panting for the China trade, the U.S. forbids Taiwan representatives to set foot in the State Department or White House. But the weeks of democratic campaigning prove that whether Beijing and its international business lobby approve or not, Taiwan has produced a prosperous, growingly democratic society of its own, separate in political practice and desire from the mainland.

Or, as it appears on posters around the island: ''Yes, there is a Taiwan.'' Send in more trucks.

[From the New York Times, Dec. 1, 1995]

THE BLOCKADES OF TAIWAN

(By A.M. Rosenthal)

TAIPEI, TAIWAN.—They come almost every day now—the military threats to this island country from the Communist Government in Beijing.

Chinese Army commanders order repeated amphibious landings at the mainland coast nearest the island—the precise kind of operation that would be needed to invade Taiwan—and ''tests'' of missiles in the straits dividing China and the island. In recent days there has been a series of leaked reports that Beijing is considering a naval blockade of Taiwan.

Nobody knows whether the threats are meant only to frighten all Taiwanese into abandoning any thought of independence, however distant, or whether Beijing is readying its people and the world for an attack. If it does take place it is likely to be in the spring of 1996 before or after Taiwan holds its first direct presidential election.

But the evidence is that the military command is beginning to operate and plan independently of the civilian leadership in the Politburo.

This much seems clear from here: The West is operating on the assumption that if it says and does nothing, why, any dangers will vanish in a merciful blip.

The studious silence arises from the fundamental China policy of the West: Rock no Chinese boat lest Beijing throw easy Western access to the Chinese market overboard.

The West manages to maintain its silence because a Chinese blockade of Taiwan already exists: the political and diplomatic blockade created by Beijing after it took over the China seat in the U.N. in 1971.

The government on Taiwan was not only ousted from the U.N. but from the international community. Taiwan, one of the largest trading nations in the world, has been cut off from normal diplomatic and political relations with almost the whole world.

The U.S. maintains an ''institute'' in Taipei headed by a ''director.'' But no flag is flown outdoors to save Beijing a fit. In Washington, representatives of Taiwan cannot sully the State department or White House by their presence. So far, separate drinking fountains for Taiwanese representatives have not been set up.

Taiwan is not only barred from the U.N. but from all its many specialized agencies, including those supposed to deal with such universal subjects as health and agriculture—say, AIDS or starvation.

The blockade is so obsessively enforced that it even excludes aid to refugees. Last year the U.N. appealed for funds for Rwandan refugees, among the most suffering of God's human creatures. Taiwan offered $2 million; refused. The Taiwanese did manage to get their gift accepted—by channeling it through an American committee for Unicef.

Correspondents from Taiwan are not permitted to enter the U.N. As a former reporter at the U.N., in its early days, I have thought of slipping my pass to a correspondent from Taiwan, to annoy U.N. authorities, but I decided it wouldn't work.

Before Beijing commanded the U.N., correspondents from non-member peoples were allowed in. I learned more about North Africa and Indonesia from independence-movement reporters than I ever did from the colonial French or Dutch.

North Korea and South Korea are members and so were East and West Germany. The Palestine Liberation Organization was given representation at the General Assembly with only a vote lacking.

But when China decided that any dreams of independence, sovereignty or even dignity that Taiwan might harbor were too dangerous to tolerate, this special apartheid was created for the island. The U.S. and most other U.N. members meekly kissed Beijing's iron slipper.

That means Taiwan cannot use an U.N. or any normal diplomatic channel to raise an alarm that had to be officially heard about the open military threats from Beijing. If any other country had threatened another so blatantly the case would immediately have been on the U.N. agenda.

Now of course most U.N. members, including the U.S., would be paralyzed with economic terror at the very idea of proposing that Taiwan as well as China be represented at the U.N. But perhaps Washington, London, Paris and Tokyo will dredge up enough courage to increase their own diplomatic contacts with Taiwan as a warning to China. Perhaps.

Until now the Chinese diplomatic blockade and Western submission to it have been merely disgusting. Now they are getting dangerous.

A BIRTHDAY TRIBUTE TO HIS MAJESTY KING RAMA IX OF THAILAND

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 5, 1995

Mr. ROHRABACHER. Mr. Speaker, I rise today to extend my personal best regards and the respect and appreciation of all the members of the International Relations Committee on the occasion of the birthday of the King of Thailand, King Rama IX.

Earlier this year, all Members of the House of Representatives were relieved when the King made a complete and impressive recovery from surgery and regained his full strength.

As I have said on the floor of the House before, the people of Thailand are blessed to have such a wise leader. We, in the United States are blessed to be able to call King Bhumibol our friend.

I am honored, as the spokesman for my colleagues, to wish the King a happy birthday and a long reign. I wish him and his family greetings and good health from his friends in the United States.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S17933–S18036

Measures Introduced: Six bills and one resolution were introduced, as follows: S. 1444–1449, and S. Res. 197. **Page S18016**

Measures Passed:

Congratulating Northwestern University: Senate agreed to S. Res. 197, to congratulate the Northwestern University Wildcats on winning the 1995 Big Ten Conference football championship and on receiving an invitation to compete in the 1996 Rose Bowl, and to commend Northwestern University for its pursuit of athletic and academic excellence.

Pages S17964–65

Defense Production Authorization: Senate passed H.R. 2204, to extend and reauthorize the Defense Production Act of 1950, clearing the measure for the President. **Pages S18035–36**

Securities Litigation Reform Act—Conference Report: By 65 yeas to 30 nays, 1 responding present (Vote No. 589), Senate agreed to the conference report on H.R. 1058, to amend the Federal securities laws to curb certain abusive practices in private securities litigation. **Pages S17933–62, S17965–97**

Partial-Birth Abortion Ban: Senate resumed consideration of H.R. 1833, to amend title 18, United States Code, to ban partial-birth abortions, taking action on amendments proposed thereto, as follows: **Pages S17997, S18002–11**

Pending:

(1) Smith Amendment No. 3080, to provide a life-of-the-mother exception. **Pages S18003–11**

(2) Dole Amendment No. 3081 (to Amendment No. 3080), of a perfecting nature. **Pages S18003–04**

(3) Pryor Amendment No. 3082, to clarify certain provisions of law with respect to the approval and marketing of certain prescription drugs. **Pages S18004–11**

(4) Boxer Amendment No. 3083 (to Amendment No. 3082), to clarify the application of certain provisions with respect to abortions where necessary to preserve the life or health of the woman. **Pages S18004–11**

A unanimous-consent agreement was reached providing for further consideration of the bill on Wednesday, December 6, 1995 at 5 p.m. **Page S18036**

Nominations Confirmed: Senate confirmed the following nominations:

2 Army nominations in the rank of general. **Page S18036**

Communications: **Page S18015**

Petitions: **Page S18015**

Executive Reports of Committees: **Pages S18015–16**

Statements on Introduced Bills: **Pages S18016–33**

Additional Cosponsors: **Page S18033**

Amendments Submitted: **Pages S18033–34**

Authority for Committees: **Page S18034**

Additional Statements: **Pages S18034–35**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:19 p.m., until 10 a.m., on Wednesday, December 6, 1995. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S18036.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported the nominations of Maj. Gen. Thomas A. Schwartz, United States Army, for appointment to the grade of lieutenant general, and Lt. Gen. Paul E. Funk, United States Army, to be placed on the retired list of the United States Army in the grade indicated under section 1370 of title 10, U.S.C., and 1,932 routine nominations in the Army, Navy, and Air Force.

OECD SHIPBUILDING AGREEMENT

Committee on Finance: Committee held hearings on S. 1354, to approve and implement the Organization for Economic Cooperation and Development (OECD) Shipbuilding Trade Agreement, receiving testimony from Jeffrey M. Lang, Deputy United States Trade

Representative; Albert Bossier, Jr., Avondale Industries, Inc., New Orleans, Louisiana; R.T.E. Bowler, III, American Shipbuilding Association, Arlington, Virginia; John Dane, III, Trinity Marine Group, Inc., Gulfport, Mississippi, representing the American Waterways Shipyard Conference and the Shipbuilders Council of America; and Peter J. Finnerty, Sea-Land Service, Inc. and CSX Corporation, Washington, D.C., representing the American Institute of Merchant Shipping and the Coalition in Support of the OECD Commercial Shipbuilding Agreement.

Hearings were recessed subject to call.

NOMINATION

Committee on Finance: Committee concluded hearings on the nomination of Joshua Gotbaum, of New York, to be an Assistant Secretary of the Treasury for Economic Policy, after the nominee testified and answered questions in his own behalf.

LOCAL EMPOWERMENT AND FLEXIBILITY ACT

Committee on Governmental Affairs: Committee held hearings on S. 88, to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans, receiving testimony from Senator Hatfield; Judy A. England-Joseph, Director, Housing and Community Development Issues, General Accounting Office; John A. Koskinen, Deputy Director for Management, Office of Management and Budget; Susan A. Cameron, Tillamook County Health Department, Tillamook, Oregon; and R. Scott Fosler, National Academy of Public Administration, and Charles Griffiths, Advisory Commission on Intergovernmental Relations, both of Washington, D.C.

Hearings were recessed subject to call.

PARENTAL RIGHTS AND RESPONSIBILITIES ACT

Committee on the Judiciary: Subcommittee on Administrative Oversight and the Courts concluded hearings on S. 984, to protect the fundamental right of a parent to direct the upbringing of a child of the parent, after receiving testimony from Representative Largent; Michael P. Farris, Home School Legal Defense Association, Purcellville, Virginia; Colleen K. Pinyan, The Rutherford Institute, Washington, D.C.; Sammy J. Quintana, Pojoaque Valley School Board, Santa Fe, New Mexico, on behalf of the National School Boards Association; Wade F. Horn, National Fatherhood Initiative, Gaithersburg, Maryland; Margaret F. Brinig, George Mason University School of Law, Arlington, Virginia; and E. W. Angell, Toccoa, Georgia.

WHITEWATER

Special Committee to Investigate the Whitewater Development Corporation and Related Matters: Committee resumed hearings to examine issues relative to the Whitewater Development Corporation, receiving testimony from Steven Irons, Supervisory Special Agent, Kevin Kendrick, Supervisory Special Agent, and Donald Pettus, former Special Agent in Charge, all of the Federal Bureau of Investigation, Douglas Frazier, Assistant Director for Evaluation and Review, Executive Office of United States Attorneys, and Charles Banks, former United States Attorney for the Eastern District of Arkansas, all of the Department of Justice; and William Kennedy, Rose Law Firm, Little Rock, Arkansas, former Associate Counsel to the President.

Hearings continue tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 14 public bills, H.R. 2703–2716; 5 private bills, H.R. 2717–2721; and 2 resolutions, H.J. Res. 130 and H. Con. Res. 117 were introduced. **Pages H14002–03**

Reports Filed: Reports were filed as follows:

Report entitled ''Revised Subdivision of Budget Totals for fiscal year 1996'' (H. Rept. 104–380);

H. Res. 289, waiving points of order against the conference report to H.R. 2076, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996 (H. Rept. 104–381);

H. Res. 290, waiving points of order against the conference report to H.R. 1058, to reform Federal securities litigation (H. Rept. 104–382); and

H.R. 1710, to combat terrorism, amended (H. Rept. 104–383). **Page H14002**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Everett to act as Speaker pro tempore for today. **Page H13931**

Recess: House recessed at 1:20 p.m. and reconvened at 2 p.m. **Page H13938**

Private Calendar: Agreed to dispense with the call of the Private Calender. **Page H13939**

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 Banking and Financial Services, Commerce, Economic and Educational Opportunities, Transportation and Infrastructure, and Select Intelligence. **Page H13943**

Suspensions: House voted to suspend the rules and pass the following measures:

Big Thicket National Preserve land exchange: H.R. 826, amended, to extend the deadline for the completion of certain land exchanges involving the Big Thicket National Preserve in Texas. Agreed to amend the title; **Pages H13943–44**

Amending the Doug Barnard, Jr. Olympic Commemorative Coin Act: H.R. 2336, to amend the Doug Bernard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act; **Pages H13944–46**

Commemorative coin authorization and reform: H.R. 2614, to reform the commemorative coin programs for the United States Mint in order to protect the integrity of such programs and prevent losses of Government funds, to authorize the United States Mint to mint and issue platinum and gold bullion coins; **Pages H13946–48**

Hopewell Township land conveyance: H.R. 308, to provide for the conveyance of certain lands and improvements in Hopewell Township, Pennsylvania, to a nonprofit organization known as the ''Beaver County Corporation for Economic Development'' to provide a site for economic development; **Pages H13948–51**

James Lawrence King Federal Justice Building: H.R. 255, to designate the Federal Justice Building in Miami, Florida, as the ''James Lawrence King Federal Justice Building''; **Pages H13951–52**

Bruce R. Thompson United States Courthouse: H.R. 395, to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the ''Bruce R. Thompson United States Courthouse and Federal Building''; **Pages H13952–54**

Thurgood Marshall United States Courthouse: H.R. 653, to designate the United States courthouse under construction in White Plains, New York, as the ''Thurgood Marshall United States Courthouse''; **Pages H13954–55**

Walter B. Jones Federal Building and United States Courthouse: H.R. 840, to designate the Federal building and United States courthouse located at 215 South Evans Street in Greenville, North Carolina, as the ''Walter B. Jones Federal Building and United States Courthouse''; **Pages H13955–57**

Thomas D. Lambros Federal Building and United States Courthouse: H.R. 869, amended, to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the ''Thomas D. Lambros Federal Building and U.S. Courthouse'' (agreed to by a yea-and-nay vote of 414 yeas, Roll No. 834). Agreed to amend the title; **Pages H13957–58, H13972**

Romano L. Mazzoli Federal Building: H.R. 965, to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the ''Romano L. Mazzoli Federal Building'' (agreed to by a yea-and-nay vote of 415 yeas, Roll No. 835); **Pages H13958–61, H13973**

Judge Isaac C. Parker Federal Building: H.R. 1804, to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the ''Judge Isaac C. Parker Federal Building'' (agreed to by a yea-and-nay vote of 373 yeas to 40 nays, with 2 voting ''present'', Roll No. 836); and **Pages H13961–62, H13973–74**

Senior citizens right to work: H.R. 2684, amended, to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the social security earnings limit for individuals who have attained retirement age (agreed to by a yea-and-nay vote of 411 yeas to 4 nays, Roll No. 837). **Pages H13962–71, H13974**

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H14003–23.

Quorum Calls—Votes: Four yea-and-nay votes developed during the proceedings of the House today and appear on pages H13972, H13973, H13973–74, and H13974. There were no quorum calls.

Adjournment: Met at 12:30 p.m. and adjourned at 9:14 p.m.

Committee Meetings

REVISED SUBDIVISION

Committee on Appropriations: Approved a revised 602(b) subdivision for fiscal year 1996.

FOREIGN BANK SUPERVISION AND DAIWA BANK

Committee on Banking and Financial Services: Subcommittee on Financial Institutions and Consumer

Credit held a hearing regarding foreign bank supervision and the Daiwa Bank. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System; Ricki Helfer, Chairman, FDIC; Eugene A. Ludwig, Comptroller of the Currency, Department of the Treasury; Neil Levin, Superintendent of Banks, Banking Department, State of New York; and public witnesses.

ALLEGATIONS OF FDA ABUSES OF AUTHORITY

Committee on Commerce: Subcommittee on Oversight and Investigations concluded hearings on Allegations of FDA Abuses of Authority. Testimony was heard from David A. Kessler, M.D., Commissioner, FDA, Department of Health and Human Services.

CAPITAL MARKETS DEREGULATION AND LIBERALIZATION ACT

Committee on Commerce: Subcommittee on Telecommunications and Finance concluded hearings on H.R. 2131, Capital Markets Deregulation and Liberalization Act of 1995. Testimony was heard from public witnesses.

PARENTS, SCHOOLS AND VALUES

Committee on Economic and Educational Opportunities: Subcommittee on Oversight and Investigations held a hearing on Parents, Schools and Values. Testimony was heard from William Bennett, former Secretary of Education; and a public witness.

Hearings continue tomorrow.

CONFERENCE REPORT—COMMERCE, JUSTICE, STATE, AND THE JUDICIARY APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2076, making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and against its consideration. Testimony was heard from Representatives Rogers, McCollum, Mollohan, Conyers, and Schumer.

CONFERENCE REPORT—SECURITIES LITIGATION REFORM ACT

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 1058, Securities Litigation Reform Act, and against its consideration. Testimony was heard from Chairman Bliley and Representatives Fields of Texas and Markey.

IN THE MATTER OF REPRESENTATIVE BARBARA-ROSE COLLINS

Committee on Standards of Official Conduct: Met in executive session and voted a Resolution of Preliminary Inquiry in the matter of Representative Barbara-Rose Collins.

NATURAL DISASTER PROTECTION PARTNERSHIP ACT

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment continued hearings on H.R. 1856, Natural Disaster Protection Partnership Act of 1995. Testimony was heard from Representatives Dreier and Parker; Mozelle W. Thompson, Deputy Assistant Secretary, Government Financial Policy, Department of the Treasury; Jane A. Bullock, Acting Chief of Staff, FEMA; Thomas J. McCool, Associate Director, General Government Division, GAO; and public witnesses.

BOSNIA—INTELLIGENCE SUPPORT TO UNITED STATES FORCES

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Intelligence Support to United States peacekeeping forces in Bosnia. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, DECEMBER 6, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services, to hold hearings on the Bosnian Peace Agreement, the North Atlantic Council military plan and the proposed mission for United States military forces deployed with the Implementation Force (IFOR), 10:15 a.m., SD–G50.

Committee on Energy and Natural Resources, business meeting, to consider pending calendar business, 9:30 a.m., SD–366.

Committee on Governmental Affairs, to hold hearings on S. 356, to amend title 4, United States Code, to declare English as the official language of the Government of the United States, 9:30 a.m., SD–342.

Committee on Labor and Human Resources, to hold joint hearings with the Committee on Small Business, on certain issues relating to modifications to the Occupational Safety and Health Act of 1970, 9:30 a.m., SD–106.

Committee on Small Business, to hold joint hearings with the Committee on Labor and Human Resources, on certain issues relating to modifications to the Occupational Safety and Health Act of 1970, 9:30 a.m., SD–106.

Committee on Indian Affairs, to hold oversight hearings on the implementation of the Native American Graves Protection and Repatriation Act (P.L. 101–601), 9:30 a.m., SR–485.

Special Committee To Investigate Whitewater Development Corporation and Related Matters, to continue hearings to examine certain issues relative to the Whitewater Development Corporation, 10 a.m., SH–216.

House

Committee on Agriculture, Subcommittee on Department Operations, Nutrition, and Foreign Agriculture, hearing to review the USDA's Office of Risk Assessment and Cost-Benefit Analysis, 2 p.m., 1300 Longworth.

Committee on Commerce, Subcommittee on Energy and Power, oversight hearing on the Pacific Northwest Power System, 10 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Oversight and Investigations, to continue hearings, on Parents, Schools and Values, 9:30 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Civil Service, hearing on Government Shutdown: What's Essential, 9 a.m. 2154 Rayburn.

Subcommittee on the District of Columbia, hearing on H.R. 2661, District of Columbia Fiscal Protection Act of 1995, 10 a.m., 2247 Rayburn.

Committee on International Relations, hearing on United States policy toward Bosnia, 10 a.m., 2172 Rayburn.

Subcommittee on Asia and the Pacific, to mark up H. Res. 274, concerning Burma and the U.N. General Assembly; to be followed by a hearing on U.S. Security Interests in South Asia, 2 p.m., 2172 Rayburn.

Committee on National Security, to continue hearings on the proposed deployment of United States ground forces to Bosnia, 9:30 a.m., 2118 Rayburn.

Subcommittee on Military Research and Development and Subcommittee on Fisheries, Wildlife and Oceans of the Committee on Resources, joint hearing on the disposal of radioactive material and other toxic waste in oceans and tributaries, 1:30 p.m., 2118 Rayburn.

Committee on Rules, to consider the following Conference Reports: H.R. 2099, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996; 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 H.R. 1977, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, 3 p.m., H–313 Capitol.

Committee on Science, Subcommittee on Energy and Environment, hearing on Superfund Research and Development: The Role of R&D in a Reformed Superfund, 10 a.m., 2318 Rayburn.

Committee on Standards of Official Conduct, executive, to consider pending business, 11 a.m., HT–2M Capitol.

Committee on Ways and Means, Subcommittee on Human Resources, hearing on current welfare reform success stories, 10 a.m., B–318 Rayburn.

Joint Meetings

Conferees, on S. 652, to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, 9 a.m., S–5, Capitol.

Conferees, on H.R. 2099, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for fiscal year ending September 30, 1996, 2 p.m., H–140, Capitol.

Commission on Security and Cooperation in Europe, to hold hearings to examine the documentation of crimes against humanity in Bosnia and Herzegovina and Croatia this year, 2 p.m., 2322 Rayburn Building.

Next Meeting of the SENATE

10 a.m., Wednesday, December 6

Senate Chamber

Program for Wednesday: Senate will consider H.J. Res. 79, proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

At 5 p.m., Senate will continue consideration of H.R. 1833, Partial-Birth Abortion Ban Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, December 6

House Chamber

Program for Wednesday: Consideration of H.R. 1350, Maritime Security Act of 1995 (open rule, 1 hour of general debate);

Consideration of the conference report on H.R. 2076, Commerce-Justice-State Appropriations Act for fiscal year 1996 (rule waiving points of order); and

Conference report on H.R. 1058, Securities and Litigation Reform Act (rule waiving points of order).

Extensions of Remarks, as inserted in this issue

HOUSE

Congressional Record The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed at one time. ¶Public access to the Congressional Record is available online through *GPO Access,* a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available on the Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su docs, by using local WAIS client software or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access,* contact the *GPO Access* User Support Team by sending Internet e-mail to help@eids05.eids.gpo.gov, or a fax to (202) 512–1262; or by calling (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday through Friday, except for Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $112.50 for six months, $225 per year, or purchased for $1.50 per issue, payable in advance; microfiche edition, $118 per year, or purchased for $1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington, D.C. 20402. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.